

Ken I. Kersch

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Associate Professor of Political Science, History, and Law

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EDUCATION

Ph.D., Government, Cornell University (1999)

M.A., Government, Cornell University (1997)

J.D., *cum laude* and Order of the Coif, Northwestern University (1991)

B.A., *magna cum laude* and Phi Beta Kappa, Williams College (1986)

Institut d'Études Politiques, Université de Paris IV (Sorbonne) (1984-1985)

ACADEMIC POSITIONS

Associate Professor of Political Science, History, and Law, Boston College

(2007- present)

Founding Director, Clough Center for the Study of Constitutional Democracy

(2008-2012)

Visiting Associate Professor of Government, Harvard University (Spring 2008)

Assistant Professor of Politics, Princeton University (2003-2007)

Ann and Herbert W. Vaughan Fellow, James Madison Program in American
Ideals and Institutions, Princeton University (2001-2002)

Assistant Professor of Political Science, Lehigh University (1999-2002)

HONORS, FELLOWSHIPS, AND GRANTS

- **J. David Greenstone Prize** (2006), American Political Science Association, Politics and History Section (best book on politics and history)
- **Hughes-Gossett Award** (2006), The Supreme Court Historical Society (best article, *Journal of Supreme Court History*)
- **Edward S. Corwin Award** (2000), American Political Science Association (best public law dissertation)
- Visiting Research Scholar, Social Philosophy and Policy Center, Bowling Green State University (Fall 2005)
- Ann and Herbert W. Vaughan Fellow, James Madison Program in American Ideals and Institutions, Princeton University (2001-2002)
- Mellon Foundation Dissertation Fellowship (Cornell)

- Sage Foundation Fellowship (Cornell)
- Horace F. Clark, Class of 1833, Prize Fellowship (Williams)
- Class of 1960 Scholar in Economics (Williams)

BOOKS

Conservatives and the Constitution: From the Brown Decision to Reagan (under contract, **Cambridge University Press**).

The Supreme Court and American Political Development (**University Press of Kansas**, 2006)(with Ronald Kahn) 400 pp.

Constructing Civil Liberties: Discontinuities in the Development of American Constitutional Law (**Cambridge University Press**, 2004). 392 pp. **J. David Greenstone Prize (2006)**.

Freedom of Speech: Rights and Liberties Under the Law (**ABC-Clio**, 2003). 400 pp.

ARTICLES AND BOOK CHAPTERS

“Beyond Originalism: Conservative Declarationism and Constitutional Redemption,” *Maryland Law Review* 71 (2011): 216.

“Systems and Feelings,” Responding to essay by Robin West, Frederick J. Haas Professor of Law and Philosophy, Georgetown University Law Center, in James E. Fleming, editor, *NOMOS: Passions and Emotions* (New York: New York University Press)(Yearbook of the American Society for Political and Legal Philosophy)[forthcoming].

“Evangelical Stories about the Common Law,” in Sanford Levinson, editor, *NOMOS: American Conservatism* (New York: New York University Press)(Yearbook of the American Society for Political and Legal Philosophy)[in progress].

“Ecumenicalism Through Constitutionalism: The Discursive Development of Constitutional Conservatism in *National Review*, 1955-1980,” *Studies in American Political Development* (Spring 2011): 86-116.

“Judicial Supremacy and National Judicial Review,” in Rick Valelly, editor, **Oxford Bibliographies Online** (www.oxfordbibliographiesonline.com)(New York: Oxford University Press, 2011).

“Neoconservatism and the Courts: *The Public Interest*, 1965-1980,” in Bradley C.S. Watson, editor, **Ourselves and Our Posterity: Essays in Constitutional Originalism** (Lanham, MD: Rowman and Littlefield, 2009).

“The Right to Privacy,” in James W. Ely, Jr. and David Bodenhamer, editors, **The Bill of Rights in Modern America** (Bloomington, IN: Indiana University Press (2nd edition, 2008)).

“The Justice as Diplomat: The Foreign Policy Frameworks Behind the U.S. Supreme Court’s New Globalism,” in Anthony Langlois and Karol Soltan, editors, **Global Democracy and its Difficulties** (London: Routledge, 2008).

“‘Guilt by Association’ and the Post War Civil Libertarians,” *Social Philosophy and Policy* 25: 2 (Summer 2008), reprinted in Ellen Frankel Paul, Fred D. Miller, Jr., and Jeffrey Paul, editors, **The Freedom of Association** (New York: Cambridge University Press, 2008).

“‘He’ll Take His Stand’: Mark Graber’s *Dred Scott and the Problem of Constitutional Evil*,” *Constitutional Commentary* 24: 101-219 (2007).

“The Freedom of Expression,” in **Supreme Court DBQs: Exploring the Cases that Changed History** (Arlington, VA: Bill of Rights Institute, 2007).

“Justice Breyer’s Mandarin Liberty,” *University of Chicago Law Review* 73 (Spring 2006): 759-822.

“Everything is Enumerated: The Developmental Past and Future of an Interpretive Problem,” *University of Pennsylvania Journal of Constitutional Law* 8 (September 2006): 957-982.

“The Supreme Court and International Relations Theory,” *Albany Law Review* 69 (2006): 771-799.

“Stephen Breyer,” in Melvin Urofsky, editor, **Supreme Court Justices: A Biographical Dictionary** (Washington, DC: Congressional Quarterly Press, 2006).

“How Conduct Became Speech and Speech Became Conduct: A Political Development Case Study in Labor Law and the Freedom of Speech,” *University of Pennsylvania Journal of Constitutional Law* 2 (March 2006): 255-297.

“The *Gompers v. Bucks Stove* Saga: A Constitutional Case Study in Dialogue, Resistance, and the Freedom of Speech,” *Journal of Supreme Court History* 31 (2006): 28-57. **Hughes-Gossett Award (2006)**

“The New Deal Triumph as the End of History? The Judicial Negotiation of Labor Rights and Civil Rights,” in Kahn and Kersch, editors, **Supreme Court and American Political Development** (Lawrence, KS: University Press of Kansas, 2006).

“Smoking, Progressive Liberalism, and the Law,” *Critical Review* 16 (2005): 405-430.

“The New Legal Transnationalism, the Globalized Judiciary, and the Rule of Law,” *Washington University Global Studies Law Review* 4 (2005): 345-387.

