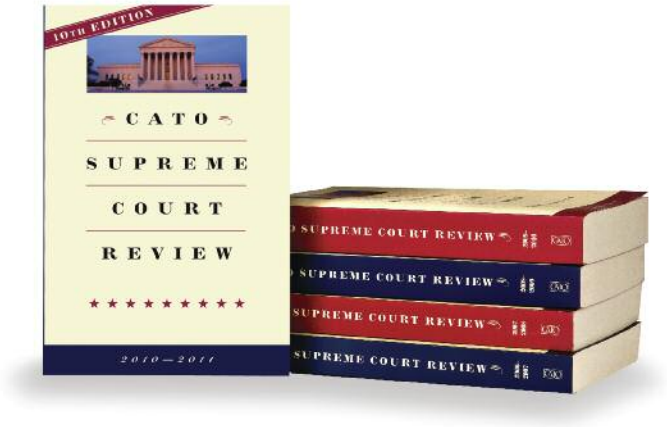
A term of free speech, criminal law, and striking unanimity

Celebrating Constitution Day with the 10th Annual *Review*

It was a term more notable for the remarkable amount of unanimity than its blockbuster decisions. Nevertheless, the 2010–2011 term of the United States Supreme Court provided plenty of judicial fodder to provoke a day's worth of discussion at the Cato Institute's Annual Constitution Day Conference. This year marked the 10th, and as always, it coincided with the release of the new *Cato Supreme Court Review.*

The conference, "The Supreme Court: Past and Prologue: A Look at the October 2010 and October 2011 Terms," featured leading legal experts discussing the most pertinent cases of the last term and what we can expect in the near future from the Supreme Court.



After the opening remarks, Cato's 10th Annual Constitution Day Conference kicked off with a look at the First Amendment–the term's highest-profile issue, with decisions on "clean elections," educational tax credits, and the free-speech implications of violent video games. The speakers on this first panel were (from right) David Post of Temple University, Joel Gora of Brooklyn Law School, Cato vice president for legal affairs Roger Pilon, *Review* editor-in-chief Ilya Shapiro, and Tim Keller, director of the Institute for Justice's Arizona chapter.

David Post, law professor at Temple University and a member of the *Review's* editorial board, examined *Brown v. Entertainment Merchants Association*—teasing out the First Amendment's "doctrinal oddities" in a provocative essay on the so-called violent video games dispute. "The case presents a fascinating snapshot of the state of [free speech] in the early years of the 21st century," Post said, "and contains enough peculiarities . . . to keep law professors and their students busy for years to come."

The *Review* includes additional articles on the First Amendment—by far the highest-profile issue of the term—with case analyses on funeral protests, campaign financing, and much more.

John Eastman, law professor and former dean at Chapman University, addressed *Bond v. United States*—"your typical sordid tale of adultery, toxic chemicals, and federalism," as *Review* editor-in-chief Ilya Shapiro described it. The case involved a defendant being brought up, not on charges of assault, but on violating an international chemical-weapons treaty. The judicial lesson? "Don't mess with the husband of someone who works in a chemical lab!" Eastman quipped.

The day closed with the annual B. Kenneth Simon Lecture, during which a distinguished legal scholar presents a paper that will be included in the following year's *Cato Supreme Court Review.* This September, the Hon. Alex Kozinski—chief judge on the U.S. Court of Appeals for the Ninth Circuit—discussed the influence of new technologies on emerging expectations of privacy (See page 9). While he acknowledged the public's willingness to trade certain boundaries for convenience, the story is much more complex than that. "I think it's fair to say that privacy is not dead as an ideal," he argued.

The last decade has seen a reanimation of many such ideals. In the foreword to the inaugural volume, Roger Pilon, Cato's vice president for legal affairs, expanded on the purpose of the *Cato Supreme Court Review.* "We will examine the Court's decisions and upcoming cases in the light cast by the nation's first principles—liberty and limited government—as articulated in the Declaration of Independence and secured by the Constitution," he wrote. The mission, modestly laid out, was to play a part in changing the climate of ideas to one more conducive to a constitutional government of delegated, enumerated, and thus limited powers. The Center for Constitutional Studies, established in 1989, has been a critical institution in making that vision a reality.

"In short, the Court cannot roll back Leviathan on its own," Pilon says, "but it can put a brake on it and chip away at its substance"—or, perhaps, lack thereof. ■