From the SelectedWorks of Seth Barrett Tillman

February 2014

Citation List to "Why Our Next President May Keep His or Her Senate Seat," and to "Why President-Elect Obama May Keep His Senate Seat After Assuming the Presidency," and to "Member Of The House Of Representatives And Vice President Of The United States: Can Ryan Hold Both Positions At The Same Time?"

Contact Author

Start Your Own SelectedWorks

Notify Me of New Work

Available at: http://works.bepress.com/seth_barrett_tillman/76

Seth Barrett Tillman
25/04/2013 12:49 PM

CITATIONS TO
WHY OUR NEXT PRESIDENT MAY KEEP HIS OR HER SENATE SEAT
AND
WHY PRESIDENT-ELECT OBAMA MAY KEEP HIS SENATE SEAT
AFTER ASSUMING THE PRESIDENCY

BRIAN C. KALT, CONSTITUTIONAL CLIFFHANGERS: A LEGAL GUIDE FOR PRESIDENTS AND THEIR ENEMIES 93 n.*, 115 n.15 (2012) (citing Calabresi-Tillman exchange on *PENNumbra* & Prakash-Tillman exchange on *DJCLPP*), *available at* http://works.bepress.com/seth_barrett_tillman/152/.

SANFORD LEVINSON, FRAMED: AMERICA'S FIFTY-ONE CONSTITUTIONS AND THE CRISIS OF GOVERNANCE 227, 421, 439 (2012) (citing Prakash-Tillman exchange on *DJCLPP*), *available at* http://works.bepress.com/seth_barrett_tillman/272/.

Geoffrey P. Miller, *The Corporate Law Background of the Necessary and Proper Clause*, *in* THE ORIGINS OF THE NECESSARY AND PROPER CLAUSE 144, 146 n.4 (Gary Lawson et al. eds., 2010) (citing Prakash-Tillman exchange on *DJCLPP*).

2 RONALD D. ROTUNDA & JOHN E. NOWAK, TREATISE ON CONSTITUTIONAL LAW: SUBSTANCE AND PROCEDURE § 9.1(b)(i) & n.6.1 (4th ed. Supp. 2009) (citing Calabresi-Tillman exchange on *PENNumbra* & Prakash-Tillman exchange on *DJCLPP*).

JAY WEXLER, THE ODD CLAUSES: UNDERSTANDING THE CONSTITUTION THROUGH TEN OF ITS MOST CURIOUS PROVISIONS 8-9, 198 (2011) (citing Prakash-Tillman exchange on *DJCLPP*), *available at* http://works.bepress.com/seth_barrett_tillman/132/.

Richard Albert, *The Constitutional Politics of Presidential Succession*, 39 HOFSTRA L. REV. 497, 497 n.*, 508 n.71 (2011) (citing Prakash-Tillman exchange on *DJCLPP*).

Roy E. Brownell II, *Can the President Recess Appoint a Vice President?*, 42 PRESIDENTIAL STUD. Q. 622, 622 n* & n.1, 625 n.3, 627-28, 635 (2012) (peer reviewed) (citing Prakash-Tillman exchange on *DJCLPP*), *available at* http://works.bepress.com/seth_barrett_tillman/241/, *also available at* http://tinyurl.com/c9d9k8q/.

Steven G. Calabresi, Rebuttal, *Does the Incompatibility Clause Apply to the President?*, *in* Seth Barrett Tillman & Steven G. Calabresi, Debate, *The Great Divorce: The Current Understanding of Separation of Powers and the Original Meaning of the Incompatibility Clause*, 157 U. PA. L. REV. PENNUMBRA 134, 141-45 (2008), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1294671.

Steven G. Calabresi, Closing Statement, *A Term of Art or the Artful Reading of Terms?*, *in* Seth Barrett Tillman & Steven G. Calabresi, Debate, *The Great Divorce: The Current Understanding of Separation of Powers and the Original Meaning of the Incompatibility Clause*, 157 U. PA. L. REV. PENNUMBRA 134, 154-59 (2008), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1294671.

