

## PHILIP HAMBURGER

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### Publications

#### Books

*Purchasing Submission* (forthcoming)  
*Liberal Suppression: Section 501(c)(3) and the Taxation of Speech*  
(Chicago University Press 2018)  
*The Administrative Threat* (Encounter Books 2017)  
*Is Administrative Law Unlawful?* (Chicago University Press 2014)  
*Law and Judicial Duty* (Harvard University Press 2008)  
*Separation of Church and State* (Harvard University Press 2002)

#### Articles on Administrative Power

“The Administrative Evasion of Procedural Rights,” 11 *NYU Journal of Law and Liberty* 915 (2018)  
“How Government Agencies Usurp Our Rights” *City Journal* (Winter 2017)  
“Early Prerogative and Administrative Power: A Response to Paul Craig,”  
81 *Missouri Law Review* 939 (2016)  
“Chevron Bias,” 84 *George Washington Law Review* 1187 (2016)  
“Vermeule Unbound,” *Texas Law Review: See Also* (2016)

#### Articles on Religious Liberty

“Prejudice and the Blaine Amendments,” *First Things* (June 20, 2017)  
“Exclusion and Equality: How Exclusion from the Political Process Renders Religious Liberty Unequal,” 90 *Notre Dame Law Review* 1919 (2015)  
“Religious Liberty in Philadelphia,” 54 *Emory Law Journal* 1603 (2005)  
“Against Separation,” 155 *Public Interest* 177 (2004)  
“More is Less,” 90 *Virginia Law Review* 835 (2004)  
“A Constitutional Right of Religious Exemption: An Historical Perspective,” 60 *George Washington Law Review* 915 (1992)

#### Articles on Freedom of Speech

“IRB Licensing,” in *Who’s Afraid of Academic Freedom* (New York: Columbia University Press, 2014)  
“The Censorship You’ve Never Heard Of,” *Commentary* (July 2013)  
“Getting Permission,” 101 *Northwestern Law Review* 405 (2007)  
“The New Censorship: Institutional Review Boards,” 2004 *Supreme Court Review* 271 (2005)  
“The Development of the Law of Seditious Libel and the Control of the Press,” 37 *Stanford Law Review* 661 (1985)

#### Articles on Judicial Duty

“Judicial Office and the Liberty Protected by Law,” *Liberty Law Forum* (Dec. 12, 2011)

- “Judicial Office,” 6 *Journal of Law, Philosophy and Culture* 53 (2011)
- “A Tale of Two Paradigms: Judicial Review and Judicial Duty,” 78 *George Washington Law Review* 1162 (2010)
- “Revolution and Judicial Review: Chief Justice Holt’s Opinion in *City of London v. Wood*,” 94 *Columbia Law Review* 2091 (1994)

#### Articles on Other Constitutional Issues

- “Inversion of Rights and Power,” 63 *Buffalo Law Review* 731 (2015)
- “The Second Commerce Clause,” SSRN (2014)
- “Unconstitutional Conditions: The Irrelevance of Consent,” 98 *Virginia Law Review* 479 (2012)
- “Privileges or Immunities,” 105 *Northwestern Law Review* 61 (2011)
- “Beyond Protection,” 109 *Columbia Law Review* 1823 (2009)
- “The Permanent Constitution,” Sesquicentennial Essays of the Faculty of Columbia Law School, 123-26 (New York: Columbia Law School, 2008)
- “Trivial Rights,” 70 *Notre Dame Law Review* 1 (1994)
- “Natural Rights, Natural Law, and American Constitutions,” 102 *Yale Law Journal* 907 (1993)
- “Equality and Diversity: The Eighteenth-Century Debate about Equal Protection and Equal Civil Rights,” *Supreme Court Review* 295 (1992)
- “The Constitution’s Accommodation of Social Change,” 88 *Michigan Law Review* 239 (1989)

#### Articles on Liberalism

- “Illiberal Liberalism: Liberal Theology, Anti-Catholicism, & Church Property,” 12 *Journal of Contemporary Legal Issues*, 693-725 (2002)
- “Liberality,” 78 *Texas Law Review* 1215 (2000)

#### Articles on Conflicts of Interest

- Commentary on the AAUP Statement on Corporate Funding of Academic Research, *Free to Teach, Free to Learn*, 51 (ACTA, 2013)

#### Articles on Contract and Property Law

- “The Development of the Nineteenth-Century Consensus Theory of Contract,” 7 *Law and History Review* 241 (1989)
- “The Conveyancing Purposes of the Statute of Frauds,” 27 *American Journal of Legal History* 354 (1983)

