

## GERARD V. BRADLEY

### Home:

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### Business:

Notre Dame Law School  
Notre Dame, Indiana 46556  
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### EDUCATION:

- |                         |   |  |
|-------------------------|---|--|
| Cornell Law School      | - | J.D., 1980, Summa Cum Laude.<br>Graduated first in class; also received Boardman Prize as highest ranking student at end of second year. |
| Cornell Graduate School | - | Partially completed work for Masters Degree in American History. Thesis topic: "The Blaine Amendment of 1876."                           |
| Cornell University      | - | B.A. degree, Cum Laude, 1976.<br>Major: History;<br>Specialization in history of American politics.                                      |

### EMPLOYMENT:

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|---------------------|---|--|
| 1992-present        | - | Professor, Notre Dame Law School.<br>Courses: Constitutional Theory,<br>First Amendment, Trial Advocacy, Legal Ethics.                     |
| 1989-1992           | - | Professor, University of Illinois College of Law.<br>Courses: Criminal Procedure, Constitutional Law,<br>Religion and Law, Trial Advocacy. |
| 1987-1989           | - | Associate Professor, University of Illinois<br>College of Law.   |
| 1983-1987           | - | Assistant Professor, University of Illinois<br>College of Law.   |
| 1980-1983           | - | Assistant District Attorney, Trial Division,<br>New York County District Attorney.   |
| July 1978-July 1980 | - | Researcher and writer, Cornell Institute on<br>Organized Crime.  |

## PUBLICATIONS

### Books

Labor Racketeering: Background Materials

(published by Cornell Institute on Organized Crime, 1979) (with Blakey and Goldstock).

Fraud: Background Materials (published by Cornell Institute on Organized Crime, 1980)(with Israel and Sanders).

Church-State Relationships Today (Greenwood, 1987).

Set No Limits: Health Care for the Elderly (edited, with R. Barry) (University of Illinois Press 1992).

Catholicism, Liberalism and Communitarianism (edited, with K. Grasso, R. Hunt) (Rowman & Littlefield, 1995).

Science and Faith (edited, with D. DeMarco)(St. Augustine's Press, 2000).

Same-Sex Attraction: A Parent's Guide (edited, with Rev. John Harvey, OSFS) (St. Augustine's Press, 2003).

A Student's Guide to Law (ISI, 2006).

A Brief History of Religious Liberty in American (Heritage 2008) (forthcoming).

Essays on Law, Morality and Religion (Scranton 2008) (forthcoming).

### Scholarly Articles and Book Chapters

"Dogmatomachy: A 'Privatization' Theory of the Religion Clause Cases," 30 Saint Louis Law Journal 275-330 (1986).

"Imagining the Past and Remembering the Future: The Supreme Court's History of the Establishment Clause," 18 Connecticut Law Review 703 (1986).

"Present At the Creation? A Critical Guide to Weeks v. United States and Its Progeny," 30 Saint Louis Law Journal 1025-1097 (1986).

"The No Religious Test Clause and the Constitution of Religious Liberty: A Machine That Has Gone of Itself," 37 Case Western Reserve Law Review, 674-747 (1987).

"Law Enforcement and The Separation of Powers," 30 Arizona Law Review, 901-88 (1988).

"The Constitutional Theory of the Fourth Amendment," DePaul Law Review 817 (1989)

"Does Autonomy Require Informed and Specific Refusal of Life-Sustaining Medical Treatment?" 5 Issues in Law and Medicine 301 (1989).

"Church Autonomy in the Constitutional Order," 49 Louisiana Law Review 1057 (1989).

"The Enduring Revolution: Law and Theology in a Secular State," 39 Emory Law Journal 217-51 (1990).

"Slaying the Dragon of Politics with the Sword of Law," 1990 Illinois Law Review 243-287 (1990).

"Commentary," 4 Notre Dame Journal of Law, Ethics, and Public Policy 639-48 (1990).

"The Curran Case," 2 Ius Ecclesiae 193-209 (1990).

"Remaking the Constitution: A Critical Reexamination of the Bowers v. Hardwick Dissent," 25 Wake Forest Law Review 1-45 (1990).

"Beyond Murray's Articles of Peace and Faith," in K. Grasso, R. Hunt, eds., The Thought of John Courtney Murray 181-204. (Eerdmans, 1992).

"Inescapably a Liberal: Richard Rorty as Social Theorist," in C. Wolfe, J. Hittinger, eds., Liberalism at the Crossroads, 135-150 (1994)(revised for 2nd Edition, 2002).

"John Courtney Murray and the Privatization of American Religion," in S. Krason, D. D'Elia, eds., We Hold These Truths and More 120 (1993).

