

University of Chicago Law School

Chicago Unbound

Journal Articles

Faculty Scholarship

1972

Wilber G. Katz - the Gentle Exemplar

Harry Kalven Jr.

Follow this and additional works at: https://chicagounbound.uchicago.edu/journal_articles



Part of the [Law Commons](#)

Recommended Citation

Harry Kalven, Jr., "Wilber G. Katz - the Gentle Exemplar," 1972 Wisconsin Law Review 954 (1972).

This Article is brought to you for free and open access by the Faculty Scholarship at Chicago Unbound. It has been accepted for inclusion in Journal Articles by an authorized administrator of Chicago Unbound. For more information, please contact unbound@law.uchicago.edu.

DEDICATION

WILBER G. KATZ

The editors of the *Wisconsin Law Review* are proud to dedicate this issue to Wilber G. Katz, in recognition of his outstanding contributions to the law, to legal education, and to the Wisconsin Law School. Though he is most noted for his work in the field of corporations, Professor Katz is also a nationally recognized scholar on church-state relations and a leading Episcopal layman. In addition, he has devoted a substantial part of his scholarly efforts to work on the Wisconsin Uniform Securities Law, which became effective January 1, 1970. He is widely recognized as its principal draftsman. In 1970, he also served the State of Wisconsin as a special hearing examiner in a number of student discipline cases stemming from the disorders that spring.

Professor Katz joined the Wisconsin Law Faculty in 1961, following a distinguished career at the University of Chicago Law School, where he taught between 1930 and 1961, and served as Dean from 1939 to 1950. Before going to Chicago, Professor Katz was associated with the New York law firm of Millbank, Tweed, Buckner & Ballantine.

Professor Katz received his B.A. from the University of Wisconsin and was awarded an LL.B. and an S.J.D. from Harvard Law School. His fine academic record is reflected in his election to Phi Beta Kappa and to Coif, and his service as a Note Editor for the *Harvard Law Review*.

The high regard in which Professor Katz is held by both faculty and students is amply demonstrated by the dedicatory essays on the following pages.

WILBER G. KATZ—THE GENTLE EXEMPLAR

HARRY KALVEN, JR.*

It is most gracious of the *Review's* editors to let me share in their tribute to Wilber Katz on the eve of his retirement from the teaching of law, a profession he has served with distinction for forty years. Those of us who were raised, nurtured, and taught by Wilber at Chicago, and we are many, can never be persuaded that he does not still wear our uniform, so integral and durable a part of the University of Chicago traditions had he become. We know that he found his decade at Wisconsin happy and rewarding; the dedication of this issue of the *Review* confirms what we knew anyway—that the Katz decade at Wisconsin had to be in turn altogether a happy and rewarding one for its students, faculty, and friends.

Everyone has had, I suppose, the good fortune of encountering one or two persons outside their immediate family, whose lives became so interwoven with theirs at important points, who were so important to them, that writing about them carries the risk of writing about oneself. My personal debt to Wilber is so great that it may impede even the raising of this simple toast.

Wilber Katz was a member of the faculty for over 30 years and was Dean of the University of Chicago Law School from 1939 to 1950. It was a crucial time of transition for the school as it moved from a period of excellent orthodoxy typified by such names—names which had become almost legendary for its alumni—as Mechem, Hall, Freund, Bigelow, and Bogert into a position of leadership among contemporary schools. Wilber had with him a remarkable group of men—remarkable, I think, even when one makes the sharp discounts for nostalgia, Edward Levi, Malcolm Sharp, Charlie Gregory, Sheldon Tefft, Max Rheinstein, William Crosskey, Fritz Kessler, Henry Simons, and a bit later Aaron Director and Roscoe Steffen. It was, under the stimulus of Robert Maynard Hutchins, a period of fresh and radical rethinking of the purpose and style of legal education with experiments in a four year curriculum, with comprehensive yearlong sequences, introduction of training in accounting, in economics, in psychology, implementation of a serious individual tutorial program in legal writing and research for the freshman year, and industry studies for the senior year. It was a time of steady, excited faculty reflection and innovation. It was destined, of course, to be not al-

* Professor of Law, University of Chicago. A.B., 1935; J.D., 1938, University of Chicago.

together successful, but it served to give the school its intellectual trademark—a home, a professional home, of liberal education in law. The history and evaluation of that moment of ferment in legal education has yet to be written, and it is difficult indeed to disentangle credits given the affection and admiration one has for that whole group who generated an environment of excitement, serious purpose, warmth, and grace; but I think it clear that Wilber Katz was the principal architect.

As a person he combines, in a unique and wonderful mix, firmness with extraordinary gentleness, seriousness and high purpose with grace and wit, professionalism with an amateur's spontaneity and curiosity, and anxiety with poise. As a teacher and as a friend, he was serious enough and concerned enough always to pay one the compliment of criticism, a gentle but firm correcter of one's flaws.

