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Foreword

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Foreword

DAWN JOHNSEN

In April 2017, four months after President Donald Trump took office, leading constitutional law experts gathered at the Indiana University Maurer School of Law in Bloomington, Indiana to contemplate “The Future of the U.S. Constitution.”

Planning for the symposium began months before the extraordinary, largely unpredicted presidential election of 2016. The stakes of that election for the Constitution’s future were evident not least from the U.S. Supreme Court vacancy caused by the death of Justice Antonin Scalia—and the refusal of the Senate majority even to consider President Obama’s early 2016 nomination of the highly qualified Judge Merrick Garland to fill that vacancy. Extensive election commentary recounted the many Court decisions in which Justice Scalia had provided a necessary vote for the majority and vital issues likely to turn on the next President’s judicial appointments.

This *Indiana Law Journal* symposium issue is the first such issue devoted to the “Future of the U.S. Constitution” in light of President Trump’s election. The symposium’s two-day meeting took place four days after Justice Neil Gorsuch took the oath of office. The first months of the new Trump administration made vividly clear that profound constitutional issues and change could abound. Among the issues discussed: congressional dysfunction, presidential power, judicial review, political polarization and mobilization, economic inequality and plutocracy, a national wealth tax, immigration and refugees, race, religion, reproductive rights and justice, guns, voting, disenfranchisement, presidential conflicts of interest, anti-intellectualism and disdain for facts, discrimination, exclusion, nativism, and justice. It was a busy conference.

The Essays that follow reflect in part the specific circumstances of the election of President Trump and the appointment of Justice Gorsuch. They also make important contributions to enduring, fundamental issues of our constitutional system.

Symposium participants are prominent constitutional law scholars and attorneys. All have been active as well in public life through various governmental, political, and nonprofit service, as revealed by the brief descriptions in the conference’s agenda:

THE FUTURE OF THE U.S. CONSTITUTION

April 14-15, 2017

Sponsored by Indiana University Maurer School of Law,
Indiana Law Journal & American Constitution Society for Law and Policy

*The Nativist Turn: Immigrants, Communities of Color,
and Courts in the Era of Trump*

CHIRAAG BAINS, Visiting Senior Fellow Harvard; Leadership in Government Fellow Open Society Foundations; former Senior Counsel to Assistant Attorney General, U.S. Department of Justice Office of Civil Rights

ANURIMA BHARGAVA, Fellow Harvard Institute of Politics; Leadership in Government Fellow Open Society Foundations; former Chief of Educational Opportunities Section, U.S. Department of Justice Office of Civil Rights; former Director of the Education Practice, NAACP LDEF

SHIRIN SINNAR, Associate Professor, Stanford; former Equal Justice Works Fellow Lawyers' Committee for Civil Rights of San Francisco, Staff Attorney Asian Law Caucus

STEPHEN I. VLADECK, Professor, University of Texas, Austin; Senior Editor *Journal of National Security Law and Policy*, co-editor-in-chief *Just Security* blog

Fault Lines in Our Constitutional Structure

NANCY GERTNER, Senior Lecturer on Law, Harvard; retired federal judge, U.S. District Court for the District of Massachusetts

JAMAL GREENE, Dwight Professor of Law, Columbia

WILLIAM P. MARSHALL, Kenan Professor of Law, University of North Carolina; former Deputy Counsel to President Clinton; former Solicitor General for Ohio

NEIL S. SIEGEL, David W. Ichel Professor of Law, Duke; former Special Counsel to Senator Joseph Biden for confirmation hearings for John Roberts and Samuel Alito

Economic Inequality and Plutocracy and the Utopian Constitution

KATE ANDRIAS, Assistant Professor, Michigan; former Associate Counsel to President Obama

JOSEPH R. FISHKIN, Professor, University of Texas, Austin; currently visiting at Yale; author of *Bottlenecks: A New Theory of Equal Opportunity*, *The Anti-Oligarchy Constitution* (forthcoming with Willy Forbath)

GANESH SITARAMAN, Assistant Professor, Vanderbilt; former Senior Counsel, Speechwriter, Policy Director for Senator Elizabeth Warren; author of *The Crisis of the Middle Class Constitution: Why Economic Inequality Threatens Our Republic*

MARK TUSHNET, William Nelson Cromwell Professor, Harvard; author of *The Constitution of the United States of America: A Contextual Analysis*

*The Hot-Button Constitution: Examining the Issues that Divide Us
in Both Law and Politics*

DAWN JOHNSEN, Walter W. Foskett Professor of Law, Indiana Maurer; former Acting Assistant Attorney General, U.S. Department of Justice Office of Legal Counsel; Legal Director NARAL Pro-Choice America; Staff Counsel Fellow ACLU

PAM KARLAN, Kenneth and Harle Montgomery Professor of Public Interest Law, Stanford; former Deputy Assistant Attorney General, U.S. Department of Justice Office of Civil Rights

REVA SIEGEL, Nicholas deB. Katzenbach Professor of Law, Yale; author of *Before Roe v. Wade: Voices That Shaped the Abortion Debate Before the Supreme Court's Ruling* (with Linda Greenhouse), *The Constitution in 2020* (edited with Jack Balkin)

ADAM WINKLER, Professor, UCLA; author of *Gunfight: The Battle Over the Right to Bear Arms in America*

Symposium participants also have taken part in the important work of the American Constitution Society for Law and Policy (ACS) and its Board of Academic Advisors. All are deeply grateful to the Maurer School of Law, the Indiana Law Journal, and ACS for their generous sponsorship. We give special thanks to Dean Austen Parrish, Maurer Law Events Coordinator Chelsey Browning, ILJ Editor-in-Chiefs Annie Xie and Stephanie (Goldkopf) Scheer, and the many impressive Maurer Law students whose thoughtful and dedicated participation nourishes hope and inspiration for the future of the U.S. Constitution.