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Education

B.A. Northwestern University, 1964 (economics major)

J.D. University of Chicago, 1967

Professional background

Assistant Professor of Law, University of Texas, 1967-69

Visiting Assistant Professor of Law, Stanford University, 1969-70

Associate Professor Law, University of Michigan, 1970-72

Professor of Law, University of Michigan, 1972-82

Visiting Professor of Law, University of California, Berkeley, 1978-79

Samuel Rubin Visiting Professor of Law, Columbia University, 1982-83

Corliss Lamont Professor of Civil Liberties, Columbia Law School, since 1983

Lee Visiting Professor, William & Mary Law School, 1991

Fellow, National Humanities Center, 1994, 1996

Ewald Distinguished Visiting Professor of Law, University of Virginia, 1997-98

David Lurton Masee, Jr. Professor of Law, University of Virginia, 1998-2003

James Madison Distinguished Professor of Law, University of Virginia, 2003-2009

Fellow, American Academy of Arts and Sciences, since 1998

Teaching interests

Ideas of the First Amendment

Political Theory and the First Amendment Seminar

Torts

Bibliography

BOOKS

FREEDOM OF SPEECH IN THE HISTORY OF IDEAS (West Academic Publishing, 2016, editor)

IDEAS OF THE FIRST AMENDMENT (West Academic Publishing, 2006, second ed. 2012, editor)

LAW AND LIBERALISM IN THE 1980's
(Columbia University Press, 1990) (editor)

THE BURGER COURT: THE COUNTER-REVOLUTION THAT WASN'T
(Yale University Press, 1983) (editor)

MONOGRAPH

Press Subpoenas: An Empirical and Legal Analysis (Reporters Committee for Freedom of the Press: Washington, D.C. 1972, 292 pp.)

BOOK CHAPTERS

The Classic Arguments for Free Speech 1644-1927, in *The Oxford Handbook of Free Speech* (2021)

Rights Skepticism and Majority Rule at the Birth of the Modern First Amendment, in *The Free Speech Century*, edited by Lee Bollinger and Geoffrey Stone (2019)

The Story of West Virginia State Board of Education v. Barnette: The Pledge of Allegiance and the Freedom of Thought (with Seana V. Shiffrin), in Dorf ed., *Constitutional Law Stories* (2003), reprinted in *First Amendment Stories* (R. Garnett & A. Koppelman ed. 2012).

Free Speech and Good Character: From Milton to Brandeis to the Present, in *Eternally Vigilant: Free Speech in the Modern Era* (Lee C. Bollinger and Geoffrey Stone, eds. 2002)

Brandeis and the First Amendment, MacMillan Encyclopedia of the American Constitution (2000)

Mill and Freedom of Expression, MacMillan Encyclopedia of the American Constitution (2000)

Milton and Freedom of Expression, MacMillan Encyclopedia of the American Constitution (2000)

The Rootless Activism of the Burger Court, in Blasi ed., *The Burger Court: The Counter-Revolution That Wasn't* (1983)

Constitutional Limitations on the Power of States to Regulate the Movement of Goods in Interstate Commerce, in Sandalow and Stein, ed., *Courts and Free Markets: Perspectives from the United States and Europe* (1982)

Journalistic Autonomy as a First Amendment Concept, in Keller, ed., *In Honor of Justice Douglas* (1977)

The Newsman's Privilege and the Researcher's Privilege: Some Comparisons, in Nejelski, ed., *Social Research in Conflict with Law and Ethics* (1976)

SELECTED ARTICLES

Holmes's Understanding of His Clear-and-Present-Danger Test: Why Exactly Did He Require Imminence? (2020)

Learned Hand's Ten Other Ideas about the Freedom of Speech, 50 *Ariz. St. L. J.* 717 (1918)

A Reader's Guide to John Milton's *Areopagitica*, the Foundational Essay of the First Amendment Tradition, 2017 *Supreme Court Review* 273 (2018)

Hate Speech, Public Assurance, and the Civic Standing of Speakers and Victims, 32 *Const. Comm.* 585 (2017)

