

AMAR, VIKRAM DAVID

Books (Current Editions Only)

COMPARATIVE CONSTITUTIONAL LAW CASE SUPPLEMENT MATERIALS (with Mark Tushnet, Oxford University Press, forthcoming 2007).

CONCISE EDITION OF CONSTITUTIONAL LAW: CASES AND MATERIALS (with William Cohen and Jonathan D. Varat, 12th ed., Westbury, N.Y.: Foundation Press, forthcoming 2006).

FEDERAL PRACTICE AND PROCEDURE, JURISDICTION 3D Vol.17 (with Charles A. Wright, Arthur R. Miller and Edward H. Cooper, St. Paul: Thomson/West, forthcoming 2006).

FEDERAL PRACTICE AND PROCEDURE, JURISDICTION 3D Vol.17A (with C. Wright, A. Miller and E. Cooper, St. Paul: Thomson/West, forthcoming 2006).

FEDERAL PRACTICE AND PROCEDURE, JURISDICTION 3D Vol.17B (with C. Wright, A. Miller and E. Cooper, St. Paul: Thomson/West, forthcoming 2006).

CONSTITUTIONAL LAW: CASES AND MATERIALS (with William Cohen and Jonathan D. Varat, 12th ed., Westbury, N.Y.: Foundation Press, 2005).

CONSTITUTIONAL LAW: CASES AND MATERIALS (with William Cohen and Jonathan D. Varat, 12th ed., Westbury, N.Y.: Foundation Press, Supp. 2005).

FEDERAL PRACTICE AND PROCEDURE, JURISDICTION 2D Vol.17 (with C. Wright, A. Miller and E. Cooper, St. Paul: West Group, Supp. 2005).

FEDERAL PRACTICE AND PROCEDURE, JURISDICTION 2D Vol.17A (with C. Wright, A. Miller and E. Cooper, St. Paul: West Group, Supp. 2005).

American Civil Procedure in R. Blanpain ed., INTERNATIONAL ENCYCLOPAEDIA OF LAWS- CIVIL PROCEDURE (with John Oakley, Deventer; Boston: Kluwer Law and Taxation Publishers, 2000).

Law Review Articles

(Other Than Invited Submissions and Symposia Contributions)

Academic Freedom, 9 GREEN BAG 2D 17 (2005) (with Alan Brownstein).

Adventures in Direct Democracy: Constitutional Lessons from the California Recall Experience, 92 CAL. L. REV. 927 (2004).

Lower Court Obedience & the Ninth Circuit, 7 GREEN BAG 2ND 315 (2004).

The Cheney Decision: A Missed Chance to Straighten Out Some Muddled Issues, 2004 CATO SUP. CT. REV. 185 (2004).

The New 'New Federalism': The Supreme Court in Hibbs (and Guillen), 6 GREEN BAG 2D 349 (2003).

Reasonable Accommodations Under the ADA, 5 GREEN BAG 2ND 361 (2002) (with Alan Brownstein).

Conduct Unbecoming a Coordinate Branch: the Supreme Court in Garrett, 4 GREEN BAG 2ND 351 (2001) (with Samuel Estreicher).

The People Made Me Do It: Can the People of the States Instruct and Coerce Their State Legislatures in the Article V Constitutional Amendment Process?, 41 WM. & MARY L. REV. 1037 (2000).

The Hybrid Nature of Political Rights, 50 STAN. L. REV. 915 (1998) (with A. Brownstein).

Indirect Effects of Direct Election: A Structural Examination of the Seventeenth Amendment. 49 VAND. L. REV. 1347 (1996).

Unlocking the Jury Box, 77 POLICY REVIEW. 38 (1996) (with Akhil Amar).

Is the Presidential Succession Law Constitutional?, 48 STAN. L. REV. 113 (1995) (with A. Amar)

Jury Service as Political Participation Akin to Voting, 80 CORNELL L. REV. 203 (1995).

President Quayle?, 78 VA. L. REV. 913 (1992) (with A. Amar).

Invited Pieces, Symposia Contributions, Theme Issue Contributions

Bias and the Problem of Peremptory Challenges, 5 INSIGHTS ON LAW AND SOCIETY 16 (2005) (solicited essay).