“Multilateralism Comes to the Courts,” *The Public Interest* (Winter 2004)[lead article]. Selected

for inclusion in anthology, *Best American Legal Commentary 2005*, Rosemary Passantino, editor.

“The ‘Globalized Judiciary’ and the Rule of Law,” *The Good Society* 13 (2004): 17-23.

“The Synthetic Progressivism of Stephen Breyer,” in Earl Maltz, editor, **Rehnquist Justice: Understanding the Court Dynamic** (Lawrence, KS: University Press of Kansas, 2003).

“The Reconstruction of Constitutional Privacy Rights and the New American State,” *Studies in American Political Development* 16 (Spring 2002), 61-87.

“Full Faith and Credit for Same-Sex Marriages?” *Political Science Quarterly* 112: 117-136 (Spring 1997)(selected by editors as feature article for PSQ Web Site).

“Guaranteeing a State Right to a Quality Education: The Judicial-Political Dialogue in New Jersey,” *Journal of Law and Education*, 20: 271-300 (Summer 1991) (with Mark Jaffe).

SHORT ESSAYS AND BOOK REVIEWS

Review of Ronald K. L. Collins and Sam Chaltain, We Must Not Be Afraid to Be Free: Stories of Free Expression in America (New York: Oxford University Press, 2011), *Journal of American History* [in progress].

Review of David E. Bernstein, Rehabilitating Lochner: Defending Individual Rights Against Progressive Reform (Chicago: University of Chicago Press, 2011), *Law and History Review* [in progress].

Review Essay on Philip Hamburger’s Law and Judicial Duty (Cambridge, MA: Harvard University Press, 2009), *Journal of Policy History* (to be published with a response by Philip Hamburger, Maurice and Hilda Friedman Professor of Law, Columbia Law School)(forthcoming).

Review of Paul Kens, The Supreme Court Under Morrison R. Waite, 1874-1888 (Columbia, SC: University of South Carolina Press, 2010), *Law and Politics Book Review* 21 (2011): 191-197.

Review of Gerald Berk, Louis D. Brandeis and the Making of Regulated Competition, 1900-1932 by Gerald Berk (Cambridge University Press, 2009) and Patrick M. Garry, An Entrenched Legacy: How the New Deal Constitutional Revolution Continues to Shape the Role of the Supreme Court (Penn State University Press, 2008), *Perspectives on Politics* 9 (March 2011): 180-183.

Review of Jeff Shesol, Supreme Power: Franklin Roosevelt vs. the Supreme Court (New York: W.W. Norton, 2010), *Claremont Review of Books* 10 (Fall 2010): 52-53.

Review of John Marshall: Writings (New York: Library of America, 2010)(Charles Hobson,

editor), *Claremont Review of Books* (Summer 2010): 57-59.

Review of Lucas A. Powe Jr., *The Supreme Court and the American Elite, 1789-2008* (Cambridge, MA: Harvard University Press, 2009), *Political Science Quarterly* 124 (Winter 2009-2010): 735-737.

“Gonzales v. Carhart,” in Kermit Hall and James W. Ely, Jr., editors, **The Oxford Guide to Supreme Court Opinions** (New York: Oxford University Press, 2009)(2nd edition).

Review of John Fabian Witt, *Patriots and Cosmopolitans: Hidden Histories of American Law* (Cambridge, MA: Harvard University Press, 2007), *American Historical Review* (February 2008) 113: 176-177.

“*Boyd v. United States*,” in **Encyclopedia of the Supreme Court of the United States** (Farmington Hills, MI: Macmillan/Gale, 2008).

“Citations to Foreign Sources,” in **Encyclopedia of the Supreme Court of the United States** (Farmington Hills, MI: Macmillan/Gale, 2008).

“18th Amendment,” in **Encyclopedia of the Supreme Court of the United States** (Farmington Hills, MI: Macmillan/Gale, 2008).

“Civil Liberties,” in Richard K. Valelly, editor, **Encyclopedia of United States Political History** Vol. 7, 1976 – Present (Washington, DC: Congressional Quarterly Press, 2008).

“Repressive Tolerance,” **International Encyclopedia of the Social Sciences** (2nd edition, 2008).

“Scopes Trial,” **International Encyclopedia of the Social Sciences** (2nd edition, 2008).

[Autobiographical Profile], *American Institute for History Gazette* (March 2007).

“Neoconservatives and the Courts,” *Clio* 17: 3, 48-51(Spring/Summer 2007).

“Mainstream Bias,” *Wall Street Journal* (January 7, 2006). Re-published as “Mainstream Bias: What Sam Alito and Louis Brandeis Have in Common,” *OpinionJournal.com* (January 9, 2006).

Review of Jeffrey Rosen, *The Most Democratic Branch: How the Courts Serve America* (New York: Oxford University Press, 2006) *Commentary* 112 (October 2006): 70-72.

Review of Ralph A. Rossum, *Antonin Scalia’s Jurisprudence: Text and Tradition* (Lawrence: University Press of Kansas, 2006), *Claremont Review of Books* (December 2006).

Review of David P. Currie, *Descent into the Maelstrom: The Constitution in Congress, 1829-1861* (Chicago: University of Chicago Press, 2005). *The Law and Politics Book Review* 16 (June 2006): 465-469.

Review of Donald Alexander Downs, Restoring Free Speech and Liberty on Campus (New York: Cambridge University Press, 2005), *Academic Questions* 18 (Summer 2005): 83-80.

Review of Michael P. Winship, The Times and Trials of Anne Hutchinson: Puritans Divided (Lawrence, KS: University Press of Kansas, 2005), *The Law and Politics Book Review*, 15 (September 2005): 824-833.

Review of Akhil Reed Amar, America's Constitution: A Biography (New York: Knopf, 2005), *Commentary* (September 2005).

Review of Linda Greenhouse, Becoming Justice Blackmun (New York: Times Books, 2005), *Commentary* (August 2005).

“Civil Liberties,” in David Schultz, editor, **The Encyclopedia of the Supreme Court** (New York: Facts on File, Inc., 2004).

“Civil Rights,” in David Schultz, editor, **The Encyclopedia of the Supreme Court** (New York: Facts on File, Inc., 2004).

“Stephen Breyer,” in David Schultz, editor, **The Encyclopedia of the Supreme Court** (New York: Facts on File, Inc., 2004).

