

Law Review Dinner 1949

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*Law Review
Review
Monday Dec. 5, 1949*

"The Louisiana Law Review - A Brief Evaluation"

I was requested to talk with you this evening for about five minutes on the subject of the law review, and I suppose that the invitation must have been predicated upon the fact that last year I quoted Fred Rodell for five minutes and Rodell is a very entertaining fellow. I recall him as the Law Review editor with the ten-gallon hat in the pre-Thurman Arnold era when I spent a year at Yale. But I am not going to use Rodell again this evening - the subject "The Louisiana Law Review - A Brief Evaluation" will not mix well with the such unorthodoxy or legal heresy. I recall in a certain Law Review article a reference to Lewis Mumford's theory of a "paper civilization." The author quoted from Mumford's book "The Culture of Cities" (1938) p. 257, as follows:

"In the theatre, in literature, in music, in business, reputations are made - on paper. The scholar with his degrees and publications, the actress with her newspaper clippings, the financier with his shares and voting proxies, measure their power and importance by the amount of paper they can command. No wonder the anarchists once invented the grim phrase: 'Incinerate the documents.' That would ruin the whole world quicker than universal flood and earthquake."

Regardless of whether this analysis would stand as a general proposition, if we

jump quickly to the law school world one must recognize that ^Tthe Law Review as

an institution gives rise to a certain form of aristocracy - aristocracy of in-

tellect which, buttressed by his pages in the review, means that the law review man

is marked as among the elite. ^{Because of his paper work & what is behind it,} He is the beneficiary of the best kind of legal

training that the Law School provides and as a general proposition he is far in

advance of his fellows in the matter of professional opportunity. His pages do

carry power, position and prestige; they have a value ~~which is intangible~~ in all

that law review work implies in training and experience. ~~But~~ these results obtain

only in proportion to the degree with which they are earned by the work and ^{the high quality of} work

alone which will produce the ⁱⁿ ~~shall we~~ attempt a brief evaluation of our own

law review. ^{recall that exactly} Eleven years ago in the first issue, I penned these ^{editorial comments:} words:

"The Faculty of the Law School, in establishing the Louisiana Law Review, is following a policy similar to that adopted by many leading American law schools. It is sought to present a legal periodical that will not only be an organ of expression for the L.S.U. Law School, but which will also render a distinct educational and professional service. From the educational viewpoint it may be observed that since the establishment of the first law school review by Harvard in 1887, more than fifty similar legal periodicals have been introduced, with the result that, with only an occasional discordant note, it has been generally recognized that the law review is an indispensable part of the American system of legal education. The training in research and legal writing under faculty supervision which is made possible for the students through the medium of the law review serves inevitably as a stimulus to a higher standard of scholarship - experience in original and independent work can hardly be provided as effectively through any other means.

"Additionally, from the professional viewpoint, there exists opportunity for the rendition of a great service. In Louisiana, because of our civil law system, we have a particularly fertile field for law review work. The practical value to the profession of doctrinal materials in the civil law has already been ably demonstrated by the pioneering work of the Tulane Law Review, which may properly be credited in a large measure with the current rebirth of interest in the civil law of Louisiana, and while its contributions to the legal literature of Louisiana have been great, the subject matter to be covered is vast and extensive. Moreover, it is perhaps not too much to say that with common law influences pressing on us from every side, the very existence of the juridical method of the civil law in Louisiana is seriously threatened and its survival would appear to depend upon the ability of the law schools and the legal profession to develop and make available the essential doctrinal materials dealing with the modern civil law. With this end in view, it will be the policy of the Louisiana Law Review to place special emphasis on matters pertaining to civil and comparative law. Following the style of most American law school reviews, sections will be devoted to leading articles, comments, case notes, book reviews and such additional special features or sections as may be deemed advisable from time to time.

"As a special accommodation for members of the bar, through the cooperation of the Frank Shepard Company, arrangements have been made for the inclusion in Shepard's Louisiana's Citations of references to statutes and cases discussed in the Louisiana Law Review." (1 La. Law Rev.(1938) 157,158.