Implementing an Historical Vision of the Jury in an Age of Administrative Factfinding and Sentencing Guidelines, 47 S. Tex. L. Rev. 291 (2005) (Judge and Jury Symposium Issue).

Must Parental Notification Laws Contain a Health Exception? 2005 PREVIEW U.S. SUP. CT. CAS. ISSUE 2 (2005) (with K. O'Donnell) (solicited case comment).

May the Attorney General Sanction Physicians Who Comply with Oregon's Death with Dignity Act? 2005 PREVIEW U.S. SUP. CT. CAS. ISSUE 1 (2005)(with K. O'Donnell) (solicited case comment).

Reclaiming the Centrality of the Jury in Sentencing Guidelines Regimes, 47 S. TEX. L. REV. 291 (2005) (invited presentation and essay).

Why the Case in Favor of a Federal Constitutional Amendment to Prohibit or Regulate Gay Marriage is 'Not Proved,' 32 HASTINGS CONST. L. Q. 637 (2005) (with A. Brownstein) (Same-Sex Marriage Symposium Issue).

The 'Converse Section 1983 Law': An Idea Whose Time is Now, 69 BROOK. L. REV. 1369 (2004) (War on Terror Symposium Issue).

How Much Protection Do Injunctions Against Enforcement of Allegedly Unconstitutional Statutes Provide?, 31 FORDHAM URB. L. J. 657 (2004) (Partial Birth Abortion Ban Act Symposium Issue).

Case At a Glance: Wine Importation and the Constitution, 2004 PREVIEW U.S. SUP. CT. CAS. 3 (2004) (with Will Trachman) (solicited case comment).

Case At a Glance: The Meaning of Blakely in Booker and Fanfan, 2004 PREVIEW U.S. SUP. CT. CAS. 2 (2004) (solicited case comment).

Case At a Glance: Rasul and Al Odah, 2003 PREVIEW U.S. SUP. CT. CAS. 7 (2004) (solicited case comment).

Federalism in the 2003 Term – Revisiting Some Old Battles and Setting Up Some New Ones, 2003 PREVIEW U.S. SUP. CT. CAS. ISSUE 8 (2003).

Back to the Future: Minority Groups and the Supreme Court's October 2002 Term, 2002 PREVIEW U.S. SUP. CT. CAS. 9 (2003) (solicited review essay).

Constitutional Sunsetting?: Justice O'Connor's Closing Comments in Grutter, 30 HASTINGS CONST. L.Q. 541, (2003) (with Evan Caminker) (Symposium Issue on *Grutter*).

Bush v. Gore and Article II: Pressured Judgment Makes Dubious Law, 48 FED. LAW. 27 (2001) (with Alan Brownstein) (solicited essay).

Of Hobgoblins and Equality: The Equal Protection Vision of Justice O'Connor, 32 MCGEORGE L. REV. 1 (2001) (Symposium Issue on Justice O'Connor's Jurisprudence).

The New Regulations Allowing Federal Agents to Monitor Attorney-Client Conversations: Why It Threatens Fourth Amendment Values, FINDLAW'S WRIT: LEGAL COMMENTARY (Nov. 16, 2001) at <http://writ.news.findlaw.com/amar/20011116.html> (with Akhil Amar), reprinted in 34 CONN. L. REV. 1163 (2002) (Symposium Issue).

The 20th Century – The Amendment and Populist Century, 47 FED. LAW. 32 (2000) (solicited essay).

From Watergate to Ken Starr: Potter Stewart’s “Or of the Press” a Quarter Century Later, 50 HASTINGS L.J. 711 (1999) (Anniversary Issue).

The Role of the People in Presidential Impeachment, ACADEMY OF ARTS AND SCIENCES BULLETIN (March 1999) (solicited essay).

Some Questions about Justice Blackmun’s Federalism and Separation of Powers Cases, 26 HASTINGS CONST. L.Q. 153 (1999) (Symposium Issue on Justice Blackmun’s Jurisprudence).

State Religious Freedom Restoration Acts and the Employment Setting, 32 U.C. DAVIS L. REV. 513 (1999) (Symposium Issue on Religious Protection under State Law).