“Stephen Breyer,” in **The Encyclopedia of American Civil Liberties** (New York: Routledge Press, 2004).

Review of Neal Devins and Louis Fisher, The Democratic Constitution (New York: Oxford University Press, 2004), *The Law and Politics Book Review* (January 2005).

Review of Sotirios A. Barber, Welfare and the Constitution (Princeton: Princeton University Press, 2003), *Political Science Quarterly* (Summer 2004).

Review of Cass Sunstein, et al. Punitive Damages: How Juries Decide (Chicago: University of Chicago Press, 2002), *The Public Interest* (Winter 2003).

Review of David Bernstein, Only One Place of Redress: African Americans, Labor Regulations, and the Courts from Reconstruction to the New Deal (Durham, NC: Duke University Press, 2001), *The Public Interest* (Summer 2002): 141-145.

Review of Lee Bollinger and Geoffrey Stone, editors, Eternally Vigilant: Freedom of Speech in the Modern Era (Chicago: University of Chicago Press, 2001), *The Law and Politics Book Review*, Vol. 12, No. 4 (April 2002): 220-224.

Review of Lisa A. Kloppenberg, Playing it Safe: How the Supreme Court Sidesteps Hard Cases and Stunts the Development of the Law (New York: New York University Press, 2001), *The Law and Politics Book Review*, Vol. 11, No. 11 (November 2001): 490-494.

Review of Maxwell Bloomfield, Peaceful Revolution: Constitutional Change and American Culture from Progressivism to the New Deal (Cambridge, MA: Harvard University Press, 2000), *The Law and Politics Book Review*, Vol. 10, No. 12 (December 2000), 636-640.

Review of Shawn Francis Peters, Judging Jehovah's Witnesses: Religious Persecution and the Dawn of the Rights Revolution (Lawrence, KS: University Press of Kansas, 2000), *The Law and Politics Book Review*, Vol. 10, No. 6 (June 2000), 390-393.

"Lehigh and Dry," *Heterodoxy Magazine* (October 1999), reprinted in *Frontpage Magazine* (December 14, 1999).

Review of William P. Kreml, The Constitutional Divide: The Private and Public Sectors in American Law (Columbia, SC: University of South Carolina Press, 1997), *The Law and Politics Book Review*, Vol. 7, No. 9 (September 1997), 454-456.

Review of Neil Komesar, Imperfect Alternatives: Choosing Institutions in Law, Economics, and Public Policy (Chicago: University of Chicago Press, 1996), *The Law and Politics Book Review*, Vol. 6, No. 1 (January 1996), 13-15.

"Gay Rights: A Process of Evolution," *The Washington Post* (June 10, 1996).

PROFESSIONAL PAPERS PRESENTED

[Title TBA], Constitutional Law Schmooze on "Constitutional Breakdown," Law and Public Affairs Program, Woodrow Wilson School of Public and International Affairs, Princeton University, Princeton, New Jersey (December 9-10, 2011).

"Beyond Originalism: Declarationism and the Constitutional Redemption," Constitutional Law Schmooze on "The Thirteenth Amendment," University of Maryland Law School, Baltimore, Maryland (February 25-26, 2011).

"Systems and Feelings," Panel on Passions and Emotions in Law, sponsored by the American Society for Political and Legal Philosophy, Annual Meeting of the American Philosophical Society, Northeast Division, Boston, Massachusetts (December 29, 2010).

"Evangelical Christian Conservatives and the Common Law," Princeton Constitutional Law Schmooze on "Invisible Constitutions," Law and Public Affairs Program, Woodrow Wilson School of Public and International Affairs, Princeton University, Princeton, New Jersey (December 3-4, 2010).

"Lasting Waves Across the Wine Dark Sea: The Eighteenth Amendment's Effects on International Law," Panel on Law, Society, and American Political Development in the Nineteenth Century," Annual Meeting of the Policy History Association, Columbus, Ohio (June 3, 2010)(with Matthew Karambelas).

“*Roe* and the Supreme Court in Thick Ideological Context: The Conservative Evangelical Documentary Films of Francis Schaeffer,” Annual Meeting of the New England Political Science Association, Newport, Rhode Island (April 24, 2010).

“The Constitutional Scope of the Government’s Powers to Fight Subversion at the Mid-Twentieth Century: the View from *National Review*,” Constitutional Law Schmooze, University of Maryland Law School, Baltimore, Maryland (February 26-27, 2010).

“The Financial Infrastructure Behind the Cultivation and Dissemination of Conservative Ideas in Post-War America,” Constitutional Law Advanced Study Workshop, Program in Law and Public Affairs, Princeton University, Princeton, New Jersey (December 11-12, 2009).

“What Constitutions Do: The Case of Conservative Constitutional Politics, 1954-1980,” Panel on How Constitutions Work: Developmental Approaches to Constitutional Function, Annual Meeting of the American Political Science Association, Toronto, Canada (September 2009).

“The Donnybrook Over States Rights in Conservative Constitutional Thought and Politics, 1954-1980,” Annual Meeting of the New England Political Science Association, Portland, Maine (May 8-9, 2009).

“Reacting to Civil Rights: The Conservative Constitutionalist Reaction to *Brown* and its Progeny,” Legal History Roundtable, Boston College Law School (January 2009).

“The Development of Constitutional Conservatism, 1955-1980: Notes from *The National Review*,” Conference on the Constitution in American Political Development,” Harvard Law School, Cambridge, MA (October 17-18, 2008).

“Standing Athwart History Yelling Stop? The Development of Constitutional Conservatism in *The National Review*, 1955-1980,” Boyd School of Law, University of Nevada, Las Vegas (September 2008).

“Guilt by Association and the Post-War Civil Libertarians,” University of Maryland Law School Constitutionalism Discussion Group (“Schmooze”), Baltimore, Maryland (March 2008).

“Free Association Rights Through the Eyes of the Mid-Twentieth Century Civil Libertarians,” Liberty Fund Conference on the Freedom of Association, La Jolla, California (June 21-24, 2007).

“Neoconservatism and Constitutional Interpretation, 1965-1980,” Conference on Culture and Policy, Center for Political and Economic Thought, St. Vincent College, Latrobe, Pennsylvania (April 12-14, 2007).

“Neoconservatives and the Courts,” Conference on The Public Interest and the Making of American Public Policy, 1965-2005, James Madison Program in American Ideals and Institutions, Princeton University, Princeton, New Jersey (November 2006).

