

Bathroom Reader

Issue 38, Mid-March 2017

FRIENDLY, NEIGHBORHOOD 9TH CIRCUIT JUDGE

As widely reported, the 9th Circuit refused to overturn an order halting the President's ban on travelers from certain middle-eastern countries. One of the judges on the panel, Judge Richard Clifton, is based here in Hawai'i.

Judge Clifton first came to Hawai'i to clerk for Judge Herbert Choy of the 9th Circuit, and then became a commercial litigator at Cades Schutte and an instructor here at Richardson. George W. Bush appointed Clifton to the bench in 2001, making him the second local resident to serve on the 9th Circuit after Choy. Clifton assumed senior status December 2016, allowing him to choose when to hear cases—and opening the door for another Hawai'i resident to join the court.

Clifton is known to be a tough questioner, and, in the argument for this case, he was no different. He had some sharp questions for attorneys on both sides, especially on how religious prejudice motivated the ban. After he and the rest of the panel grilled the attorneys, they issued their per curiam decision. They later dismissed the appeal on a motion by the government.

The administration has issued a new executive order, so the fate of the old one is unclear. But, whether it's having a local judge rule, or hav-

ing our AG lead efforts to get the new order stayed, it seems like Hawai'i will continue to be involved.

ANCIENT ANTI-THEFT



Tired of people walking off with books that you desperately need for SYS? Curse them! Well, maybe not. But, according to Marc Drogin's book, *Anathema! Medieval Scribes and the History of Book Curses*, scribes would try to do just that.

To do so, they would write dramatic curses into books to prevent thieves from stealing their books or ripping out pages. In the Middle Ages, creating books was a lengthy and meticulous process. So, scribes used the fear of endless pain and suffering to stop thieves from stealing or damaging these treasures.

In his research for another book, Drogin came across a short curse. As his research continued, he started to compile more curses that were tucked away and hidden in the footnotes of history books. Although historians considered the curses as curiosities, Drogin viewed them as "evidence of just how valuable books were to medieval scribes." He also argues that "these curses were the only things that protected the books." Some curses he discovered were as basic as "*anathema-maranatha*," "Accursed—the Lord is coming!" Other threats were more

elaborate and creative, detailing every specific physical anguish.

As for the Bathroom Reader, if you steal it, may you be cold-called forevermore! (But, really, if you'd like a copy, just ask.)

GORSUCH: SOON A "SO-CALLED" JUSTICE?

President Trump's nominee for the Supreme Court is a judge on the 10th Circuit. Stylistically, he is described as articulate and accessible. In terms of character, he is called principled and temperate. Politically, he is labeled a conservative's conservative. Like his predecessor, Justice Scalia, Judge Neil Gorsuch is a proponent of textualism and originalism. On the topic of the U.S. Constitution, Gorsuch wrote: "[T]hat document isn't some inkblot on which litigants may project their hopes and dreams for a new and perfected tort law, but a carefully drafted text judges are charged with applying according to its original public meaning."

The confirmation hearing for Judge Gorsuch is scheduled for March 20. It is expected to be contentious as Senate Republicans last year did not grant a hearing to President Obama's nominee, Judge Merrick Garland of the D.C. Circuit, an action some consider to have been a theft of Garland's seat on the Court. Trump has labeled some jurists "so-called," an appellation that his opponents can perhaps now lob back.