Marc O. DeGirolami, *The Vanity of Dogmatizing*, 27 CONST. COMMENT. 201, 222 n.56 (2010) (reviewing BRIAN Z. TAMANAHA, BEYOND THE FORMALIST-REALIST DIVIDE: THE ROLE OF POLITICS IN JUDGING (2010)) (peer reviewed) (citing Calabresi-Tillman exchange on *PENNumbra*).

Michael C. Dorf & Lisa T. McElroy, *Coming Off The Bench: Legal and Policy Implications of Proposals to Allow Retired Justices to sit by Designation on the Supreme Court*, 61 DUKE L.J. 118 n.151 (2011) (citing Calabresi-Tillman exchange on *PENNumbra*).

Stephen M. Durden, *Textualisms*, 2 BRIT. J. AM. LEGAL STUD. 59, 71 n.64, 74 n.86, 86 n.147 (2013) (peer reviewed) (citing Calabresi-Tillman exchange on *PENNumbra*), *available at* http://works.bepress.com/seth_barrett_tillman/384/.

John P. Figura, *Against the Creation Myth of Textualism: Theories of Constitutional Interpretation in the Nineteenth Century*, 80 MISS. L.J. 587, 596 n.40 (2010) (citing Calabresi-Tillman exchange on *PENNumbra*).

David Fontana, *The Second American Revolution in Separation of Powers*, 87 TEX. L. REV. 1409, 1414 n.27 (2009) (citing Prakash-Tillman exchange on *DJCLPP*).

Jamal Greene, Heller *High Water? The Future of Originalism*, 3 HARV. L. & POL'Y REV. 325, 325 n.3 (2009) (citing Calabresi-Tillman exchange on *PENNumbra*).

Hon. D. Arthur Kelsey, *The Resurgent Role of Legal History in Modern U.S. Supreme Court Opinions*, VA. BAR ASSO. NEWS J., Fall 2010, at 16 n.11 (2010) (citing Calabresi-Tillman exchange on *PENNumbra*) (practitioners' journal), *available at* http://lextrajectus.com/html/unit_1.html.

John F. Manning, *The Necessary and Proper Clause and its Legal Antecedents*, 92 B.U. L. REV. 1349, 1354 n.23 (2012) (reviewing GARY LAWSON, GEOFFREY P. MILLER, ROBERT G. NATELSON & GUY I. SEIDMAN, THE ORIGINS OF THE NECESSARY AND PROPER CLAUSE (2010)) (citing Prakash-Tillman exchange on *DJCLPP*).

Geoffrey P. Miller, *The Corporate Law Background of the Necessary and Proper Clause*, 79 GEO. WASH. L. REV. 1, 1 n.*, 2 n.4 (2010) (citing Prakash-Tillman exchange on *DJCLPP*).

Saikrishna Bangalore Prakash, Response, *Why the Incompatibility Clause Applies to the Office of President*, 4 DUKE J. CONST. L. & PUB. POL'Y 143 *passim* (2009), *available at* http://tinyurl.com/yglucrc; 4 DUKE J. CONST. L. & PUB. POL'Y SIDEBAR 35 *passim* (2008), *available at* http://tinyurl.com/yasefj4.

David C. Weiss, *The International Boundary Commission, Treaty Interpretation, and the President's Removal Power*, 41 LOY. U. CHI. L.J. 39, 75 n.246 (2009) (citing Prakash-Tillman exchange on *DJCLPP*).

James D. Myers, Note, *Bringing the Vice President Into the Fold: Executive Immunity and the Vice Presidency*, 50 B.C. L. REV. 897, 902 n.31 (2009) (citing Prakash-Tillman exchange on *DJCLPP*).

David J. Shaw, Note, *An Officer and a Congressman: The Unconstitutionality of Congressmen in the Armed Forces Reserve*, 97 GEO. L.J. 1739, 1742 n.10, 1743 nn.19-20 (2009) (citing Calabresi-Tillman exchange on *PENNumbra* & Prakash-Tillman exchange on *DJCLPP*).