Recent Cases: Reflections on the 209 Litigation 5 ASIAN L.J. 323 (1998) (solicited case comment).

The Hunter Doctrine and Proposition 209: A Reply to Thomas Wood, 24 HASTINGS CONST. L.Q. 1001 (1997) (with E. Caminker) (response essay).

Equal Protection, Unequal Political Burdens, and the CCRI, 23 HASTINGS CONST. L.Q. 1019 (1996) (with E. Caminker) (Proposition 209 Symposium Issue).

Foreword: Symposium on Developments in Free Speech Doctrine, 29 U.C. DAVIS L. REV. 465 (1996).

Some Questions about Perfectionist Rationality Review, 45 HASTINGS L.J. 1029 (1994) (Balancing in Constitutional Adjudication Symposium Issue).

Split Decision: Voter Selection of the Vice President, 24 WASH. MONTHLY No. 11, Nov. 1992, at 22 (with A. Amar).

Chapters in Books

What’s Wrong with the Modern Jury, in Rosemary Passantino, Lawrence Lessig & Vikram Amar, eds., THE BEST AMERICAN LEGAL COMMENTARY 2005 (Boca Raton, Fla.: Universal Publishers, 2005).

Why Old and New Arguments for the Electoral College Are Not Compelling, in John C. Fortier & Walter Berns, eds., AFTER THE PEOPLE VOTE: A GUIDE TO THE ELECTORAL COLLEGE (3d ed., Washington, D.C.: AEI Press, 2004) (with A. Amar).

Reforming the Jury System Would Improve the Criminal Justice System, in Jill Karson, ed., *CRIMINAL JUSTICE: OPPOSING VIEWPOINTS* (San Diego, Calif.: Greenhaven Press, 1998) (with A. Amar).

Book Reviews

The Many Ways to Prove Discrimination: A Review of Ian Ayres' Pervasive Prejudice?, 14 *HASTINGS WOMEN'S L.J.* 171 (2003) (reviewing Ayers, *PERVASIVE PREJUDICE?: UNCONVENTIONAL EVIDENCE OF RACE AND GENDER DISCRIMINATION* (2001)).

The Truth, the Whole Truth and Nothing but the Truth About "High Crimes and Misdemeanors" and the Presidential Impeachment Process, 16 *CONST. COMMENTARY* 403 (1999) (reviewing Coulter, *HIGH CRIMES AND MISDEMEANORS* (1998)).

Essays in Encyclopedias

Voting Rights, in Paul Finkelman, ed., *THE ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES*, (London, New York: Routledge) (forthcoming 2006).

Ballot Initiatives, in P. Finkelman, ed., *THE ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES*, (London, New York: Routledge) (forthcoming 2006).

Jury Service and Jury Discrimination in Roger K. Newman ed., *THE CONSTITUTION AND ITS AMENDMENTS* (New York: Macmillan Reference USA, 1999).

The Constitution and Juries in Roger K. Newman ed., *THE CONSTITUTION AND ITS AMENDMENTS* (New York: Macmillan Reference USA, 1999).

Groups and Political Rights in Roger K. Newman ed., *THE CONSTITUTION AND ITS AMENDMENTS* (New York: Macmillan Reference USA, 1999).

Student Note

The Senate and the Constitution, 97 *YALE L.J.* 1111 (1988).

Print Op/Eds

Who's the Real Alito? *L.A. TIMES*, Nov. 20, 2005, at M3.

A Third Option on Gay Marriage, *S. F. CHRON.*, Sept. 20, 2005, at B7 (with Ethan Leib).

The Roberts Hearings? Blah, and More Blah, *SAN JOSE MERC. NEWS*, Sept. 19, 2005, at PE.

Casing John Roberts *N. Y. TIMES*, Jul. 27, 2005, at A1 (reprinted in many other papers throughout the country).

A Primer on Rules of Confirmation, *SAN JOSE MERC. NEWS*, Jul. 24, 2005, at 1P.

Judges Rule: Legislating From the Bench, L.A. TIMES, Jun. 26, 2005, at M1 (reprinted in many other papers throughout the country).

The Electoral College Votes Against Equality, L.A. TIMES, Sept. 8, 2004, at B11 (with A. Amar)

Better to Avoid Mistakes Than Make Amends, L.A. TIMES, March 14, 2004, at M3.

