

THE JOURNAL OF APPELLATE PRACTICE AND PROCESS

FOREWORD

JUSTICE FRANKFURTER, BOOKS, AND THE LAW

One of my law-school classmates was a biochemist with a Ph.D., and among my colleagues in practice was an electrical engineer. But most of us head to law school with something more closely approaching the background that Justice Frankfurter once recommended to a twelve-year-old boy who asked him for career advice. “[C]ome to the study of the law as a well-read person,” he wrote, for “[t]hus alone can one acquire the capacity to use the English language on paper and in speech and with the habits of clear thinking which only a truly liberal education can give.” And in a stroke that would have delighted Miss Simmons, who required everyone in my sixth-grade class to memorize *The Village Blacksmith*, Justice Frankfurter even recommended the reading of poetry for its role in “the cultivation of the imaginative faculties.”¹

I agree with Justice Frankfurter: Although scientists and engineers can and do make good lawyers, the sort of youth he described—one that inevitably entails nights spent reading by flashlight and even sunny afternoons spent curled up with a book—seems most likely to yield a lawyer who reads. And the premise that many of those reading lawyers eventually become judges who write with insight and grace is of course the foundation for this issue’s special section.

1. Felix Frankfurter, J., S. Ct. of the U.S., Ltr. to M. Paul Claussen, Jr. (May 1954), in *The Language of the Law* 357, 357 (Louis Blom-Cooper & Edward Jackson eds., Macmillan Co. 1965).

Each of the judges who wrote for *Books and Judges: Books for Judges* addresses in it the book or books that most influenced his or her professional life. And such essays they are! Serious and funny, challenging, introspective, and touching, they describe a range of lessons learned from a number of important books.

After editing the essays in this series, I have added a new read and a re-read to the stack on my bedside table. I trust that at least some of you will find yourselves similarly inspired. I trust as well that the recommended-reading list that precedes the judges' essays will prompt you to explore at least one important legal text that is new to you. Professor Berring of Berkeley has described in that list a series of volumes essential to the library of every appellate judge, many of which will also be of interest to appellate lawyers.

THE REST OF THIS ISSUE

We do not regularly run book reviews, but Mayer Brown's new appellate handbook seemed so obviously destined to become a touchstone in our field that I thought it prudent to ask Judge Higginbotham to appraise it for you. Judge Aldisert's thoughts on the declaration of public policy from the bench are timely, of course, as is Mr. Shapiro's analysis of the Supreme Court's taxpayer-standing decisions. Professor Wisotsky's advice on statutory interpretation, Mr. Huang's update on patent cases in the Supreme Court, and Judge Kravitz's reflections on oral argument round out the issue, and at least one of these pieces seems to me likely to capture the attention of any lawyer or judge who reads *The Journal*. And so, taking a page from Professor Berring's book, I wish all of you happy reading.

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