

**DAVID E. ENGDAHL**  
Professor of Law  
Seattle University School of Law  
901 12<sup>th</sup> Avenue, Sullivan Hall  
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Seattle, WA 98122-1090  
(206) 398-4075

**Personal Data:**

Born January 4, 1940, Grinnell, Iowa.  
Reared in Chicago & in Kansas suburbs of Kansas City.

**Education:**

S.J.D. (Doctor of Juridical Science) 1969, University of Michigan Law School  
LL.B. (Bachelor of Laws) 1964, University of Kansas School of Law; Note Editor, Kansas Law Review  
A.B. cum laude (Philosophy) 1961, University of Kansas  
Attended Wheaton College, Wheaton, Illinois, 1957-1960 (Class President, 1958-1959).  
Graduated Shawnee-Mission High School, Merriam, Kansas, 1957 (President of Student Body of 2400).

**Bar Admissions and Affiliations:**

First admitted to practice in Michigan (Feb. 1965). Also admitted in Colorado; United States Supreme Court; Sixth, Eighth, Ninth, Tenth, and D.C. Circuits; Federal Districts of Colorado, Northern Ohio, and District of Columbia.

**Professional Employment History:**

Since 1994: Professor of Law, Seattle University School of Law, Seattle, Washington (tenured).

1981-1994: Professor of Law, University of Puget Sound School of Law, Tacoma, Washington; tenured 1985.

1977-1981:

Private civil practice, Engdahl & Renzo P.C., Denver, Colorado, 1977-1981;  
Consultant, Western Governors' Policy Office (WESTPO), 1979-1981;  
General Counsel 1977-1979, and Consultant 1979-1982, Western Interstate Energy Board;  
Adjunct Professor 1978-1979, and Visiting Professor 1977-1978, University of Denver College of Law.

1975-1977: Assistant Attorney General and Chief, Education Unit, Colorado Department of Law. (Chief counsel to seventeen state institutions of higher education and their seven governing boards.)

1974-1975:

Private federal civil practice, Cleveland, Ohio, and  
Visiting Associate Professor 1974-1975, Cleveland State University School of Law.

1966-1975:

Associate Professor 1968-1975, and Assistant Professor 1966-1968, University of Colorado School of Law; tenured 1971. Director, The Law Revision Center, 1968-1972; on leave 1974-1975; resigned;  
Visiting Associate Professor, University of Michigan Law School, summer 1971;  
Consultant, Western Interstate Nuclear Board Committee on the Transportation of

Radioactive Materials, 1973-1974; and  
 Legal Studies Director, Western Interstate Nuclear Board Plowshare Technology  
 Assessment Project, 1971-1973.  
1964-1966: Legislative Analyst (graduate research fellow), Legislative Research Center,  
 University of Michigan Law School.  
1961-1964: While a full-time law student:  
 Instructor in "Pharmaceutical Law," University of Kansas School of Pharmacy, Spring  
 semester, 1964;  
 Assistant Instructor in "Western Civilization," University of Kansas College of Liberal Arts  
 & Sciences (eight contact hours per week), academic 1961-1962, academic 1962-1963,  
 and Fall semester 1963;  
 Research Assistant to Kansas Attorney General, academic 1962-1963 (half time) & Summer  
 1963 (full time); and  
 Research assistant to Dean, (subsequently a 10th Circuit federal Judge) James K. Logan  
 (now deceased) and to Prof. Robert C. Casad, University of Kansas School of Law, each  
 for various periods 1962-1964.

