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SUPREME COURT—OCTOBER TERM 2012

This Article addresses the U.S. Supreme Court's decisions in *Hollingsworth v. Perry* and *United States v. Windsor*, the two cases in the October 2012 Term that took up issues of marriage rights of same-sex couples. After Part I of the Article provides a brief Introduction, Part II examines the Supreme Court's opinion in *Perry*. It summarizes the litigation; teases out divergent views of the relevance of federalism for the Court's standing ruling in the case; identifies the problematic constitutional underpinnings of the *Perry* dissenters' views of federal court standing, which rely on an unjustified constitutional privileging of initiative lawmaking; and explains why *Perry* is likely to have but limited impact on the Supreme Court's Article III standing doctrine. Part III then summarizes the *Windsor* litigation; defends what should have been the self-evident conclusion—though denied by Justice Scalia in his dissent—that the majority opinion is based on equal protection (even if it perhaps also rests on substantive due process protection of "liberty") and in so doing unpacks its treatment of federalism—

SUPREME COURT COMMENTS

NOTES

Lesbian, gay, bisexual, transgender, and questioning (LGBTQ) individuals often identify their sexual orientation during their formative school years. During this time, they make important decisions about whether they will come out, to whom, and under what circumstances. However, some school officials have taken matters into their own hands, disclosing information about a student's sexual orientation to parents or family members without the student's permission, and without considering the student's well-being and potential consequences at home. This Note explores a student's constitutional right to privacy in their sexual orientation. It begins by examining the unique problems LGBTQ youth encounter while developing and pursuing their sexual orientation, and the potential dangers of being out at school among peers and at home with potentially rejecting parents. It then traces the Supreme Court's development of the constitutional right to privacy. Although the Supreme Court has not addressed privacy as it relates to unwanted disclosures of sexual orientation, recent lower court decisions suggest that minors and students have a privacy right in information about their sexual orientation. As this privacy right emerges, schools need to take the initiative to prevent unwanted disclosures. This Note concludes by addressing some common scenarios in which an unwanted disclosure could take place, and providing suggestions to implement changes in school policies, procedures, and training.