

## Preface

This book is the outgrowth of the last five years of my scholarship on the theory of free expression. In a certain sense, however, it is designed to serve as a prequel to much of my scholarly work on the First Amendment over the last forty years. It is in this book that I have, I believe, finally located the core first principles of political theory that have always provided the implicit framework for my writings on the First Amendment.

Many of the chapters find their origins in articles I have authored or coauthored in recent years, though in each case the final chapter represents a revised version of the prior works. In some cases, the individual chapters represent a synthesis of one or more articles with earlier scholarship. More important, the articles have been modified to bring them together as a coherent statement of the political foundations of the theory of free expression.

Portions of Chapters Two and Four grew out of my article, “Understanding Post’s and Meiklejohn’s Mistakes: The Central Role of Adversary Democracy in the Theory of Free Expression,” 103 *Northwestern University Law Review* 1303 (2009), coauthored with former student Abby Marie Mollen. Chapter Three is based on my article, “Commercial Speech, First Amendment Intuitionism and the Twilight Zone of Viewpoint Discrimination,” 41 *Loyola Los Angeles Law Review* 67 (2007). Chapter Five derives from my article, “‘Worse than the Disease’: The Anti-Corruption Principle, Free Expression, and the Democratic Process,” 20 *William & Mary Bill of Rights Journal* 1053 (2011), coauthored with former student Elana Nightingale Dawson. Finally, Chapter Six finds its origins in my essay, “Freedom of Expression, Political Fraud, and the Dilemma of Anonymity,” which first appeared in a volume entitled *Speech and Silence in*

*American Law*, edited by Austin Sarat and published by Cambridge University Press in 2010. These articles have been reproduced with the permission of the publishers.

Both of my coauthors, Abby Mollen and Elana Nightingale-Dawson, deserve significant credit for shaping the articles on which we collaborated. In addition, I would like to thank Matthew Arnould, Kerry Slade, and Vanessa Szalapski, all current or former students at Northwestern University School of Law, for their invaluable research assistance on different portions of the book.

This book would not have been possible without the support—both moral and financial—of Northwestern University School of Law and both its current dean, Daniel Rodriguez, and its former dean, David Van Zandt. I am forever in their debt for the way in which both did all they could to facilitate my research on this book. I also appreciate the thoughtful and insightful challenges of my Northwestern colleague Andy Koppleman, who constantly forced me to refine and rethink the positions I take in this book—thereby making them stronger—through his powerful intellectual critiques of my theories.

In addition, my sincere thanks go out to Marcia Lehr, librarian at Northwestern Law, for her resourcefulness in helping me track down books and articles, and Juana Haskin, my assistant, for her tireless efforts in revising draft after draft of the manuscript. Both played a vital role in the preparation of this book.

Finally, deserving of special appreciation are the members of my family—my wife, Caren, and my daughters, Jessica and Elisa. Without their unwavering love and support, none of this would matter.