

The Judges' Book

Volume 5

Article 2

2021

Introduction

David Faigman

Follow this and additional works at: <https://repository.uchastings.edu/judgesbook>



Part of the [Judges Commons](#)

Recommended Citation

Faigman, David (2021) "Introduction," *The Judges' Book*: Vol. 5 , Article 2.

Available at: <https://repository.uchastings.edu/judgesbook/vol5/iss1/2>

This Introduction is brought to you for free and open access by UC Hastings Scholarship Repository. It has been accepted for inclusion in The Judges' Book by an authorized editor of UC Hastings Scholarship Repository. For more information, please contact wangangela@uchastings.edu.

Introduction

Chancellor & Dean David Faigman

As a group, judges are the last great generalists in the law. Practitioners largely specialize in ever narrower areas of expertise, which certainly improves their prospects for fortune, if not fame. While there continue to be academics who are peripatetic in their pursuits, their key to fame, if not fortune, also lies in specialization. The law was not always like this. The founders of our country, for instance, were all men of the Enlightenment: Jefferson, the writer, inventor, architect, diplomat, and politician; Washington, the military leader, engineer, and farmer; and so on, to a person.

This fifth volume of *The Judges' Book*, like the four before it, is testament to the fact that judges, to do their jobs well, must master widely varying subjects. As illustrated by these pages, the range of subjects extends from the biology of the brain and blockchain technology to the more doctrinal subjects of tax and antitrust.

We live in a time of considerable tumult, when the future of our constitutional democracy is itself under assault. Judges' willingness and ability to master the diverse subjects that come before them are central and necessary cornerstones upholding the protection of our constitutional democracy. The checks and balances embedded in the Constitution, a product of the pens of those Enlightenment Era founders, contemplates the judiciary as the greatest defense against the many ills that might infect government.

James Madison recognized the dangers of ambition and concentrated power. For him, as he wrote in this often-quoted passage, “[i]f men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary.” For Madison and the other founders, the challenge lay in this: “you must first enable the government to control the governed; and the next place, oblige it to control itself.”

Judges are central to this vision and the last bulwark against tyranny. The judiciary's enlightened ways give me confidence in the staying power of our democratic society. Although judges do

not lack ambition, as students of the Enlightenment, they are schooled in the broad subjects of history, science, the humanities, politics, and, of course, law. The breadth and depth of the subjects that come before judges must inevitably impart significant humility. As Albert Einstein put it succinctly, “The more I learn, the more I realize how much I don’t know.” Judges undoubtedly appreciate the fundamental wisdom of this statement every day.

This series is aimed at making the judge’s job just a little bit easier. This collection of edited articles provides a cornucopia of specialized learning intended for the generalist judge. At UC Hastings Law, we take great pride in producing scholarship that is timely, impactful, and, indeed, enlightening. I hope readers find the selections from our faculty in this volume to be all these and more.