I have often asked myself the question - *Have we measured up to these objectives*

In the eleven years that have transpired we have seen the

Review firmly established as an institution in our Law School. It has

strengthened the processes of legal education in our school. Of that, I am

certain; it has made a considerable contribution to the literature of the

Louisiana civil law - that could amply be demonstrated by numerous citations.

It has found acceptance with the profession and has had its influence in its

consideration by the courts - as numerous citations of the Review would testify.

Many successful Papers of Editors

These are accomplishments of considerable value on the credit side of the ledger.

We are proud of what has been done - we are encouraged at our student work.

But as we stand here this evening - I ^{cannot} refrain from stating that it is

my considered opinion that we ^{of the Faculty and you of the Law Rev. this is what} must, in certain respects, recognize ^{became alert in} deficiencies

and move decisively for ^{even greater} the ~~general~~ improvement in the content and services

of the law review - (a) as an instrumentality of legal education; (b) as a journal

of service to the profession; and, (c) as a journal designed to improve the

substantive and adjective law through critical comments and suggestions. *I can*

afford to make these statements because whatever the Law Review may have failed to achieve is, in large measure, my own responsibility, attributed to the period in which I was

Here, I would raise some questions which, it seems to me, we

must constantly keep before us. Do we have the law review established on a

basis so as to obtain the maximum in student development after a student is

named to the review? Have we been successful in inculcating the true law

review tradition under which it is said - "a law review man is expected to do his

classwork with his left hand, while with his right hand and his heart he does his

Review work?" Do we reach as large a percentage of the law school student body as we can with this ^{kind of} work - due regard being given to the personal direction and arduous supervision that first-rate law review work implies? Do we capture the greatest value for the individual student? In this regard it has been pointed out by authorities in this field that:

"The greatest value of law review training in writing and in research derives from subjection of the student's product to the most minute scrutiny by his fellow students, and the defense he is required to make of every point both of substance and of form. Furthermore, he is required to do the job over and over again to improve it. Obviously, this is a training of the most valuable sort, and it is infinitely superior to merely writing an 'essay' which is then 'handed in' and forgotten (or perhaps returned with a few hasty comments.)"

I could go on with such inquiries - but I have long since exhausted my five minutes. I shall conclude merely by observing that these questions and others of similar import must be raised and answered as a regular part of the growth and improvement of our Law Review. The student editors and the Faculty recognize these questions and know the problems they present. Our joint efforts must make for constant improvement of the quality of work in our Review - it must be more than good, it must strive for the best. Its subject-matter coverage, its features of special interest to the profession - its potentialities for further contributions in Louisiana's unique programs of revision and law reform must be pursued. Louisiana stands at the threshold of a great development in revision of the Codes - both the Code of Practice and the Civil Code. This is certain to have a great impact on the development of the Review. It suggests that the work for the next ten years may be even more fruitful than that of the past ten years.

On behalf of the University, allow me to express my appreciation to the Board of Editors whom we honor here this evening. I am confident that you have made significant contributions to the review and to your own development as students - accomplishments which, in the years ahead, you will look back upon with that satisfaction that comes of a difficult job well done. - You have broadened your knowledge of law as a system, you have sharpened your abilities at expression - in

words -

the

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the use of the lawyer's tools of his trade; you have gained a clearer insight into the techniques of research, you have gained, I hope, a better insight into the function of law in society and a clearer conception of the policies behind legal

rules. If your law review work has ~~or will~~ ^{me} do this for you - it is an experience you

~~could not have~~

~~cannot~~ afford to miss in Law School.

I thank + congratulate each of you.

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We are indebted to the faculty editor of the Law Review, Jerry Shestack, for the inspiration of suggesting that Professor Llewellyn might accept an invitation from the law faculty to be our speaker at this dinner. We are, likewise, indebted to Professor Llewellyn for having come such a long distance to insure the success of our annual law review dinner.

