Promotion Recommendation
The University of Michigan
Law School

Richard A. Primus, Assistant Professor of Law, Law School, is recommended for promotion to Professor of Law, with tenure, Law School.

Academic degrees:

A.B.	1992 Harvard University, Cambridge, MA; Social Studies, *Summa Cum Laude*
D. Phil	1995 University of Oxford, Oxford, England; Politics, Rhodes Scholarship
J.D.	1998 Yale Law School, New Haven, CT

Professional Record:

2001 to present	Assistant Professor of Law, Law School
2005 to 2006	Visiting Professor of Law, NYU Law School
2004 to 2005	Visiting Professor of Law, Columbia Law School
2000 to 2001	Attorney, Jenner & Block, Washington, D.C.
1999 to 2000	Law Clerk, Justice Ruth Bader Ginsburg, U.S. Supreme Court
1998 to 1999	Law Clerk, Judge Guido Calabresi, U.S. Court of Appeals for the Second Circuit

Summary of Evaluation:

Teaching – Professor Primus is an outstanding teacher. His teaching was evaluated by CRLT course evaluations, class visits by Tenure Committee members, and interviews with former students. By all of these measures, Professor Primus is among the best teachers in the Law School. The students' ratings of his teaching on CRLT's faculty course questionnaires are extraordinarily high: they are not merely in the top quintile or decile but they rank above all but those of a small handful of professors at the Law School. His excellence as a teacher was confirmed in the interviews with former students. In those interviews, it also became clear that Professor Primus is not only popular among the students, but is known for being extremely demanding. According to one student, "Professor Primus' lectures are intense. He asks difficult questions and creates an atmosphere in which the answers to these questions are vitally important." Another student remarked that Professor Primus "challenged me to do my best work." At least one student said that Professor Primus was the best teacher he had ever taken at any level. One of the tenured Professors who visited Professor Primus's Constitutional Law course characterized it as an enviable *tour de force*.

Research – Professor Primus has already established himself as a highly regarded figure in the related fields of Constitutional Law and Constitutional History. Among the articles he has published since coming to Michigan, three stand out as especially significant. In one he explores the tension between the "color-blindness" principle found in recent Supreme Court interpretations of the Equal Protection Clause of the 14th and 5th Amendments and the enforcement of laws prohibiting private policies that have a racially disparate impact. In another he explains an extraordinarily odd fact of constitutional interpretation that he himself discovered: Except for the landmark case of *Bolling v. Sharpe*, there are no cases from the U.S. Supreme Court holding that the federal government discriminated against racial minorities in violation of the 5th Amendment's due process clause. And in the third, which will eventually serve as a chapter in a book on the Civil War constitutionalism, he unearths and analyzes a fascinating historical episode largely unknown to contemporary law scholars – the 1870 debate in the U.S. Senate over the seating of Mississippi's first Black Senator, Hiram Revels. These articles, along with his other published work, establish Professor Primus as being among the leading constitutional scholars of his generation.

Recent and Significant Publications –

"The Riddle of Hiram Revels," 119 *Harvard Law Review* (forthcoming 2006);
"Judicial Power and Mobilizable History," *Maryland Law Review* (forthcoming 2006);
"*Bolling* Alone," 104 *Columbia Law Review* 975 (2004);
"Equal Protection and Disparate Impact: Round Three," 117 *Harvard Law Review* 493 (2003);
"The Canon has a History," 14 *Yale Journal of Law & the Humanities* 221 (2002) (review of *Legal Canons*, J.M. Balkin & Sanford Levinson, eds).

