

The Second Amendment 228 Years Later

11th Annual Law & Society Symposium

February 8, 2019
Charleston, South Carolina

Presented by
Charleston Law Review
and
The Riley Institute[®] at Furman



Symposium Agenda

Friday, February 8, 2019 | Charleston Music Hall, 37 John Street

- 8 a.m. **Registration**
CLE Course No. 190655
- 8:30 a.m. **Welcome and Introduction**
Andrew Abrams
Dean and Provost, Charleston School of Law
- Donald Gordon, Ph.D.
Executive Director, The Riley Institute at Furman
- Orion Davis Ray
Symposium Editor Vol. XIII, Charleston Law Review
- 8:45 a.m. **Keynote Address**
Joseph Blocher
Lanty L. Smith '67 Professor of Law, Duke Law School
- Darrell A. H. Miller
Melvin G. Shimm Professor of Law, Duke Law School
- 9:45 a.m. **Stare Decisis and the True Strength of Second Amendment Doctrine**
Moderator:
Allyson Haynes Stuart
Co-Director of Academic Success and Professor, Charleston School of Law
- Panelists:
Saul Cornell, Ph.D.
Paul and Diane Guenther Chair in American History, Fordham University
- Stephen Halbrook, Ph.D.
Senior Fellow, Independent Institute
- William Merkel, D. Phil.
Associate Professor, Charleston School of Law
- Adam Samaha
Inez Millholland Professor of Civil Liberties, New York University School of Law

Symposium Agenda

10:45 a.m. **Break**

11 a.m. **State and Local Attempts at Gun Control**

Moderator:

William Merkel

Panelists:

Joseph Blocher

Patrick Charles

Senior Historian, United States Special Operations Command

David Kopel

Professor, University of Denver Sturm College of Law;

Associate Policy Analyst, Cato Institute

Darrell A. H. Miller

12:15 p.m. **Moral and Ethical Representation in the Second Amendment Arena**

Moderator:

Miller Shealy

Professor, Charleston School of Law

Panelists:

The Honorable Justin Bamberg

Member, S.C. House of Representatives;

Attorney, Bamberg, LLC

C. Austin Elliott

Attorney, Kulp Law Firm

Debra Gammons

President-Elect, Charleston County Bar Association;

Distinguished Visiting Professor, Charleston School of Law

Adam Skaggs

Chief Counsel, Giffords Law Center

1:15 p.m. **Closing**

Orion Davis Ray

Keynote Speakers



Joseph Blocher is the Lanty L. Smith '67 Professor of Law at Duke Law School. Prior to joining Duke Law, Blocher practiced law at O'Melveny & Myers LLP, where he assisted in the merits briefing for the District of Columbia in the landmark case, *District of Columbia v. Heller*. Blocher has published dozens of articles on constitutional law in the *Yale Law Journal*, *Stanford Law Review*, *University of Chicago Law Review*, *New York University Law Review*, *Duke Law Journal*, *Yale Journal of International Law* and other leading journals. Most recently, he co-authored *Free Speech Beyond Words* (NYU Press, 2017) and *The Positive Second Amendment: Rights, Regulation, and the Future of Heller* (Cambridge University Press, 2018).

Blocher received his J.D. from Yale Law School where he served as comments editor of the *Yale Law Journal*, symposium editor of the *Yale Law & Policy Review*, notes editor of the *Yale Human Rights & Development Law Journal*, participated in or directed several clinics, and was co-chair of the Legal Services Organization. Prior to law school, Blocher studied law and economic development as a Fulbright Scholar in Ghana and as a Gates Scholar at Cambridge University, where he received an M. Phil. in land economy. He received his B.A. from Rice University, where he graduated *magna cum laude* and Phi Beta Kappa.



Darrell A. H. Miller is the Melvin G. Shimm Professor of Law at Duke Law School. He began his academic career at the University of Cincinnati College of Law, where he twice received the Goldman Award for Excellence in Teaching. Prior to joining the academy, Miller practiced complex and appellate litigation in Columbus, Ohio. He is a former clerk to Chief Judge R. Guy Cole, Jr. of the U.S. Court of Appeals for the Sixth Circuit.

Miller's scholarship on the Second and Thirteenth Amendments has been published in the *Yale Law Journal*, the *University of Chicago Law Review*, and the *Columbia Law Review* and has been cited by the U.S. Supreme Court, the U.S. Courts of Appeal, the U.S. District Courts, and in congressional testimony and legal briefs. With Joseph Blocher, he's the co-author of *The Positive Second Amendment: Rights, Regulation, and the Future of Heller* (Cambridge University Press, 2018).

Miller received his J.D. *cum laude* from Harvard Law School and served as an editor of the *Harvard Law Review*. He holds degrees from Oxford University, where he studied as a Marshall Scholar, and from Anderson University.

