TABLE OF CONTENTS

THE USE AND MISUSE OF HISTORY IN U.S. FOREIGN RELATIONS LAW

FOREWORD .................................................................David Sloss 1

ARTICLE

AN ORIGINALISM FOR FOREIGN AFFAIRS? ....................Ingrid Wuerth 5

RESPONSES

FOREIGN AFFAIRS ORIGINALISM IN
YOUNGSTOWN’S SHADOW .......................Stephen I. Vladeck 29

ORIGINALISM AND THE DIFFICULTIES
OF HISTORY IN FOREIGN
AFFAIRS.........................................................Eugene Kontorovich 39

ARTICLE

THE CIVIL WAR IN U.S. FOREIGN RELATIONS
LAW: A DRESS REHEARSAL FOR
MODERN TRANSFORMATIONS.................... Thomas H. Lee 53

RESPONSES

CONTEMPORARY LESSONS FROM THE
AGE-OLD PRIZE CASES:
A COMMENT ON THE CIVIL
WAR IN U.S. FOREIGN
RELATIONS LAW.................................Deborah Pearlstein 73
RE-RETHINKING THE PRIZE

CASES: SOME REMARKS IN
RESPONSE TO PROFESSOR LEE ................Stephen I. Vladeck 85

ARTICLE

TAKING CARE OF JOHN MARSHALL’S
POLITICAL GHOST .............................Michael P. Van Alstine 93

RESPONSE

ORGANS MISUSED AND USED:
A COMMENT ON THE SOLE
ORGAN PROBLEM ....................................Martin S. Flaherty 137

ARTICLE

JUDICIAL FOREIGN POLICY: LESSONS
FROM THE 1790S .................................David Sloss 145

RESPONSES

AFFECTING FOREIGN AFFAIRS IS NOT
THE SAME AS MAKING
FOREIGN POLICY:
A COMMENT ON
JUDICIAL FOREIGN POLICY ..................A. Mark Weisburd 197

THE FOUNDERS’ FOREIGN AFFAIRS
CONSTITUTION: IMPROVISING
AMONG EMPIRES ...............................Daniel J. Hulsebosch 209

COMMENTS

BIRTHRIGHT CITIZENSHIP IN THE
UNITED STATES: REALITIES OF
DE FACTO DEPORTATION AND
INTERNATIONAL COMPARISONS
TOWARD PROPOSING A SOLUTION .............Amanda Colvin 219
WRAPPING THEMSELVES IN THE
AMERICAN FLAG: THE ALIEN
TORT STATUTE, PRIVATE
MILITARY CONTRACTORS,
AND U.S. FOREIGN RELATIONS................. Thomas B. Harvey 247

A REALISTIC LOOK AT THE
VICE PRESIDENCY: WHY
DICK CHENEY IS AN
“ENTITY WITHIN THE
EXECUTIVE BRANCH”............................. Aryn Subhawong 281