## **Publications:**

### **A. Books, Chapters, and Monographs**

*The Necessary and Proper Clause*, in THE HERITAGE GUIDE TO THE CONSTITUTION (D.  
 Forte ed. 2005).  
*The Exceptions Clause*, in THE HERITAGE GUIDE TO THE CONSTITUTION (D. Forte ed.  
 2005).  
 CONSTITUTIONAL FEDERALISM in a Nutshell (West Publ. Co., 1987). [Successor to  
 CONSTITUTIONAL POWER: FEDERAL AND STATE in a Nutshell (West, 1974).]  
 (This book has received high commendations,<sup>1</sup> and has been cited for its unique insights  
 into federalism law in more than a score of articles in the Harvard, Virginia, Duke,  
 Cornell, Indiana, and other Law Reviews, as well as in several United States Supreme  
 Court briefs.)  
*The Duties and Powers of Congress Regarding Conventions for Proposing Amendments* (with  
 James E. Bond), in THE CONSTITUTIONAL CONVENTION (National Legal Center  
 for the Public Interest, 1987).  
*Due Process Forbids Soldiers in Civil Disorders*, Appendix I in P. DAVIES, THE TRUTH  
 ABOUT KENT STATE (1973) (5 pp.).  
*State Power to Regulate Nuclear Materials Transportation*, chapter VI in TRANSPORTATION  
 OF RADIOACTIVE MATERIALS IN THE WESTERN STATES (Western Interstate  
 Nuclear Board, 1974) (35 pp.).  
*Deficiencies of Price-Anderson Protection for Plowshare*, pp. 364-372 in vol. 3 PLOWSHARE  
 TECHNOLOGY ASSESSMENT LEGAL STUDIES, (Western Interstate Nuclear Board) (1973).

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<sup>1</sup> "In several respects, I have found it a much more useful and helpful book than anything else I have read. Its  
 organization, crispness, and integration of case law and analysis is sharper by far than what I have seen  
 elsewhere. It is not a mere nutshell – it is far more.

"Because of the clarity of your presentation, moreover, you do compel one to think some things  
 out again on certain points. ...

"... It is immensely interesting and helpful."

Letter from Duke Law Prof. William Van Alstyne, August 17, 1987.

"... [N]ot a typical Nutshell. ... [I]ntellectually sophisticated. ... [A]n intellectually stimulating book that  
 contains a number of interesting and useful ideas."

Indiana Law Prof. Daniel O. Conkle, book review, 5 CONSTITUTIONAL COMMENTARY 214 (1988).

## B. Articles

### - Constitutional Law & Constitutional History -

*The Classic Rule of Faith and Credit*, forthcoming in YALE LAW JOURNAL, 2009.  
*The Contract Thesis of the Federal Spending Power*, 52 UNIVERSITY OF SOUTH DAKOTA LAW REVIEW 496 (41 pp.) (2007).<sup>2</sup>  
*Intrinsic Limits of Congress' Power Regarding the Judicial Branch*, 1999 BRIGHAM YOUNG UNIVERSITY LAW REVIEW 75 (100 pp.).  
*The Necessary and Proper Clause as an Intrinsic Restraint on Federal Lawmaking Power*, 22 HARVARD JOURNAL OF LAW & PUBLIC POLICY 107 (1998) (15 pp.).  
*Casebooks and Constitutional Competency*, 21 SEATTLE UNIVERSITY LAW REVIEW 741 (1998) (47 pp.).  
*The Basis of the Spending Power*, 18 SEATTLE UNIVERSITY LAW REVIEW 214 (1995) (44 pp.).  
*The Spending Power*, 44 DUKE LAW JOURNAL 1 (1994) (109 pp.).  
*John Marshall's 'Jeffersonian' Concept of Judicial Review*, 42 DUKE LAW JOURNAL 279 (1992) (60 pp.).<sup>3</sup>  
*What's In A Name? The Constitutionality of Multiple Supreme Courts*, 66 INDIANA LAW JOURNAL 457 (1991) (53 pp.).<sup>4</sup>  
*Federal Question Jurisdiction Under the 1789 Judiciary Act*, 14 OKLAHOMA CITY UNIVERSITY LAW REVIEW 521 (1990) (24 pp.).  
*Sense and Nonsense About State Immunity*, 2 CONSTITUTIONAL COMMENTARY 93 (1985) (29 pp.).<sup>5</sup>  
*Conflicting Jurisdictions of Federal, State and Local Authorities: The Federal Preemption Doctrine*, in 31 Rocky Mountain Mineral Law Foundation PROCEEDINGS (1985 Annual Institute) p. 1-1 (1986) (34 pp.).  
*Foundations for Military Intervention in the United States*, 7 UNIVERSITY OF PUGET SOUND LAW REVIEW 1 (1983); reprinted in MILITARY INTERVENTION IN DEMOCRATIC SOCIETIES: LAW, POLICY AND PRACTICE IN GREAT BRITAIN AND THE

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<sup>2</sup> "... "[I]nteresting and convincing." Letter from Hon. Morris S. Arnold, U.S. Circuit Judge (8<sup>th</sup> Cir.), Oct. 26, 2007.