Panelists & Moderators

The Honorable Justin Bamberg is a state representative in the South Carolina House of Representatives and a solo practitioner in Bamberg, South Carolina. He began his legal career with one of the top insurance defense litigation firms in the state of South Carolina and transitioned to represent the injured and the families of wrongfully killed persons. He currently advocates for clients throughout the state of South Carolina and the United States, most notably the family of police-shooting victim Walter Scott.

Bamberg was first elected to the S.C. House of Representatives in 2014, where he presently serves the citizens of House District 90 in Bamberg, Barnwell and Colleton Counties. He currently sits on the House Agriculture, Natural Resources & Environmental Affairs Committee and the House Operations & Management Committee. In 2015, he was appointed to serve on the Human Services & Public Safety Committee of the 15-state Southern Legislative Conference by S.C. House Speaker Jay Lucas.

Bamberg received his B.A. from the University of South Carolina and his J.D. from the University of South Carolina School of Law.

Patrick Charles is senior historian for the United States Special Operations Command and author of numerous articles and books on the U.S. Constitution, legal history, and standards of review, including *Armed in America: A History of Gun Rights from Colonial Militias to Concealed Carry*. His writings on the history of the Second Amendment have been cited by six Circuit Courts of Appeals, and his book *The Second Amendment: The Intent and Its Interpretation by the States and the Supreme Court* was cited by Justice Stephen Breyer in the landmark Supreme Court decision *McDonald v. City of Chicago*.

Charles received his L.L.M. in legal theory and history with distinction from Queen Mary University of London, a J.D. from Cleveland-Marshall College of Law, and his B.A. in history and international affairs with honors from George Washington University.

Panelists & Moderators

Saul Cornell is the Paul and Diane Guenther Chair in American History at Fordham University and the author of two prize-winning works in American legal history. He is one of the nation's leading authorities on early American constitutional thought. Cornell's work has been widely cited by legal scholars, historians, the U.S. Supreme Court and several state Supreme Courts. He is the former director of the Second Amendment Research Center at The Ohio State University and a frequent commentator on Second Amendment issues in the news media and legal blogs. Cornell has also been a leading advocate of using new media to teach history, and he authored *Visions of America*, a history textbook in its third edition.

Cornell received his Ph.D. and M.A. from the University of Pennsylvania and his B.A. in history from Amherst College where he graduated *magna cum laude*.

C. Austin Elliott is an associate attorney at the Kulp Law Firm where he represents clients on a variety of matters including criminal defense, civil & business litigation, and firearms issues. As a result of his passion for the law and firearms, he obtained his Federal Firearms License and Special Occupational Tax license. In addition to practicing law and owning a firearms business, Mr. Elliott frequently speaks on firearms laws.

A Texas native, Elliott received his bachelor's degree from the University of Texas at Austin and his J.D. from the Charleston School of Law.

Debra Gammons is the president-elect of the Charleston County Bar Association, director of diversity initiatives and distinguished visiting professor at the Charleston School of Law, and a practicing attorney. Gammons previously served as assistant city attorney for Greenville, South Carolina, for 11 years, where she also served as president of the Greenville County Bar Association. Gammons continues to practice law, litigating cases of medical malpractice, personal injury, child custody, divorces, and criminal defense, and has represented plaintiffs and defendants in civil cases.

At the Charleston School of Law, she teaches criminal law, constitutional law, sex and gender issues and the law, and trial advocacy. She is a certified Circuit Court mediator and has served as commissioner of the South Carolina Supreme Court Commission on Lawyer Conduct.

Gammons received her B.A. from the College of Charleston and a J.D. from the University of South Carolina School of Law.

Panelists & Moderators

Stephen Halbrook is an attorney who represents firearm associations, manufacturers, importers, dealers, and owners in administrative, civil, and criminal proceedings under federal, state, and local law, with a major focus on ATF compliance. He is senior fellow at the Independent Institute and has taught at George Mason University, Howard University and the Tuskegee Institute. He has argued and won three cases before the U.S. Supreme Court, coauthored the briefs in *Small v. United States* and *McDonald v. Chicago*, and represented a majority of members of Congress as amici curiae in *District of Columbia v. Heller*.

Halbrook has written extensively on gun control and the Second Amendment, and his scholarly articles have appeared in many prominent legal journals. He is a regular contributor to numerous national radio and television programs.

He received his J.D. from the Georgetown University Law Center and his Ph.D. in philosophy and B.S. in business from Florida State University.

Allyson Haynes Stuart, professor of law at Charleston School of Law and of counsel with Crystal & Giannoni-Crystal, LLC, is a scholar and practicing attorney focusing on privacy, data security, and e-discovery issues. She is a frequent speaker and writer on those topics and blogs for technethics.com. She teaches information privacy law, internet law, contracts, civil procedure, e-discovery and evidence. She has taught as an adjunct at Brooklyn Law School, the Instituto de Empresa in Madrid, Spain, Stetson University in Granada, Spain, and Suffolk University in Madrid, Spain. She served as a law clerk for U.S. District Court Judge David C. Norton before practicing as an associate with Cleary, Gottlieb, Steen & Hamilton and then as in-house counsel for Sony Corporation of America in New York City. She returned to Charleston in 2004 to become a founding faculty member at Charleston School of Law.