"Tribe's 'Jurisprudence of the Religion Clauses'," 4 Benchmark 137 (1990).

- "The Bill of Rights and Originalism," 1992 University of Illinois Law Review 401-427.
- "Beguiled: Free Exercise Conduct Exemptions and the Siren Song of Liberalism," 20 Hofstra Law Review 245 (1992).
- "Protecting Religious Liberty: Legislative and Judicial Responsibilities," 42 De Paul Law Review 253 (1992).
- "Morality and Legal Reasoning," 55 The Review of Politics 311 (1993).
- "The Right of Privacy Sustained," 1993 Public Interest Law Review 41.
- "Life's Dominion -- A Review Essay," Notre Dame Law Review 69 (1993).
- "The New Natural Law Theory: A Reply to Jean Porter," 39 American Journal of Jurisprudence 303 (1994) (with R. George).
- "Shall We Ratify the New Constitution? The Judicial Manifesto in Casey and Lee," in T. Eastland, ed., Benchmarks: Great Constitutional Controversies in the Supreme Court (1995).
- "Natural Law as Real 'Law': A Response to Hittinger," 39 American Journal of Jurisprudence, 33 (1994).
- "Moral Truth, the Common Good, and Judicial Review," in G. Bradley, et al, editors, Catholicism, Liberalism, and Communitarianism (1995).
- "Catholic Institutions and the New Evangelization," 1994 Proceedings of the Fellowship of Catholic Scholars. (reprinted in K. Whitehead, W. May, eds., The Battle for the Catholic Mind (2000).
- "No Intentional Killing Whatsoever: The Case of Capital Punishment," in R. George ed., Natural Law and Moral Inquiry 155 (Georgetown, 1998).
- "The Post-Constitutional Era," in R. Royal, ed., Reinventing the American People 137 (1995).
- "Marriage and the Liberal Imagination," 84 Georgetown L. J. 301 (1995) (with R. George).
- "Overcoming Posner," 94 Mich. L. Rev. 1898 (1996).

"Catholic Faith and Legal Scholarship," 47 Journal of Legal Education (13 (1997)).

"Natural Law and Constitutional Law," 1 Cath. Soc. Science Rev. 36 (1996).

"Pluralistic Perfectionism," 71 Notre Dame L. Rev. 671 (1996).

"Outer Limits: Judicial Review and the Commerce Clause," in K. Masugi, B. Wilson, eds., The Supreme Court and American Constitutionalism, 195 (1997) (with R. George).

"Religion and the Common Good," in C. Wolfe, ed., The Family, Civil Society, and The State

"Originalism and Criminal Procedure," in K. Grasso, ed., Liberty Under Law 77 (1997).

"The Pluralist Game," 2 Cath. Soc. Sci. Rev. 13 (1997).

"Law and Morality," in T. Boxx, G. Quinlivan, editors, Law and the Free Society, 13 (1998).

"Marriage Hawaiian Style?" in C. Wolfe, ed., Homosexuality and American Public Life, 192 (1998).

"Natural Law," in M. McConnell, et al., editors, Christian Perspectives in Legal Thought (Yale 2002).

"A Case for Proposition 209," 11 N.D.J. of Law, Ethics & Public Policy 97 (1997).

"The Tragic Case of Capital Punishment," in S. Levinson, W. Eskridge, eds., Hard Constitutional Questions (NYU Press).

"Criminal Procedure as Constitutional Law," 17 Crim. Justice Ethics (58 (1998))

"Originalism and Criminal Procedure," in K. Grasso, ed., Liberty Under Law (1998).

"Plea Bargaining and the Criminal Defendant's Obligation to Plead Guilty," 40 South Tex. L. Rev. 65 (1999).