"Engdahl [is] the leading academic exponent of the strong contract theory" of Congress' spending power. University of Michigan and Washington University Law Prof. Samuel R. Bagenstos, writing in 58 DUKE LAW JOURNAL 345, 386 (2008).

<sup>3</sup> "Fascinating and important. ... [A] lovely piece of work. ... [F]irst-rate." Letter from Duke Law Prof. H. Jefferson Powell, March 10, 1992.

"[A]bsolutely brilliant .... [O]ne of the most historically useful and analytically powerful law review articles I have ever read. ... [F]orced me to re-evaluate my predispositions on a good number of things." Letter from University of Minnesota Law Prof. Michael Stokes Paulsen, November 8, 1993.

"[A] splendid job. ... A wonderful piece of work." Letter from Univ. of California Law Prof. (now Ninth Circuit Court of Appeals Judge) William A. Fletcher, February, 1993.

"[S]pirited, excellent ...." Letter from Duke Law Prof. William Van Alstyne, February 10, 1993.

<sup>4</sup> "We have profited greatly from [this] superb article ..., [which] is consistently thoughtful and provocative." Northwestern Univ. Law Profs. Steven T. Calabresi and Gary Lawson, writing in 102 YALE LAW JOURNAL 255 (1992).

<sup>5</sup> Cited by Justice O'Connor (with Powell & Rehnquist), dissenting in Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528, at 587 (1985). While the actual citation is on a minor point, the article substantially shaped Justice O'Connor's revisionist (or rather, restorative) view of the Necessary and Proper Clause.

UNITED STATES (Rowe & Whelan, eds., Croom Helm, 1985) (79 pp.).  
*The Federal Lands Program Under SMCRA*, 26 PROCEEDINGS of the Rocky Mountain Mineral Law Foundation (1980 Annual Institute) 117 (1981) (39 pp.).  
*Some Observations on State and Federal Control of Natural Resources*, 15 HOUSTON LAW REVIEW 1201 (1978); **reprinted**, 16 PUBLIC LAND AND RESOURCES LAW DIGEST 230 (1979) (18 pp.).  
*State and Federal Power Over Federal Property*, 18 ARIZONA LAW REVIEW 283 (1977); **reprinted**, 14 PUBLIC LAND AND RESOURCES LAW DIGEST 269 (1977) (101 pp.).<sup>6</sup>  
*The New Civil Disturbance Regulations: The Threat of Military Intervention*, 49 INDIANA LAW JOURNAL 581 (1974) (36 pp.).  
*A Rejoinder*, 50 INDIANA LAW JOURNAL 778 (1975) (4 pp.).  
*Preemptive Capability of Federal Power*, 45 UNIVERSITY OF COLORADO LAW REVIEW 51 (1973) (37 pp.).<sup>7</sup>  
*State Power Over Plowshare: The Constitutional Framework*, 14 ATOMIC ENERGY LAW JOURNAL 243 (1973) (21 pp.).  
*The Legal Background and Aftermath of the Kent State Tragedy*, 22 CLEVELAND STATE UNIVERSITY LAW REVIEW 3 (1973) (22 pp.).  
*Immunity and Accountability for Positive Governmental Wrongs*, 44 UNIVERSITY OF COLORADO LAW REVIEW 1 (1972) (79 pp.).<sup>8</sup>  
*A Comprehensive Study of the Use of Military Troops in Civil Disorders, With Proposals for Legislative Reform* (with Anthony Renzo & Luize Zubrow [ne. Laitos]), 43 UNIVERSITY OF COLORADO LAW REVIEW 399 (1972) (31 pp.).  
*Soldiers, Riots and Revolution: The Law and History of Military Troops in Civil Disorders*, 57 IOWA LAW REVIEW 1 (1971) (73 pp.).  
*Constitutionality of the Voting Age Statute*, 39 GEORGE WASHINGTON LAW REVIEW 1 (1970) (41

