

PUBLICATIONS

ROBERT C. POST

Books

A SZÓLÁSSZABADSÁG AMEREIKAI HAGYOMÁNYÁNAK MAGYARÁZATA: JOGGYAKORLAT ALKOTMÁNYOS ÉRTÉKEK ÉS A TÁRSADALMI KONTEXTUS ÖLELÉSÉBEN (Wolters Kluwer 2017).

CITIZENS DIVIDED: CAMPAIGN FINANCE REFORM AND THE CONSTITUTION (Harvard University Press 2014).

DEMOCRACY, EXPERTISE, ACADEMIC FREEDOM: A FIRST AMENDMENT JURISPRUDENCE FOR THE MODERN STATE (Yale University Press 2012).

FOR THE COMMON GOOD: PRINCIPLES OF AMERICAN ACADEMIC FREEDOM (Matthew W. Finkin & Robert C. Post, Yale University Press 2009).

ANOTHER COSMOPOLITANISM (Seyla Benhabib, edited and introduced by Robert C. Post, Oxford University Press 2006).

FOOD MARKETING TO CHILDREN AND YOUTH: THREAT OR OPPORTUNITY? (Committee on Food Marketing and the Diets of Children and Youth et al. eds., National Academies Press 2006) [member of Committee].

CIVIL SOCIETY AND GOVERNMENT (Nancy L. Rosenblum & Robert C. Post eds., Princeton University Press 2002).

PREJUDICIAL APPEARANCES: THE LOGIC OF AMERICAN ANTIDISCRIMINATION LAW (Robert C. Post with K. Anthony Appiah, Judith Butler, Thomas C. Grey & Reva B. Siegel, Duke University Press 2001).

HUMAN RIGHTS IN POLITICAL TRANSITIONS: GETTYSBURG TO BOSNIA (Carla Hesse & Robert C. Post eds., Zone Books 1999).

RACE AND REPRESENTATION: AFFIRMATIVE ACTION (Robert C. Post & Michael Rogin eds., University of California Press 1996; Zone Books 1998).

CENSORSHIP AND SILENCING: PRACTICES OF CULTURAL REGULATION (Robert C. Post ed., Getty Research Institute for the History of Art and the Humanities 1998).

CONSTITUTIONAL DOMAINS: DEMOCRACY, COMMUNITY, MANAGEMENT (Robert C. Post, Harvard University Press 1995).

LAW AND THE ORDER OF CULTURE (Robert C. Post ed., University of California Press 1990).

Articles and Chapters

Marshall as A Judge, 88 FORDHAM LAW REVIEW 1 (2019).

Privacy, Speech, and the Digital Imagination, in FREE SPEECH IN THE DIGITAL AGE (Susan J. Brison and Katharine Gelber eds., Oxford University Press 2019).

The Classic First Amendment Tradition Under Stress: Freedom of Speech and the University, in THE FREE SPEECH CENTURY (Lee C. Bollinger and Geoffrey R. Stone eds., Oxford University Press 2019).

The Legality and Politics of Hatred, in HATE, POLITICS, LAW: CRITICAL PERSPECTIVES ON COMBATING HATE (Thomas Brudholm and Birgitte Schepelern Johansen eds., Oxford University Press 2018).

The Politics of Religion: Democracy and the Conscience Wars, in THE CONSCIENCE WARS: RETHINKING THE BALANCE BETWEEN RELIGION, IDENTITY, AND EQUALITY (Susanna Mancini and Michel Rosenfeld, eds., Cambridge University Press 2018).

Data Privacy and Dignitary Privacy: Google Spain, The Right to be Forgotten, and the Construction of the Public Sphere, 67 DUKE LAW JOURNAL 981 (2018).

Tensions entre "Droit Au Débat Public" et "Droit au Déférément": Regard D'Outre-Atlantique, REVUE INTERNATIONALE DE DROIT COMPARÉ (2017), at 821-47.

Leadership in Educational Institutions: Reflections of a Law School Dean, 69 STANFORD LAW REVIEW 1817 (2017).

