

## PLAINTIFF'S STATEMENT

For almost a century, administrations of both parties have used various legal maneuvers to avoid complying with the Constitution's 'Emoluments Clause' (Art. 1, Sec. 6, Clause 2). This has become a more frequent practice in recent years. Such 'work-arounds' do not satisfy the plain text of the Constitution. My position on this matter has been shared in the past by, among others, Senator Robert Byrd, Professor (now Justice) Stephen Breyer, and New York Times editorial writer Anthony Lewis. Earlier court challenges have failed on issues of legal standing.

In last month's legislation purporting to avoid the Emoluments Clause and enable the appointment of former Senator Hillary Clinton as Secretary of State, Congress added a clause to facilitate court resolution of this question. It establishes legal standing to challenge this Constitutional violation, expedites trial, and allows direct appeal to the Supreme Court.

I am bringing suit to finally resolve this issue and to seek compliance with the manifest tenor of the Constitution. To detach ourselves from the text of the Constitution is a true slippery slope that would negate the rule of law. If the Constitution needs to be changed, it should be done by the means the Constitution provides.

This is not a partisan, political or personal issue. I have faithfully served under six prior Secretaries of State of both parties, and under eight Presidents since first taking the oath to uphold the Constitution as a young Army officer cadet. During a prior assignment as State Department representative on the faculty of a U.S. service academy, we taught our cadets: "Officers serve the Nation for one and only one purpose: to support and defend the Constitution." As a commissioned State Department Foreign Service Officer, a retired Army Reserve Judge Advocate Officer, and as a lawyer, I consider it my Constitutional duty to bring this case to the courts.

I recognize and fully respect that others among my colleagues may disagree with my view, and am content to leave the question for court resolution.

I am grateful to Judicial Watch for representing me *pro bono* in this public interest case.

David C. Rodearmel

Some resources I considered in making my decision to bring this action include:

The Founders' Constitution: [http://press-pubs.uchicago.edu/founders/tocs/a1\\_6\\_2.html](http://press-pubs.uchicago.edu/founders/tocs/a1_6_2.html)

*Constitutional Ineligibility: What Does the Emoluments Clause Mean?* by Prof. David F Forte, <http://www.heritage.org/Research/LegalIssues/wm2149.cfm>

Law review articles, including:

- John F. O'Connor, *The Emoluments Clause: An Anti Federalist Intruder in a Federalist Constitution*, 24 Hofstra Law Rev. 89 (1995)  
<http://www.steptoec.com/assets/attachments/3658.PDF>
- Michael S. Paulsen, *Is Lloyd Bentsen Unconstitutional?*, 46 Stanford Law Rev. 907 (1994)

Online postings and blog discussions by various law professors, including:

- Mark Tushnet [http://stubbornfacts.us/law/clintons\\_eligibility\\_redux](http://stubbornfacts.us/law/clintons_eligibility_redux)
- Jack M. Balkin <http://balkin.blogspot.com/2008/11/why-hillary-cant-be-secretary-of-state.html>
- Lawrence Tribe <http://balkin.blogspot.com/2008/12/is-hillary-clinton-unconstitutional.html>)
- Eugene Volokh and Michael Paulsen  
[http://volokh.com/posts/chain\\_1227548910.shtml](http://volokh.com/posts/chain_1227548910.shtml))