

# In Search of a More Perfect Union

Constitution Day at Cato marks release of the 2021–2022 *Cato Supreme Court Review*

Cato's annual Constitution Day symposium marks the day in 1787 that the Constitutional Convention finished drafting the U.S. Constitution and submitted it to the states for ratification. Each year, to celebrate that event and the release of the new issue of the *Cato Supreme Court Review*, Cato's Robert A. Levy Center for Constitutional Studies hosts a daylong symposium featuring noted scholars discussing the recently concluded Supreme Court term and the important cases in the upcoming term.

The *Review* is a unique publication, the first of its kind every year, and the only such journal addressing the Court's major cases from a Madisonian, originalist, and classically liberal perspective. The symposium features both authors from the current edition and commentators from across the ideological spectrum.

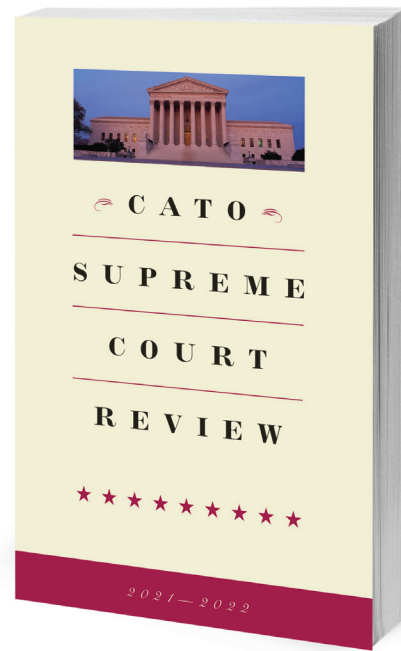
The first panel of the day featured a discussion of major separation-of-powers cases recently decided, including *West Virginia v. Environmental Protection Agency* (see, "A 'Major' Win for Limited Government," September/October 2022 *Cato Policy Report*). The panel consisted of adjunct scholar Ilya Somin and Jennifer L. Mascott, both of George Mason University, together with Jonathan Adler of Case Western Reserve University.

The next discussion focused on freedom of speech, the press, and religion, touching on issues such as the rising tide of litigation over attempts to regulate social media and the high-profile school prayer case *Kennedy v. Bremerton School District*. Cato research fellow Thomas A. Berry moderated the wide-ranging panel featuring Enrique Armijo of Elon University School of Law, Elizabeth Goitein of the Brennan Center for Justice at New York University School of Law, and senior attorney Michael Bindas of the Institute for Justice.

The final panel discussed the significant cases heading to the Court in the next term, on issues including free speech, voting, election law, and how much deference courts should give to the government in both civil and criminal cases. Senior fellow Walter Olson moderated with Ilya Shapiro, director of constitutional studies at the Manhattan Institute; Amy Howe, editor of the court-watching blog *Howe on the Court*; and Amy Mason Saharia, partner at Williams & Connolly LLP.

The highlight of Constitution Day at Cato is the Annual B. Kenneth Simon Lecture, which is also included in the subsequent year's issue of the *Cato Supreme Court Review*. This year's lecture was delivered by Akhil Reed Amar, Sterling Professor of Law and Political Science at Yale University and one of the nation's most widely cited legal scholars.

Amar's topic was one of the few Supreme Court reforms with broad bipartisan and cross-ideological support: replacing life tenure



with an 18-year fixed term. Amar explained the merits of this idea and broad scholarly consensus in favor. "This idea remains neither left nor right, blue nor red. . . . Almost no other modern democracy has a lifetime model of active service for its apex court," Amar noted.

According to Amar, this reform would have a number of benefits. Presidents would no longer be incentivized to appoint "unduly young and unseasoned jurists" to the highest court. At the other end of the spectrum, the Court would no longer suffer under aging justices staying on the bench too long. The effect of elections on the Court would be more predictable and regularized, with two seats coming up in every four-year presidential term. It would eliminate the ability of justices to strategically time their retirement, lessening politicization of their positions. Fixed terms would eliminate the need for morbid speculation about the ages of the current justices. Confirmations could be timed for nonelection odd-numbered years, and the stakes of regular fixed-term appointments would help lower the temperature surrounding confirmations. Perhaps most importantly, it would take partisan court-packing ideas off the table in favor of a nonpartisan, broadly supported reform. ■

**THE FULL VIDEO OF THE 21ST ANNUAL CONSTITUTION DAY SYMPOSIUM CAN BE FOUND AT [CATO.ORG/EVENTS/21ST-ANNUAL-CONSTITUTION-DAY](https://www.cato.org/events/21st-annual-constitution-day).**

**THE 2021–2022 CATO SUPREME COURT REVIEW CAN BE FOUND AT [WWW.CATO.ORG/SUPREME-COURT-REVIEW/2021-2022](https://www.cato.org/supreme-court-review/2021-2022).**