



State Constitutional Reform in the New South

Inaugural Symposium on
Law & Society

January 15–16, 2009
Charleston, South Carolina

Presented by
The Charleston Law Review of
The Charleston School of Law
and
The Riley Institute® at Furman



THURSDAY, JANUARY 15

Charleston Music Hall

5 P.M.

Introduction

*John L.S. Simpkins, Assistant Professor of Law
and Director of Diversity Initiatives,
The Charleston School of Law*

Keynote Address

*Professor Ronald S. Sullivan, Jr., Senior Fellow,
Jamestown Project; Clinical Professor of Law and Director,
Harvard Criminal Justice Institute, Harvard Law School*

*Charles W. McKinney, Ph.D., Senior Fellow,
Jamestown Project; Assistant Professor,
Department of History, Rhodes College*

FRIDAY, JANUARY 16

Charleston Museum

8 A.M. | CLE REGISTRATION

8:30 A.M.

Welcoming Remarks

*Andrew L. Abrams, Dean and Professor of Law,
Charleston School of Law*

*Donald L. Gordon, Ph.D., Executive Director,
The Riley Institute® at Furman*

*William J. Cook, Faculty Advisor,
Charleston Law Review and Assistant Professor of Law,
Charleston School of Law*

8:45 A.M.

**“A Legislative Perspective on
State Constitutional Reform”**

*The Honorable Robert W. Harrell, Jr.,
Speaker of the S.C. House of Representatives*

9 A.M. | PANEL ONE

**“Education as a Legal Right
and Constitutional Barriers to
Educational Excellence”**

“Should South Carolina Amend its
Constitution to Guarantee More than
a ‘Minimally Adequate’ Education?”

*Moderated by Jack Bass, Ph.D., Citadel Fellow,
Department of History, The Citadel*

Panelists:

*The Honorable James H. Rex,
South Carolina Superintendent of Education*

*Stephen G. Morrison, Partner,
Nelson Mullins Riley & Scarborough LLP*

*Robert E. Stepp, Member,
Sowell Gray Stepp & Laffitte, LLC*

“Exploring Bans on Illegal Immigrant
Admission to State Colleges & Universities”

*Moderated by Matthew T. Richardson, Member,
Wyche Burgess Freeman & Parham, P.A.*

Panelists:

*Marcia A. Yablon-Zug, Assistant Professor of Law,
University of South Carolina School of Law*

*Danielle R. Holley-Walker, Associate Professor of Law,
University of South Carolina School of Law*

10:30 A.M. | PANEL TWO

“The Judicial Selection Process”

*Moderated by Constance A. Anastopoulou,
Visiting Professor of Law, Charleston School of Law*

Panelists:

*The Honorable Jean H. Toal, Chief Justice,
South Carolina Supreme Court*

*The Honorable Alexander M. Sanders, Jr.,
Former Chief Judge, South Carolina Court of Appeals*

*The Honorable James E. Smith, Jr.,
South Carolina House of Representatives*

*D. Alan Rudlin, Partner,
Hunton & Williams LLP*

11:30 A.M. | LUNCH ON YOUR OWN

I P.M. | PANEL THREE

“Constitutional Reform in the New South:
Challenges & Opportunities”

*Moderated by John C. Moylan, III,
Wyche Burgess Freeman & Parham, P.A.*

Panelists:

*Howard P. Walthall, Professor,
Cumberland School of Law, Samford University;
Director, Cumberland State Constitutional Law Project*

*Andrew C. Brack, The Brack Group;
Co-founder and President, Center for a Better South
John L. S. Simpkins, Assistant Professor of Law
and Director of Diversity Initiatives,
Charleston School of Law; Of Counsel,
Wyche Burgess Freeman & Parham, P.A.*

*Jeffrey A. Parness, Professor Emeritus, Northern Illinois
University College of Law*

*John J. Dinan, Ph.D., Associate Professor, Department of
Political Science, Wake Forest University*

2:15 P.M. | PANEL FOUR

“Should the South Carolina Constitution
Support a Stronger Executive?”