“Courts and the Constitution in the Crucible of *Commentary*: The Genesis of the Neoconservative Vision, 1950-1970,” Legal History Colloquium, University of Virginia Law School, Charlottesville, Virginia (November 2006).

“Our Diplomatic Judges,” Democracy Collaborative Conference, University of Maryland, College Park, Maryland (March 2006).

“Everything is Enumerated: The Future of an Interpretive Problem,” University of Pennsylvania Journal of Constitutional Law Symposium on The Future of Unenumerated Constitutional Rights, Philadelphia, PA (February 2006).

“Time and the Supreme Court: The Case of Justices Brandeis, Brennan, and Breyer,” American Political Science Association Annual Meeting, Washington, DC (Summer 2005).

“Three Justices in Political Time: Brandeis, Brennan, and Breyer,” Princeton University Workshop on American Political Development (Spring 2005).

“The Globalized Judiciary and the Rule of Law,” Conference on North American Constitutionalism, University of Toronto (October 2004).

“Constitutional Borrowing, Judicial Globalization, and the Rule of Law,” The Democracy Collaborative Conference on Democracy and the Rule of Law, University of Maryland, College Park, Maryland (June 2004).

“Global Constitutionalism,” American Political Science Association Annual Meeting, Chicago, Illinois (September 2004).

“Justice Breyer’s Progress,” Program on Constitutional Government, Department of Government, Harvard University, Cambridge, MA (November 2002).

“The Revolt Against Formalism as the End of History: The Case of Labor Unions in the Post-New Deal Era,” American Political Science Association Annual Meeting, Boston, Massachusetts (September 2002).

“Fear of God: The Constitutional Framing of Strict Separationism in Cold War America,” Western Political Science Association Annual Meeting, Las Vegas, Nevada (March 15-17, 2001).

“Legibility, the State, and the Fourth Amendment,” American Political Science Association Annual Meeting, Washington, DC (September 2000).

“Agonistic Liberalism and Constitutional Narrative,” Northeast Political Science Association Annual Meeting, Philadelphia, Pennsylvania (November 1999).

“Berlin’s Pluralism: Some Implications for New Narratives of American Constitutional Development,” American Political Science Association Annual Meeting, Atlanta, Georgia

(September 1999).

“Belief and the Construction of Pluralisms by the United States Supreme Court,” American Political Science Association Annual Meeting, Boston, Massachusetts (September 1998).

“State, Community, and Belief in Four Schools Cases,” Northeast Political Science Association Annual Meeting, Philadelphia, Pennsylvania (November 1997).

“Cross-Recognition of Same-Sex Marriages: A New Window Upon the Nature of American Federalism,” New York State Political Science Association Annual Meeting, Ithaca, NY (March 1996).

PROFESSIONAL COLLOQUIA PARTICIPATION

Roundtable on “Rethinking the Teaching of American Constitutionalism: Howard Gillman, Mark Graber, and Keith Whittington’s *American Constitutionalism* (Oxford University Press, forthcoming),” Annual Meeting of the Midwest Political Science Association, Chicago, Illinois (April 12-15, 2012)[with Keith Whittington, Mark Graber, Howard Gillman, Justin Crowe, and Tom Keck].

Roundtable: Kevin J. McMahon’s *Nixon’s Court: His Challenge to Judicial Liberalism and Its Political Consequences* (Chicago: University of Chicago Press, 2011), Annual Meeting of the Midwest Political Science Association, Chicago, Illinois (April 12-15, 2012).

Participant, Workshop on Constitutional Economics, sponsored by The Federalist Society, La Jolla, California (March 23-24, 2012).

Roundtable: Gerard Magliocca’s *William Jennings Bryan: Constitutional Law and The Politics of Backlash* (Yale University Press, 2011), with Gerard Magliocca (Indiana University Law School), Michael Kazin (Georgetown University History Department), M. Elizabeth Sanders (Cornell University Government Department), Clough Center for the Study of Constitutional Democracy, Boston College, Chestnut Hill, MA (October 27, 2011).

Roundtable: Gary Lawson, Geoffrey Miller, Robert Natelson, and Guy Seidman’s, *The Origins of the Necessary and Proper Clause* (Cambridge University Press, 2010), with Philip Hamburger (Columbia Law School) and John Manning (Harvard Law School), Boston University Law School, Boston, Massachusetts (October 17, 2011).

Participant, Pre-Publication Seminar on Sid Verba, Kay Schlozman, and Henry Brady’s *The Unheavenly Chorus: Political Voice and the Promise of American Democracy*, Harvard Institute of Quantitative Social Science, Harvard Government Department, Cambridge, MA (May 6, 2011).

Participant, Workshop on “Processes of Constitutional and Legal Change,” New York Historical Society/Institute for Constitutional History, Yale Law School, New Haven, Connecticut (July 11-

16, 2010).

Israel Study Tour Participant for Boston-Area Social Scientists sponsored by Combined Jewish Philanthropies, Tel Aviv, Golan Heights, Galilee, the West Bank, and Jerusalem (June 11-20, 2010).

Colloquium, "Natural Law and American Constitutionalism," Center for American Studies, Heritage Foundation, Washington, DC (November 5-6, 2009).

Participant, Conference on The Post-Communist Era: Challenges and Opportunities, James Madison Program in American Ideals and Institutions, Princeton University, Princeton, New Jersey (May 2009).

Roundtable: Robert Tsai's *Eloquence and Reason: Creating a First Amendment Culture*, Annual Meeting of the Association for the Study of Law, Culture, and the Humanities, Suffolk Law School, Boston, Massachusetts (April 2009).

Roundtable: Steven Teles's *The Rise of the Conservative Legal Movement*, Annual Meeting of the American Political Science Association, Boston, Massachusetts (August 2008).

Roundtable: Paul Frymer's *Black and Blue: African Americans, the Labor Movement, and the Decline of the Democratic Party*, Annual Meeting of the American Political Science Association, Boston, Massachusetts (August 2008).

Roundtable: Keith E. Whittington's *Political Foundations of Judicial Supremacy: The Presidency, the Supreme Court, and Constitutional Leadership in U.S. History*, sponsored by the Program in Law and Public Affairs and the James Madison Program in American Ideals and Institutions, Princeton University, Princeton, New Jersey (May 2007).