- “Is Constitutional Law What The Winners Say It Is,” in C. Wolfe, ed., That Eminent Tribunal (Princeton University Press 2004).
- “Retribution and the Secondary Aims of Punishment,” 44 Am. J. Jur. 105 (1999).
- “Same-Sex Marriage: Our Final Answer?,” 14 N.D. J. of L. Ethics and Pub. Policy 729 (2000).
- “The Case Against Same-Sex Marriage,” 6 Cath. Soc. Science Rev. 87 (2001).
- “The Ends of Marriage: A Response to Robert George,” in K. Whitehead Marriage and the Common Good (St. Augustine’s Press, 2000).
- “Legal Beagle: ECE’s Best Friend May Be The Civil Law,” Fellowship of Catholic Scholars Quarterly (Fall 1999).
- “A Catholic View of Crime and Punishment,” Fellowship of Catholic Scholars Quarterly Summer, 2000.
- “An Unconstitutional Stereotype: Catholic Schools as Pervasively Sectarian,” 7 Texas Journal of Law and Politics 1-24 (2002).
- “Looking Ahead at Catholic Higher Education,” FCS Quarterly, Spring 2002.
- “*E Pluribus Unum*: The Aftermath of September 11,” 2 Journal of the Historical Society 193 (2002).
- “The Constitutionality of Recent Pro-Life Legislation,” in N. Molfese, ed., Human Dignity and Reproductive Technology (forthcoming).
- “John Paul II,” in F. Alexander, J. Witte, eds., Law and Human Nature: The Teachings of Modern Christianity (Columbia University Press, 2005) (with R. George).
- “*Roe v. Wade*: Thirty Years Later,” 26 FCS Quarterly 14 (2003).
- “Liberalism and Marriage: The Pluralist Game Revisited,” in K. Grasso, R. Hunt, eds., A Moral Enterprise: Essays in Honor of Francis Canavan, 185-202 (2002).
- “Commentary on *McCullum* Transcript,” 5 Engage 131 (2004).

- “Law and the Culture of Marriage,” N.D. J. of Ethics and Pub. Policy (2004).
- “Retribution: The Central Aim of Punishment,” 27 Harv. J. L. & Pub. Pol. 19 (2003).
- “The Public Morality of Having Children,” in M. Kelly, N. Lund-Molfese, eds., Bioethics (University Press of America, 2004).
- “Reflections on *Newdow*,” 5 Engage 141 (2004).
- “The Case of the Wise Electrician,” 50 Am. J. Jur. 257 (2005).
- “The Choice to Home-School,” in M. Aquilina, ed., Essays in Honor of Ronald Lawler (2006).
- “The Judicial Experiment with Privatizing Religion,” 1 Liberty Law Review 17 (2006).
- “The Public Square: Naked No More?,” in C. Wolfe, editor Essays in Honor of Richard Neuhaus (forthcoming 2008).
- “And What Do You Say I Am? The Meaning of The Kentucky Displays,” 6 Engage 144 (2005).
- “The Blaine Amendment of 1876: Harbinger of Secularism?,” 8 Engage 138 (2007).
- “Religion, Truth, and the Polity”, Ave Maria L.Rev. (forthcoming 2007).
- “Law, Government and the Common Good”, in K. McMahon, editor, The Common Good (forthcoming 2007).
- “Religion at a Public University”, 49 Wm & Mary Law Rev. (2008). (forthcoming).
- “What’s In A Name?”: A Philosophical Critique of Civil Unions” The Monist (2008). (forthcoming)
- “Is Gay Marriage Conservative?”, \_\_\_\_ So. Texas L. Rev. (2008). (forthcoming).

## Book Reviews

Review of L. Levy, The Establishment Clause, 1987 Journal of Church and State 535-36.

Review of R. Ellis, The Union at Risk, 8 Law and History Review 139-44 (1990).

Review of D. Dreisbach, Real Threat and Mere Shadow: Religious Liberty and the First Amendment, 23 This World 144-48 (Fall 1988).

Review of D. Novak, Jewish-Christian Dialogue, 7 Journal of Law & Religion 251-55 (1990).

Review of R. McElroy, The Search for an American Public Theology, 81 Social Justice Review 151 (1990).

Review of R. Bork, Tempting of America, 53 The Review of Politics 491-96 (1990).

Review of H. Arkes, Beyond the Constitution 54 The Review of Politics 144 (1992).

Review of M. Perry's Love and Power, Review of Metaphysics (1995).

Review of J. Finnis, Moral Absolutes, New Oxford Review 30-31 (Sept. 1993).

Review of D. Novak, Jewish Social Ethics, 56 The Review of Politics (1995).

Review of D. Dallin, American Jews and The Separationist Faith, Fellowship of Catholic Scholars Newsletter.

Review of R. George, Making Men Moral, New Oxford Review 29-30 (May 1994).

Review of R. George, Editor, Natural Law Theory Contemporary Essays New Oxford Review (April 1995).

Review of K. Pavlischek, John Courtney Murray and the Dilemma of Religious Toleration, New Oxford Review (Jan.-Feb. 1996).

Review of S. Presser, Recapturing the Constitution: Race, Religion and Abortion Reconsidered, 58 Review of Politics 197 (1995).

Review of K. Greenawalt, Private Consciences and Public Reasons, 26 Hastings Center Report 47 (1996).

Review of A. Scalia, A Matter of Interpretation, CRISIS, Sept. 1997.

Review of G. Grisez, Difficult Moral Questions, New Oxford Review, October 1998.

Review of R. Moore, I. Kramnick, The Godless Constitution 2 Religious Liberties News 10 (1998).