One is bemused by the sudden surfacing in one's memory of odd fragments, gentle modest anecdotes—for example, his delighted disclosure at one early point in our friendship that little children often had trouble with his name and ended up with "Wibbler." It was a disclosure that was to mark me for life; even now when I go to use his name I have to think twice. There is the time years ago when he was appointed by the United States Supreme Court to argue a post-conviction appeal under the then notoriously complex, frustrating, and impenetrable Illinois procedures. Wilber was so offended by the stance of the lawyer representing the state who had expended great ingenuity and skill in defending the wretched scheme—an example, I suppose, of a lawyer devoting his selfless best to his client's cause—that he declined to meet with him for a friendly breakfast on the morning before the argument. Then there is an episode which rises to mind every time one faces the ordeal of marking bluebooks, an ordeal especially painful for Wilber. To moderate the sense of burden that a large pile of unmarked exams always gave him, he hit upon the stratagem of dividing them into small piles and hiding them around the house so that at any moment he would look around and deceive himself into thinking he was almost through. The stratagem was a great success psychologically until the day came when he could not remember where he had hidden the last pile. There was his long and determined effort to get interested in baseball. He had been baffled and then intrigued by the fact that two of his apparently rational students and friends, Wally Blum and I, invested such serious attention in the inatter. But after going to several games, reading the sports pages dutifully, and listening to us talk some more, he concluded that baseball was a peculiar cultural taste that one had to begin to develop at an age much younger than his. There was that Law Review dinner my last year at school. Wilber had almost single handedly brought a law review into existence at Chicago, a few years before

and had been unstinting in his help on its behalf. He was preparing a set of remarks from the vantagepoint of the "father" of the law review, playing over in his mind various changes on that theme, when I, borrowing a maxim from my mother, chanced to introduce him as "the Review's best friend and severest critic, our Mother Katz." There were the marvelous marionette shows the Katz's, thanks to Ruth's artistic talents, used to put on at their home with Wilber busily pulling the strings and supplying somehow the voices for a dozen different characters. Perhaps lost to culture forever now is one especially memorable show, a take-off on a University of Chicago Roundtable, which had script written by Edward Levi, then a student, and which featured a puppet named Mortimer J. Adler. Ruth had at one point made a puppet of Wilber, and he was fond of telling that whenever he slipped into pomposity or vanity, he would the next day find his puppet sitting in his big arm chair.

Above all Wilber Katz was a teacher. It was the clear consensus of the student body when I was at school that he was the "hot" teacher, the real locus of classroom excitement; the taste for him was shared equally by the students who approached law study with philosophic yearnings as by those who had already developed a firm taste for the more worldly aspects of careers in law. The passage of time and the accumulation of experience in law teaching have supplied distance now to those youthful judgments. The verdict still stands: He was simply the best teacher I ever experienced. He exuded the quick intellectual brightness and taste for logic that law schools have always prized; he carried rigor and authority in the classroom; but his teaching, even of a large law class, was like a conversation with a friend—it had the endearing quality that he almost never, in his excitement over what he was discussing, completed a sentence! He was effortlessly polite and gentle and shunned any use of the power to bully which had been so much a part of the older case method teaching tradition. He taught always like a man seized with an idea. And he made law proper exciting. I recall now with a touch of awe that his teaching of the statutory scheme regulating preferences under the Bankruptcy Act, or of the doctrinal niceties of powers coupled with an interest, alchemized them into splendid subject matters for intellectual analysis. And finally, in class he was interstitially, but only interstitially, philosophical. The stuff of his classes, to borrow Llewellyn's phrase, was law stuff, but it was interwoven with hints of larger themes.

There was a second characteristic of his teaching that impresses me now as I look back. He had a firm sense of the architecture of a course and of the teaching responsibility for it. The plot of his courses always emerged with clarity from the sequence of individual class sessions. He steadily counteracted the myopia that the case method can engender. You may not have been able each

day to know exactly where the class was on his secret map, but you inevitably emerged from his courses with a firm sense of where you had been. Luminous is the word for his teaching.

He was very good whatever the field, for example, bankruptcy or procedure; he was splendid when he taught from a congenially subtle pattern as with his agency course and Roscoe Steffen's great casebook. But he was at his utter best in his own course in corporations for which he had developed his own set of teaching materials and into which he had built, really as a pioneer, a substantial dose of accounting. I have classmates who went on to distinguished careers at the corporate bar who swear to this day that Wilber's materials were and remained their bible for years after they left law school, so well had he met the teacher's responsibility for detecting the structure of a field of law. One can only regret that in his modesty he never sought to publish his corporations materials although they stick in my mind—and it is now 35 years—as the very model of a casebook.

He was in brief a splendid thing to have happen in one's life, in and out of law school, and I am a little stunned as I reflect on my personal debt to him. As he turns now to new adventures, for he is at once too serious and too zestful to simply retire, I raise my glass in a toast of love and thanks.