Roundtable: Ronald Kahn and Ken I. Kersch's *The Supreme Court and American Political Development*, Annual Meeting of the New England Political Science Association, Newton, Massachusetts (May 2007).

Roundtable: Mark A. Graber's *Dred Scott and the Problem of Constitutional Evil*, Annual Meeting of the New England Political Science Association, Newton, Massachusetts (May 2007).

Roundtable: The Supreme Court in Transition: Personnel Changes and the Future of Contested Constitutional Doctrine, Annual Meeting of the New England Political Science Association, Portsmouth, New Hampshire (May 2006).

Roundtable: Unenumerated Rights and American Political Development, Annual Meeting of the Western Political Science Association, Albuquerque, New Mexico (March 2006).

Roundtable: Ken I. Kersch's *Constructing Civil Liberties*, with Jeremy A. Rabkin, Cornell University, Carol Nackenoff, Swarthmore College, Julie Novkov, University of Oregon, Ronald

Kahn, Oberlin College, American Political Science Association Annual Meeting, Washington DC (September 2005).

Roundtable: Authors Meet Authors -- Ken I. Kersch's *Constructing Civil Liberties*, J. Mitchell Pickerell's *Constitutional Deliberation in Congress*, and George Lovell's *Legislative Deferrals*. Howard Gillman, discussant. Law and Society Association Annual Meeting, Las Vegas, NV (May 2005).

Roundtable: Law and American Political Development, New England Political Science Association Annual Meeting, Portland, Maine (April 2005).

Liberty Fund Colloquium: "Liberty and Judicial Activism Worldwide," Philadelphia, Pennsylvania (June 2005).

Roundtable: Ken I. Kersch's *Constructing Civil Liberties*, with Richard F. Bense, Professor of Government, Cornell University, William J. Novak, Professor of History, University of Chicago, Keith E. Whittington, Professor of Politics, Princeton University, James Madison Program in American Ideals and Institutions, Princeton University (February 2005).

Liberty Fund Colloquium: "Liberty, Equality, and Constitutionalism: *Brown v. Board of Education* at Fifty," Freeport, Maine (May 2004).

University of Maryland Discussion Group on Constitutionalism: "The New First Amendment and the Meaning of Liberalism/Conservatism." University of Maryland Law School, Baltimore, Maryland (March 2004).

Roundtable: Identifying Nodes of Conflict that Reshape the Legal and Political Landscape of American Political Development, American Political Science Association Annual Meeting, Philadelphia, Pennsylvania (August 2003).

Roundtable: Richard Bense's *The Political Economy of American Industrialization, 1877-1900*, Western Political Science Association Annual Meeting, Denver, Colorado (March 2003).

University of Maryland Discussion Group on Constitutionalism: "American Constitutional Development: A Distinctive Public Law Voice?" College Park, Maryland (April 2002).

Roundtable: The Interplay of Internal and External Influences on Supreme Court Decisionmaking, Western Political Science Association Annual Meeting, Long Beach, California (March 2002).

Liberty Fund Colloquium: The Rule of Law and the Elaboration of Constitutional Text, Indianapolis, Indiana (March 2002).

Law and Semiotics Roundtable: Framing the Law, Framing the Inquiry, Amherst, Massachusetts (April 19-22, 2001).

Liberty Fund Conference: Liberty, Institutions, and the Power of the Veto, Pasadena, California (June 8-11, 2000).

Liberty Fund Conference: Liberty in the Face of Sovereignty: Jean Bodin and Thomas Hobbes, San Antonio, Texas (April 13-16, 2000).

Liberty Fund Summer Series Conference on Law and Liberty, Seattle, Washington (July 19-25, 1999).

Liberty Fund Colloquium: Liberty or License: Self-Government and the Regulation of Free Speech, Freeport, Maine (June 10-13, 1999).

PANELS

Discussant, Book Panel on Erik Bleich's *The Freedom to be Racist? How the United States and Europe Struggle to Preserve Freedom and Combat Racism* (Oxford University Press, 2011), Annual Meeting of the Social Science History Association, Boston, Massachusetts (November 18, 2011).

Discussant, Panel on "Kenya: Passing the Baton," documentary film on recent constitutional reforms in Kenya, Clough Center, Film Studies Program, Jesuit Institute, Boston College, Chestnut Hill, MA (October 20, 2011).

Chair, Panel on The Politics of Rights in Early Twentieth Century Law and Political Science: David Rabban's *Law's History: American Legal Thought and the Transatlantic Turn to History* (Cambridge University Press, forthcoming 2012), Annual Meeting of the American Political Science Association, Seattle, Washington (September 2011).

Chair, Panel on Christian Democracy and the Origins of Postwar Human Rights, Conference on Human Rights and Religion in Historical Perspective, Boston College (April 9-10, 2011).

Discussant, Panel on Opposition Disloyalty and Illegitimacy in American Political Development, Annual Meeting of the Midwest Political Science Association, Chicago, Illinois (March 31 – April 3, 2011).

Chair, Panel on Thinking About Courts: Old Paradigms, New Problems, Annual Meeting of the Northeast Law and Society Association, Amherst College, Amherst, Massachusetts (October 1-2, 2010).

Chair, Panel on Do Ideas Make a Difference in American Constitutional Development? Annual Meeting of the American Political Science Association, Washington, D.C. (September 5, 2010).

Chair, Panel on Natural Law and Natural Rights: Post-Founding Applications and Rejections, Conference on Natural Law, Natural Rights, and the American Republic, James Madison

Program in American Ideals and American Institutions, Princeton University, Princeton, New Jersey (May 17, 2010).

Chair, Roundtable on Jack Balkin's Book-in-Progress on Framework Originalism, with Jack Balkin, Keith Whittington, Steven Calabresi, and Gary Lawson, Annual Meeting of the New England Political Science Association, Newport, Rhode Island (April 23, 2010).

Chair, Panel on New Work by Emerging Scholars of American Constitutional Development, Annual Meeting of the New England Political Science Association, Newport, Rhode Island (April 24, 2010).

Chair, Panel on Lessons Learned, Conference on President Obama, National Security, and Executive Power, Clough Center for the Study of Constitutional Democracy, Boston College, Chestnut Hill, Massachusetts (April 8-9, 2010).

Chair and Discussant, Panel on American Political Development and the Courts, Annual Meeting of the Western Political Science Association, San Francisco, California (March 2010).