UNITED STATES CODE ANNOTATED § 3 U.S.C.A. § 19 (West 2010) (citing Tillman on *DJCLPP*).

UNITED STATES CODE ANNOTATED § Article I, Section 6, Clause 2 (West 2009) (citing Calabresi-Tillman exchange on *PENNumbra* & Prakash-Tillman exchange on *DJCLPP*).

UNITED STATES CODE SERVICE § 3 U.S.C.S. § 19 (LexisNexis 2010) (citing Tillman on *DJCLPP*).

UNITED STATES CODE SERVICE § Article I, Section 6, Clause 2 (LexisNexis 2009) (citing Calabresi-Tillman exchange on *PENNumbra* & Prakash-Tillman exchange on *DJCLPP*).

Roy E. Brownell II, Constitutional Chameleon: The Vice President's Place in Both the Political Branches 3 n.*, 17 n.60, 72 n.455, 82 n.531 (2011) (unpublished manuscript) (on file with author) (citing Calabresi-Tillman exchange on *PENNumbra* & Prakash-Tillman exchange on *DJCLPP*), *available at* http://works.bepress.com/seth_barrett_tillman/235/.

Mike McNerney, Trust or Profit: An Examination of Whether Military Officers may Serve as Members of Congress or Presidential Electors 11 n.31, 17 n.52 (2012) (unpublished manuscript) (on file with author) (citing Calabresi-Tillman exchange on *PENNumbra* & Prakash-Tillman exchange on *DJCLPP*), *available at* http://ssrn.com/abstract=2190184.

Anne Joseph O'Connell, Qualifications: Law and Practice of Selecting Agency Leaders (2013) (unpublished manuscript) (on file with author) (citing Calabresi-Tillman exchange on *PENNumbra* and/or Prakash-Tillman exchange on *DJCLPP*), *listed* http://tinyurl.com/krf2v6, *also available at* http://works.bepress.com/seth_barrett_tillman/205/.

Marni von Wilpert, Preventing Corruption in the Legislature Through the Structure of the Constitution *passim* (2010) (unpublished manuscript) (on file with student author) (citing Calabresi-Tillman exchange on *PENNumbra* & Prakash-Tillman exchange on *DJCLPP*), *available at* http://works.bepress.com/seth_barrett_tillman/211/.

Richard Albert, Boston College of Law Syllabus for "The Law of Democracy" 5 (Fall 2009) (on file with Professor Albert) (assigning Calabresi-Tillman exchange on *PENNumbra*), *available at* http://works.bepress.com/seth_barrett_tillman/191/.

Separation of Powers, WIKIPEDIA, http://en.wikipedia.org/wiki/Separation_of_powers, *also available at* http://works.bepress.com/seth_barrett_tillman/325/ (last visited May 28, 2012) (citing Calabresi-Tillman exchange on *PENNumbra* & Prakash-Tillman exchange on *DJCLPP*).

CITATIONS TO
***MEMBER OF THE HOUSE OF REPRESENTATIVES AND VICE PRESIDENT OF THE UNITED STATES: CAN RYAN HOLD BOTH POSITIONS AT THE SAME TIME?*,**
JURIST - FORUM, Aug. 23, 2012,
http://jurist.org/forum/2012/08/seth-barrett-tillman-vice-presidency.php,
***also available at* http://ssrn.com/abstract=2129812.**

(cont.)

INTERNET CITATIONS

Craig J. Albert, *Two, two, two votes in one (redux)*, DORF ON LAW (Aug. 20, 2008, 4:14 PM), http://www.michaeldorf.org/2008/08/two-two-two-votes-in-one-redux.html.

Terrence Berres, *Gifts and contributions and corruption*, MILWAUKEE FEDERALISTS (Sept. 4, 2012, 6:00 AM), http://tinyurl.com/d7uuurg.

Terrence Berres, *Seth Barrett Tillman: Paul Ryan Could Be a Congressman AND Vice President*, MILWAUKEE FEDERALISTS (Aug. 14, 2012, 6:11 PM), http://tinyurl.com/caycwt9.

