

HAROLD HASTINGS BRUFF

Charles Inglis Thomson Professor of Law
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Education: College: Williams College, B.A. 1965
Major: American History and Literature
Phi Beta Kappa

Law School: Harvard Law, J.D. 1968, Magna Cum Laude
Editor, Harvard Law Review, 1966-68
Teaching Fellow in Expository Writing, Harvard College

Bar Membership: California, admitted January, 1969

Military:

Lieutenant, U.S. Coast Guard Reserve, 1968-1971.
Assistant District Legal Officer, Twelfth Coast Guard District, San Francisco
Principal Duties: Prosecution and Defense of Courts-Martial; Counsel in Administrative
Discharge and Physical Disability Boards

Government Service:

Senior Attorney-Adviser, Office of Legal Counsel, U.S. Department of Justice, November, 1979 to
June, 1981 (Special Commendation for Outstanding Service, July 2, 1981). Principal Duties: Staff
legal adviser to officers of the Department, the White House, and the Executive Agencies on issues
of constitutional and administrative law.

Consultant to the Chairman, President's Commission on the Accident at Three Mile Island,
September-October 1979.

Academic Positions:

University of Colorado, Dean and Professor of Law, 1996-2003; Charles Inglis Thomson Professor
of Law, 2003 to date.

George Washington University, Donald Rothschild Research Professor of Law, 1992 to 1996

University of Texas, Professor of Law, 1983-85; John S. Redditt Professor of Law, 1985-92

Arizona State University, Assistant Professor of Law, 1971-73; Associate Professor, 1973-76;
Professor, 1977-79

Visiting Professor: University of Minnesota, 1974-75; University of North Carolina, 1977;

University of Virginia, 1981-82; U.C.L.A., 1982-83; American University (Bronfman Chair of
Administrative Law), Spring 1988

Courses Taught (1971-2009):

Current Courses: Administrative Law; Constitutional Law; Separation of Powers.
Past Courses: Regulatory Reform Seminar; Environmental Law; Local Government; Federal Courts; Land Use Planning; Private Real Estate Development; Conflicts of Law; Texas Government; Torts

Publications:**Books:**

Balance of Forces: Separation of Powers Law in the Administrative State (2006)
Bad Advice: Bush's Lawyers in the War on Terror (2009) (recipient of the Roy C. Palmer Civil Liberties Prize for 2008, awarded by the Chicago-Kent College of Law)

Casebooks:

THE ADMINISTRATIVE PROCESS (with Glen O. Robinson and Ernest Gellhorn) (fourth ed., 1993, Supplement 1995)
SEPARATION OF POWERS LAW (with Peter M. Shane) (2d ed. 2005) (first version was THE LAW OF PRESIDENTIAL POWER, 1988)

Articles, Essays, and Book Chapters:

"Unconstitutional Conditions Upon Public Employment, New Departures in the Protection of First Amendment Rights," 21 Hastings Law Journal 129 (1969)
"Arizona's Inferior Courts," 1973 Law and the Social Order 1
"Presidential Exemption from Mandatory Retirement of Members of the Independent Regulatory Commissions," 1976 Duke Law Journal 249
"Judicial Review in Local Government Law: A Reappraisal," 60 Minnesota Law Review 669 (1976)
"Congressional Control of Administrative Regulation: A Study of Legislative Vetoes" (with Ernest Gellhorn), 90 Harvard Law Review 1369 (1977)
"Presidential Power and Administrative Rulemaking," 88 Yale Law Journal 451 (1979)
"Judicial Review and the President's Statutory Powers," 68 Virginia Law Review 1 (1982)
"Legislative Formality, Administrative Rationality," 63 Texas Law Review 207 (1984)
"On the Constitutional Status of the Administrative Agencies," 36 American University Law Review 491 (1987)
"Independent Counsel and the Constitution," 24 Willamette Law Review 539 (1988)
"Public Programs, Private Deciders: The Constitutionality of Arbitration in Federal Programs," 67 Texas Law Review 441 (1989)
"Presidential Management of Agency Rulemaking," 57 George Washington Law Review 533 (1989)
"Separation of Powers Under the Texas Constitution," 68 Texas Law Review 1337 (1990)
"Specialized Courts in Administrative Law," 43 Administrative Law Review 329 (1991)
"Coordinating Judicial Review in Administrative Law," 39 UCLA Law Review 1193 (1992)
"That the Laws Shall Bind Equally on All: Congressional and Executive Roles in Applying Laws to Congress," 48 Arkansas Law Review 105 (1995)
"Executive Power and the Public Lands," 76 U. of Colorado Law Review 503 (2005)
Chapter One, "The Availability of Judicial Review" in A Guide to Judicial and Political Review of Federal Agencies (John F. Duffy and Michael Herz eds., 2005)
"The Incompatibility Principle," 59 Admin. L. Rev. 225 (2007)
"The Story of *Dames & Moore*," in Presidential Power Studies (Christopher Schroeder and Curtis Bradley eds., 2008)