RFRA and First Amendment Freedom of Expression, 125 YALE LAW JOURNAL FORUM 387 (2016), at http://www.yalelawjournal.org/pdf/Post_PDF_n8od1gcw.pdf.

Academic Freedom and Legal Scholarship, 64 JOURNAL OF LEGAL EDUCATION 530 (2015).

Compelled Commercial Speech, 117 W. VA. L. REV. 867 (2015).

Adam Smith's First Amendment (with Amanda Shanor), 128 HARVARD LAW FORUM 165 (2015).

Academic Freedom and the Constitution, in WHO'S AFRAID OF ACADEMIC FREEDOM (Akeel Bilgrami and Jonathan R. Cole, eds., Columbia University Press 2015).

Why Bother with Academic Freedom? 9 FLORIDA INTERNATIONAL UNIVERSITY LAW REVIEW 9 (2014).

Discipline and Freedom in the Academy, 65 ARKANSAS LAW REVIEW 203 (2012).

Understanding the First Amendment, 87 WASHINGTON LAW REVIEW 549 (2012).

Interview with Peter Molnar, in THE CONTENT AND CONTEXT OF HATE SPEECH (Michael Herz and Peter Molnar eds., Cambridge University Press 2012).

Campaign Finance Regulations and First Amendment Fundamentals, in MONEY, POLITICS, AND THE CONSTITUTION 9 (Monica Youn ed., Century Foundation Press 2011).

Truth and Disagreement, in TRUTH AND DEMOCRACY 76 (Jeremy Elkins and Andrew Norris eds., University of Pennsylvania 2012).

Participatory Democracy as a Theory of Free Speech, 97 VIRGINIA LAW REVIEW 477 (2011).

Participatory Democracy as a Theory of Free Speech: A Reply, 97 VIRGINIA LAW REVIEW 617 (2011).

Theorizing Disagreement: Reconceiving the Relationship Between Law and Politics, 98 CALIFORNIA LAW REVIEW 1319 (2010).

Perspektivismus und Recht, in PERSPEKTIVE: DIE SPALTUNG DER STANDPUNKTE 65 (Gertrud Koch ed., Wilhelm Fink 2010).

Constructing the European Polity: ERTA and the Open Skies Judgments, in THE PAST AND FUTURE OF EU LAW: THE CLASSICS OF EU LAW REVISITED ON THE 50TH ANNIVERSARY OF THE ROME TREATY 234 (Miguel Poiarés Maduro & Loïc Azuolai eds., Hart 2010).

Personal Responsibility and Obesity: A Constructive Approach To A Controversial Issue (with Kelly D. Brownell, Rogan Kersh, David S. Ludwig, Rebecca M. Puhl, Marlene B. Schwartz & Walter C. Willett), HEALTH AFFAIRS, March 2010, at 379.

The Job of Professors, 88 TEXAS LAW REVIEW 185 (2009).

Debating Disciplinarity, 35 CRITICAL INQUIRY 749 (2009).

Constitutional Restraints on the Regulations of Scientific Speech and Scientific Research, 15 SCIENCE AND ENGINEERING ETHICS 431 (2009).

Constitutional Scholarship in the United States, 7 INTERNATIONAL JOURNAL OF CONSTITUTIONAL LAW 416 (2009).

Democratic Constitutionalism (with Reva B. Siegel), in THE CONSTITUTION IN 2020, at 25 (Jack M. Balkin & Reva B. Siegel eds., Oxford University Press 2009).

A Progressive Perspective on Freedom of Speech, in THE CONSTITUTION IN 2020, at 179 (Jack M. Balkin & Reva B. Siegel eds., Oxford University Press 2009).

Hate Speech, in *EXTREME SPEECH AND DEMOCRACY* 123 (Ivan Hare & James Weinstein eds., Oxford University Press 2009).

Congress & the Court: The Scope of National Legislative Power, *DAEDALUS*, Fall 2008, at 81.

Mr. Taft Becomes Chief Justice, 76 *UNIVERSITY OF CINCINNATI LAW REVIEW* 761 (2008).

