Foreword

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Foreword

MARC SPINDELMAN*

For Jerome Culp, in memory

The Supreme Court’s decision in Lawrence v. Texas1 is nominally the text that precipitates this Symposium and coheres the essays in it, written by a number of our country’s leading experts in the theory and law of the Constitution, equality, and lesbian and gay rights.2 The various representations of Lawrence they offer—of its holding, of its reasoning, and of its, and our, future—span the political and ideological spectrum. But to a number, they treat the Court’s decision in the case with the seriousness and respect it desires and deserves. This is itself a singularly remarkable development in an era in which the sex acts underlying the case still trigger giggles and stir disgust, and in which the identarian terms used to describe persons who engage in those acts remain legally actionable as slur.3 Praise or decry it, Lawrence is no joke. It crystallizes and portends significant shifts in the horizons of the social order.

What follows in these pages is part of the first wave of analysis and criticism of Lawrence that inaugurates the process of shaping what Lawrence does—and

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1 539 U.S. 558 (2003).


will come to—mean: the opinion’s history-in-the-making. In this sense, the essays presented here are of a piece, and should be read together with the remainder of the early published commentary on Lawrence, cited throughout, but most notably including essays collected in special volumes of the Michigan Law Review, the Minnesota Law Review, and the Cardozo Women’s Law Journal, which, like this one is, are significantly dedicated to it.4

Symposia, including published collections like this one, do not just happen. More people than can possibly be thanked for bringing this one into being ought to be. Just so, those who were absolutely vital to it, hence cannot not be mentioned by name, include: Dean Nancy Rogers, who generously supported the idea of a Symposium on Lawrence even before its formal inception; Ohio State Law Journal Editor-in-Chief Erik Clark and Symposium Editor Patrick Brodhead, whose willingness to lead, and to lend a volume of the journal they shepherded, led them to promise it a home; Ohio State Law Journal Editor-in-Chief Chris Geidner and Executive Editor Kelly Curtis, along with the entire Managing Board and staff of this issue of the Ohio State Law Journal, who undertook the hard, and often thankless, work of making the promise real; and, of course, to the contributors to the Symposium—Professors Cass Sunstein, Catharine MacKinnon, Steven Calabresi, Edward Foley, Lino Graglia, Berta Hernandez-Truyol, Andrew Koppelman, Joan Larsen, Louis Michael Seidman, and Francisco Valdes—who, individually and collectively, make this volume the passage-point to Lawrence it very soon will be.5

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5 The live event, held at the Moritz College of Law, on November 7, 2003, was enriched, in addition, by the presentations given by Mary Becker and Martha Fineman.