A Chance to Judge the Judges: The Ninth Circuit's Performance in the Recall Case, SAN JOSE MERC. NEWS, Sept. 28, 2003, at P1.

The Ninth Circuit May Stand Unjustly Accused, L. A. TIMES, Sept. 11, 2003, at B17.

Life After 9/11: The Golden Rule of Racial Profiling, L.A. TIMES, Sept. 22, 2002, at M2.

No Reason to Shelve the Dog-Mauling Case, L.A. TIMES, June 30, 2002, at M2 (with A. Amar).

Security: When Racial Profiling is Appropriate, L.A. TIMES, Sept. 30, 2001, at M2.

How Do You Think? Ideology and the Judicial Nominee, LEGAL TIMES, July 9, 2001, at 50, col. 1.

The Judicial Nomination Game, SAN JOSE MERC. NEWS, May 13, 2001, at C1.

The Bush v. Gore Ruling in Perspective, SAN JOSE MERC. NEWS, Dec. 17, 2000, at C3 (with Roger Park).

What Are the Supremes Up To?, S. F. RECORDER, Nov. 29, 2000, at 4.

The Perils of Changing Election Rules Before the Votes are Counted, L.A. TIMES, Nov. 26, 2000, at M1.

The Will of the People and the Presidential Election, SAN JOSE MERC. NEWS, Nov. 19, 2000, at C1.

Naming Justices: More is at Stake Than Roe v. Wade, L. A. TIMES, July 9, 2000, at M2 (with Alan Brownstein).

10 Things We Learned from Starr, L. A. TIMES, Oct. 24, 1999, at M1 (with Akhil Amar).

At Breakfast with Blackmun; His Law Clerks Remember the Late Justice, Mar. 8, 1999 LEGAL TIMES 11, col. 1 (with Sharp, Rothfeld, Moore, McDaniel, & Alden, Jr.).

Debunking the Myths of Impeachment, THE S.F. RECORDER, Oct. 28, 1998, at 5.

On-Line Legal Publications

Archive of Columns at FINDLAW'S WRIT: LEGAL COMMENTARY,
<http://writ.news.findlaw.com/amar/>. Many were also reposted at <http://www.cnn.com>
and/or <http://www.time.com>:

Why the "Political Question Doctrine" Shouldn't Necessarily Prevent Courts from Asking Whether a Spending Bill Actually Passed Congress: Part Two in a Series, Apr. 13, 2006.

The Threshold Hurdles in the Lawsuit Alleging the President Signed a Budget Bill the House Never Passed: Part One in a Series, Mar. 31, 2006.

A Different Take on the Supreme Court's Recent Decision Concerning Law Schools' First Amendment Rights and Campus Military Recruitment, Mar. 17, 2006.

The Supreme Court Grants Review on the Constitutionality of Congress' Partial Birth Abortion Ban Act, Mar. 3, 2006.

Why the President's Defense of Executive Power to Wiretap Without Warrants Can't Succeed in the Strict Constructionist Court He Wants, Feb. 17, 2006.

Reflections on the Supreme Court Confirmation Process After Roberts and Alito: Its Virtues and Flaws, and Why Senator Obama's Take is the Right One, Feb. 3, 2006.

Must Public Subway Trains That Feature Advertising Carry Anti-Abortion Ads? What the First Amendment Has To Say, Jan. 20, 2006.

Some Practical Advice for Senators Preparing for Judge Alito's Confirmation Hearings, Jan. 6, 2006.

A Holiday Gift Recommendation: America's Constitution: A Biography, By Akhil Reed Amar, Dec. 23, 2005.

The TV Drama "Commander in Chief" and the Constitution: Is the Federal Presidential Succession Statute Unconstitutional?: Part Two in a Series, Dec. 8, 2005.

The Constitutional and Legal Questions Raised by the Scooter Libby Indictment – And Some Answers, Nov. 23, 2005.

"Commander in Chief": A New TV Drama Raises Constitutional Questions Worthy of Discussion: Part One in a Series, Nov. 11, 2005.

