

Values in a Lawyer's Life

CLINTON BAMBERGER*

Karl Llewellyn, in his essay "Beyond Bread and Butter" from *The Bramble Bush*,¹ describes three modes of living as a lawyer. The first is "coin chasing." These are the lawyers for whom the law is a means to make a living. The economic reward is the measure of success. "Coin is success, coin is prestige, and coin is power,"² wrote Llewellyn. These lawyers have made the simplest, unitary, single-purposed choice. There is some ease in that. They have followed the dominant ethic of our materialistic society. Tailored clothes, bejewelled spouses, sports cars, and second homes fulfill their lives and make them happy—maybe.

If so, who is to question the plan and purpose of their lives? I, for one, and I hope that you and all others who are lawyers will. I question not because the values you might want in your life or I in mine are different, and, by my judgment, better. Whatever argument may be made for the economic value of conspicuous consumers in a money economy and whatever argument may be made for the value of the fulfilled person—even the materialist—in an aggregated society, I believe that we may expect and even exact more from lawmakers. You and I and everyone should expect more of women and men with the right and responsibility to make law, the women and men who are the exclusive gatekeepers to the scheme that defines rights, fixes responsibilities, and keeps the peace.

Llewellyn's second group of lawyers is a different sort. They believe that because they are lawyers they have an obligation to serve the common good. They are not content with wealth, prestige, and rank, without more. Something gnawing within them compels them

* Executive Vice President, Legal Services Corporation. B.S., Loyola College, 1949; J.D., Georgetown University, 1951.

1. K. LLEWELLYN, *Beyond Bread and Butter*, in *THE BRAMBLE BUSH* 119 (1973).

2. *Id.*

to believe that they should serve. They strive to earn not for the coin but to be free so they may be cultured, may mature, and may contribute.

They are, by my experience, less likely to be fulfilled and happy than are our single-minded seekers of the coin. That which gnaws within the second group of lawyers is conflict and friction. They see as good what they do when they are not at their work, and come to see their work as not so good. They are the restless ones. Some metamorphose into lawyers of the first species—the coin chasers. Others move to scholarship, teaching, or public service. Most stay at the grindstone, and only when it is too late they know that they should have made a choice. Of this group Karl Llewellyn wrote that they say in their later years “part of my soul, though it has shrunk and warped, I still have saved, but at the cost of all my working hours.”³

The lawyers in the third mode described by Llewellyn are his whole persons. They make of law “a study of the way and the working and the wonder of this curious higher primate known as man.”⁴ For these lawyers, law is learning about Man and the institutions of Man. These lawyers comprehend that the law is an essential part of that process by which selfish Man strives for and accomplishes ideals. Lawyers of this kind learn how ideals may be realized and use the law and their understanding of their fellow beings to bring these ideals to fruition.

The lawyer in the first family is likely to be bored by the law and stimulated only by the coin. The lawyer in the second family risks being ground to dust between the stones by the failure to make the escape from the Charybdis of doing “good” and doing “work.” The lawyer in the third family may be intellectually bored by the law and emotionally burned by the study of Man. The law in living human drama can be at the same time commonplace and traumatic.

How often have we been taught that the best lawyer is the one who knows the law exceedingly well and applies it without personal involvement? The dispassionate lawyer is the model. The “best” lawyer knows everything about a circumscribed area of the law; she or he has nothing more to learn, does not become “emotionally involved,” stands back, and sees the problem in the clear light of objective legal analysis. Is this an automaton?

No person is whole who does not exercise both intellect and emotion. Anthony Lewis, sagacious observer of lawyers and the law,

3. *Id.* at 121.

wrote in *Lawyers and Civilization* that "The civilized ideal is reason, but . . . nothing deserves the name of reason unless it acknowledges the emotions."⁴ Functioning by intellect without emotion is to be a technician. Action by emotion without intellect may be irrational. The best lawyer is not objective. The best lawyer cares. The best lawyer studies the law and feels the client's concerns.

When we think only that we know what the law is, there is no novelty. We must always think about what the law should be and the questions we should ask and answer to make it better. There need never be boredom in the law. There is forever the novelty of skepticism about what the law was, is, and should be.

We need not be cold and unfeeling to avoid being seared by caring. In all we do, we should gauge our expectations reasonably, and not expect to do more than can be done. We must recognize the necessary limits of our craft and hold out no more. It is not always easy. It is the guard against being drained of spirit by the frustration of the failure of too high expectations.

Isn't there yet a fourth species of lawyer? A species with both the ease of choice of the single-purposed seeker after the coin but with selfless purposes? A species that unites a lawyer's skill with ideals and thus avoids the tension of the second family? A species that knows and uses the law not only to learn about Man and Man's institutions, but to make those institutions better and to improve the lot of Man? Yes, there is such a species of lawyer—some of them are the thousands of lawyers for the poor in legal aid and legal services offices and among public defenders; lawyers in legal clinics and public interest law firms, and thousands of others who serve people in all varieties of private and public practice.

The fourth species has turned from the pursuit of wealth to the pursuit of that which it perceives as good to be done. Studs Terkel, a law school graduate, wrote a book, entitled *Working*, about people and their jobs. A book "[a]bout a search, . . . for daily meaning as well as daily bread, for recognition as well as cash, for astonishment rather than torpor. . . ."⁵ There is only one lawyer in it. He is a lawyer of the second species of Llewellyn's and, by my lights, metamorphosed from a caterpillar into a butterfly. (*The World Book Encyclopedia* says, appropriately, "Caterpillars eat leaves and fruit, and can harm crops. But butterflies themselves do no harm because

4. Lewis, *Lawyers and Civilization*, 120 U. PA. L. REV. 851, 857 (1972).

5. Terkel, *Introduction* to S. TERKEL, *WORKING*, at xi (1972).

they cannot bite or chew.”⁶ Hear what Terkel’s lawyer said:

I was defending the [insurance] company against people who had been hit by cars. . . . The next thing would have been to jump sides in the game, become a PI—a personal injury lawyer for the plaintiffs. Passing out cards to policemen and start getting referrals and making a lot of money and on and on and on and on

The first three months were novel. Getting up there and playing the advocate. The novelty wore off when I found out what I was really doing. Spending eight, ten hours a day defending an insurance company was a waste of time. If I had this education, I might as well do something useful.