Chair and Discussant, Panel on Jurisprudence and Public Policy, Annual Meeting of the New England Political Science Association, Portland, Maine (May 8-9, 2009).

Discussant, Conference on Law and Religion: Philosophical and Historical Perspectives, Princeton University (April 16-18, 2009).

Discussant, Panel on When is Legal Mobilization Effective? Annual Meeting of the Western Political Science Association, Vancouver, British Columbia (March 19-21, 2009).

Chair and Discussant, Panel on Decision Making on the U.S. Supreme Court, Annual Meeting of the Western Political Science Association, Vancouver, British Columbia (March 19-21, 2009).

Chair and Discussant, Panel on Race, Ethnicity, and Gender in the 2009 Presidential Election, Graduate School of Social Work, Boston College, Chestnut Hill, Massachusetts (October 24, 2008).

Discussant, Panel on Cultural and Historical Perspectives, Law and Society Association, Northeast, Annual Meeting, Amherst College, Amherst, Massachusetts (October 29-31, 2008).

Discussant, Panel on Legal Liberalism and Counter-Mobilization after the 1960s, Annual Meeting of the American Political Science Association, Chicago, Illinois (September 2007).

Commentator on Michael Greve's *Constitutional Choices*, Boston College, Chestnut Hill, Massachusetts (November 2006).

Chair, Roundtable on Law and American Political Development, Annual Meeting of the American Political Science Association, Philadelphia, Pennsylvania (September 2006).

Chair and Discussant, Panel on Constitutional Aspiration, Constitutional Authority, and Constitutional Government, Annual Meeting of the New England Political Science Association, Portsmouth, New Hampshire (May 2006).

Chair, Panel on “The Conservative Movement on U.S. Foreign Policy,” Conference on the Conservative Movement: Its Past, Present, and Future, co-sponsored by the James Madison Program in American Ideals and Institutions, the Center for the Study of Democratic Politics, and the Woodrow Wilson School of Public and International Affairs, Princeton University (December 1-3, 2005).

Chair, Panel on The Politics of Conservative Legal Activism, New England Political Science Association Annual Meeting, Portland, Maine (April 2005).

Panel on International Human Rights in American Courts, in Conference on the "The Supreme Court and American Politics," Princeton University (May 27, 2004).

Chair, Panel on The Formation of American Judicial Power, New England Political Science Association Annual Meeting (April 2004).

Commentator, Paper by Anne-Marie Slaughter, “Are Apolitical Courts Possible?,” Conference on National Sovereignty and International Institutions, James Madison Program in American Ideals and Institutions, Princeton University (April 2003).

Chair, Panel on the Supreme Court in American Political Development, Western Political Science Association Annual Meeting, Denver, Colorado (March 2003).

Discussant, Panel on Race, Immigration, and American Political Development, Western Political Science Association, 2002 Annual Meeting, Long Beach, California (March 2002).

Chair, Panel on Institutional Development and Change, American Political Science Association Annual Meeting, San Francisco, California (August 30 – September 2, 2001).

Discussant, Panel on Theoretical Approaches to Law, Western Political Science Association 2001 Annual Meeting, Las Vegas, Nevada (March 15-17, 2001).

INVITED LECTURES

“The Freedom of Speech,” Symposium for Boston Area Teachers, Bill of Rights Institute, Boston, Massachusetts (October 18, 2011).

“The Freedom of Press,” Symposium for Boston Area Teachers, Bill of Rights Institute, Boston, Massachusetts (October 18, 2011).

“The Freedom of Assembly and Petition,” Symposium for Boston Area Teachers, Bill of Rights

Institute, Boston, Massachusetts (October 18, 2011).

“The Constitutional Politics of the Declaration of Independence,” Constitution Day Lecture, Union College, Schenectady, New York (September 19, 2011).

“Lockean Liberalism and the American Political Tradition,” Symposium for Boston Area Teachers, Bill of Rights Institute, Boston, Massachusetts (March 29, 2011).

“Founding Era Arguments About the Mechanisms of Rights Protection,” Symposium for Boston Area Teachers, Bill of Rights Institute, Boston, Massachusetts (March 29, 2011).

“Defining and Protecting Rights in Modern America,” Symposium for Boston Area Teachers, Bill of Rights Institute, Boston, Massachusetts (March 29, 2011).

“*Roe* and the Supreme Court in Thick Ideological Context: The Conservative Evangelical Documentary Films of Francis Schaeffer,” Colloquium Series, Syracuse University Law School, Syracuse, New York (February 15, 2010).

“Free Speech Politics from the Sedition Act to the Civil War,” Symposium for Boston Area Teachers, Bill of Rights Institute, Boston, Massachusetts (October 20, 2009).

“War and Civil Liberties in American Constitutional History,” Symposium for Boston Area Teachers, Bill of Rights Institute, Boston, Massachusetts (October 20, 2009).

“The Birth of Civil Libertarianism,” Symposium for Boston Area Teachers, Bill of Rights Institute, Boston, Massachusetts (October 20, 2009).

“Cultivating a Vibrant Constitutional Culture,” Constitution Day Lecture, Brigham Young University, Provo, Utah (September 2009).

Faculty Workshop, Political Science Department/Law School, Brigham Young University, Provo, Utah (September 2009).

Keynote Speaker, Junior State of America [Junior Statesmen of America Foundation], Northeast Regional Conference, Boston University Law School (March 28, 2009).

“Substantive Due Process in the Supreme Court in the Late Nineteenth and Early Twentieth Centuries,” Wellesley College (November 2008).

“Forging Constitutional Conservatism,” Constitution Day Lecture, University of Nevada, Las Vegas (September 2008).

“Constitutional Conservatism in the *National Review*, 1955-1964,” Elizabeth Battelle Clark Legal History Series Lecture, Boston University Law School (March 17, 2008).

“The Debate Over a ‘Living Constitution,’” in “Changing the Constitution: Politics and Law in American Constitutional Development,” Annenberg Summer Teacher Institute, National Constitution Center, Philadelphia, Pennsylvania (July 17 and July 31, 2007).

“The Articles of Confederation,” Symposium for New Jersey High School Teachers, sponsored by the American Institute for History Education, Fort Lee, New Jersey (June 25, 2007)(General George Washington Liberty Fellowship).

“The Constitutional Convention,” Symposium for New Jersey High School Teachers, sponsored by the American Institute for History Education, Fort Lee, New Jersey (June 25, 2007)(General George Washington Liberty Fellowship).