I should perhaps begin by noting the obvious fact that there are at least two kinds of worthwhile law teachers - first, there is the competent, conscientious, conservative, conventional, hard-working soul who, day in and day out, does a most respectable job of his law teaching, engages in his share of legal research, sticks religiously to his numerous faculty chores, works with the law review men, does well all of the varied things that a good law teacher is expected to do - bless him. He is the backbone of the American law school and of legal education in its tried and conventional pattern. His number is legion. He signifies stability; he exudes the confidence associated with the law. He is, if I might use political terms - "the Republican" of legal education.

But all law teachers are not necessarily Republicans - there are, in addition, those exceptional scholars who bring an extra something to the profession of law school teaching. They possess the extra intellectual fire; they have the boldness to blaze new trails; they are the kinds of people who look for the bugs under the legal chips. If unsuccessful in the quest, they can, upon occasion, even supply the bugs or deny the legality of the chips. They have an unusual capacity for looking through rules to reality. They start a chain reaction inspiring their students to higher intellectual levels than yesterday they even thought possible. Their number unfortunately is too few. But I know that our guest speaker of tonight, by the common acclaim of his colleagues in the law teaching world, and of those who know intimately of his work, would rightly

occupy a position of unequalled preeminence in this latter group. There is perhaps no single individual in the law teaching profession today from whose originality, whose departures from orthodoxy or from whose unusual brilliance, legal education has benefited more than it has from the thinking and the work of our guest speaker. We are more than fortunate, therefore, that he has taken the time to be with us this evening.

One hardly knows how adequately to introduce Karl Llewellyn to any law school audience. There is so much that can and that ought to be said. However, I will skip bare biographical facts except to say that he was born, at a very early age, in Seattle, Washington. He was educated at Yale and on the Continent. He studied law at Yale and has studied it ever since. He has been a member of the Columbia Law School faculty since 1925 where he now holds the chair of Betts Professor of Jurisprudence. He is one of the nation's foremost authorities in commercial law, particularly, in the intriguing fields of sales and negotiable instruments. For almost a quarter of a century he has been a Commissioner on Uniform State Laws from the State of New York and in this connection his impressive accomplishments in the drafting of legislation and his work on various projects for codification and clarification of the law such, for example, as the draftsmanship of a major part of the new Commercial Code, would, if standing alone, entitle him to the very highest ranking in our profession; but when one contemplates his numerous other professional accomplishments, ordinary mortals can only marvel that one individual could accomplish so much in only one lifetime, or I should say, half a lifetime, for he is still a young man.

"The more they saw the more their wonder grew
 "That one small head could compass all he knew."
 (Deserted Village)

He has been a prolific writer - books, book reviews, articles, poetry - even parodies on American folklore come with equal facility from his busy pen. His writings are always as stimulating as some of their unusual titles. Whether one turns to such books as "The Bramble Bush," "Put In His Thumb," or

"The Cheyenne Way" - or whether one turns to his law review articles to peep "Behind the Law of Divorce"; to consider "On What Is Wrong With So-Called Legal Education"; to "Ride Across Sales on Horseback"; to "Meet Negotiable Instruments"; to see "Lawyers, Ways and Means and the Law Curriculum" as are or as they ought to be; or to philosophize "On the Good, the True and the Beautiful in the Law" - whether in these or a myriad of similar intellectual quests to which his writings will lead us, one will always find in Llewellyn's work the fresh viewpoint, the originality of thought, the penetrating analysis coupled with the pungent and picturesque style and phraseology which emphasizes and causes one to remember the thesis long after the ordinary law review article is consigned to oblivion.

Legal philosopher and legal artist, upon occasion humorist of the law, always craftsman of the law, functionalist or realist, legal engineer with amazing juristic insight, he views and expounds the law as a "going institution." But now I find that I have run out of words and, of course, I have long since run out of time for this introduction. I will leave it, therefore, for you, yourselves, to describe him after you have had the pleasure of listening to one of the most keen legal minds in the land and, paradoxically, one of the most unstuffy law professors that I know - Professor Karl Llewellyn of Columbia University.

Law Review Barquet - Dec. 6, 1950