Stuart graduated from Duke University and from the University of South Carolina School of Law *magna cum laude*.

Panelists & Moderators

David Kopel is a professor of advanced constitutional law at the University of Denver Sturm College of Law, a research director at the Independence Institute, and an associate policy analyst at the Cato Institute. Kopel writes on constitutional law, criminal justice, civil rights, firearms policy, international affairs, technology, politics, environmental policy, and the media. He has authored 17 books, hundreds of newspaper and magazine articles, and over 100 scholarly journal articles.

Kopel's briefs have been cited by U.S. Supreme Court Justices Alito, Breyer, and Stevens, and his research has been cited in 13 state Supreme Court cases, 16 federal Circuit Court of Appeals cases, and in over 600 law review articles. The Seventh Circuit described his scholarship as a correct model of "originalist interpretive method as applied to the Second Amendment."

Kopel holds a J.D. from the University of Michigan Law School where he graduated *magna cum laude*, and a B.A. in history with highest honors from Brown University.

William Merkel joined the Charleston School of Law in 2012 as associate professor of law. Merkel previously taught at Oxford University, Columbia Law School, and Washburn Law School, where he was named professor of the year by the graduating class in 2008.

Merkel is the author, with the late Richard Uviller, of *The Militia and the Right to Arms, Or, How the Second Amendment Fell Silent* and has published numerous articles in prominent law journals. His scholarship on the Second Amendment has been cited by many authors and jurists, including Justice Breyer in a dissenting opinion in *McDonald v. City of Chicago*.

Merkel received a D. Phil. from Oxford University, a J.D. and J.S.D. from Columbia Law School, and a B.A. from Johns Hopkins University.

Panelists & Moderators

Adam Samaha is the Inez Milholland Professor of Civil Liberties at New York University School of Law. Samaha's work focuses on constitutional law and the role of courts in society. Cutting across several fields, much of his scholarship explores social decisions under conditions of uncertainty, disagreement, and limited resources. A recipient of the 2017 Podell Teaching Award at NYU School of Law, Samaha also received the 2007 teaching award at the University of Chicago Law School, where he taught before joining NYU. Before teaching, Samaha clerked for Justice John Paul Stevens and worked as an attorney at Robins, Kaplan, Miller & Ciresi.

Samaha graduated from Harvard Law School where he was an editor of the *Harvard Law Review* and received the Fay Diploma.

Miller Shealy, Jr. is a professor of criminal law, criminal procedure, and evidence at the Charleston School of Law and a practicing attorney. Prior to joining the faculty ranks, Shealy was an assistant solicitor for South Carolina's Fifth Circuit and later served as an assistant state attorney general and assistant United States attorney. He has argued over 200 cases before state and federal appellate courts and also briefed and argued *Yates v. Evatt* before the U.S. Supreme Court.

Notably, Shealy was local counsel for the Department of Defense and the Department of Justice in the investigation and prosecution of suspected terrorists Ali Seleh Kahlah al-Marri and Jose Padilla. He also was one of the attorneys who represented the family of George Stinney, whose conviction was vacated in 2014. Shealy is a commentator and legal expert for both local and national media.

He received his B.A. from the University of South Carolina and his J.D. from the University of South Carolina School of Law.

Panelists & Moderators

Adam Skaggs is chief counsel at the Giffords Law Center to Prevent Gun Violence. He previously served as senior counsel at Everytown for Gun Safety and at the Brennan Center for Justice. Skaggs was a litigation associate at Paul, Weiss, Rifkind, Wharton & Garrison in New York City and a law clerk to Judge Stanley Marcus of the U.S. Court of Appeals for the Eleventh Circuit and Chief Judge Edward Korman of the U.S. District Court for the Eastern District of New York. He is widely quoted in the media, and his political commentary has appeared in numerous national publications.

Skaggs graduated first in his class at Brooklyn Law School, where he was a member of the Brooklyn Law Review. He received an M.S. in urban affairs from Hunter College of the City University of New York and holds a B.A. with distinction from Swarthmore College.

Presenters

Charleston Law Review is a general interest publication committed to the finest scholarship and research across a broad range of topics in the law. Its 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.

Furman University's Riley Institute broadens student and community perspectives about issues critical to South Carolina's progress. It builds and engages present and future leaders, creates and shares data-supported information about the state's core challenges, and links the leadership body to sustainable solutions.

Launched in 1999, the Institute is named for former South Carolina Governor and former United States Secretary of Education Richard W. (Dick) Riley. It is committed to nonpartisanship in all it does and to a rhetoric-free, facts-based approach to change.

For more information, visit riley.furman.edu.

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