Is the United States at a constitutional crossroad?

The U.S. Constitution, drafted by our nation’s founding fathers well over 200 years ago, remains as the primary document guiding our nation’s system of democracy. However, in times of national emergencies, absolute adherence is sometimes set aside to meet immediate needs.

The events of September 11 provide the most recent example of this conflict between strict constitutional fidelity and presidential emergency powers, Sanford V. Levinson, a chaired professor at the University of Texas School of Law, said when he delivered the 99th Sibley Lecture in March.

National security issues and the ongoing war on terror have made the relationship between executive power and constitutional allegiance even more important, Levinson said.

“Claims of enhanced presidential authority with regard to emergency powers, however based, involve permanent changes in the conception of American government,” he said.

A conflict exists in that absolute fidelity to the law is often desired, but so is a president who will do what is necessary when faced with emergencies, Levinson added, while also expressing concerns that the U.S. government could be moving toward a more authoritarian model.

Levinson noted that, last year, the U.S. Supreme Court did not accept some of the executive branch’s arguments for indefinitely retaining American citizens, because Congress had not agreed to a suspension of habeas corpus. “However, it is far too early to tell whether that represents a genuine willingness on the part of judges to stand firm against executive overreaching or a construction, basically, of a judicial fig leaf that will do little more than legitimate significant incursions on any serious notion of due process of the law,” Levinson said.

If a terrorist attack were to disable more than half of the members of Congress, the president would likely gain considerable executive power, he continued. The U.S. Constitution requires a majority of House and Senate members to be present for Congress to function. Yet, there are no current provisions for appointing, without election, temporary members in the event of an emergency, Levinson said.

Earlier this year, he spoke to the U.S. Senate Committee on the Judiciary in favor of a constitutional amendment that would change this.

“We are, I believe, at a crossroads in American constitutional development,” he said.

Levinson, who joined the University of Texas law faculty in 1980, holds the school’s W. St. John Garwood and W. St. John Garwood Jr. Centennial Chair in Law and has a faculty appointment in the university’s Department of Government.

An internationally renowned constitutional law scholar, he has written several books and more than 200 articles. His book Constitutional Faith won the 1989 Scribes Award, an honor given annually to top works of legal scholarship. He has also authored Written in Stone: Public Monuments in Changing Societies and Wrestling With Diversity.

He received his undergraduate degree at Duke University, his doctorate degree at Harvard University and his Juris Doctor at Stanford University.

Before joining the faculty at the University of Texas, he was a professor at the Princeton University Department of Politics. He also taught courses at Harvard, Yale, New York and Boston universities as well as the University of Paris II, Central European University in Budapest and Hebrew University in Jerusalem.

The Sibley Lecture Series, established in 1964 by the Charles Loridans Foundation of Atlanta in tribute to the late John A. Sibley, is designed to attract outstanding legal scholars of national prominence to Georgia Law. Sibley was a 1911 graduate of the law school.

- Julie Camp

Red Clay focuses on Georgia’s energy potential

Georgia’s energy policy and future alternatives were the focus of the 17th annual Red Clay Conference held in April.

The conference, “Georgia’s Energy Potential: Policy, Alternatives, and Long-Term Solutions,” included panel discussions on sustainable development and energy use, hydroelectric power, alternative fuels for mobile sources of pollution and the building industry’s response to the new Georgia energy code.

Conference speakers included authorities from the private legal sector, the corporate/business sector, the government and public interest groups.

Jigar Shah, chief executive officer of SunEdison, served as the keynote speaker. Shah’s company helps public, private and nonprofit organizations explore using solar power as an energy alternative. Additionally, Shah has worked with the U.S. Department of Energy on alternative vehicles and fuel cell programs.

The conference drew more than 75 attorneys, government leaders, environmental advocates, academics and students.

Sponsored by the Environmental Law Association, the Red Clay Conference was established to increase public awareness of environmental issues of regional, national and international significance through a series of educational presentations and open forum discussions.