

Free speech, privacy, and federalism

Constitution Day at Cato: Judging the Supreme Court

On September 17, Cato welcomed scholars, practitioners, and the general public back to the F. A. Hayek Auditorium for the 20th Annual Constitution Day Symposium. Held every year on the holiday commemorating the anniversary of the signing of the Constitution in 1787, the symposium features a daylong conference with some of the nation's most accomplished constitutional experts and litigators. The 2021 symposium featured panel discussions on the First Amendment, property and criminal law, constitutional structure, and looking ahead to the Court's new term set to begin in October.

Constitution Day also marks the release of the *Cato Supreme Court Review*, an annual critique of the Court's most important decisions from the term just ended plus discussion about the upcoming term. The *Review* is the first such journal to be released every year. As Ilya Shapiro, Cato vice president and director of the Robert A. Levy Center for Constitutional Studies, explains in the fore-



Ilya Shapiro, vice president and director of the Robert A. Levy Center for Constitutional Studies, introduces Rachel E. Barkow, who delivered the Annual B. Kenneth Simon Lecture.

Prosperity Foundation v. Bonta. California had required nonprofit organizations to disclose the identity of their donors in their state tax returns. This requirement was a thinly veiled attempt to enable harassment and retaliation against donors to controversial political advocacy groups, especially libertarian and conservative organizations. The policy was originally imposed by California's then-attorney general Kamala Harris, since elected vice president.

The Supreme Court sided with the plaintiffs in a 6 to 3 ruling, holding that California was violating the constitutional rights to free speech and association, including anonymous speech and nonpublic association, in what Smith considers "arguably the most important decision on the rights of privacy and association in over 60 years."

Another key case of the past term concerned the nature of federalism and state autonomy, in particular the degree to which states are entitled to control their own election process. Derek T. Muller writes in this year's *Review* about *Brnovich v. Democratic National Committee*, in which Democrats challenged Arizona's changes to election laws banning so-called "ballot harvesting" as well as requiring all voters to vote in their own precincts. Arizona's attorney general Mark Brnovich is himself a past contributor to the *Review* and a speaker at the Constitution Day symposium.

"We are in a time of public skepticism over elections," explains Muller. "The losing side doubts the fairness of the outcome, attributing the loss to suppression, fraud, foreign

Continued on page 8

Cato News Notes

WELCOME TO THE TEAM

Cato continues to bring new talent on board to further its mission of individual liberty, limited government, free markets, and peace. Recent additions include



Norbert Michel as vice president and director of the Center for Monetary and Financial Alter-

natives, Colleen Hroncich as a policy analyst in the Center for Educational Freedom, Gabriella Beaumont-Smith as an analyst in the Herbert A. Stiefel Center for Trade Policy Studies, Faith Jablow as Cato's new marketing coordinator, and Alexandra Perez as health policy project manager. In addition, Mark Calabria is returning to Cato as a senior adviser. Calabria was previously Cato's director of financial regulation studies before serving as chief economist to Vice President Mike Pence and then as director of the Federal Housing Finance Agency.

FREEDOM SWAG

As the holidays approach, you can find the perfect gift for any lover of liberty (including yourself!) through Cato's partnership with Lands' End, offering Cato-branded merchandise including sweaters, hats, bags, and shirts. Cato apparel can be found at Cato.org/landsend.