*Moderated by
Kevin A. Hall, Partner,
Nelson Mullins Riley & Scarborough LLP
and
Matthew T. Richardson, Member,
Wyche Burgess Freeman & Parham, P.A.*

Panelists:

*The Honorable Richard W. Riley,
Former U.S. Secretary of Education;
Former Governor of South Carolina*

*The Honorable James H. Hodges,
CEO and Managing Director, Hodges Consulting Group;
Former Governor of South Carolina*

*Lewis F. Gossett, President, South Carolina Manufacturers
Alliance; Trustee, South Carolina Business & Industry
Political Education Committee*

3:30 P.M. | PANEL FIVE

“South Carolina’s Constitution
in the 21st Century”

*Moderated by Donald P. Aiesi, Ph.D.,
Professor of Political Science, Furman University*

Panelists:

*The Honorable Kaye G. Hearn, Chief Judge,
South Carolina Court of Appeals*

*Armand G. Derfner, Partner,
Derfner Altman & Wilborn
The Honorable Vincent Sheheen,
South Carolina Senate*

*Donald L. Fowler, Ph.D., Chairman of the Board,
Fowler Communications, Inc.; Adjunct Professor,
Department of Political Science,
University of South Carolina*

RONALD S. SULLIVAN, JR. joined Harvard's law faculty in July 2007. His areas of interest include criminal law, criminal procedure, legal ethics and race theory. Prior to teaching at Harvard, Sullivan served on the faculty of the Yale Law School, where, after his first year teaching, he won the law school's award for outstanding teaching. Sullivan is the faculty director of the Harvard Criminal Justice Institute. He also is a founding fellow of The Jamestown Project.

Sullivan is a Phi Beta Kappa graduate of Morehouse College and the Harvard Law School, where he served as president of the Black Law Students Association and as a general editor of the Harvard BlackLetter Law Review. After graduating Harvard, Sullivan spent a year in Nairobi, Kenya, as a visiting attorney for the Law Society of Kenya. In that capacity, he sat on a committee charged with drafting a new constitution for Kenya. He also worked with the Kenya Human Rights Commission, documenting human rights violations throughout Kenya.

Sullivan returned to the United States where he was employed as a staff attorney for the Public Defender Service for the District of Columbia (PDS). He represented hundreds of clients in thousands of matters, ranging from juvenile delinquency cases to first-degree murder cases. After leaving PDS, Sullivan worked with the D.C. law firms of Baach Robinson & Lewis, and Skadden Arps Slate Meagher & Flom, where he specialized in complex civil and white-collar criminal litigation. In 2000, Sullivan returned to PDS as its general counsel where he served until his appointment as director in June 2002. As director of PDS, he testified before the United States Senate, the United States House of Representatives, and the Council of the District of Columbia on a range of criminal law issues. Most recently, Sullivan testified before the U.S. Senate Judiciary Committee on the nomination of Samuel A. Alito to the U.S. Supreme Court with respect to Judge Alito's Fourth Amendment jurisprudence. Sullivan has provided legal commentary for CNN, FoxNews and PBS on topics ranging from the impeachment of President Clinton to the Kobe Bryant criminal proceedings.

CHARLES W. MCKINNEY is a founding member and senior fellow of the Jamestown Project. His interests include African American history, civil rights studies, twentieth century U.S. political and social history and oral history. McKinney is an assistant professor in the History Department at Rhodes College in Memphis, Tennessee. In 1990 he won the First Year Teacher of the Year award in the Compton Unified School District. He subsequently spent five years as the partnership manager for Public Allies, an AmeriCorps leadership development program that places young people in paid internships with local non-profits, and three years organizing curricula and performing other tasks in juvenile justice diversion programs. McKinney also serves on the advisory board for several non-profit organizations, including the Grassroots Fund and North Carolina Public Allies.

McKinney earned his undergraduate degree with honors from Morehouse College and received his Ph.D. in History from Duke University. His dissertation is titled *Our People Began to Press for Greater Freedom: the Black Freedom Struggle in Wilson, North Carolina, 1945–1970*. McKinney served as research associate and program coordinator of the African American Studies program at Duke University prior to joining the Rhodes faculty. At Rhodes, McKinney teaches classes on the civil rights movement, twentieth century United States history and post-war American politics. His current research focuses on the development of the Civil Rights Movement in rural North Carolina, and he is in the process of preparing a manuscript, tentatively entitled "Greater Freedom: The Evolution of a Civil Rights Movement in the Rural South," for publication. McKinney is also working on an edited volume of essays that will use a multi-disciplinary approach to examine the lessons and legacies of the Civil Rights Movement.

ROBERT W. HARRELL, JR., was overwhelmingly elected by South Carolina House members in 2005 to serve as speaker. Prior to that, he served as house majority leader from 1997–1999 and as House Ways and Means Committee chairman from 1999–2005. As a representative, Harrell has worked tirelessly on property tax relief for homeowners, improving education and the opportunities for South Carolina's children, and major economic development legislation.

