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A Look Back

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THE JOURNAL OF APPELLATE PRACTICE AND PROCESS

FOREWORD

A LOOK BACK

I have been a member of *The Journal's* editorial board since the summer of 2001, making this, I am surprised to discover, the seventh issue with which I have been involved. The first six of those issues each included a special section—a group of articles addressing a single topic—that yielded its theme. We have focused on the evolving role of the solicitor general; the rise of fast-track procedures in state appellate courts; the difficulties associated with accessing and preserving sources of law in the digital age; the singular experience of arguing for the first time before the United States Supreme Court; the special challenges presented by post-conviction proceedings and appeals in death-penalty cases; and the legacy of *Brown v. Board of Education* in the appellate courts. And before I joined the editorial staff, *The Journal* published a special section surveying the unpublished-opinion controversy, and another that contained a tribute to Judge Richard S. Arnold of the Eighth Circuit. This issue is, then, both something unusual and something of a return to what might have become our standard approach: an eclectic combination of articles, essays, and notes with no unifying theme.

We will in our next several issues revisit the special-section approach, but we hope that this one contains in its mix enough variety to interest, challenge, and amuse every one of our readers. Each of the pieces addresses a topic of some moment, of course, but we are especially happy to have our lead essay, a gently funny reminiscence by Judge Jon O.

Newman, who recalls in it the first argument he ever made on appeal. I suspect that many members of the appellate bar will find it difficult to picture this distinguished member of the Second Circuit as a nervous lawyer approaching an appellate court for the first time. And as for imagining a first-argument bench that included Learned Hand, my guess is that most of us just can't make that leap. But it happened to Judge Newman, and we are fortunate indeed to have him tell us about it.

Mentioning Judge Newman and Judge Arnold in these retrospective paragraphs reminds me of how much we owe our judicial readers, many of whom have become our judicial authors, and of how much we owe Judge Arnold in particular. As all of you know by now, Judge Arnold died in September, and we feel the loss. Because we are lawyers, we knew him both by reputation and through first-hand experience as a judge without peer. Because he lived here among us in Arkansas, we knew him as a gentleman, a kind and gracious exemplar of all that the term implies. And because he was a friend to us, to this law school, and to *The Journal*, we knew him as a source of inspiration, a model whose example urged us to prefer the excellent to the expedient, and to aim always for the best. We fall short, of course, and we do so rather more often than we would like. But nothing that we ever received from Judge Arnold was less than his best, and his writing for two of our early issues gave this publication a reputation for quality that we have worked ever since to deserve.

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NBM
Little Rock
October 28, 2004