May Race Ever Be Used as a "Tie-Breaker" in High School Admissions? The Ninth Circuit Says "Yes" in a Case That Might Test the New Supreme Court's Affirmative Action Instincts, Oct. 28, 2005.

The Miers Nomination: Republican Senators Have the Power to Address Their Fears That She Won't Be Reliably Conservative, Oct. 14, 2005.

The Pledge, Prudence and Precedent: A Comment on Judge Karlton's Recent Ruling on the Words "One Nation Under God", Sept. 30, 2005.

The Overlooked Legal Option That Would Let Governor Schwarzenegger Fully Respect Proposition 22 and the Will of the People, Yet Also Sign the Gay Marriage Bill, Sept. 16, 2005 (with Ethan Leib).

Getting Down to Cases: Part Three in a Series on the Kind of Case-Specific Questions the Senate Should Ask John Roberts, Sept. 2, 2005.

More on the Propriety of Asking Judge Roberts to Comment on Specific Past Supreme Court Rulings: Part Two in a Series, Aug. 19, 2005.

It's the Specifics, Stupid. . . . A Commentary on The Kind of Substantive Questions the Senate Can and Should Pose to Supreme Court Nominees, Aug. 4, 2005.

The Court's 2004-2005 Term: What the Economic Redevelopment Takings Case Tells Us About the Court, Congress, and Justice O'Connor, July 21, 2005.

What Are the Rules and Standards in the Judicial Appointments Game? With a Supreme Court Nomination on the Horizon, the Stakes Are High, July 8, 2005 (with Akhil Reed Amar).

An Important Sentencing Ruling from the California Supreme Court: Despite the U.S. Supreme Court's Recent Sentencing Upheaval, California's System Is Held To Be Valid, June 24, 2005.

The "Charitable Choice" Bill That Was Recently Passed by the House: The Normative Question of What the Constitution Ought To Require When Such Laws Are Reviewed, June 10, 2005 (with Alan Brownstein).

The "Charitable Choice" Bill That Was Recently Passed by the House: Further Commentary on Its Constitutional Problems, May 27, 2005 (with A. Brownstein).

The "Charitable Choice" Bill That Was Recently Passed by the House: Why Supreme Court Precedent Renders It Unconstitutional, May 13, 2005 (with A. Brownstein).

The "Charitable Choice" Bill That Was Recently Passed by the House, and the Issues It Raises, Apr. 29, 2005 (with A. Brownstein)

Some Possible Arguments in Favor of Testing Lawyers for Speediness of Analysis, Apr. 15, 2005.

Are Time-Pressured Exams on Law, Such as the LSAT, Fair and Useful?: Part Two in a Series on Timed Tests and Legal Education, Apr. 1, 2005.

Should the LSAT (and Legal Testing More Generally) Be Revisited and Perhaps Retooled?: Part One of a Series, Mar. 18, 2005.

The Supreme Court Expresses Skepticism About a California Policy That Temporarily Segregates Prisoners by Race, Mar. 4, 2005.

More on President Bush's Proposed Same-Sex Marriage Amendment, Feb. 18, 2005 (with A. Brownstein).

President Bush's Proposed Same-Sex Marriage Amendment, Feb. 4, 2005 (with A. Brownstein).

Responding to Evidence That Race-Based Law School Affirmative Action May Actually Hurt African-Americans: Part Two in a Series on a Law Professor's Controversial Claim, Jan. 20, 2005.

Does Race-Based Law School Affirmative Action Actually Hurt African-Americans?: Part One in a Series on a Law Professor's Provocative Claim, Jan. 7, 2005.

The California Teacher Whose Superiors Worry His Teaching Is Too Religious: Does He Have a Strong First Amendment Case, Dec. 24, 2004.

How Federalism Doctrine Can Acquire Bipartisan Appeal: The Constitutional Values That Transcend Political Change, Dec. 10, 2004 (with A. Brownstein).

Constitutional Doctrines That Won't Change, Even If the Supreme Court Does, Nov. 26, 2004 (with A. Brownstein).

The 2004 Presidential Election and the Electoral College: How the Results Debunk Some Defenses of the Current System, Nov. 12, 2004.

Rent Control in Hawaii Goes All the Way to the Supreme Court: An Interesting Takings Clause Challenge, Nov. 3, 2004.