“Slavery and the Constitution,” Symposium for New Jersey High School Teachers, sponsored by the American Institute for History Education, Fort Lee, New Jersey (June 26, 2007)(General George Washington Liberty Fellowship).

“Institutions and the Constitution,” Symposium for New Jersey High School Teachers, sponsored by the American Institute for History Education, Fort Lee, New Jersey (June 26, 2007)(General George Washington Liberty Fellowship).

“The Federalists,” Symposium for New Jersey High School Teachers, sponsored by the American Institute for History Education, Moorestown, New Jersey (June 27, 2007)(Alice Paul Liberty Fellowship).

“The Antifederalists,” Symposium for New Jersey High School Teachers, sponsored by the American Institute for History Education, Moorestown, New Jersey (June 27, 2007)(Alice Paul Liberty Fellowship).

“Slavery and the Constitution,” Symposium for New Jersey High School Teachers, sponsored by the American Institute for History Education, Manalapan-Englishtown, New Jersey (June 28, 2007)(Molly Pitcher Liberty Fellowship).

“Institutions and the Constitution,” Symposium for New Jersey High School Teachers, sponsored by the American Institute for History Education, Manalapan-Englishtown, New Jersey (June 28, 2007)(Molly Pitcher Liberty Fellowship).

“The Washington Administration,” Symposium for New Jersey High School Teachers, sponsored by the American Institute for History Education, Tom’s River, New Jersey (June 29, 2007)(James Madison Liberty Fellowship).

“The Adams Administration,” Symposium for New Jersey High School Teachers, sponsored by the American Institute for History Education, Tom’s River, New Jersey (June 29, 2007)(James Madison Liberty Fellowship).

“Neoconservatives and the Courts,” Legal History Symposium, University of Virginia Law

School (November 2006).

Keynote Address, Annual Retreat of U.S. Judges, Eastern District of Pennsylvania, Seaview Resort, Absecon, New Jersey (October 2006).

“Thinking About American Civil Liberties Historically,” Constitution Day Lecture, Swarthmore College, Swarthmore, PA (September 2006).

“Are Judges Necessarily Political?” Mercer House, Princeton, New Jersey (September 2006).

“The Debate Between the Federalists and the Antifederalists, and the Bill of Rights,” Symposium for New Jersey High School Teachers, sponsored by the American Institute for History Education, Trenton, New Jersey (June 29, 2006).

“The Articles of Confederation, and the Call for a Convention,” Symposium for New Jersey High School Teachers, sponsored by the American Institute for History Education, Lakeland, New Jersey (June 26, 2006).

“The Articles of Confederation, and the Call for a Convention,” Symposium for New Jersey High School Teachers, sponsored by the American Institute for History Education, Pennsville, New Jersey (July 31, 2006).

“The Role of Precedent in the U.S. Supreme Court,” Mercer House, Princeton, New Jersey (March 2006).

Symposium Participant: “The Future of Unenumerated Rights,” University of Pennsylvania Law School (February 2006).

“Categorical and Conceptual Shift and American Constitutional Development,” New York City American Political Development Colloquium (February 2006).

“The Role of the Judiciary and the Rule of Law,” Panelist for Ackerman Lecture, Baruch College/CUNY – School of Public Affairs, New York, New York (November 2005).

“The Fraying of Constitutional Liberalism?” Gaudino Fund Lecture, Williams College, Williamstown, Massachusetts (October 2005).

“Situating the Supreme Court in Time as a Distinctive Political Institution,” American Political Development Workshop, University of Wisconsin, Madison (September 2005).

“Justice Breyer’s Active Liberty and Constitutional Interpretation,” Social Philosophy and Policy Center, Bowling Green State University, Bowling Green, Ohio (December 2005).

Symposium Participant: “Outsourcing Authority? Citation to Foreign Court Precedent in Domestic Jurisprudence.” Albany Law School (October 2005).

“The Supreme Court and the Future of Constitutional Liberalism,” 55Plus, Princeton, New Jersey (March 2005).

“Origins and Arguments: Shaping the Bill of Rights,” Symposium for New Jersey High School Teachers, sponsored by the Bill of Rights Institute, Princeton University, Princeton, New Jersey (October 2004).

“Citizenship and Character: Understanding American Values,” Symposium for New Jersey High School Teachers, sponsored by the Bill of Rights Institute, National Constitution Center, Philadelphia, Pennsylvania (May 2004).

Roundtable Participant: The Effects of War on the Supreme Court, James Madison Program in American Ideals and Institutions, Princeton University (April 2004).

Roundtable Participant: Free Speech and Censorship on Campus, Woodrow Wilson School of Public and International Affairs, Princeton University (February 2004).

“Constitutional Equality: A Developmental Perspective on Blacks and Labor,” Alumni Studies Program, Princeton University (October 2003).

“Religion and the Constitution,” Symposium on the Bill of Rights and the Founders for New Jersey high school teachers, sponsored by The Bill of Rights Institute, Rutgers University (October 2003).

“The U.S. Supreme Court’s Use of Foreign Precedent and Practice,” Mercer House, Princeton New Jersey (September 2003).

“Institutions and Enterprise of Colonial and Early America,” U.S. Department of Education, American History Project, Pennsylvania State University (June 24-25, 2003).

“Universal Jurisdiction and the Eichmann Case,” Mercer House, Princeton, New Jersey (March 2003).

“Justice Breyer’s Progress,” Program on Constitutional Government, Center for American Political Studies, Department of Government, Harvard University (November 15, 2002).

“The Federalists, the Anti-Federalists, and the Bill of Rights,” Symposium on the Bill of Rights and the Founders for New Jersey high school teachers, sponsored by The Bill of Rights Institute, Morristown, New Jersey (April 22, 2002).

Roundtable Participant: “The Judiciary: Friend or Foe of Freedom?,” Conference on the Declaration of Independence, James Madison Program in American Ideals and Institutions, Princeton University (April 2002).

“The Reconstruction of Constitutional Privacy Rights and the New American State,” Princeton

University (December 17, 2001).

Roundtable Participant, “What Does it Mean to Be an American?” Princeton University (September 14, 2001).