The Circulation of Information, 9 *PEKING UNIVERSITY LAW REVIEW* 266 (2008).

Theorizing the Law/Politics Distinction: Neutral Principles, Affirmative Action, and the Enduring Legacy of Paul Mishkin (with Neil S. Siegel), 95 *CALIFORNIA LAW REVIEW* 1473 (2007).

Roe Rage: Democratic Constitutionalism and Backlash (with Reva B. Siegel), 42 *HARVARD CIVIL RIGHTS-CIVIL LIBERTIES LAW REVIEW* 373 (2007).

Informed Consent to Abortion: A First Amendment Analysis of Compelled Physician Speech, 2007 *UNIVERSITY OF ILLINOIS LAW REVIEW* 939.

Religion and Freedom of Speech: Portraits of Muhammad, 14 *CONSTELLATIONS* 72 (2007).

Originalism as a Political Practice: The Right's Living Constitution (with Reva B. Siegel), 75 *FORDHAM LAW REVIEW* 545 (2006).

Federalism, Positive Law, and the Emergence of the American Administrative State: Prohibition in the Taft Court Era, 48 *WILLIAM & MARY LAW REVIEW* 1 (2006).

Transparent and Efficient Markets: Compelled Commercial Speech and Coerced Commercial Association in United Foods, Zauderer, and Abood, 40 *VALPARAISO UNIVERSITY LAW REVIEW* 555 (2006).

Balancing Information and Personality Rights (如何平衡信息与人格权), in *SPECIALIZED RESEARCH IN PERSONALITY RIGHTS LAW AND TORT LAW* (人格权法及侵权法专题研究) (Paul Gewirtz ed., China Legal System Press 2006) [in Chinese].

The Structure of Academic Freedom, in *ACADEMIC FREEDOM AFTER SEPTEMBER 11*, at 61 (Beshara Doumani ed., Zone Books 2006).

Questioning Justice: Law and Politics in Judicial Confirmation Hearings (with Reva B. Siegel), *YALE LAW JOURNAL* (THE POCKET PART), Jan. 2006, http://www.thepocketpart.org/2006/01/post_and_siegel.html.

Compelled Subsidization of Speech: Johanns v. Livestock Marketing Association, 2005 *SUPREME COURT REVIEW* 195.

Who's Afraid of Jurispathic Courts?: Violence and Reason in Nomos and Narrative, 17 YALE JOURNAL OF LAW & THE HUMANITIES 9 (2005).

Democracy and Equality, 1 LAW, CULTURE AND THE HUMANITIES 142 (2005); *republished in* 603 ANNALS OF THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE 24 (2006).

Popular Constitutionalism, Departmentalism, and Judicial Supremacy (with Reva B. Siegel), 92 CALIFORNIA LAW REVIEW 1027 (2004).

Redefreiheit, Menschenwürde und Demokratie, in BILDERVERBOT: RECHT, ETHIK, UND ÄSTHETIK DER ÖFFENTLICHEN DARSTELLUNG 170 (Günter Frankenberg and Peter Niesen eds., Lit 2004).

Sexual Harassment and the First Amendment, in DIRECTIONS IN SEXUAL HARASSMENT LAW 382 (Catharine A. MacKinnon and Reva B. Siegel eds., Yale University Press 2004).

Foreword: Fashioning the Legal Constitution: Culture, Courts, and Law, 117 HARVARD LAW REVIEW 4 (2003).

Congress & the Court, DAEDALUS, Summer 2003, at 5.

Law and Cultural Conflict, 78 CHICAGO-KENT LAW REVIEW 485 (2003).

Legislative Constitutionalism and Section Five Power: Policentric Interpretation of the Family and Medical Leave Act (with Reva B. Siegel), 112 YALE LAW JOURNAL 1943 (2003).

Protecting the Constitution from the People: Juricentric Restrictions on Section Five Power (with Reva B. Siegel), 78 INDIANA LAW JOURNAL 1 (2003).

Academic Freedom and the "Intifada Curriculum," ACADEME, May-June 2003, at 16.