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<sup>6</sup> Described as "[t]he most elaborate scholarly statement ... of the classic property clause theory ...," by Univ. of Kentucky Law Prof. Eugene R. Gaetke, writing in 63 NORTH CAROLINA LAW REVIEW at 621 n. 24 (1985), who added: "The classical theorists have presented their legal arguments cogently, often in painstaking detail. The article most notable for its detail is Engdahl ...."

<sup>7</sup> This early article – relied upon in more than a score of law journal articles including some in the twenty-first century – provided new and important insight into the subject. It also has been judicially cited (*see, e.g.* 564 P.2d 107, at 111 (Colo. 1977); and 65 Mich. App. 237, 237 N.W.2d 266, at 281 (1975)).

<sup>8</sup> "An excellent analysis ...." Harvard Law Prof. Laurence Tribe, writing in 89 HARVARD LAW REVIEW at 682 (1976).

"[A] full account of the evolution of Supreme Court doctrine [on accountability for official misconduct]." BATON, WECHSLER, et al., THE FEDERAL COURTS AND THE FEDERAL SYSTEM at 1410 (2d ed. 1973).

This is one of the most influential and widely cited of my articles. It proved seminal to the rethinking of government immunity doctrine during the 1980's: Long-buried sources and arguments first unearthed by this article came to be staples in the ensuing scholarly debate. It has been cited and considered in more than ninety lead articles in the Harvard, Michigan, Yale, Columbia, University of Chicago, NYU, UCLS, California, Illinois, and Stanford Law Reviews and others, and in several Supreme Court briefs. It also was:

- Cited by Justice White for the Court in Butz v. Economou, 438 U.S. 478, at 491 n. 15 (1978), where references to arcane sources first uncovered by this article pervade the Court's opinion;
- Cited by Justice Stevens for the Court in Nevada v. Hall, 440 U.S. 410, at 415 n. 6 (1979); and
- Cited by Justice Brennan (with Marshall, Blackmun, & Stevens) dissenting in Atascadero State Hospital v. Scanlon, 473 U.S. 234, at 258-59 n. 11 (1985).

The continuing significance of this work is evidenced by the fact that at least fifteen of the law review articles citing it are articles published since 2000 – including articles in the SUPREME COURT REVIEW and the UNIVERSITY OF PENNSYLVANIA LAW REVIEW.

pp.).<sup>9</sup>  
*Interstate Urban Areas and Interstate 'Agreements' and 'Compacts': Unclear Possibilities*, 58  
 GEORGETOWN LAW JOURNAL 799 (1970); **reprinted** in CRISIS IN URBAN  
 GOVERNMENT, A SYMPOSIUM: RESTRUCTURING METROPOLITAN AREA  
 GOVERNMENT (Jefferson Publ. Co., 1971) (22 pp.).  
*Requiem for Roth: Obscenity Doctrine Is Changing*, 68 MICHIGAN LAW REVIEW 185 (1969) (51  
 pp.).<sup>10</sup>  
*Consolidation by Compact: A Remedy for Preemption of State Food and Drug Laws*, 14  
 JOURNAL OF PUBLIC LAW 276 (1966) (46 pp.).  
*Characterization of Interstate Arrangements: When Is a Compact Not a Compact?* 64  
 MICHIGAN LAW REVIEW 63 (1965) (41 pp.).<sup>11</sup>  
*Construction of Interstate Compacts: a Questionable Federal Question*, 51 VIRGINIA LAW  
 REVIEW 987 (1965) (62 pp.).<sup>12</sup>  
*Consolidating State and Federal Regulatory power Over Food and Drugs*, 20 FOOD-DRUG-  
 COSMETIC LAW JOURNAL 587 (1965) (9 pp.).

