

# THE YALE LAW JOURNAL

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## Preface

Constitutional interpretation, like the interpretation of any legal text, involves an ongoing conversation among bench, bar, and academy. Lawyers and judges participate by applying the law to particular sets of facts in the course of arguing and deciding cases. Their work provides source material for academics, who can step back from the fray of litigation and place judicial opinions in context, discovering their implications, analyzing their reasoning, and suggesting elaboration or modification. Their work, in turn, helps lawyers and judges make better arguments and craft better decisions in the next case. And so on. From this dialogue emerges law that is better able to deal with the human problems of those whom the Constitution was written to serve.

With *America's Constitution: A Biography* and *Revolution by Judiciary*, Akhil Amar and Jed Rubenfeld have made valuable and much needed contributions to this conversation. Each picks up a different thread of the discussion. Amar returns our attention to the text of the document. He emphasizes the relationship of each individual phrase to other phrases in the Constitution and the consequent need to read the document as a whole, lessons too often forgotten in battles over judge-made doctrines and tests. This careful reading engages historians, political scientists, and constitutional decisionmakers both inside and outside the judiciary. Rubenfeld offers a powerful and insightful theory of constitutional interpretation by the federal courts that will help judges understand constitutional history and apply that history to today's problems of constitutional interpretation.

I am delighted that *The Yale Law Journal* has decided to advance this conversation—a conversation that means better law. And I recommend the careful reading of both books not only to their fellow academics, lawyers, and judges, but also to the American people, to whom (as Amar reminds us) the Constitution belongs.

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