Constitutionally Interpreting the FSM Controversy, in THE FREE SPEECH MOVEMENT: REFLECTIONS ON BERKELEY IN THE 1960S 401 (Robert Cohen & Reginald E. Zelnik eds., University of California Press 2002).

Federalism in the Taft Court Era: Can It Be "Revived"?, 51 DUKE LAW JOURNAL 1513 (2002).

Sustaining the Premise of Legality: Learning to Live with Bush v. Gore, in BUSH V. GORE: THE QUESTION OF LEGITIMACY 96 (Bruce Ackerman ed., Yale University Press 2002).

First Amendment Rights, in LE DROIT DANS LA CULTURE AMÉRICAINNE (Philippe Raynaud & Elisabeth Zoller eds., Panthéon-Assas 2001).

Three Concepts of Privacy, 89 GEORGETOWN LAW JOURNAL 2087 (2001).

The Supreme Court Opinion as Institutional Practice: Dissent, Legal Scholarship, and

Decisionmaking in the Taft Court, 85 MINNESOTA LAW REVIEW 1267 (2001).

The Challenge of Globalization to American Public Law Scholarship, 2 THEORETICAL INQUIRIES IN LAW 323 (2001).

Reconciling Theory and Doctrine in First Amendment Jurisprudence, 88 CALIFORNIA LAW REVIEW 2353 (2000); *republished in* ETERNALLY VIGILANT: FREE SPEECH IN THE MODERN ERA 152 (Lee C. Bollinger & Geoffrey R. Stone eds., University of Chicago Press 2002).

Equal Protection by Law: Federal Antidiscrimination Legislation After Morrison and Kimel (with Reva B. Siegel), 110 YALE LAW JOURNAL 441 (2000).

Democratic Constitutionalism and Cultural Heterogeneity, 25 AUSTRALIAN JOURNAL OF LEGAL PHILOSOPHY 185 (2000).

Between Philosophy and Law: Sovereignty and the Design of Democratic Institutions, in NOMOS XLII: DESIGNING DEMOCRATIC INSTITUTIONS 209 (Ian Shapiro & Stephen Macedo eds., New York University Press 2000).

The Constitutional Status of Commercial Speech, 48 UCLA LAW REVIEW 1 (2000).

Encryption Source Code and the First Amendment, 15 BERKELEY TECHNOLOGY LAW JOURNAL 713 (2000).

Prejudicial Appearances: The Logic of American Antidiscrimination Law, 88 CALIFORNIA LAW REVIEW 1 (2000).

Tort Law and the Communitarian Foundations of Privacy, THE RESPONSIVE COMMUNITY, Winter 1999-2000, at 19.

Defending the Lifeworld: Substantive Due Process in the Taft Court Era, 78 BOSTON UNIVERSITY LAW REVIEW 1489 (1998).

Judicial Management: The Achievements of Chief Justice William Howard Taft, MAGAZINE OF HISTORY, Fall 1998, at 24.

Judicial Management and Judicial Disinterest: The Achievements and Perils of Chief Justice William Howard Taft, 1998-1 JOURNAL OF SUPREME COURT HISTORY 50.

Democracy, Popular Sovereignty, and Judicial Review, 86 CALIFORNIA LAW REVIEW 429 (1998).

Tragedy and Constitutional Interpretation: The California Civil Rights Initiative, in CONSTITUTIONAL STUPIDITIES, CONSTITUTIONAL TRAGEDIES 217 (William N. Eskridge, Jr. & Sanford Levinson eds., New York University Press 1998).

Justice for Scalia, NEW YORK REVIEW OF BOOKS, June 11, 1998, at 57.

Community and the First Amendment: A Vital Tension, THE RESPONSIVE COMMUNITY, Winter 1997/98, at 13.

Community and the First Amendment, 29 ARIZONA STATE LAW JOURNAL 473 (1997).

Equality and Autonomy in First Amendment Jurisprudence, 95 MICHIGAN LAW REVIEW 1517 (1997).

Subsidized Speech, 106 YALE LAW JOURNAL 151 (1996).