Terrence Berres, *The Great Divorce*, MILWAUKEE FEDERALISTS (Dec. 12, 2008, 6:00 AM), http://tinyurl.com/dkc6go.

Terrence Berres, *Why Our Next President May Keep His Or Her Senate Seat*, MILWAUKEE FEDERALISTS (April 5, 2008, 12:31 PM), http://tinyurl.com/ddpjba.

Josh Chafetz, *20th Amendment Trivia*, CONLAWPROF (Nov. 10, 2008, 12:17:44 PST), http://lists.ucla.edu/pipermail/conlawprof/2008-November/033299.html.

Josh Chafetz, *Responding to Some of Your Comments*, THE VOLOKH CONSPIRACY, http://volokh.com/archives/archive_2008_07_20-2008_07_26.shtml#1216899514 (last visited July 28, 2008, 9:48 AM).

Michael C. Dorf (with Seth Barrett Tillman), *Coda on Dual Service in Congress and as VP: Seth Barrett Tillman Replies*, DORF ON LAW (Aug. 23, 2012, 8:11 AM), http://tinyurl.com/ch6hz6t/, LexisNexis: PracticeVew Database (Aug. 25, 2012), http://tinyurl.com/d22b8od.

Michael C Dorf, *How Far Do Text and Early History Take Us? A Comment on Seth Barrett Tillman's Intriguing Argument*, DORF ON LAW (Aug. 20, 2012, 12:20 AM), http://tinyurl.com/8kb7udg; LexisNexis: PracticeView Database (Aug. 22, 2012), http://tinyurl.com/9ujj8h3.

Michael C. Dorf (with Seth Barrett Tillman), *Congressman and Vice President and President of the Senate: Can Paul Ryan hold them all at the same time? -- First in a Series of Guest Posts by Seth Barrett Tillman*, DORF ON LAW (Aug. 20, 2012, 12:19 AM), http://tinyurl.com/94cgyjc; LexisNexis: PracticeView Database (Aug. 22, 2012), http://tinyurl.com/cgqh4n7.

December Responses: PENNumbra, CONCURRING OPINIONS (Nov. 30, 2008, 11:33 PM), http://tinyurl.com/6omlo6.

Rick Hasen, *Tillman, Dorf, Tillman on Dual Officeholding*, ELECTION LAW BLOG (August 20, 2012, 3:24 PM), http://electionlawblog.org/?p=38829.

Rick Hasen, *How About Paul Ryan for VP And for the House?*, ELECTION LAW BLOG (Aug. 12, 2012, 11:49 AM), http://electionlawblog.org/?p=38429.

Rick Hasen, *Could President-Elect Obama Remain Senator and Become President?*, ELECTION LAW BLOG (Dec. 1, 2008, 1:29 PM), http://electionlawblog.org/archives/012568.html.

Richard Heald, *Separation of Powers (or is it?)*, CONSTI WEBLOG: WHAT'S HOT AND WHAT'S NOT (Jan. 6, 2009, 5:23:11 AM), http://tinyurl.com/ndzkd5 (an English law blog).

David Hricik, *Senator-President Obama, McCain, or Clinton?*, STATUTORY CONSTRUCTION BLOG (Feb. 29, 2008), http://tinyurl.com/yscrle.

Ethan Leib, *Can Senators Keep Their Senate Seats When Elected President?*, PRAWFSBLAWG (Feb. 28, 2008, 8:06 PM), http://prawfsblawg.blogs.com/prawfsblawg/2008/02/can-senators-ke.html.

Chris Lund, *Another Comment on the Election …*, PRAWFSBLAWG (Nov. 5, 2008, 11:50 AM), http://prawfsblawg.blogs.com/prawfsblawg/2008/11/another-comment.html.

John J. Miller, *The Congressman Who Was Veep*, NATIONALREVIEWONLINE'S THE CORNER (Aug. 13, 2012, 2:46 PM), http://tinyurl.com/9kgncz7.