Reviews of M. Nussbaum, S. Olyan, Sexual Orientation & Human Rights in: National Review, Dec. 7, 1998; First Things, Oct., 1999.

Reviews of M. Buckley, The Catholic University as Promise and Project CRISIS, July/August 1999; Fellowship of Catholic Scholars Quarterly, Summer 1999.

Other Publications: "Privatizing Religion," 4 Crisis No. 7 (1986).

"The Constitution, Religion and American Public Life," 40 This World (1988).

"The U.S. Constitution and Religious Freedom," 80 Social Justice Review 99-104 (1989).

"Developments in Church and State," 77 Illinois B. J. 806-12 (1989).

"The Constitution and the Erotic Self," 16 First Things 28-34 (October 1991).

"Academic Integrity Betrayed," First Things 10-12 (1990).

"The New Constitutional Covenant," The World and I; (March 1994) 359-374; ("Reply" to Critics, id. at 392-395).

"Homosexuality and Public Policy," 84 Social Justice Review 152-39 (1993).

"In the Case of Martha Nussbaum," 44 FIRST THINGS 11-14 (June July 1994).

"Deja Vu, All Over Again," CRISIS (April 1995).

"Business As Usual, Only More So," 58 FIRST THINGS 24 (Dec. 1995).

"Marriage Penalty," National Review, January 26, 1998.

“Ex Corde Ecclesiae and the Civil Law,” *CRISIS*, February 1998.

“The Politics of Life” 18 *Culture Wars* 38 (Feb. 1999).

“Histrionics,” *National Review*, Dec. 7, 1998, (with R. George).

“The Dubious Liberalism of Stephen Carter,” *The World & I* (April 1999).

“The Fantasy Life of Justices,” *National Review* December 31, 1999. (reprinted in 26 *Human Life Review* 119 (2000).

“Who’s Afraid of a Backlash,” *National Catholic Register* (April 11-17, 1999).

“Indeed, Catholics May Apply,” *National Catholic Register* (April 18-24, 1999).

“The First Amendment And The Public Square: The ‘Rights to Religious Liberty’ Amendment,” *Insight* Number 222 June 12, 2000.

“Ex Corde Ecclesiae: The Next Phase,” *Catholic World Report* April 2000 (reprinted in *Fellowship of Catholic Scholar Quarterly*, Spring 2000).

“*Dignitatis Humanae* and American Constitutional Law,” *Catholic Dossier* (March-April 2000).

“Teaching Tools”, *World*, March 24, 2001.  
*The Heritage Guide to the Constitution*, (2003)(entries for Fourth Amendment, Article VI).

“Why The Government Has An Interest In Preserving Life,” *The World & I*, (May 2003).

“Pervasively Sectarian,” *The World & I*, (Dec. 2003).

“Against Same-Sex Marriage,” 26 *FCS Quarterly* 12 (2003).

“Stand and Fight,” *National Review* (July 28, 2003).

“President for Life,” *National Review* (Nov. 8, 2004)(with R. George).

“George Anthony Kelly,” in K. Whitehead, ed., *The Catholic Citizen* (2005).

“Why A Marriage Amendment?,” Touchstone (Nov. 2005)(with Bill Saunders).

“Faith and Law,” Our Sunday Visitor (Oct. 16, 2005).

“Steady,” in K. Whitehead, ed., Vatican II at Forty (2006).

“Barring Faith,” Weekly Standard (July 17, 2006) (with R. George).

“John Courtney Murray, Vatican II, and a Catholic State”, \_\_\_\_\_ Latin Mass \_\_\_\_\_ (2008).

#### Professional Associations, Boards, Etc.:

Director, Notre Dame Natural Law Institute (with John Finnis)

Editor, American Journal of Jurisprudence, (with John Finnis)

Director, Center on Religion and The Constitution, Witherspoon Institute (Princeton, NJ).

Hoover Institution Task Force on the Virtues and a Free Society (Stanford).

Past President, Fellowship of Catholic Scholars

Vice President, American Public Philosophy Institute

Immediate Past Chair, Federalist Society, Religious Liberties Practice Group

Chair of Advisory Board, Society of Catholic Social Scientists

Society of Scholars, James Madison Program (Princeton)

#### Advisory Boards:

Cardinal Newman Society

International Catholic University

Journal of Law and Religion.

Campion College (Australia)

Center for Human Life and Bioethics, Family Research Counsel

Journal of Law, Philosophy and Culture

#### Editorial Boards:

Catholic Social Science Review

The National Catholic Bioethics Quarterly

#### Personal

Married Pamela Vivolo on August 1, 1981. Eight children.