Selected Short Pieces:

- L. Levy & K. Karst, *Encyclopedia of the American Constitution*, 1986 and Supp. I 1992, two entries
- L. Levy & L. Fisher, *Encyclopedia of the American Presidency*, 1993, ten entries
- “Can Buckley Clear Customs?” 49 *Washington & Lee Law Review* 1309 (1992)
- “The Federalist Papers: The Framers Construct an Orrery,” 16 *Harvard Journal of Law & Public Policy* 7 (1993)
- “Introduction, Congressional Process Symposium,” 48 *Administrative Law Review* 33 (1996)

Work in Progress:**Article:**

- “Presidential Power Meets Bureaucratic Expertise,” forthcoming, *U. of Pennsylvania Journal of Constitutional Law*, 2009.

Congressional Testimony and Statements:

- Improving Congressional Oversight of Federal Regulatory Agencies, Sen. Comm. on Government Operations, 94th Cong., 2d Sess. (1976) (testimony, 64-71)
- Hearings on Congressional Procedures, Subcomm. on the Rules and Organization of the House, House Comm. on Rules, 95th Cong., 2d Sess. (1978) (testimony, 84-95)
- Regulation Reform Act of 1979, Subcomm. on Administrative Law and Governmental Relations, House Comm. on the Judiciary, 96th Cong., 1st & 2d Sess. (1980) (testimony and statement, 783-91, 817-29)
- The Supreme Court Decision in *INS v. Chadha* and its Implications for Congressional Oversight and Agency Rulemaking, Subcomm. on Administrative Law and Governmental Relations, House Comm. on the Judiciary, 98th Cong., 1st Sess. (1983) (testimony and statement, 214-33)
- Legislative Veto After *Chadha*, House Comm. on Rules, 98th Cong., 2d Sess. (1984) (testimony and statement, 613 -31)
- Canada-United States Free Trade Agreement, Subcomm. on Courts, Civil Liberties and the Administration of Justice, House Comm. on the Judiciary, 100th Cong., 2d Sess. (1988) (testimony and statement, 104-124, 215-219)
- Canada-United States Free Trade Agreement, Senate Comm. on the Judiciary, 100th Cong., 2d Sess. (1988) (testimony and statement, 98-118)
- Alternative Dispute Resolution by Federal Agencies, Subcomm. on Administrative Law and Governmental Relations, House Comm. on the Judiciary, 100th Cong., 2d Sess. (1988) (testimony and statement, 95-104)
- Congress and the Administration’s Secrecy Pledges, Subcomm. on Legislation and National Security, House Comm. on Government Operations, 100th Cong., 2d Sess. (1988) (testimony and statement, 113-28)
- Legislation Relating to Reemployment Rights, Senate Comm. on Veterans’ Affairs, 102d Cong., 1st Sess. (1991) (testimony summarized in Sen. Rept. 102-103, 130-31)
- The Role of the Council on Competitiveness in Regulatory Review, Senate Comm. on Governmental Affairs, 102d Cong., 1st Sess. (1991)
- Ethics Process, Joint Comm. on the Organization of Congress, 103d Cong., 1st Sess. (1993) (testimony and statement, 30-33, 63-72)
- Application of Laws and Administration of the Hill, Joint Comm. on the Organization of Congress, 103d Cong., 1st Sess. (1993) (testimony and statement with David Frederick, 43-46, 220-49)
- The Legislative Reorganization Act of 1994, Subcomm. on Rules of the House, House Comm. on Rules, 103d Cong., 2d Sess. (1994) (testimony and statement)

Public Service and Government Consulting:

Association of American Law Schools, Administrative Law Section, Executive Committee 1982-85; Chair, 1985
American Bar Association, Section on Administrative Law and Regulatory Practice, Congressional Process Committee, Chair, 1992-96; Task Force on Applying Federal Legislation to Congress, Member, 1993-95; Council Member, 1998-2001
Administrative Conference of the U.S., member of delegation to U.S.-Ukraine Administrative Law Conference, Kiev, Ukraine, March 20-27, 1993
Consultant, Office of Juridical Council of the Government of Thailand and the Asia Foundation, Bangkok, Thailand, June 27-July 2, 1994
Consultant, Administrative Conference of the United States, 1975-92; ABA Commission on Law and the Economy, 1977-78
Member, Judicial Advisory Council, State of Colorado, 1996 to date.