Introduction: After Bakke, REPRESENTATIONS, no. 55, Summer 1996, at 1.

The Challenge of State Constitutions, in CONSTITUTIONAL REFORM IN CALIFORNIA: MAKING STATE GOVERNMENT MORE EFFECTIVE AND RESPONSIVE 45 (Bruce E. Cain & Roger G. Noll eds., Institute of Governmental Studies Press, University of California, Berkeley 1995).

Recuperating First Amendment Doctrine, 47 STANFORD LAW REVIEW 1249 (1995).

William Howard Taft, in THE SUPREME COURT JUSTICES: A BIOGRAPHICAL DICTIONARY 457 (Melvin I. Urofsky ed., Garland 1994).

Reconceptualizing Vagueness: Legal Rules and Social Orders, 82 CALIFORNIA LAW REVIEW 491 (1994).

The Legal Regulation of Gossip: Backyard Chatter and the Mass Media, in GOOD GOSSIP 65 (Robert F. Goodman & Aaron Ben-Ze'ev eds., University Press of Kansas 1994).

Lani Guinier, Joseph Biden, and the Vocation of Legal Scholarship, 11 CONSTITUTIONAL COMMENTARY 185 (1994).

Meiklejohn's Mistake: Individual Autonomy and the Reform of Public Discourse, 64 UNIVERSITY OF COLORADO LAW REVIEW 1109 (1993).

Managing Deliberation: The Quandary of Democratic Dialogue, 103 ETHICS 654 (1993).

Between Democracy and Community: The Legal Constitution of Social Form, NOMOS XXXV: DEMOCRATIC COMMUNITY 163 (John W. Chapman & Ian Shapiro eds., New York University Press 1993).

Chief Justice Taft and the Concept of Federalism, in FEDERALISM AND THE JUDICIAL MIND: ESSAYS ON AMERICAN CONSTITUTIONAL LAW AND POLITICS 53 (Harry N. Scheiber ed., Institute of Governmental Studies Press, University of California, Berkeley 1992); *republished in* 9 CONSTITUTIONAL COMMENTARY 199 (1992).

Postmodern Temptations, 4 YALE JOURNAL OF LAW & THE HUMANITIES 391 (1992).

Rereading Warren and Brandeis: Privacy, Property, and Appropriation, 41 CASE WESTERN RESERVE LAW REVIEW 647 (1991).

Justice William J. Brennan and the Warren Court, 8 CONSTITUTIONAL COMMENTARY 11 (1991); *republished in* THE WARREN COURT IN HISTORICAL AND POLITICAL PERSPECTIVE 123 (Mark Tushnet ed., University Press of Virginia 1993).

Racist Speech, Democracy, and the First Amendment, 32 WILLIAM AND MARY LAW REVIEW 267 (1991); *republished in* SPEAKING OF RACE, SPEAKING OF SEX: HATE SPEECH, CIVIL RIGHTS, AND CIVIL LIBERTIES 115 (Henry Louis Gates et al. ed., New York University Press 1994).

Outrageous Speech and the Constitution: Thoughts on Hustler Magazine v. Falwell, DISSENT, Summer 1990, at 367.

Theories of Constitutional Interpretation, REPRESENTATIONS, No. 30, Spring 1990, at 13.

The Constitutional Concept of Public Discourse: Outrageous Opinion, Democratic Deliberation, and Hustler Magazine v. Falwell, 103 HARVARD LAW REVIEW 601 (1990).

The Social Foundations of Privacy: Community and Self in the Common Law Tort, 77 CALIFORNIA LAW REVIEW 957 (1989); *republished in* 1 PRIVACY 367 (Raymond Wacks ed., New York University Press 1993).

Blasphemy, the First Amendment and the Concept of Intrinsic Harm, 8 TEL AVIV UNIVERSITY STUDIES IN LAW 293 (1988).

Justice Brennan and Federalism, in FEDERALISM: STUDIES IN HISTORY, LAW, AND POLICY: PAPERS FROM THE SECOND BERKELEY SEMINAR ON FEDERALISM 37 (Harry N. Scheiber ed., Institute of Governmental Studies, University of California, Berkeley 1988); *republished in* 7 CONSTITUTIONAL COMMENTARY 227 (1990).