John J. Miller, *Double Dipping*, NATIONALREVIEWONLINE'S THE CORNER (Nov. 5, 2008, 3:55 PM), http://tinyurl.com/5eyt6c.

John J. Miller, *And In My Spare Time, I'm a Senator from Arizona*, NATIONALREVIEWONLINE'S THE CORNER (Feb. 29, 2008, 7:51 AM), http://tinyurl.com/2laaws.

Sandeep Prasanna, *Parsing the Constitution*, THE DIACRITICS (Mar. 9, 2012, 8:38 PM), http://thediacritics.com/2012/03/09/parsing-the-constitution/.

'President Elect' Blogs, USAliberals.com, http://www.usaliberals.com/president_elect/news.htm (no longer available) (last visited Dec. 4, 2008).

Michael Ramsey, *More on the Incompatibility Clause*, THE ORIGINALISM BLOG (Aug. 24, 2012, 7:00 AM), http://tinyurl.com/cpkxtb8/.

Michael Ramsey, *Professors Dorf and Tillman discuss Paul Ryan and Incompatibility*, THE ORIGINALISM BLOG (Aug. 21, 2012, 07:00 AM), http://tinyurl.com/cow2ujz.

Michael Ramsey, *Seth Tillman: Paul Ryan Could Be a Congressman AND Vice President*, THE ORIGINALISM BLOG (Aug. 12, 2012, 8:30:00 AM), http://tinyurl.com/8wcegnx.

Glenn Reynolds, *Seth Barrett Tillman and Steve Calabresi Debate*, INSTAPUNDIT (Dec. 2, 2008, 2:43 PM), http://pajamasmedia.com/instapundit/28824/.

Lawrence B. Solum, *Tillman on the Incompatibility Clause*, LEGAL THEORY BLOG (August 22, 2012, 7:40 AM), http://tinyurl.com/c6gosro.

Lawrence B. Solum, *Tillman on Calabresi on the Incompatibility Clause*, LEGAL THEORY BLOG (Nov. 3, 2008, 3:40 PM), http://tinyurl.com/c4cd8a.

Lawrence B. Solum, *Tillman on the Incompatibility Clause*, LEGAL THEORY BLOG (Feb. 29, 2008, 1:33 AM), http://lsolum.typepad.com/legaltheory/2008/02/tillman-on-the.html.

Tom Smith, *How about a double helping of Paul Ryan?*, THE RIGHT COAST (Aug. 15, 2012, 8:00 AM), http://tinyurl.com/cuufypo.

Michael Stern, *Can the Chairman of the House Budget Committee Preside Over the Senate?*, POINT OF ORDER: A DISCUSSION OF CONGRESSIONAL LEGAL ISSUES (Aug. 14, 2012, 12:01 PM), http://pointoforder.com/ (click calendar entry for "August 14, 2012"), *available at* http://tinyurl.com/br6uhrj.

Michael Stern, *Can Joe Biden Be Vice President and Senator at the Same Time?*, POINT OF ORDER: A DISCUSSION OF CONGRESSIONAL LEGAL ISSUES (Dec. 20, 2008, 14:47 PM), http://pointoforder.com/ (click calendar entry for "December 20, 2008").

Eugene Volokh, *Why Isn't Vice-President-Elect Biden Affected by the Emoluments Clause?*, THE VOLOKH CONSPIRACY (Dec. 8, 2008, 12:29 PM), http://www.volokh.com/posts/1228757349.shtml (click "debate").

Jay Wexler, *Could Obama Have Stayed a Senator?*, ROAD TRIP TO THE BATTLEGROUNDS OF THE CHURCH/STATE WARS BLOG (Nov. 21, 2008, 12:31 PM), http://tinyurl.com/936qb9.

Guan Yang, GUAN'S THOUGHTS (Jan. 28, 2009), http://tinyurl.com/d4qdw4.

***

My publications and their abstracts are generally available on
http://ssrn.com/author=345891 and
on http://works.bepress.com/seth_barrett_tillman/.

A citation list to my publications is available at:
http://works.bepress.com/seth_barrett_tillman/18/.