

Contents

FOREWORD

Roger Pilon

vii

INTRODUCTION

Ilya Shapiro

1

ANNUAL B. KENNETH SIMON LECTURE

Is the Constitution Libertarian?

Randy E. Barnett

9

ARTICLES

VOTING RIGHTS AND EQUAL PROTECTION

The Future of the Voting Rights Act after *Bartlett* and *NAMUDNO*

Roger Clegg

35

The War between Disparate Impact and Equal Protection

Kenneth L. Marcus

53

BUSINESS REGULATION

Into the Pre-emption Thicket: *Wyeth v. Levine*

Roger Pilon

85

linkLine's Institutional Suspicions

Daniel A. Crane

111

CRIMINAL LAW

Hydraulic Pressures and Slight Deviations

Erik Luna

133

(Un)Reasonableness and the Roberts Court: The Fourth Amendment in Flux

Michael Edmund O'Neill

183

v

CONTENTS

Using Its Sixth Sense: The Roberts Court Revamps the Rights
of the Accused

Mark Chenoweth 223

SPEECH AND ELECTIONS

Pleasant Grove City v. Summum: The Supreme Court Finds a
Public Display of the Ten Commandments to Be Permissible
Government Speech

Patrick M. Garry 271

FCC v. Fox Television Stations, Inc.: Awaiting the Next Act

Robert Corn-Revere 295

The *Caperton* Caper and the Kennedy Conundrum

Stephen M. Hoersting and Bradley A. Smith 319

NEXT YEAR

Looking Ahead: October Term 2009

Jan Crawford Greenburg 347

CONTRIBUTORS 369