MEDIA APPEARANCES AND GIGS

Blogger, *Balkinization* (2011-present)(<http://balkin.blogspot.com/>)

Podcast Interview with Gary Jeffrey Jacobsohn, H. Malcolm MacDonald Chair in Constitutional and Comparative Law, University of Texas- Austin. Inaugural podcast for *Polity* website (<http://www.palgrave-journals.com/polity/index.html>).

Guest Blogger, *Legal History Blog* (July 2011)(<http://legalhistoryblog.blogspot.com/>).

Interview on building a vibrant constitutional culture, *Access Utah (Utah Public Radio)* (September 11, 2009).

Interview on the development of constitutional conservatism, *KNPR (Nevada Public Radio) State of Nevada Show* (September 17, 2008).

Interview on the confirmation hearings for Judge Samuel Alito’s appointment to the U.S. Supreme Court, *The John Batchelor Show, ABC Radio Network* (January 9, 2006).

CONSULTING

Scholar Reviewer for Middle School Student Lessons, “Framing the First Amendment,” and “Time, Place, and Manner,” developed by the **Bill of Rights Institute**, Arlington, Virginia (2008).

Teacher’s Guide, “Exploring Landmark Supreme Court Cases,” developed by the **Bill of Rights Institute**, Arlington, Virginia. Funded by **The National Endowment for the Humanities** (2007).

EDITORIAL BOARDS

Polity

TEACHING

Undergraduate Courses Taught: Constitutional Law; Civil Rights and Civil Liberties; American Constitutional Development; Civil Liberties; Courts; Political Authority in Law and Literature; Law and Society; American Political Thought; Constitutional Democracy in America (Government Department, Harvard University, co-taught with Harvey Mansfield)(Spring 2008)

Graduate Courses Taught: American Constitutionalism; American Constitutional Development; Civil Liberties

Additional Teaching Interests: American Political Development; American Government

I have served on eight Ph.D. dissertation committees and supervised over twenty-five undergraduate senior theses.

NON-ACADEMIC EMPLOYMENT

Lawyer, Wiley, Rein & Fielding, Washington, D.C. (1991-1993)

Law Clerk, Wiley, Rein & Fielding, Washington, D.C. (Summer 1990)

Law Clerk, Butler, Rubin, Newcomer, Saltarelli, Boyd & Krasnow, Chicago, Illinois (Summer 1989)

Presidential Campaign Staff, Babbitt for President, Concord, NH (1987-1988)

DEPARTMENTAL AND UNIVERSITY SERVICE

Founding Director, Clough Center for the Study of Constitutional Democracy, Boston College (2008-2012)

Faculty Advisor: Clough Center Junior Fellows Program; Clough Journal of Constitutional Democracy (2008-2012)

Member, Strategic Planning Committee, Department of Political Science, Boston College (2009 – present)

Member, American Politics Search Committee, Department of Political Science, Boston College (2009-2010).

Member, Graduate Committee, Department of Political Science, Boston College (2008 – present)

Executive Committee and Faculty Associate, James Madison Program in American Ideals and Institutions, Princeton University (2003 - 2007).

Faculty Associate, Program in Law and Public Affairs, Woodrow Wilson School of Public and International Affairs, Princeton University (2003 - 2007)

Director, Princeton University Public Law Colloquium (2004-2005)

Member, Graduate Committee, Department of Politics, Princeton University (2003-2005)

Faculty Advisor, Forbes College, Princeton University (2003 - 2007)

Faculty Fellow, Forbes College, Princeton University (2003 - 2007)

Pre-law Advisor, Department of Political Science, Lehigh University (1999 - 2003)

Chair, Tresolini Lectureship Committee, Lehigh University (1999- 2001)

Member, American Studies Advisory Committee, Lehigh University (1999-2003)

Faculty Advisor, Phi Kappa Theta Fraternity, Lehigh University (2000-2003). Named “Most Outstanding Professor,” Interfraternity Council (2002); Named “Honorary Brother,” Phi Kappa Theta Fraternity (2003).

Head Teaching Assistant Trainer, Department of Government, Cornell University (1996-1999)

Organizer, Professional Development Workshops, Department of Government, Cornell University (1997-1999)

Designer of Departmental Course Evaluation Form, Department of Government, Cornell University

Member, Advisory Committee on the Establishment of Residential Colleges, Cornell University (1998-1999)

PROFESSIONAL SERVICE

Chair, Politics and History Section, Midwest Political Science Association Annual Meeting (April 2012); Prize Committee Member, Edward S. Corwin Award, American Political Science Association (best public law dissertation) (2009-2010); Chair, Law and Courts Section, New England Political Science Association Annual Meeting (2010); Council Member, Politics and History Section, American Political Science Association (2009 – 2011); Prize Committee Member, *Polity* (2009)(best article); Mary Ford Bacon Essay Prize Committee Member, Pomona College (best essay on the U.S. Constitution) (2009); Chair, Prize Committee, C. Herman Pritchett Award (best book on law and courts) (2006-2007); Chair, Law and Courts Section, New England Political Science Association Annual Meeting (2005); External Honors Examiner, Department of Political Science, Swarthmore College (2005, 2006); Prize Committee Member, McGraw Hill Award (best article on law and courts)(2003-2004); Member, Nominations Committee, Law and Courts Section, American Political Science Association (2000-2001).

LANGUAGES

French

PROFESSIONAL MEMBERSHIPS

American Political Science Association (APSA); APSA Law and Courts Section; APSA Politics and History Section; Western Political Science Association; New England Political Science Association; James Madison Society (Princeton University); American Historical Association; American Society for Legal History; Massachusetts Historical Society; New York Bar; Massachusetts Bar; District of Columbia Bar

COMMUNITY MEMBERSHIPS

Friend, Institute for Contemporary Art/Boston; Member, Museum of Fine Arts/Boston; Member, Massachusetts Historical Society

MANUSCRIPT REVIEWER

Cambridge University Press
Oxford University Press
Harvard University Press
Princeton University Press
University of Chicago Press
University Press of Kansas
Studies in American Political Development
National Science Foundation
Political Research Quarterly
Studies in Law, Politics, and Society
American Political Science Review
American Journal of Political Science

Political Science Quarterly
Journal of American History
Law and Society Review
Journal of Politics
Perspectives on Politics
Law and Social Inquiry
Judicature
New York University Press
Polity (editorial board)
Law and History Review
Southern Illinois University Press

REFERENCES

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 Department of Political Science
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 Swarthmore College
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