

Introduction

This volume of the *Cato Supreme Court Review* is the first in an annual series that will analyze the most significant opinions of the Supreme Court of the United States. Each year the *Review* will publish essays covering ten to fifteen cases from the Court's most recent term. The volume that you hold in your hands includes cases from the term beginning in October, 2001, and ending in late June, 2002.

In three ways the *Cato Supreme Court Review* is unlike any other publication that follows the Court. First, we are timely. Indeed, our current issue is the first in-depth review of the 2001 October Term—published less than three months after the Court handed down its final decisions on June 28, 2002. Each year's *Review* will appear soon after the term ends, and shortly before the next term begins on the first Monday of October.

Second, because the Constitution is not the exclusive domain of lawyers and judges, we asked our contributors to write articles that will appeal to a diverse and large audience. Although the *Review* is of course a "law" book, in the sense that it is about the Court and the Constitution, we intend it not only for lawyers but also for journalists, editors, broadcasters, publishers, legislators, government officials, professors, students, and all citizens interested in their Constitution and the Court's interpretation of it.

Third, and most important, the *Cato Supreme Court Review* has a singular point of view, which we will not attempt to conceal behind a mask of impartiality. I confess our ideology at the outset: This *Review* will look at the Court and its decisions from the classical Madisonian perspective, emphasizing our first principles of individual liberty, secure property rights, federalism, and a government of enumerated, delegated and thus limited powers. In his Foreword, the *Review's* publisher, Roger Pilon, has articulated those principles, showing in the process how modern courts have too often ignored them. It is time for a *Review* such as this.

We inaugurate that examination with nine articles about twelve cases decided during the 2001 October Term. Although the term

may not have been a vintage one for the Court—that is, we do not have an abundant crop of major decisions involving first principles—nonetheless, the term did produce significant opinions in six subject areas: property rights, federalism, the First Amendment, education, criminal law, and the drug war. The *Review* includes contributions on each of those topics from distinguished commentators including Richard A. Epstein writing on property rights and regulatory takings in *Tahoe-Sierra Preservation Council Inc. v. Tahoe Regional Planning Agency*; Robert A. Levy on federalism and state sovereign immunity in *Federal Maritime Commission v. South Carolina State Ports Authority*; Jonathan Turley on the right to anonymous speech in *Watchtower Bible and Tract Society v. Village of Stratton*; Robert Corn-Revere on child pornography in *Ashcroft v. Free Speech Coalition*, and on obscenity in *Ashcroft v. ACLU*; Clint Bolick on school choice and the establishment clause in *Zelman v. Simmons-Harris*; Timothy Lynch on criminal law and plea bargaining in *U.S. v. Ruiz*; Stephen P. Halbrook on criminal law and sentencing factors in *Harris v. United States*, and on the death penalty in *Ring v. Arizona*; and Roger Pilon on the drug war in *Department of Housing and Urban Development v. Rucker and Board of Education v. Earls*. My own contribution discusses judicial elections, political speech, and the First Amendment in *Republican Party of Minnesota v. White*. In a look ahead to the forthcoming October Term 2002, Erik S. Jaffe identifies the cases of greatest interest and the principles at stake.

I thank our contributors for their generous participation: There would be no *Cato Supreme Court Review* without them. I thank my colleagues at the Cato Institute's Center for Constitutional Studies, Roger Pilon, Timothy Lynch, and Robert A. Levy for valuable editorial contributions; David Lampo for producing and Elise Rivera for designing the *Review*; and Elizabeth Kreul-Starr for assistance in preparing the manuscripts for publication.

We hope that this volume, and those to come, chart a journey of the Court toward a jurisprudence grounded on first principles. But we aspire to do more than document the Court's progress. We want the *Cato Supreme Court Review* to be more than a weathervane, merely reflecting the direction of the wind. Instead, we hope that these essays, and those in future volumes, influence, at least in some small way, how the wind blows. Our goal is to reanimate the principles laid down more than two centuries ago in the Declaration of Independence and the Constitution and to apply those principles today

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to the cases and controversies that come before the Supreme Court of the United States. In so doing we aim to resurrect the spirit of another age when, long before they were eclipsed by the rise of the modern regulatory and redistributive state, the natural rights of liberty and property superseded the will of government and of men. With optimism for the task ahead, we present the inaugural volume of this *Review*.

James L. Swanson
Editor in Chief

