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PREFACE

This year marks the twentieth anniversary of the United States Supreme Court's recognition of the right of privacy as a fundamental right, protected within the penumbras of the Bill of Rights. As a matter of constitutional adjudication, *Griswold v. Connecticut* has been greatly debated, but its explication of the primacy of privacy rights has been generally recognized and its impact in affording privacy interests both constitutional recognition and protection remains profound. The attempted expansion of *Griswold's* reasoning to issues of marital relations, consensual homosexual conduct, eugenics, and euthenasia has generated much controversy, not only between litigants and scholars, but among policymakers, clerics, and lay persons as well. The Court's decision in *Roe v. Wade*, directly descending from *Griswold*, is the most prominent example of the vehement debate the whole constitutional privacy question can generate.

To be sure, constitutional privacy is a newer, less developed branch of the set of interests and concerns that claim the rubric of "privacy." The contours of the constitutionally protected privacy rights are significant, however, in at least two respects. First, the extent to which the Court is willing to give a privacy interest constitutional protection, not only prevents the regulation of that interest, but also inevitably influences the extent to which other courts, Congress, state legislatures, and other policymakers will be sympathetic to privacy interests. Second, the dynamic, uncertain world of constitutional privacy provides a glimpse into the complex, myriad of legal issues that are generated in other privacy areas. And yet, the constitutional issues represent only a fraction of the litigation and debate surrounding existing privacy law.

The oldest and most fully developed branch of privacy is the area covered by the privacy torts. Informational privacy has been legislated throughout the nation in Freedom of Information Acts and Privacy Acts. Problems of confidentiality and privilege frequently arise in a variety of contexts. The scope of protection afforded criminal defendants under the fourth amendment, since *Katz v. United States*, has largely become a question of expectations of privacy. Each of these areas impact our daily lives and are a continuing source of discussion and change.

The John Marshall Law Review has devoted individual articles to each of these specific privacy law issues in the past several volumes. Most recently, the Review has given a greater proportion

of its space to information law, tort law, criminal and constitutional privacy issues, particularly in the student works and in the publication of the winning briefs from the annual Benton National Moot Court Competition which is held at John Marshall. The law school has developed a National Center for Information, Technology, and Privacy Law. The Center has frequently offered suggested topics for exploration and discussion and, along with The John Marshall Moot Court Program, has sponsored the annual Benton Competition for the past three years. It is in light of this backdrop, that the Editorial Board of the Review decided last summer to regularly devote an entire issue of the Review to privacy law. In so doing, it is hoped that our own incipient and diffuse privacy emphasis would complement the Center's focus on informational privacy toward the common goal of publishing an annual issue devoted to privacy law and its diverse cornucopia of issues. This inaugural issue is the culmination of that decision and is the beginning of what the Review hopes will become a long-standing tradition dedicated to privacy.

As has been mentioned, the area of law labelled "privacy" is diverse; it encompasses fourth amendment, tort, constitutional, and informational issues. It would be impossible for any one issue to adequately cover all of these topics. In an effort to reduce the subject to a manageable format, the lead articles in this edition focus on both constitutional and informational privacy law. The authors of these articles are law professors and practitioners. Their purpose is to offer the reader a general overview of privacy issues generated in each of these two areas. The student articles also concentrate on constitutional and informational issues, with some emphasis on tort privacy. The student works, however, have a narrower focus. They concern specific issues in each of these areas of privacy. Finally, the issue concludes with the winning briefs of the Third Annual Benton National Moot Court Competition. The briefs address privacy rights in cordless telephone conversations, privacy rights in education records, and the good faith exception to the exclusionary rule.

Plans for the second annual privacy symposium are already in the works. The Review is always interested in lead articles concerning privacy issues. Inquiries, correspondence, and articles should be directed to Privacy Editor, The John Marshall Law Review, 315 South Plymouth Court, Chicago, Illinois, 60604. Certainly to be included in the next issue will be the Supreme Court's decisions in two cases in which it has granted *certiorari* to determine the constitutionality of two states' abortion statutes. The contours of the landmark decision of *Roe v. Wade* are most certainly to be affected and the decision may alter the framework of *Griswold* itself, demonstrating the vitality of privacy law and the uncertainties of its limits. It is our expectation that The John Marshall Law Re-

view will clearly record the path of privacy during the next term and for many terms to come. It is also our fondest hope that the legal community will look to our Review to distill and explain privacy developments in all areas, and to suggest creative solutions to problems as they arise. We are, therefore, pleased to present The John Marshall Law Review's inaugural privacy symposium issue.

The Editorial Board
The John Marshall Law Review