. . . Somebody told me about Legal Aid. I went there with the intention of staying only six weeks, make a grubstake, and go to New York. . . . When it came time to go to New York I said, “No, I’m gonna stay.” I finally got into something where I actually felt useful. It’s been two years now. I’m still a lawyer, but it’s different.

. . . .
Every day is different. There’s no boredom ‘cause there’s so much going on. A typical day?

. . . You can work four days straight, sixteen hours a day, and never feel tired. Until your eyes start falling out, and then you know you have to go to bed.

. . . We’d make exhorbitant fees if we were in private practice. . . . You know, lawyers who behave are well paid in our society. . . .

At the insurance company it was all competition. You’ve got to push the other guy down and crawl on top of him and move up that way. If you don’t push him down, you know he’s gonna get over you and pass you up. He’s gonna get that job and you’re not gonna make as much money and you’re not gonna get that title. Oh, the day dragged on! I was always sneaking out, going to a show downtown to pass a few hours. It was so boring. You have a stack of a hundred files on your desk. All you do is make check marks. Go into the court and make the same motion. The same thing, over and over, day after day. And why? To save the company money.

Here you’re aware of the suffering of your client. You know the type of landlord he has. You know what his apartment looks like. You know the pressure he’s under. It makes you all the more committed. . . . They’s so pushed down, so depressed.

You get to know them intimately. We’re very close. I’ve been in their houses. They come to my house. I know them all by their first names. We go out drinking. They’re my friends. The people I worked with at the company, I never saw them after five o’clock. I would never think of sharing my thoughts with those people. The people I work with here are my life.

My work and my life, they’ve become one. No longer am I schizophrenic.⁷

How shall we measure the values in a lawyer’s life? Which values shall we choose? Each of us answers these questions in his own way for all the reasons that make us unique: Who is our God? Who are our parents? Where were we born? Who were our teachers? What did we learn? I can hardly answer these questions for myself—much less for you.

6. *Butterfly*, in 2 THE WORLD BOOK ENCYCLOPEDIA 620, 620 (1978).

7. S. TERKEL, WORKING 537-39 (1972).

Which market place most assuredly tests the quality of values? Is not the answer time? For which accomplishments are lawyers long remembered? Which lawyers' lives do you remember? Those whose lives were spent accumulating wealth are not remembered much beyond the length of probate. We remember some lawyers for the sharpness of their intellect, the clarity of their expression, and the effectiveness of their advocacy.

In this Symposium we call to mind a lawyer remembered for 500 years for his integrity—Thomas More, lawyer and saint. There is another lawyer and saint whose life and values have been remembered for 700 years. It is appropriate that at this Roman Catholic school of law we think about the values taught by the life of the patron saint of Catholic lawyers, St. Ives (or Ivo) of Brittany. Ives was born in 1253 to a noble family. He studied rhetoric, theology, and canon law at the University of Paris. Ives did a lawyer's work only for poor people, widows, and orphans. He was called *advocatus pauperum*—a lawyer for the poor. As more became known of his work, a saying, which is closely associated with his life and its values, gained popular use—*Advocatus sed non latro, res miranda populo*—A lawyer yet not a rascal, a thing that made the people wonder.

Professor John Wigmore wrote that Ives "was declared a saint in heaven because he had lived a saintly life on earth. . . . He had pursued this career as an ordinary man, amidst the very same every day conditions that surround any lawyer and any judge at any time in any country."⁸

George Sharswood, the author of the first code of ethics for American lawyers, wrote in only a paragraph the most important values in a lawyer's life:

Let it be remembered and treasured in the heart of every student, that no man can ever be a truly great lawyer, who is not in every sense of the word, a good man. A lawyer, without the most sterling integrity, may shine for awhile with meteoric splendor; but his light will soon go out in blackness of darkness. It is not in every man's power to rise to eminence by distinguished abilities. It is in every man's power, with few exceptions, to attain respectability, competence, and usefulness. . . . There is no profession, in which moral character is so soon fixed, as in that of the law; there is none in which it is subjected to severer scrutiny by the public. It is well, that it is so. The things we hold dearest on earth,—our fortunes, reputations, domestic peace, the future of those dearest to us, nay, our liberty and life itself, we confide to the integrity of our legal counsellors and advocates. Their character must be not only without a stain, but without suspicion. From the very

8. Wigmore, *St. Ives, Patron Saint of Lawyers*, 18 A.B.A. J. 157, 160 (1932).

commencement of a lawyer's career, then, cultivate, above all things, truth, simplicity, and candor: they are the cardinal virtues of a lawyer.⁹

I cannot add to that. I would not subtract from it. There are some who live so well; not many. Thanks to God for two such lawyers in seven centuries, Ives and More. If you think that these values are unattainable for you or for any you know, they are not by this fact less worthy of thought and effort. Pragmatic ideals are seldom worth the talk, much less the thought and effort. Be content to try for the ideals hallowed by the lives of saints. Let the effort be the measure of your life.

9. Sharswood, *Essays on Professional Ethics*, in *SELECTED READINGS ON THE LEGAL PROFESSION* 482, 483 (1962).