Cultural Heterogeneity and Law: Pornography, Blasphemy, and the First Amendment, 76 CALIFORNIA LAW REVIEW 297 (1988).

Between Governance and Management: The History and Theory of the Public Forum, 34 UCLA LAW REVIEW 1713 (1987).

Defaming Public Officials: On Doctrine and Legal History, 1987 AMERICAN BAR FOUNDATION RESEARCH JOURNAL 539.

On the Popular Image of the Lawyer: Reflections in a Dark Glass, 75 CALIFORNIA LAW REVIEW 379 (1987).

The Social Foundations of Defamation Law: Reputation and the Constitution, 74 CALIFORNIA

LAW REVIEW 691 (1986).

William J. Brennan, in 1 ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION 148 (Leonard W. Levy et al. eds., Macmillan 1986).

The Management of Speech: Discretion and Rights, 1984 SUPREME COURT REVIEW 169.

A Theory of Genre: Romance, Realism, and Moral Reality, 33 AMERICAN QUARTERLY 367 (1981).

Note, *National Security and the Amended Freedom of Information Act*, 85 YALE LAW JOURNAL 401 (1976).

Occasional Pieces

Brett Kavanaugh Cannot Have It Both Ways, in POLITICO (October 6, 2018), at <https://www.politico.com/magazine/story/2018/10/06/kavanaugh-confirmation-temperament-yale-dean-221086>

What About the Free Speech Clause in Masterpiece?, in TAKE CARE (June 13, 2018), at <https://takecareblog.com/blog/what-about-the-free-speech-clause-issue-in-masterpiece>.

A World Without Law; A World Without Politics, in European University Institute, Robert Schuman Centre for Advanced Studies, Global Governance Programme: Cloud Communities: The Dawn of Global Citizenship, at <http://globalcit.eu/cloud-communities-the-dawn-of-global-citizenship/5/>.

Prof. Post Responds to FIRE's Creeley, CONCURRING OPINIONS (October 26, 2017), at <https://concurringopinions.com/archives/2017/10/fan-167-2-first-amendment-law-campus-speech-debate-continues-prof-post-responds-to-fires-creeley.html>.

There is no 1st Amendment right to speak on a college campus, VOX (October 25, 2017), at <https://www.vox.com/the-big-idea/2017/10/25/16526442/first-amendment-college-campuses-milo-spencer-protests>.

An Analysis of DOJ's Brief in Masterpiece Cakeshop, TAKE CARE (October 18, 2017), at <https://takecareblog.com/blog/an-analysis-of-doj-s-brief-in-masterpiece-cakeshop>.

Do Trump's NFL Attacks Violate the First Amendment? POLITICO (September 27, 2017), at <http://www.politico.com/magazine/story/2017/09/27/do-trumps-nfl-attacks-violate-the-first-amendment-215650>.

Friends, Enemies, and Trump's First Amendment Violations, TAKE CARE (September 26, 2017), at <https://takecareblog.com/blog/friends-enemies-and-trump-s-first-amendment-violations>.

Preface, in ROBERT A. BURT, *JUSTICE AND EMPATHY* (Yale University Press 2017).

National revulsion over the Charlottesville march shows why we shouldn't ban hate speech, VOX (August 16, 2017), available at <https://www.google.com/amp/s/www.vox.com/platform/amp/the-big-idea/2017/8/16/16153248/free-speech-nazi-first-amendment-democracy-hate-speech>.

Schluss mit den Schönfärbereien (With Christine Landfried), FRANKFURTER ALLGEMEINE ZEITUNG (March 12, 2017), Feuilleton, page 1.

Standing up for "So-Called" Law (with Martha Minow), BALKANIZATION (February 10, 2017, available at <https://balkin.blogspot.com/2017/02/standing-up-for-so-called-law.html>).

