

THE JOURNAL OF APPELLATE PRACTICE AND PROCESS

FOREWORD

BOOK SMART

That can be an insult. Or maybe it's always an insult, inevitably implying a sneer. I used to wonder about that. But I don't give it much thought today, surrounded as I am by the judges, lawyers, and academics—the readers—who make up our audience. I see book smarts all the time, most notably in recent weeks at a celebration to mark the re-naming of a building on the downtown campus of our public library.

Because both the library system's director and the night's honoree once worked in the governor's office, their former boss came home for the event. Like the director and the honoree, he talked some about governing in the old days. And then he talked about governing today. He decried the focus on difference and division in our current politics and urged his audience to reach across the gap.

He did that by talking about books and learning and libraries. Of course he talked about libraries—a long line of them. The hometown library that fed his boyhood interest in Native Americans. The law library in which, famously, he met his wife. The library in Little Rock, where one of his gubernatorial aides has, all these years later, followed another as system director. And the thousands of libraries that open early or stay open late in small towns and urban neighborhoods all around the country.

He referred to libraries as step-back places in which to escape the wave of updates and alerts and tweets and texts forever threatening to submerge us, demanding our constant attention and forcing us to pick a side. A library, in contrast, takes all comers. It is where we have time to learn what's new and reflect on the wisdom of the ages, where we can struggle

safely with the demanding and the difficult, and where what we read may prompt us to consider our shared humanity.

Every reader knows that reading helps us make ourselves into the best of who we are: thoughtful and measured and careful, daring and courageous, kind and open, and willing to grow as we learn. And reading unites us, the hand of a familiar quotation reaching out to us like that of an old friend. *I know that book*, we say to ourselves when we encounter it, and *There! He knows it too!* I felt one of those little starts the other night when I heard during the library lecture about Franklin Delano Roosevelt calling on Oliver Wendell Holmes, Jr. The recently inaugurated President found the ninety-two-year-old Justice reading philosophy in his library, and this exchange ensued:

“Why do you read Plato, Mr. Justice?”

“To improve my mind, Mr. President.”

It’s a great story. We all laughed. But of course I already knew the punchline. I too had read the book.¹

THE ISSUE

The most intriguing piece in this issue may be the introduction to Project SCOTUS Notes by Professors Black and Johnson, while the most unexpected is probably Mr. Gartner’s report on the inconsistent treatment of some municipal-liability cases in the appellate courts of New York. Professor Barry suggests in addition that we pay closer attention to the architecture of the appellate brief, Mr. Djukić gives us an international perspective on the right to appeal, and Mr. Mansfield offers us a concise guide to improving the reply. I am confident that every reader can find something of interest here.

NBM

Little Rock

April 8, 2019

1. .See CATHERINE DRINKER BOWEN, *YANKEE FROM OLYMPUS: JUSTICE HOLMES AND HIS FAMILY* 414 (1943).