

THE JOURNAL OF APPELLATE PRACTICE AND PROCESS FROM THE LIBRARY

LEARNING FROM PROFESSOR LLEWELLYN

In the sky of twentieth century legal scholars, Karl N. Llewellyn was Halley's comet. He was a founder of the legal realist movement; architect, chief reporter, and principal draftsman of the Uniform Commercial Code; renowned law teacher at Yale, Columbia, and Chicago; and author of more than a hundred articles and many books, including one that remains the definitive treatment of the appellate process.¹ As if that were not enough to make an interesting life, this American citizen was awarded the Iron Cross Second Class for valor as a German infantryman during World War I and wrote a book of pretty good verse.²

Even Llewellyn's casual writing blazes. Inscribed in the copy of *The Common Law Tradition* that he presented to Joe Barrett, a lawyer and fellow laborer in the UCC vineyard, is this:

For our beloved Joe—angler, wrangler, seer, doer, seer-
througher, doer-througher—who plays on men's strength.
With love from house to house—Karl.

1. Karl N. Llewellyn, *The Common Law Tradition: Deciding Appeals* (Little, Brown & Co. 1960).

2. The standard biography is William Twining, *Karl Llewellyn and the Realist Movement* (U. Okla. Press 1973), from which I've drawn this summary of accomplishments. An interesting recent essay, which focuses on Llewellyn's mother and how she shaped his character, is Paul D. Carrington, *A Mother's Day Eulogy for Janet George Llewellyn*, 5 *Green Bag* 2d 265 (2002).

This installment of *From the Library* is Llewellyn on oral argument. A few days before his death, he addressed what must have been a packed hall of Indiana lawyers, and you can see him there up front: pacing a bit, gesturing, full of fire about how to make the most of oral argument. Using examples from John W. Davis and an “extraordinarily skillful lawyer” from the first century, Llewellyn, like all great advocates, makes one main point: Frame the issue at oral argument to capture the field, “so that if your framing is accepted the case comes out your way.” Developing that point in all its fullness, Llewellyn speaks wise words about everything from the statement of facts (it “is the complete guts of your case”) to knowing your Court (begin by “sinking yourself in the tribunal”).

Watch Llewellyn light up the sky. Then, put his advice into practice, for as he says in closing, “what counts is action.”

DPM

Jonesboro, Arkansas

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