Standing up for "So-Called" Law (with Martha Minow), THE BOSTON GLOBE, February 10, 2017, at <http://www.bostonglobe.com/opinion/2017/02/10/standing-for-called-law/VLbDYmrwpdJCn8qs5FPJaK/story.html>.

Exxon-Mobil is Abusing the First Amendment, THE WASHINGTON POST, June 25, 2016 (available at https://www.washingtonpost.com/opinions/exxonmobils-climate-change-smoke-screen/2016/06/24/2df8b29c-38c4-11e6-9ccd-d6005beac8b3_story.html).

Remarks for Robert Burt, 125 YALE LAW JOURNAL 797 (2016).

Trust in the Legal System Must Be Regained (with Martha Minow), THE BOSTON GLOBE, December 9, 2014 (available at <http://www.bostonglobe.com/opinion/2014/12/09/after-michael-brown-eric-garner-trust-legal-system-must-regained/ySfGQ3UrhSuWFi1hVH0z2K/story.html>).

A Doctor Has Limited First Amendment Rights, THE NEW YORK TIMES, August 20, 2014

Filling the Federal Bench (with Daniel Schuker), LOS ANGELES TIMES, December 14, 2012, at A37 (available at <http://www.latimes.com/news/opinion/commentary/la-oe-post-obama-judicial-nominees-20121214.0,800049.story>).

Why Race Matters in School Admissions (with Martha Minow), THE WASHINGTON POST, October 5, 2012 (available at http://www.washingtonpost.com/opinions/why-race-matters-in-college-admissions/2012/10/05/4ae02056-0f0c-11e2-bb5e-492c0d30bff6_story.html).

Free Speech in the Age of YouTube: Barack Obama couldn't censor that anti-Islam film -- even if he wanted to, FOREIGN POLICY, September 17, 2012 (available at

http://www.foreignpolicy.com/articles/2012/09/17/free_speech_in_the_age_of_youube?page=0.0.

Frank's Way, 125 HARV. L. REV. F. 218 (2012).

Sargent Shriver's Legacy of Caring, HARTFORD COURANT, January 22, 2011, at A9.

The Structure of Academic Freedom, OXFORD MAGAZINE, No. 291, Noughth Week, Michaelmas Term 2009, at 5.

Edward Terry Sanford, in THE YALE BIOGRAPHICAL DICTIONARY OF AMERICAN LAW 478 (Roger K. Newman ed., Yale University Press 2009).

Law Professors and Political Scientists: Observations on the Law/Politics Distinction in the Guinier/Rosenberg Debate, 89 BOSTON UNIVERSITY LAW REVIEW 581 (2009).

Prescribing Records and the First Amendment — New Hampshire's Data-Mining Statute, NEW ENGLAND JOURNAL OF MEDICINE, Feb. 19, 2009, at 745.

Viewpoint Discrimination and Commercial Speech, 41 LOYOLA OF LOS ANGELES LAW REVIEW 169 (2007).

Brennan and Religion, 95 CALIFORNIA LAW REVIEW 2193 (2007).

The Solomon Amendment in the Supreme Court, THE BERKELEYAN, Mar. 22, 2006, at 2.

Affirmative Action and Higher Education: The View From Somewhere, 23 YALE LAW & POLICY REVIEW 25 (2005).

The University Counsel: A Roundtable Discussion (with William R. Kauffman, Robert O'Neil, & Wendy White), ACADEME, Nov.-Dec. 2001, at 26.

A Particularly Feisty Supreme Court, SAN FRANCISCO CHRONICLE, July 18, 2000, at A21.

Response to Commentators, 88 CALIFORNIA LAW REVIEW 119 (2000).

Regulating Election Speech Under the First Amendment, 77 TEXAS LAW REVIEW 1837 (1999).

Taft and the Administration of Justice, 2 GREEN BAG 2D 311 (1999).

Comment on Justice William J. Brennan, Jr., 31 LOYOLA OF LOS ANGELES LAW REVIEW 745 (1998).

Chief Justice William Howard Taft and the Invention of Federal Judicial Management: A Study in Judicial Leadership, STATE-FEDERAL JUDICIAL OBSERVER, Mar. 1998, at 1.