Seana Shiffrin's Thinker-Based Freedom of Speech: A Response, 27 *Const. Comm.* 309 (2011)

Democratic Participation and the Freedom of Speech, 97 *Va. L. Rev.* 531 (2011)

Shouting "Fire!" in a Theater and Vilifying Corn Dealers, 39 *Cap. L. Rev.* 535 (2011)

Holmes and the Marketplace of Ideas, 2004 *Supreme Court Review* 1 (2005)

Vouchers and Steering, 18 *J. of Law & Politics* 607 (2003)

School Vouchers and Religious Liberty: Seven Questions from Madison's *Memorial and Remonstrance*, 87 *Cornell L. Rev.* 783 (2002)

Teaching Reasoning, 74 *Chicago-Kent L. Rev.* 647 (1999)

Free Speech and Good Character, 46 UCLA L. Rev. 1567 (1999)

Spending Limits and the Squandering of Candidates' Time, 6 J. of Law & Policy 123 (1997)

Reading Holmes Through the Lens of Schauer: The *Abrams* Dissent, 72 Notre Dame L. Rev. 1343 (1997)

Milton's *Areopagitica* and the Modern First Amendment, Yale Law School Occasional Papers (1996)

Free Speech and the Widening Gyre of Fund-raising: Why Campaign Spending Limits May Not Violate the First Amendment After All, 94 Colum. L. Rev. 1281 (1994)

Six Conservatives in Search of the First Amendment: The Revealing Case of Nude Dancing, 33 Wm. & Mary L. Rev. 611(1992)

Learned Hand and the Self-Government Theory of the First Amendment: *Masses Publishing Co. v. Patten*, 61 U. Colorado L. Rev. 1 (1991)

The First Amendment and the Ideal of Civic Courage: The Brandeis Opinion in *Whitney v. California*, 29 Wm. & Mary L. Rev. 653 (1988)

The Role of Strategic Reasoning in Constitutional Interpretation: In Defense of the Pathological Perspective, 1986 Duke L. J. 696 (1986)

The Pathological Perspective and the First Amendment, 85 Colum. L. Rev. 449 (1985)

Toward a Theory of Prior Restraint: The Central Linkage, 66 Minn. L. Rev., 11 (1981)

Bakke as Precedent: Does Mr. Justice Powell Have a Theory?, 67 Calif. L. Rev., 21 (1979)

The Checking Value in First Amendment Theory, 1977 Am. Bar Foundation Res. J. 521

The Newman's Privilege: An Empirical Study, 70 Mich. L. Rev.229 (1971)

A Requiem for the Warren Court, 48 Texas L. Rev. 608 (1970)

Prior Restraints on Demonstrations, 68 Mich. L. Rev., 1481 (1970)

TRIBUTES

Anthony Lewis, 160 Proc. of the American Philosophical Soc. 207 (2016)

Three Dimensions of Kent Greenawalt's Excellence, 115 Colum. L. Rev. 780 (2015)

The Intellectual Integrity of Ed Baker, 115 W. Va. L. Rev. 7 (2012)

Legends of the Legal Academy: Harry Kalven, Jr., 61 J. of Legal. Educ. 300 (2011)

SELECTED BOOK REVIEWS

Freund: *On Law and Justice*, 35 U. Chi. L. Rev. 388 (1967)

Black: *Structure and Relationship in Constitutional Law*, 80 Yale L. J. 176 (1970)

Bollinger: *The Tolerant Society*, 87 Colum. L. Rev. 387 (1987)

ENDOWED LECTURES

Rubin Lecture, Columbia Law School, February 1983

Cutler Lecture, Marshall-Wythe School of Law, College of William & Mary, April 1987

Coen Lecture, University of Colorado Law School, March 1989

University Lecture, Columbia University, February 1990

Elliot Lecture, Yale Law School, March 1995

Nimmer Lecture, UCLA Law School, March 1999

Irvine Lecture, Cornell Law School, October 2000

Higgins Lecture, Lewis and Clark Law School, March 2001

Sullivan Lecture, Capital University School of Law, April 2010

Baker Lecture, West Virginia University College of Law, October 2011