Harrell earned his bachelor of science in business administration from the University of South Carolina. A small business owner, he and his wife operate a State Farm insurance agency and Palmetto State Pharmaceuticals, a pharmaceuticals repackaging company.

JACK BASS is a member of the History Department at The Citadel and professor emeritus at the College of Charleston. He has a Ph.D. in American studies from Emory University and is author or co-author of seven books about the American South. Bass received the 1994 Robert Kennedy Book Award for *Taming the Storm*, a biography of Judge Frank M. Johnson, Jr. He is currently working on *Justice Abandoned* for Pantheon Books, a book that will break new ground in telling the story of the Supreme Court's role in ending Reconstruction and creating the system of a segregated society and black disfranchisement in the South.

JAMES H. REX became South Carolina's 16th state superintendent of education on January 10, 2007, and immediately went to work on accelerating innovation, reforming accountability to ensure its success, expanding public school choices for parents and students, promoting fair and equitable school funding, and elevating and reinvigorating the teaching profession. As a national leader on the issue of public school choice, he created the first-ever Office of Public School Choice at the State Department of Education. Rex's groundbreaking work includes initiatives in single-gender education as well as the Montessori Method.

STEPHEN G. MORRISON is a partner of Nelson Mullins Riley & Scarborough LLP in Columbia, where he practices in the areas of technology law and litigation, business liability, product liability, and securities litigation. He has been elected president of the Defense Research Institute, chairman of the House of Delegates of the South Carolina Bar, and president of Lawyers for Civil Justice. Morrison is a passionate advocate for human rights and is a leader in insisting on equal educational opportunities for every child in South Carolina. He represented the plaintiff school districts in the trial and appeal of Abbeville School District v. State of South Carolina, et al.

ROBERT E. STEPP is a member of Sowell Gray Stepp & Laffitte, LLC in Columbia. Stepp's practice focuses on complex litigation, including commercial and constitutional issues. He has represented the State of South Carolina, The South Carolina Senate, The South Carolina House of Representatives, and various state agencies in several cases and served as lead counsel for the defense in the trial and appeal of Abbeville School District v. State of South Carolina, et al. He received a B.A. in 1972 and a J.D. in 1977 from the University of South Carolina.

MATTHEW T. RICHARDSON is a member of Wyche Burgess Freeman & Parham, P.A. Richardson practices civil litigation in a variety of areas including consumer protection, personal injury, employment law, civil rights and voting rights, copyright infringement and commercial law. He is currently a member of the Democratic National Committee. Richardson received a B.A. from Duke University and a J.D. from the University of South Carolina School of Law, where he was editor-in-chief of South Carolina Law Review.

MARCIA A. YABLON-ZUG is a graduate of Dartmouth College and Yale Law School. As assistant professor of law at the University of South Carolina School of Law, Zug's teaching areas include family law, domestic relations and American Indian law. She has published articles on American-Indian property rights, the Indian Child Welfare Act, family based bankruptcy exemptions and the role of women in Twenty-First Amendment jurisprudence. Her ongoing research interests include American-Indian law, family law and land use.

DANIELLE R. HOLLEY-WALKER is associate professor of law at University of South Carolina School of Law. She teaches Civil Procedure I and II, Race and the Law, Administrative Law, and Federal Practice. She has published numerous articles on issues of civil rights and education, including recent articles on No Child Left Behind, charter school policy, desegregation plans, and affirmative action in higher education. Professor Holley-Walker earned a B.A. from Yale University and her law degree from Harvard University.

CONSTANCE A. ANASTOPOULOU is a full-time visiting professor at the Charleston School of Law. She received a B.A. from the University of Virginia and a J.D. from University of North Carolina School of Law. She is a member of the S.C. Bar, Charleston Bar Association, S.C. Women Lawyers Association and is admitted to the S.C. Supreme Court, the S.C. Court of Appeals, the U.S. Court of Federal Claims, and the U.S. District Court, 4th Circuit. Currently, Anastopoulou is writing a research paper entitled, "Judicial Selection in S.C., Ensuring Quality, Diversity, and Independence," and she has moderated two other forums in South Carolina on the topic of judicial selection as well.

JEAN H. TOAL began her service as an associate justice on the Supreme Court of South Carolina on March 17, 1988. She was installed as chief justice in March of 2000 and re-elected in February of 2004. She received her B.A. in philosophy from Agnes Scott College and her J.D. from the University of South Carolina School of Law. Toal practiced law for 20 years with the Haynsworth Law Firm in Greenville and with Belser, Baker, Barwick, Ravenel, Toal & Bender in Columbia. She also represented Richland County in the South Carolina House of Representatives from 1975 to 1988.