#### Conference Papers & Occasional Pieces

- “Chevron Bias, Illustrated by Statistics,” Law & Liberty Blog (April 12, 2018)
- “The Raid on AIG’s Equity Was Illegal,” Wall Street Journal (March 9, 2018)
- “PTAB, Patents, and the Constitution,” Yale Journal on Regulation, Notice & Comment (Nov. 26, 2017)
- “From Kelo to Starr: Not Merely an Unlawful Taking but an Illegal Exaction,” Law Liberty Blog (Oct. 25, 2017)
- “Gorsuch and the Administrative State,” New York Times (March 20, 2017)
- “The Unconstitutionality of the Exxon Subpoena,” Liberty Law Blog (Dec. 3, 2015)
- “Magna Carta, Due Process, and Administrative Power,” American Enterprise Institute (2015)
- “HHS’s Contribution to Black Death Rates,” Liberty Law Blog (Jan. 8, 2015)

“Chevron, Independent Judgment, and Systematic Bias,” Liberty Law Blog (Aug. 11, 2014)  
 “*Is Administrative Law Unlawful?*” a series of blog posts on the Liberty Law Blog  
     (Aug.-Sept. 2014)  
 “*Is Administrative Law Unlawful?*” a series of blog posts on the Volokh Conspiracy  
     (July 14-21, 2014)  
 “*Is Administrative Law Unlawful? A Word from the Author*” Power Line (July 2, 2014)  
 “Underlying *Hobby Lobby*,” National Review On-Line (March 11, 2014)  
 “Afterword: Context, Justice, and Law,” 6 *Journal of Law, Philosophy and Culture* 195 (2011)  
 Waivers—Part I: “Are Health-Care Waivers Unconstitutional?” National Review  
     On-Line (Feb. 8, 2011)  
 Waivers—Part II: “Can Health-Care Waiver be Justified?” National Review On-Line  
     (Feb. 18, 2011)  
 Waivers—Part III: “Health-Care Waivers and the Courts,” National Review On-Line  
     (March 14, 2011)  
 “Two-Dimensional Doctrine and Three-Dimensional Law: A Response  
     to Professor Weinstein,” 101 *Northwestern Law Review Colloquium*, 563 (2007)  
 “Ingenious Arguments or a Serious Constitutional Problem? A Comment on  
     Professor Epstein’s Paper,” 102 *Northwestern Law Review Colloquium*, 102 (2007)  
 “Law and Judicial Duty,” 72 *George Washington Law Review* 1 (2003)  
 “Separation and Interpretation,” 18 *Journal of Law & Politics* 7 (2002)  
     (replacing erroneously printed version published under same citation)  
 “Natural Rights and Positive Law: A Comment on Professor McAfee’s Paper,” 16  
     *Southern Illinois University Law Journal* 307 (1992)  
 “Marginalia,” 61 *Yale University Library Gazette* 66-67 (1986)

## Education

Yale Law School, J.D., 1982

Colby Townsend Prize, 1982

for “best individual research done for academic credit by a member of the  
second-year class”

Connecticut Attorneys’ Title Guaranty Fund Prize, 1982

for “best paper on the subject of real property”

Princeton University, B.A. summa cum laude (History), 1979

Hall History Prize, 1979

Phi Beta Kappa, 1979

## Employment

Columbia Law School,

Maurice and Hilda Friedman Professor of Law, 2006-

University of Chicago Law School

John P. Wilson Professor, 2000-05

Visiting Professor, Winter Quarter 2000

Northwestern University School of Law

Jack N. Pritzker Distinguished Visiting Professor of Law, Fall 1999

George Washington University National Law Center  
Oswald Symister Colclough Research Professor of Law, 1995-2000  
Professor of Law and Legal History, 1992-95  
Visiting Professor, 1991-92

University of Connecticut School of Law  
Professor, 1988-92  
Associate Professor, 1985-88

University of Virginia Law School  
Visiting Associate Professor, Fall 1986

Schnader, Harrison, Segal and Lewis, Philadelphia  
Associate, 1982-85

### **Academic Affiliations**

American Bar Association, Section on Administrative Law and Regulatory Practice  
Committee on the History of Administrative Law  
Member, 2015-

American Academy of Arts and Sciences  
Member, 2015-

American Society of Legal History  
Advisory Committee on the Cromwell Prizes, 2007-09  
Board of Directors, 2004-06  
Nominating Committee Member, 1998-2001  
Program Committee Chair, 1993-94  
Member, 1992-94  
Sutherland Prize Committee Member, 1992-94

Association of American Law Schools  
Provisional Section on Scholarship, Chair, 1995

James Madison Society  
Member, 2017-

### **Honors**

Bradley Prize, 2017

Hayek Book Prize, 2016  
for *Is Administrative Law Unlawful?*

Henry Paolucci/Walter Bagehot Book Award, 2009

for *Law and Judicial Duty*

Sutherland Prize, 1994 (awarded 1995)

for “Revolution and Judicial Review: Chief Justice Holt’s Opinion in *City of London v. Wood*”

Prompter Honoris Respectum, 1994

Sutherland Prize, 1989 (awarded 1991)

for “The Development of the Nineteenth Century Consensus Theory of Contract”