Should the Rules Used for Picking the President Be Altered? An Analysis of Two Current Proposals, Oct. 15, 2004.

Conduct Unbefitting the Congress: The So-Called Pledge Protection Act Passed by the House of Representatives, Oct. 1, 2004 (with A. Brownstein).

Are the U.S. Sentencing Guidelines Judicial or Legislative? And Will the Answer Determine Whether They Survive Supreme Court Review?, Sept. 17, 2004.

When – If Ever – Can Facts Found by Judges Lengthen Criminal Sentences? A Key Question Now Facing the Supreme Court, Sept. 7, 2004.

Why the California Supreme Court Repudiated San Francisco's Issuance of Same-Sex

Marriage Licenses, Aug. 17, 2004.

The Marriage Protection Act Bill Passed by the House of Representatives: Trying to Make Sense of the Nonsensical, Aug. 6, 2004.

More on the Supreme Court's Most Recent Term: Four Important Federalism Rulings, and What They Mean, July 22, 2004.

The Supreme Court's Most Recent Term: A Set of Narrow Rulings Avoids Some Tough Questions, But Provides Interesting Fodder for Discussion, July 9, 2004.

More on Large Civil Fines for Minor Violations: Might They Be Limited by the U.S. Constitution's Excessive Fines Clause, and by State Constitutional Provisions, June 25, 2004 (with David Reis).

Are Large Civil Fines for Minor Violations Unconstitutional? Applying Proportionality Standards Outside the Punitive Damages Context, June 11, 2004 (with D. Reis).

The Supreme Court Hands Down a Key Federalism/Disability Law Decision, and Surprises Some Observers with Its Result, May 27, 2004.

The California Legislature Begins To Take Up Gay Marriage: An Assembly Bill Permitting the Practice Is Approved in Committee, May 11, 2004.

Can States Constitutionally Regulate Video Games, as California Is Considering Doing? The First Amendment Framework That Would Probably Apply, Apr. 30, 2004 (with A. Brownstein).

Executive Privilege: Often Valuable To Protect the Presidency, but Misunderstood by President Bush in the Condoleezza Rice Case, Apr. 16, 2004.

Same Sex Marriage and the California Constitution, Apr. 2, 2004.

Must California City Officials Follow Statutes They Believe To Be Unconstitutional? More on the San Francisco Gay Marriage Controversy, Mar. 30, 2004.

The California Constitution and Same-Sex Marriage: Even If California's Anti-Gay Marriage Statutes Violate the State Constitution San Francisco Was Still Wrong Not To Wait for the Courts, Mar. 5, 2004.

More on What's Wrong with the Modern Jury: How Juror Selection Can Be Improved, Feb. 20, 2004.

More on President Bush's Proposed Same-Sex Marriage Amendment: Part Two in a Series on Wise and Unwise Constitutional Amendments, Feb. 18, 2004 (with A. Brownstein).

What's Wrong With the Modern Jury: How Our System Can Better Fulfill the Framers' Ideals, Feb. 10, 2004.

President Bush's Proposed Same-Sex Marriage Amendment: Part One in a Series on Wise and Unwise Constitutional Amendments, Feb. 4, 2004 (with A. Brownstein).

The Controversy over President's Bush Use of a "Judicial Recess Appointment": Are Such Appointments Constitutional? Do They Hurt the Nomination Process?, Jan. 23, 2004.

Previewing the Rest of the Current Supreme Court Term: The "Pledge of Allegiance" Case, Jan. 9, 2004.

The Bush Administration's Biggest Legal Setbacks to Date in the War on Terror, and What They Tell Us, Dec. 26, 2003.

Comparing and Contrasting Two Recent Church-State Cases Before the U.S. and California Supreme Courts, Dec. 12, 2003 (with A. Brownstein).

The Partial Birth Abortion Ban Act, Part Two: If It Is Enjoined, but Ultimately Upheld, Can Doctors Who Violated It in the Interim Be Punished?, Nov. 28, 2003.

The Partial Birth Abortion Ban Act: If It Is Enjoined but then Ultimately Upheld, Can Doctors Who Violated It While the Injunction Was in Effect Be Punished?, Nov. 14, 2003.