ALEXANDER M. SANDERS is the former chief judge of the South Carolina Court of Appeals (1983–1991) and was the nineteenth president of the College of Charleston (1992–2001). Sanders received degrees from the University of South Carolina and the University of Virginia. He later taught at the Kennedy School of Government at Harvard and at Harvard Law School. As one of five founders, Sanders has been the chairman of the Board of the Charleston School of Law since its founding in 2002.

JAMES E. SMITH, JR., attended the University of South Carolina and obtained a B.A. in political science in 1990 and his J.D. in 1995. The following year, James began a solo practice and currently is the sole shareholder of his firm, James E. Smith, Jr., P.A. Smith was elected to the South Carolina House of Representatives in November 1996. He has served as assistant minority House leader, chief minority whip, and House minority leader. He currently serves on the Judiciary Committee.

D. ALAN RUDLIN is a trial lawyer and the head of the Alternative Dispute Resolution Practice Group with Hunton & Williams LLP, having been with the firm since 1975. Rudlin has been active with the ABA and served as the Fourth Circuit Member of the Standing Committee on the Federal Judiciary from 2005 to 2008, and he currently serves as a member of the Standing Committee on Judicial Independence. Rudlin graduated from the University of Virginia Law School where he was a member of the Order of the Coif.

JOHN C. MOYLAN, III, graduated from Presbyterian College and Harvard Law School. He is a member of Wyche Burgess Freeman & Parham, P.A. with offices in Columbia and Greenville. As an attorney, he has achieved several multi-million dollar verdicts for his clients, has repeatedly been listed in The Best Lawyers in America, and has been selected as a fellow of the American Bar Association.

HOWARD P. WALTHALL joined the faculty of Cumberland School of Law at Samford University in 1975, where his teaching and research interests include: state constitutional law, state and local taxation, commercial law, bankruptcy and business organizations. Currently, Walthall serves as director of the Cumberland State Constitutional Law Project and is co-writing *Alabama's Supreme Court and Legal Institutions: A History*. Walthall received his A.B. and his LL.B. from Harvard University in 1964 and 1967, respectively.

ANDREW C. BRACK is a graduate of Duke University and University of North Carolina at Chapel Hill. He operates a South Carolina public relations and media training company that works with clients to develop effective communications strategies. He is co-founder and president of the new Center for a Better South, a non-partisan progressive think tank based in Charleston. Brack also publishes *S.C. Statehouse Report*, a weekly legislative forecast and syndicated newspaper column, and *SC Clips*, a daily news service for business executives.

JOHN L.S. SIMPKINS is assistant professor of law and director of diversity initiatives at the Charleston School of Law. He also is of counsel with Wyche Burgess Freeman and Parham, in Greenville. Simpkins has observed or served as a consultant in constitution-building processes in Kenya, Nigeria, South Africa and Uganda. He received a B.A. in government from Harvard College and a J.D. and LL.M. in international and comparative law from Duke University School of Law.

JEFFREY A. PARNES is professor emeritus at Northern Illinois University College of Law where he continues to teach. Among his teaching and research interests are American civil procedure laws, American paternity laws, the legal status of the human unborn, American state constitutional guarantees of equality, and crime victim restitution in the United States. Parnes received a B.A. from Colby College (Phi Beta Kappa) and a J.D. from the University of Chicago.

JOHN J. DINAN is associate professor of political science at Wake Forest University. His research focuses on state constitutionalism, federalism and American political development. His most recent books are *The American State Constitutional Tradition* and *The Virginia State Constitution: A Reference Guide*.

KEVIN A. HALL is a partner of Nelson Mullins Riley & Scarborough LLP practicing in Columbia in the areas of complex commercial litigation, administrative law, education law, First Amendment law and government relations. In 2008, Hall was retained by the South Carolina Department of Motor Vehicles to defend the constitutionality of the “I Believe” license plate authorized by the South Carolina General Assembly. Hall earned a B.A. from the Honors College of the University of South Carolina and a J.D., with highest honors, from Emory University School of Law.

RICHARD W. RILEY is the former U. S. Secretary of Education (1993–2001) and former governor of South Carolina (1979–1987). He was recently honored by *Time* magazine as one of the Top 10 Best Cabinet Members of the Twentieth Century. He currently is a senior partner in the law firm of Nelson Mullins Riley & Scarborough LLP. Riley also is senior partner in the firm’s affiliate, EducationCounsel, which specializes in education advocacy, policy, strategy and law. Riley earned his bachelor’s degree, cum laude, in political science from Furman University in 1954 and received a J.D. from the University of South Carolina School of Law in 1959.