- Other Law and Legal History -

*'Full Faith and Credit' in Merrie Olde England: New Insight for Marriage Conflicts Law from*

<sup>9</sup> Cited in Justice Douglas' separate opinion in *Oregon v. Mitchell*, 400 U.S. 112, at 142 n. 7 (1970). More notable, however, the article appears to have helped the entire Court reconsider and repudiate the "second rationale" of *Katzenbach v. Morgan*, 384 U.S. 641, at 653 (1966), which had been much ballyhooed by academics (most prominently including Archibald Cox) and induced the Senate to adopt the so-called "Kennedy amendment" to a voting rights act – but which was fundamentally unsound.

<sup>10</sup> Cited by several federal District Courts and state appellate courts in the early 1970's.

<sup>11</sup> This "Questionable Federal Question" article, and the "Characterization of Compacts" article next on the list, after more than forty years remain the most scholarly and arguably the most insightful of the few professional articles on this important, and profoundly confused, aspect of American federalism law. This "Characterization of Interstate Arrangments" article has been cited in several law review articles by others, including in the Columbia Law Review and others since 2000, and was characterized by Mr. Justice White as "a perceptive rationale ...." White, J., (with Blackmun, J.), dissenting in *United States Steel Corp. v. Multistate Tax Comm'n*, 434 U.S. 452, at 482 n.3 (1978). The article was also cited by the majority in the same case, 434 U.S. at 462 n. 12 & 465 n. 16. Moreover, references to long-buried precedents first unearthed by this article pervade the Court's opinion.

This article was also cited by the Supreme Court *per curiam* in *Illinois v. Michigan*, 409 U.S. 36, at 36 n. (1972), and by Judge Hufstedler for the Court in *League to Save Lake Tahoe v. B.J.K. Corp.*, 547 F.2d. 1072, at 1073 n. 1 (9th Cir. 1976).

<sup>12</sup> This article – cited in more than a score of law review articles including more than half a dozen since 2000 – was described by Judge Henry Friendly as "an able commentary" that "persuasively argues" its thesis. *Port Authority Bondholders Protective Committee v. Port of New York Authority*, 387 F.2d 259, at 261 (2d Cir. 1964) (Friendly, J., for the court ).

The article was relied on by Justice Rehnquist (with Burger & Stewart), dissenting in *Cuyler v. Adams*, 449 U.S. 433, at 452, 453 (1981).

Judge Renfrew for the Ninth Circuit Court of Appeals once described it as "an exhaustive analysis of this subject ...." *League to Save Lake Tahoe v. Tahoe Regional Planning Agency*, 507 F.2d 517, at 521 n. 8 (9th Cir. 1974). It was also cited by Judge Hufstedler for the Court in *League to Save Lake Tahoe v. B.J.K. Corp.*, 547 F.2d. 1072, at 1073 n. 1 (9th Cir. 1976); and it has been cited in numerous other federal District Court and Court of Appeals opinions.

*the Thirteenth Century*, 5 VALPARAISO UNIVERSITY LAW REVIEW 1 (1970) (25 pp.).  
*Proposal for a Benign Revolution in Marriage Law and Marriage Conflicts Law*, 55 IOWA LAW REVIEW 56 (1969) (60 pp.).<sup>13</sup>  
*Medieval Metaphysics and English Marriage Law*, 8 JOURNAL OF FAMILY LAW 381 (1969) (16 pp.).  
*The Secularization of English Marriage Law*, 16 KANSAS LAW REVIEW 505 (1968) (23 pp.).  
*The Canonical and Metaphysical Background of the Classic Dutch Marriage Conflicts Rule*, 15 NEDERLANDS TIJDSCHRIFT VOOR INTERNATIONAAL RECHT 42 (1968) (25 pp.).  
*English Marriage Conflicts Law Before the Time of Bracton*, 15 AMERICAN JOURNAL OF COMPARATIVE LAW 109 (1967) (26 pp.).

