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FOREWORD

READING *BROWN*

I'm not sure that I read *Brown* in law school. It was excerpted, I think, in my constitutional law textbook, and I suppose that Professor Rapaczynski talked about it sometime during the spring semester . . . or maybe it was Professor Schmidt in the fall. I did not, alas, attend class as often as I might have, so it's hard for me to say. I remember, however, that I was disinclined to pay much attention to *Brown* because I already knew what it stood for and what it told us about our history, our country, and ourselves.

That's what I thought.

And now I know that I was wrong.

Perhaps it's only the passage of time, middle age prompting me to see a world whose workings are knotted with a complexity that escaped my younger self. Or maybe it's that the law as I thought I knew it—engine of social change, protector of individual rights, fierce handmaiden of justice and truth—itself looks middle aged: tired, soft, and going gray. Whatever the reason, *Brown* sounds different now. It radiates energy and conviction, and it's suffused with something that reads a lot like hope. Because we don't hear much of hope today, the effect is bracing.

The last fifty years have given us an appreciation of *Brown*'s weaknesses, of course, notable among them the limitations of the research on which it was based and the ambiguity of the Court's eventual directive, which turned out to inspire rather more deliberation than speed. But something

in the text still beckons, suggesting a future that we have yet to see.

As you have by now deduced, I read *Brown* this spring, and I was so surprised by my encounter with the Supreme Court's actual language that I encourage you to forget for the moment what you think you know about *Brown*, turn the page, and read it for yourself.

Reconsidering *Brown*

The Journal's symposium in early April, at which a group of distinguished scholars assessed *Brown*'s impact on the appellate courts, and through the courts, its impact on society, is the focus of this issue. The panelists' thought-provoking papers and their discussion with one another, both of which follow our reprint of the opinion, invite consideration of *Brown*'s lasting effect on the work of the appellate courts, the lawyers who appear before them, and the law itself.

Not the least striking aspect of the symposium, however, was the response from this publication's home community. The lawyers, judges, professors, and students who joined us for the program characterized it as a historic event, and so it was. A program of this sort would have been unthinkable at a law school in Little Rock fifty years ago, and however widespread the frustration and disappointment with what *Brown* accomplished or failed to achieve, the success of our symposium is evidence of a vast change in the life of this city and that of the country as a whole.

Reflecting on *Brown*

We close this issue with another installment of *From the Library*, the periodic section in which we reprint classic articles addressing appellate law. In keeping with our theme, we chose this time the story that Professor Paul Wilson of the University of Kansas told a long-ago audience about his involvement in *Brown*. To read his speech is to be struck by the realization that the years since *Brown* have altered both our perception of what it means to be a lawyer and our convictions about the proper place and the appropriate

powers of the appellate courts. It's worth the read, and I commend it to you.

NBM
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