Remembering Justice Brennan: A Eulogy, 37 WASHBURN LAW JOURNAL xix (1997).

Reply to Bender, 29 ARIZONA STATE LAW JOURNAL 495 (1997).

Between Norms and Choices, BOSTON REVIEW, Oct./Nov. 1997, at 34, *republished in* Susan Moller Okin, *IS MULTICULTURALISM BAD FOR WOMEN?* 65 (Princeton University Press 1999).

He Merged Doctrine with Decency, RECORDER, July 25, 1997, at 10; *Recalling a Sparkling Vision of a Supreme Dignity*, LEGAL TIMES, July 28, 1997, at 15.

States' Right Rulings: A Tempest in a Constitutional Teapot, LOS ANGELES TIMES, July 6, 1997, at M2.

Commentary: Judging Lives, 70 NEW YORK UNIVERSITY LAW REVIEW 548 (1995).

What is the Constitution's Worst Provision?, 12 CONSTITUTIONAL COMMENTARY 191 (1995).

Editorial, DAILY CALIFORNIAN, Feb. 7, 1995, at 8.

A Symposium on Pornography, THREEPENNY REVIEW, Autumn 1993, at 10.

Les Compromis Intenables de Clinton, LIBÉRATION, 19 Feb. 1993, at 8.

Federalism and Civil Rights and Public Forum, in *ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION SUPPLEMENT I*, at 204, 406 (Leonard W. Levy et al. eds., Macmillan 1992).

Le Président que les Américains Méritent, LIBÉRATION, Oct. 17-18, 1992, at 6.

Gertz v. Robert Welch, Inc. and Time, Inc. v. Hill, in *OXFORD COMPANION TO THE SUPREME COURT OF THE UNITED STATES* 337, 873 (Kermit L. Hall ed., Oxford University Press 1992).

Legal Scholarship and the Practice of Law, 63 UNIVERSITY OF COLORADO LAW REVIEW 615 (1992).

Letter, *Boston Review*, Mar.-Apr. 1992, at 13.

Post-Modernism and the Law, LONDON REVIEW OF BOOKS, 21 Feb. 1991, at 3.

Jurisdictional Unity, Cultural Hegemony, and the Impetus for Human Rights, in *GERMAN AND AMERICAN CONSTITUTIONAL THOUGHT: CONTEXTS, INTERACTION, AND HISTORICAL REALITIES* 242 (Hermann Wellenreuther ed., Berg 1990).

The Perils of Conceptualism: A Response to Professor Fallon, 103 HARVARD LAW REVIEW 1744 (1990).

The Court at the Millennium, A Conversation (with Stephen Carter, Mark Tushnet & Paul Reidinger), 76 ABA JOURNAL 62 (1990).

Tradition, the Self, and Substantive Due Process: A Comment on Michael Sandel, 77 CALIFORNIA LAW REVIEW 553 (1989).

Webster's *Chaotic Aftermath*, LOS ANGELES TIMES, July 6, 1989, at II:7.

Strong Tool Lost in Fight Against Continual Patterns of Excluding Minorities, LOS ANGELES TIMES, Feb. 1, 1989, at II:7.

Book Review, 36 AMERICAN JOURNAL OF COMPARATIVE LAW 174 (1988) (reviewing ERIC BARENDT, FREEDOM OF SPEECH (1985)).

Scalia Needs to Recognize the Use and Abuse of Principle, LOS ANGELES TIMES, July 27, 1986, at V:5.

On Professional Prerogatives, 37 STANFORD LAW REVIEW 459 (1985).

A Visit to Nicaragua, RECORDER, July 10, 1985, at 2.

Constitutional Questions Raised by Proposed "Legislative Reform Act," LOS ANGELES DAILY JOURNAL, May 30, 1984.

Legal Concepts and Applied Social Research Concepts: Translation Problems, in THE USE/NONUSE/MISUSE OF APPLIED SOCIAL RESEARCH IN THE COURTS 172 (Michael J. Saks & Charles H. Baron eds., Abt Books 1980).