### C. Book Reviews

Review of J. AGRESTO, *THE SUPREME COURT AND CONSTITUTIONAL DEMOCRACY* (1984), 3 CONSTITUTIONAL COMMENTARY 513 (1986) (12 pp.).  
 Review of C. JACOBS, *THE ELEVENTH AMENDMENT AND SOVEREIGN IMMUNITY* (1972), 18 AMERICAN JOURNAL OF LEGAL HISTORY 256 (1974) (5 pp.).  
 Review of A. AVINS, ed., *THE RECONSTRUCTION AMENDMENTS' DEBATES* (1967), 21 JOURNAL OF LEGAL EDUCATION 119 (1968) (5 pp.).

### D. Student Notes

12 KANSAS LAW REVIEW 94 (1963) (5 pp.).  
 11 KANSAS LAW REVIEW 170 (1962) (3 pp.).

### E. Teaching Materials

TEACHING MATERIALS ON CONSTITUTIONAL LAW (loose-leaf, revised annually; more than 900 typed pages in current edition).

### F. Poetry

"Remembering Kent," in *PEACE IS OUR PROFESSION* 278-279 (East River Anthology, 1981); originally published in 1973 in *THE CONGRESSIONAL RECORD*, vol. 119, p. 14478, per Senator Kennedy of Massachusetts.

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<sup>13</sup> This article (and the others on which it builds) are credited as the scholarly foundation for Restatement (Second) of Conflict of Laws, § 283(1):

[A] thorough student of the history of marriage law ... called for a 'benign revolution' both in marriage law and in marriage conflicts law .... The response of the Second Restatement to these urgings will now be examined.

Hans Baade, writing in 72 COLUMBIA LAW REVIEW at 356 (1972). See also the Restatement Reporter's comment in Reese, *Marriage in American Conflict of Laws*, 26 INT'L & COMP. L. Q. 952, 965 (1977), citing only this article and Baade's.

### **Principal Non-Academic Professional Experience:**

Consultant, The Committee of Bar Examiners of The State Bar of California, 1989-1991.

Lead Counsel (pro bono) for plaintiffs in Bissonette et al. v. Haig et al., 1975-1989. (Civil suit re. military support of 1973 Wounded Knee siege.<sup>14</sup>)

Panel Moderator on Federalism Issues at the "Supreme Courts Conference" (involving Justices of the United States and Canadian Supreme Courts) at Duke University (1985).

Of Counsel to North Dakota in North Dakota v. United States, 460 U.S. 300 (1983). (Revocability of requisite state consent to federal acquisition of property).

Counsel for Western Governors Policy Office (WESTPO), amicus curiae, in Commonwealth Edison Co. v. Montana, 453 U.S. 609 (1981). (Preemption and dormant commerce clause issues; validity of state severance tax).

Legal Advisor and Draftsperson for "Rocky Mountain Low Level Radioactive Waste Compact," and Drafting Consultant for "Northwest Interstate Compact on Low-Level Radioactive Waste Management," 1980-1981.

Counsel for Western Governors Policy Office (WESTPO), amicus curiae in support of certiorari, in Ventura County v. Gulf Oil Corp., 445 U.S. 947 (1980). (County zoning on federal land).

Consultant to Texas, Oklahoma, Louisiana, and Wyoming, in Oklahoma, et al. v. Federal Energy Regulatory Commission, 494 F.Supp. 636 (W.D. Okla. 1980), aff'd, 661 F.2d 832 (10th Cir. 1981). (Natural Gas Policy Act preemption issues).

Legal advisor and draftsperson for executive agreement of thirteen western state Governors creating "Western Solar Utilization Network" ("Western SUN"), 1977-1978.

Pretrial, trial, and appellate co-counsel (pro bono) for plaintiffs for first (1975) and second (1978-79) civil rights trials arising from 1970 Kent State shootings: Krause v. Rhodes and consolidated cases, N.D. Ohio, 8th Cir., & Supreme Court. None other of the several counsel representing various plaintiffs at the first trial was selected to serve on the new, three-lawyer team as counsel for all plaintiffs at the second trial.

