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KARL N. LLEWELLYN

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KARL LLEWELLYN came to the Law Faculty of Columbia University in 1925 when I was a Lecturer there and practicing law in New York City. I saw him then only sporadically; but when I joined the faculty full-time in 1927 we started a friendship that never ceased to grow in spite of long periods when we did not communicate.

His room in Kent Hall was No. 511, the one John Bassett Moore had long occupied. Moore and Llewellyn had much in common. In the pre-Llewellyn days when I was a student, I used to lunch with Moore at a restaurant at 110th and Broadway. Like Llewellyn, he was short in stature. Like him, his eyes reflected the excitement of ideas. Though less aggressive than Llewellyn, Moore too had a sharp-edged mind and penetrating flashes of insight into muddled problems.

The door to No. 511—made famous by Moore—became even more famous under Llewellyn. This door was almost always open. There were not many hours in a week when a student was not facing him across a desk stacked so high with books that one could hardly see over the barricade. Students were the spice of his life. His excitement came with the growth of their minds and the flowering of their curiosities. He pushed them to the utmost—teasing, taunting, prodding—flattering, cajoling, scolding.

Karl Llewellyn took pride in legal craftsmanship like no one I ever knew. The end might be legitimate, but the route one traveled to reach it was equally important to him. He was violently opposed to those who shoved precedents aside or ignored them; he was equally upset by those who used a butcher knife when a scalpel was at hand. He also “saw red” when the so-called craftsman in the law was only a manipulator who pumped his own improvised meaning into precedent. This made Karl Llewellyn ashamed, because he abhorred, along with untidiness, the dishonesty in which that well-known school indulged.

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Karl Llewellyn's pride in craftsmanship grew out of the flowering of the common law. I believe Cardozo was his idol. Cardozo's deft fingers and imaginative mind were Llewellyn's ideal. Llewellyn was equally zealous when it came to the interstices of statutes. Here too he loved close, delicate work and had a discriminating eye that saw all the shades of meaning. He was like the skilled tile-makers whom I have seen at work in the Middle East. These master craftsmen match tones of blue or green or often shade them into moody patterns of color. The result is a joy to the eye of the expert. This was Karl Llewellyn in the law; and that is why he was often called the lawyer's lawyer.

In recent years he had explored in detail the decisions of several state supreme courts, watching the manner in which the fabric of a doctrine was woven. He found as much to admire in these modern artisans as he had discovered among those state court judges who sat on the bench in the Age of the Enlightenment prior to the Civil War.

Discovery of one of these works of art created a great excitement in him. Our last conversation was in a Washington, D.C. hotel room where he fairly shouted with joy as he told me the glory he had just seen in a North Carolina series of opinions. Karl Llewellyn was not unconcerned about justice; but he held those who administered it to the finesse of the master. His last book—*The Common Law Tradition*—reveals those ideals.

Our last exchange was in a facetious vein. He had taken me and others on the Court to task for riding roughshod over precedents. He did not cite chapter or verse; he did not tell me the opinions in question; he did not say what precedents had been violated. And so I rejoined that he was guilty of even a graver offense in making his *fiat* the law without even a written opinion.

When he later telephoned to arrange for a continuation of this dialogue, I missed him. And so our last exchange ended.*

Karl Llewellyn made the rule of law his goal; and the priesthood had high standards to maintain. He took out after everyone who by his lights lowered the standards; and when I went to the bench he promised, at my request, to send up rockets whenever I went astray.

This was only one level of Karl Llewellyn's mind. He was passionate about justice and worried greatly over the fate of the nation. I was with him when he took out after the Chief Justices who in turn had taken out after the Court. He did not protest because the Court was being criticized, for his life was the life of dialogue, debate, and controversy. He protested because half-truths, falsehoods, and gloss placed on opinions by critics were being disseminated

* In Professor Llewellyn's final book, *JURISPRUDENCE: REALISM, ITS THEORY AND PRACTICE*, 100 (1962) there appears the following footnote: "I have no such scorn, dismay or criticism with reference to the results of the Supreme Court decisions of the '40's and the '50's, though I do think the judicial method of these later years can be improved. See *THE COMMON LAW TRADITION*, esp. 384 ff. (The text there contains by accident a reflection on Mr. Justice Douglas which has no basis, which I withdraw, and for which I apologize.)" Ed.

as the Gospel. Karl Llewellyn in pursuit of a miscreant had all the qualities of a mouser.

Another time I was at the University of Chicago and at his suggestion met with a group of law students. Karl sat in the back of the room and for much of the time he seemed to be on the edge of laughter. When the hour's session ended I asked him the cause of his amusement.

"I clocked you," he said.

"On what?"

"On the time it would take you to divert the group from the United States Supreme Court to India."

Then as if bursting to reveal a secret, he said gleefully, "Only one minute and fifty seconds."

The world was Karl's oyster. The emerging nations were to him like first-year law students. They needed prodding and criticism; they needed to be held to high standards; but they also needed praise.

It is a tragedy that the new law schools of Asia and Africa could not have had his last ten years.