Service – Professor Primus has made substantial contributions to the Law School and the University. He has been an active member in the Law School community. He has served on more than his share of important Law School committees, including the Legal Practice Committee, the Academic Standards Committee, and the Lateral Personnel Committee. In addition, he was the only untenured faculty member chosen to serve on the most recent Dean Search Committee. Both the Lateral Personnel Committee and the Dean Search Committee make extraordinary demands on a faculty member's time and exceed the normal service asked of junior faculty members. Moreover, Professor Primus has been the organizer of the Law School's weekly Fawley Lunch Series, in which capacity he solicits speakers and presides over the lunch workshops. He has given many talks or other presentations for students within the law school. During the *Grutter* litigation, he regularly spoke to students during the evening about the case. He has also conducted site visits for Michigan students doing externships. Outside of the law school, he has served as a member of the American Academy of Law School's Committee on New Teachers.

External Reviewers:

Reviewer (A):
"In his generation of public law scholars (a generation that I define broadly to include, for example, Daryl Levinson, now at Harvard, and Noah Feldman at NYU), Professor Primus is first, and nobody's second. Or, to use another metaphor, Professor Primus is like the marathon runner who has completed his victory lap in the stadium just as the second-place finisher enters the field. The reason for this judgment is that Professor Primus's work uniquely combines a broad theoretically informed vision of the point of public law scholarship with extraordinary facility at careful legal analysis. Some people have one or the other of those abilities; few indeed have both to the degree that Professor Primus does."

Reviewer (B):
"[Professor Primus's] scholarship combines creative insight with industrious research. *Boling Alone* is an important contribution to constitutional law literature. I suspect that his book on Civil War constitutionalism will be as well once he works out some of the kinks along the way, as he surely will. Based on these two manuscripts, I regard Primus as an extremely promising [of his cohort] talent. I would think that any law faculty in the country would be delighted to have him as a member."

Reviewer (C):
"I do not believe that any American law school asks (or should ask) about its internal candidates for tenure whether they are better than anyone else in the field who might be hired in their stead. If that were the question, however, I think a fair case could be made for Primus, and so I'll undertake the comparison in the way I actually thought about it in deciding to support him for a lateral appointment here.... Thus, [after reviewing a long list of [generational] constitutional scholars at top law schools around the country], depending on one's tastes, Primus is either the top person in his cohort or one of the two or three top people."

Reviewer (D):
"Primus is one of the few relatively junior constitutional law scholars who possesses the range of methodological tools and breadth of vision necessary to work across conventional intra- and inter-disciplinary boundaries. That makes him one of only a handful of people who have a shot at someday leading the field."

Reviewer (E):
"I think Primus's body of work, while not voluminous, is excellent, and should qualify him for tenure at any law school in the United States. Rather than review these three essays one-by-one, I will make some general observations in support of the high regard in which I think Primus's work should be held.... In all, for someone on the cusp of tenure, Primus has a well-crafted, well-placed, and increasingly mature suite of essays already in the bank. His most recent essay, the *Revels* piece, achieves real success at a very difficult enterprise. He is off to a wonderfully good start in what is likely to be a genuinely distinguished career. He is a fine candidate for tenure."

Reviewer (F):
"These pieces were all very interesting, especially for someone like me, who does not always agree with the conclusions he reaches. The extent of research, argument, and analysis in his articles makes them a valuable resource for future scholarship and a welcome test for rival perspectives on the questions that he addresses.... [Professor Primus's] scholarship is commendably thorough, the positions that he takes are ambitious and provocative, and that he gives every indication of being a productive scholar throughout his career."

Internal Review:
In keeping with the Law School's tenure procedures, a Tenure Committee conducted a comprehensive review of Professor Primus's performance. The Tenure Committee read all of Professor Primus's publications, solicited and read inside and outside reviews, observed his classes, interviewed students, and prepared a recommendation for the Law School faculty. The Tenure Committee was unanimous and enthusiastic in its conclusion that Professor Primus satisfies the requirements for tenure and promotion.

Summary of Recommendation:

Professor Primus is an exceptional scholar and teacher who has already made great contributions to the field of Constitutional Law and Constitutional History. It is with the support of the Tenure Committee and of the entire tenured faculty of the Law School that I recommend him for promotion to Professor of Law, with tenure.

Evan Caminker
Dean, Law School

May 2006