Why Did Justice Scalia Decline to Participate in the "One Nation Under God" Case? Recusal Decisions and When They Should, and Should Not, Be Required, Oct. 31, 2003.

Reflections on the California Recall: The Lingering Questions Over Its Legitimacy, and Its Basis in the California Constitution, Oct. 17, 2003.

The Broader First Amendment Questions Raised by Proposition 54, the So-Called "Racial Privacy Initiative", Oct. 03, 2003 (with A. Brownstein).

The Ruling Postponing the California Recall Election: Why It Is Questionable, and Why It Was Not Compelled by Bush v. Gore, Sept. 19, 2003.

California's "Racial Privacy Initiative": Will It Be Struck Down on the Ground That It Violates Academic Freedom Protected by the First Amendment?, Sept. 5, 2003.

A Mixed Verdict on the California Supreme Court's Decision: Part Three of a Series on the Recall, Aug. 22, 2003 (with A. Brownstein).

Governor Davis's Claim to Run as His Own Successor Is Meritless, But the Fear of a "Fringe" Winner Is Serious: How the Risk Can Be Eliminated in the Future, Aug. 8, 2003.

An Important Part of the California Recall Process Is Unconstitutional, According to U.S. Supreme Court Precedent, July 25, 2003 (with A. Brownstein).

The 2002-03 Supreme Court Term in Review: Landmark Cases Stress the Theme of Equality, July 11, 2003.

Can the Senate Bind Itself So That Only a Supermajority Can Change Its Rules? A Key Issue in the Controversial Filibuster Debate, June 27, 2003.

With a Potential Supreme Court Nomination at Stake, Questions of the Filibuster's Constitutionality Linger, June 13, 2003.

The Missing Piece in the 2002-03 Supreme Court Term: The Forgotten Fourth Amendment, and Why It Will Matter Greatly in the War on Terror, May 30, 2003.

How a Recent Decision of the U.S. Court of Appeals for the Ninth Circuit Regarding Child Pornography Extends the Supreme Court's Federalism Cases, May 16, 2003.

The Importance of Looking to Government Motive and Purpose: Why Intent Matters Both in the University of Michigan Affirmative Action Cases, and Iraq War Arguments, May 2, 2003 (with A. Brownstein).

Will The Supreme Court Compound Its Ex Post Facto Error? Part Two of a Two-Part Series on Unconstitutional Retroactive Criminal Legislation, Apr. 18, 2003.

A Pending Supreme Court Case Addresses Ex Post Facto Laws, Apr. 4, 2003.

Can't Win for Losing – the Bizarre World of the Eleventh Amendment, Governing Suits in Federal Court Against States, Mar. 21, 2003.

Is It Appropriate, Under the Constitution, for State and Local Governments to Weigh in on the War on Terror and a Possible War with Iraq?, Mar. 7, 2003.

A Crucial Contract Issue May Go All the Way to the Supreme Court: Are Agreements to Arbitrate Enforceable, or Do Parties Still Retain the Right to Sue?, Feb. 21, 2003.

The Bush Administration and the Supreme Court's Michigan Affirmative Action Cases: Narrow Tailoring and Alternative Methods of Ensuring Diversity, Feb. 7, 2003.

The Bush Administration's Position in the Michigan Affirmative Action Cases: Do Michigan's Policies Satisfy Bakke's Standard?, Jan. 24, 2003.

Some Final Thoughts on the Bakke Affirmative Action Ruling, and Reliance in a Changing Legal World: Part Three of a Three-Part Series on Precedent, Jan. 10, 2003.

Precedent on the High Court: More on Bakke and Bowers: Part Two of a Three-Part Series on Stare Decisis, Dec. 27, 2002 (with A. Amar).

How Should the Supreme Court Weigh Its Own Precedent? This Term, the Court Confronts Stare Decisis, Dec. 13, 2002 (with A. Amar).

Taking an Interest in the Upcoming Supreme Court Case on Lawyers' Trust Accounts: The Just Compensation Clause and Monetary Confiscation, Nov. 29, 2002.

The Ninth Circuit on Free Speech, Federalism, and Medicinal Marijuana, Nov. 13, 2002 (with A. Amar).