JAMES H. HODGES serves as CEO of Hodges Consulting Group and served as a national co-chair of Barack Obama’s campaign for the 2008 presidential election. As the 114th governor of South Carolina (1999–2003), Hodges’s leadership in education policy led to great strides for the state, including South Carolina’s leading the nation in SAT score improvements during his time in office, establishing an education lottery, creating First Steps, and providing new school building improvements across the state. He also served 11 years in the S.C. House of Representatives where he chaired the House Judiciary Committee and served as minority leader.

LEWIS F. GOSSETT is president and CEO of South Carolina Manufacturers Alliance. From 1995 to 1999 he was director of the South Carolina Department of Labor, Licensing and Regulation. He has been an associate (1990–1995) and a shareholder (1999–2003) with Ogletree Deakins. Gossett received his B.A. from Furman University in 1987 and his J.D. from the University of Georgia School of Law in 1990.

DONALD P. AIESI is professor of political science at Furman University. He received his B.A. from Stetson University and his J.D. from Duke University. He also received an M.A. from Emory University and his Ph.D. from the University of Florida. As professor, his focus is on American politics, specifically public law and the judicial process.

KAYE G. HEARN has served as a member of the South Carolina Court of Appeals since her election in 1995 and as chief judge since 1999. Before her election to the Court of Appeals, she served as family court judge and the chief administrative judge for the 15th Judicial District. She also is currently adjunct professor at the Charleston School of Law. Hearn received her B.A. degree, cum laude, from Bethany College in 1972, and her J.D. degree, cum laude, from the University of South Carolina School of Law in 1977. She received an L.L.M. degree from the University of Virginia’s Graduate Program for Judges in May 1998.

ARMAND G. DERFNER is a nationally renowned civil rights lawyer with numerous cases before the Supreme Court of the United States and other courts around the country. He has an A.B. from Princeton University (1960) and an LL.B. from Yale Law School (1963). Today Derfner is a partner in Derfner, Altman & Wilborn, where he specializes in constitutional law, civil rights, and labor and employment. His firm received the American Bar Association’s Pro Bono Publico Award in 2007, and he was named Trial Lawyer of the Year in 2002 by the Public Justice Foundation.

VINCENT A. SHEHEEN received his undergraduate degree from Clemson University and his J.D. from the University of South Carolina School of Law. From 2000 until 2004, Vincent represented District 52 as a member of the South Carolina House of Representatives and then was elected to the S.C. State Senate by the people of District #27. He currently works as an attorney with Savage, Royall and Sheheen, LLP.

DONALD L. FOWLER received a B.A. from Wofford College and an M.A. and Ph.D. from the University of Kentucky. Fowler served as chair of the South Carolina Democratic Party for nine years from 1971 to 1980, as CEO of the Democratic National Convention held in Atlanta in 1988, and as chair of the Democratic National Committee in 1995 and 1996. Currently, he is adjunct professor in the Department of Political Science at the University of South Carolina and chairman of the board of Fowler Communications, Inc., a public relations and governmental affairs firm.

THE CHARLESTON LAW REVIEW

A Publication of the Charleston School of Law

The Charleston Law Review is a general interest publication committed to the finest scholarship and research across a broad range of topics in the law. The Law Review's primary objective is to foster the knowledge and insight of students, practitioners, scholars and the judiciary through a traditional forum dedicated to augmenting the pursuit of innovative legal expression, composition and scholarship.

Members of the Law Review contribute to this objective by editing articles, writing notes and actively participating in all aspects of the publication process.

The Charleston Law Review is an independent organization composed entirely of second and third year students at the Charleston School of Law. In order to gain membership on the Charleston Law Review, students must compete in a writing competition that begins after spring semester finals have concluded. After completion of the writing competition, offers for membership are made to students based on a combination of grades and the scored writing piece.

By participating in the publication process, members of the Charleston Law Review receive invaluable analytical skills and extensive legal writing and editing experience.

THE RILEY INSTITUTE® AT FURMAN

The Riley Institute at Furman is a non-partisan organization affiliated with the Department of Political Science at Furman University. Named for former Governor of South Carolina and United States Secretary of Education Richard Riley, the institute engages students in politics, public policy and public leadership through collaborative research, study abroad opportunities and internships.

Since its inauguration in 1999, the Riley Institute also has developed community leadership programs, symposia and conferences designed to promote discussion and analysis of public policy issues. Through its promotion of engaged learning, leadership development and conferences featuring internationally recognized speakers, the Riley Institute has established itself as an innovator in policy and public leadership education.



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