Special Assistant Attorney General of Washington for briefing of Ray v. Atlantic Richfield Co., et al., 435 U.S. 151 (1978). (State restriction of supertankers on Puget Sound; preemption and dormant commerce clause issues).

Consultant to General Counsel of National League of Cities (plaintiff), and Of Counsel to amicus curiae National Association of Counties, in National League of Cities v. Usery, 426 U.S. 833 (1976). (State "immunity" from federal regulatory control).

Co-counsel (pro bono) for respondents (plaintiffs) for trial and appellate proceedings in Train v. Colorado Public Interest Research Group, Inc., et al., 426 U.S. 1 (1975) [below: 507 F.2d 743 (10th Cir. 1974) & 373 F.Supp. 991 (D. Colo. 1974)]. (EPA jurisdiction to regulate radioactive effluents).

Counsel (pro bono) for U.S. Catholic Conference, National Council of Churches, and eight other denominations or religious groups, amici curiae in United States v. Boe, 491 F.2d 970 (8th Cir. 1974). (Clergy testimonial privilege grounded on Constitution).

Counsel (pro bono) for National Council of Churches, Union of American Hebrew Congregations, and other religious groups, amici curiae in Scheuer v. Rhodes, 416 U.S.

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<sup>14</sup> This was a civil damage suit for unlawful use of military aid to maintain the 1973 Wounded Knee siege. The case was filed in 1975 and went through federal District Court and Court of Appeals for the District of Columbia on venue and other procedural grounds. After venue transfer the federal District Court in South Dakota dismissed it under Rule 12(b)(6), but an Eighth Circuit panel reversed, and the full Court confirmed that holding a year later per curiam. The Supreme Court granted certiorari, but shortly before argument during the 1987 term three of the eight Justices recused. Argument was reset upon confirmation of Justice Kennedy; but when he also recused, the case was remanded pursuant to the quorum statute "as if affirmed by an equally divided court." After remand it was dismissed in 1989 on attenuated "official immunity" grounds.

232 (1974). (Qualified official immunity of government officials).

Panelist on "State v. Federal Jurisdiction," Environmental Control Meeting, National Association of Attorneys General Committee On the Office of Attorney General, Denver, Colorado, February 15, 1974.

Draftsman (pro bono) of initiated amendment to Colorado state constitution (Colo. Const., Art. XXVI, adopted 1974), imposing restrictions concerning use of underground nuclear explosives.

Program Director, "The Right To Bear Arms," a multi-media program for secondary school students, part of the Fundamental Freedoms series prepared by Xerox Education Publications (1973-74).

Consultant for Staff Report to the Special Committee on Legal Services to Military Forces, National Association of Attorneys General Committee on the Office of Attorney General, entitled LEGAL ISSUES CONCERNING THE ROLE OF THE NATIONAL GUARD IN CIVIL DISORDERS (publ. Dec. 1973).

Counsel (pro bono) for The Law Revision Center, amicus curiae, in Gilligan v. Morgan, 413 U.S. 1 (1973). (Justiciability issues.)

Counsel (pro bono) for National Council of Churches and other national religious organizations, amici curiae, in support of certiorari in Christian Echoes National Ministry, Inc. v. United States, 414 U.S. 864 (1973). (Constitutional issue whether political activities may affect tax exemption).

Counsel (pro bono) for National Council of Churches, amicus curiae in Atlee v. Laird, 339 F.Supp. 1347 (E.D. Pa. 1972). (Justiciability; separation of powers).

Consultant (pro bono) to Minnesota Pollution Control Agency, for Minnesota v. Northern States Power Co., 447 F.2d 1143 (8th Cir. 1971), later aff'd, 405 U.S. 1035 (1972). (Pre-emption; state regulation of radiation risks).

Consultant for revision of the Colorado Criminal Code, 1970-1972.

Member, Colorado Bar Association Committee on Uniform Laws, 1967-68, 1969-1971.

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