
Karl Llewellyn was one of the rare ones of whom it is written in Ecclesiasticus that “all their desire is in the work of their craft.” He was unmatched among the legal scholars of our time in the boldness of his curiosity, the inventiveness of his mind, and the catholicity of his intellectual and moral concern. We knew this well enough before the reappearance, in hard covers, of the selected papers he brought together during the last year of his life in Jurisprudence: Realism in Theory and Practice. What the book brings home to this reviewer, who had read virtually all the articles at least once before, is a sharpened awareness of what a prodigious worker Llewellyn was, how effectively he wrote to accomplish his purposes, and how clear and consistent the movement of his jurisprudential thought was from the great Legal Realist manifestos of the Nineteen-Thirties to his 1960 chef-d’oeuvre, The Common Law Tradition: Deciding Appeals.

Llewellyn worked hard, for long hours and with ferocious concentration. Jurisprudence: Realism in Theory and Practice runs to 519 pages, and one guesses that at least two other books of the same length and prevailing quality could be made up of articles missing from this selection. Teufelsdrockh, for example, appears only by way of citation; Jurisprudence, The Crown of Civilization¹ and The Universal Solvent² are not reprinted. The reader of the present selection is not taken on one of Llewellyn’s exhilarating rides on horseback across the law of sales, and we regret the absence of such of Llewellyn’s great contracts articles as What Price Contract? (1931) and The Rule of Law in our Case Law of Contracts (1938). Perhaps, before too long, William Twining or someone else will bring out another selection from the corpus of Llewellyn’s law review writing, so that it, too, can be given place on the Llewellyn shelf with The Bramble Bush, Prajudizienrecht und Rechtsprechung in Amerika, The Cheyenne Way, The Common Law Tradition: Deciding Appeals, and, not the least, his endlessly influential and superbly un-teachable (or so most of us found it then) Cases and Materials on Sales. All this, and the Uniform Commercial Code, too! Llewellyn was sixty-eight before the night came, but he worked all his life as if he expected its early coming.

How did the idea ever get started that Llewellyn’s writing style was prickly and involved and his jurisprudential work difficult reading? All

² Teufelsdrockh, The Universal Solvent of Jurisprudence: or The Riddles Contradicted and the Contradictions Unriddled, 8 Harv. L. Revue 1 (1940).
that one has to do to dispel this impression is to spend a few evenings reading through the twenty-nine papers, about half of them major pieces, included in *Jurisprudence: Realism in Theory and Practice*. Llewellyn's style at its best, as in *A Realist Jurisprudence—The Next Step*, is lively, explicit and expressive and compares most favorably with the best of contemporary legal writing. Even *On the Good, the True, the Beautiful, in Law*, the article once pointed to as typically "Llewellynian" in stylistic difficulty, is not heavy going for an interested reader, certainly not for the present-day third year law student. If Llewellyn's writings are clear and accessible on today's reading, what accounts for the long held myth of his stylistic eccentricity? Conceivably the explanation is that Llewellyn's substantive ideas were new and challenging when he first stated them, and too many readers attributed their impatience with these unfamiliar ideas to an imagined lack of precision in Llewellyn's method of writing. Or could it be that great contemporary authors like Faulkner, Eliot and Joyce have persuaded their readers, even the academic lawyers among them, that a writer attains stature only if he makes intellectual demands on those to whom he addresses himself? Be this as it may, the law school undergraduates to whom this reviewer regularly assigns Llewellyn's jurisprudential writings simply do not encounter the difficulties formerly associated with his style. Perhaps Llewellyn, in his style of writing as in the focus of his jurisprudential interest, was ten or twenty years ahead of his time.

The third and most powerful impression left with the reader of this fine sampler of Llewellyn's "realist" jurisprudence relates to the continuity of Llewellyn's thought. We can see now how fitting it was that the great legal heretic of the years immediately preceding the New Deal became almost the angelic doctor of American case law theory in his later Chicago years. Llewellyn could be a remorselessly destructive critic when he felt he had to be, but even in his most sharply critical pieces of the early Thirties he was never cynical concerning the possibility of human justice, never a debunker for the sake of debunking. When he expressed his distrust of legal rules, as he often and consistently did, it was always because of his conviction that preoccupation with prescriptive rule formulations is bound to make the observer insensitive to what courts and officials are actually doing, and trying their level best to do, in and with the matters that come before them.

Almost from the outset, and certainly by 1940 when he wrote *On Reading and Using the Newer Jurisprudence*, Llewellyn's central drive was towards the apprehension of that "something else," beyond the rules, that is "at work helping the doctrine out." The identification of the

---

institutional factors constituting that "something else" was the object of Llewellyn's best work after 1940 and is, in a sense, the theme of The Common Law Tradition: Deciding Appeals. But Llewellyn's core ideas—the "steadying factors," "situation sense," "period styles of judging," and the rest—are all suggested, or at least foreshadowed in articles written years before 1940. The great "realist" left many clues as to the path he was taking towards his ultimate affirmation of the values of our common law system. This reviewer, at least, missed many of these clues on first reading. Jurisprudence: Realism in Theory and Practice is, among other things, the indispensable introduction and skeleton key to The Common Law Tradition: Deciding Appeals.

Jurisprudence: Realism in Theory and Practice is a profoundly heartening book, a first hand record of the intellectual journey of a man who loved ideas and delighted in the work that fell to him to do. In a more sensibly interdisciplinary world, the book would be at the head of the reading list of every philosopher, political scientist or sociologist whose interests are inclined to law and legal institutions. Thurman Arnold, who practically never misses a point, certainly missed one when he wrote seven years ago in this Law Review that "realism, despite its liberating virtues, is not a sustaining food for a stable civilization." However stable our legal civilization may be at the moment, legal realism, at least of the Llewellyn brand, is an ingredient that cannot be left out of any genuinely nourishing legal diet. The principles and rules, without Llewellyn's "something else," are starvation fare. Llewellyn's jurisprudential insights are, by and large, more stimulating and suggestive than any others we have yet had in the United States. If older lawmen have begun to forget how much we all learned from Llewellyn, it is time to remind them. If younger scholars are imperfectly aware of Llewellyn's contributions to contemporary legal ideology, they have some reading to do. In either case, as refresher or as introduction, Jurisprudence: Realism in Theory and Practice will serve the purpose wonderfully well.

HARRY W. JONES*

* Visiting Professor of Law, University of Chicago; Cardozo Professor of Jurisprudence, Columbia University.