More on McConnell: Why the Senate Judiciary Committee Should Support Michael McConnell's Nomination to the U.S. Court of Appeals for the Tenth Circuit, Nov. 1, 2002 (with A. Amar).

Rewriting the NJ Ballot – Some Preliminary Issue Spotting, Oct. 4, 2002 (with A. Amar)

If the Economy's Doing So Badly, Why are Law Firm Salaries Still So High?: Stable Salaries Offer Window into Law Firm Culture, Sept. 20, 2002 (with A. Amar).

Constitutional Accidents Waiting to Happen – Again: How We Can Address Tragedies Such as Political Assassinations and Electoral Terrorism, Sept. 6, 2002 (with A. Amar).

Should the U.S. Supreme Court Justices Be Term-Limited?: A Dialogue, Aug. 23, 2002 (with A. Amar).

Judicial Elections and the First Amendment: The Sensible Middle Path That the Supreme Court Missed, Aug. 9, 2002 (with A. Amar).

Constitutional Vices: Some Gaps in the System of Presidential Succession and Transfer of Executive Power, July 26, 2002 (with A. Amar).

Eighth Amendment Mathematics (Part Two): How the Atkins Justices Divided While Summing, July 12, 2002 (with A. Amar).

Eighth Amendment Mathematics (Part One): How the Atkins Justices Divided When Summing, June 28, 2002 (with A. Amar).

"I Always Feel Like Somebody's Watching Me": A Fourth Amendment Analysis of the FBI's New Surveillance Policy, June 14, 2002 (with A. Amar).

Does the Americans with Disabilities Act Require an Employer to Work with a Disabled Employee to Find an Accommodation? The Lingering Question of the "Interactive Process" Requirement, May 31, 2002 (with Dipanwita Deb Amar).

A Dialogue on Why Mandatory DNA Tests Are Different From Mandatory Drug Test for Fourth Amendment Purposes, May 17, 2002 (with A. Amar).

The Fatal Flaw in France's – and America's – Voting System, and How an "Instant Runoff" System Might Remedy It, May 3, 2002 (with A. Amar).

Does the Supreme Court Hate the Ninth Circuit?: A Dialogue on Why That Appeals Court Fares So Poorly, Apr. 19, 2002 (with A. Amar).

Breaking Constitutional Faith: President Bush and Campaign Finance Reform, Apr. 05, 2002 (with A. Amar).

The Senate Wins an Early Round in the Judicial Appointments Tournament – The Pickering Case, Mar. 22, 2002 (with A. Amar).

Drug Testing, Individualized Suspicion, and the Fourth Amendment: The Supreme Court's Upcoming Choice Between Two Competing Approaches, Mar. 8, 2002 (with A. Amar).

Taking the Fifth and Mis-Taking It: A Dialogue on Compelled Self-Incrimination, Feb. 22, 2002 (with A. Amar)

We Like Mike: An Open Letter to Senator Patrick Leahy in Support of Judicial Nominee Michael McConnell, Feb. 8, 2002 (with A. Amar).

Ground Rules for Senators Facing Judicial Nominees: The Questions Senators Should Ask, and Decline To Ask, When Evaluating Potential Judges and Justices, Jan. 25, 2002 (with A. Amar).

The Ground Rules of the Appointments Game: Understanding the Structure of Nominations and Confirmations, Jan. 11, 2002 (with A. Amar).

How To Achieve Direct National Election of the President Without Amending the Constitution: Part Three of a Three-Part Series on the 2000 Election and the Electoral College, Dec. 28, 2001 (with A. Amar).

A Critique of the Top Ten Modern Arguments for the Electoral College: Part Two of a Three-Part Series on the 2000 Election and the Electoral College, Dec. 14, 2001 (with A. Amar).

History, Slavery, Sexism, the South, and the Electoral College: Part One of a Three-Part Series on the 2000 Election and the Electoral College, Nov. 30, 2001 (with A. Amar).

The New Regulation Allowing Federal Agents to Monitor Attorney-Client Conversations: Why It Threatens Fourth Amendment Values, Nov. 16, 2001 (with A. Amar).

Guns and the Constitution: Telling the Right Second Amendment Story,” Nov. 2, 2001 (with A. Amar).