

A. LEO LEVIN: FIFTY YEARS OF GREATNESS

WILLIAM S. SESSIONS[†]

I had never heard of Professor Leo Levin before Chief Justice of the United States Warren E. Burger announced in 1977 that the Professor had been selected as the first ever “non-judge” Director of the Federal Judicial Center (“FJC”) in Washington, D.C. That was twenty-three years ago, during the twenty-seventh year of Professor Levin’s service as an extraordinary Professor of Law at the University of Pennsylvania. I was astounded! I was only a neophyte United States District Court Judge, just beginning my fourth year of service on the bench in the Fifth Circuit. I sat in El Paso, Texas, the westernmost point of the Western District of Texas, and at the time, the Fifth Circuit covered the territory from the Florida Keys, across six states to the western tip of Texas just 275 miles east of Tucson, Arizona.

Three short years later, I again was astounded upon being selected for service on the Board of the FJC, and thus to serve alongside this marvelous man. Congress created the FJC in 1967 to further the development of improved judicial administration in the courts of the United States. A broad range of ideas flowed from the Board, which is chaired by the Chief Justice, and includes two circuit judges, three district judges, one bankruptcy judge, one magistrate judge, and the Director of the Administrative Office of the United States Courts. Professor Levin’s insights into the function and meaning of the Rule of Law in the United States were shared with the federal judiciary for a short ten-year period until his departure from Washington in 1987 to resume teaching law at the University of Pennsylvania.

From the beginning, Professor Levin reminded me of the former Chief Justice of the New Jersey Supreme Court, Arthur T. Vanderbilt, the illustrious court reformer who led the courts of New Jersey from the dark morass of incompetence, corruption, and inefficiency into a golden age of superior performance as a model judicial system in the

[†] Partner, Sessions & Sessions. B.A. 1956, J.D. 1958, Baylor University; Director, Federal Bureau of Investigation (1987-1993); Chief Judge, United States District Court for the Western District of Texas (1980-1987); Judge, United States District Court for the Western District of Texas (1974-1980); United States Attorney, Western District of Texas (1971-1974).

mid-twentieth century. I came to conclude that Justice Vanderbilt must have achieved his successes in much the same fashion that Professor Levin applied the intellectual and practical support for federal judges at all levels—one deliberate step at a time.

The clue as to how he would carry out his charge to see to the care and intellectual feeding of federal judges through the FJC's teaching and support functions seems to lie in his basic teaching instincts. Professor Levin had effectively honed these insights nearly a quarter of a century earlier when he began to hold seminar courses taking law students beyond the academic "learning of the law" and into the intriguing and challenging rudiments of how the law was "practiced" in the courts.

As a 1958 graduate of Baylor University School of Law, and thus a survivor of Baylor's rigorous Practice Court course, I was solidly supportive of the effort to train law students in the art of litigation and trial. This "clinical" approach to the law, by teaching the practical "how to" facets of the trial practice, was not widely accepted by the great law schools of this country in the mid-1950s. It appeared that the University of Pennsylvania was willing to risk sailing into uncharted waters and to provide its fledgling lawyers with a basic knowledge of "how to" practice law in the community and, more directly, in the preparation and trial of litigation in the courts.

Embarking on the adventure of teaching federal judges thus seemed to come quite naturally to Professor Levin, and he immersed himself in the process. From his fertile mind came the idea of offering to newly-appointed judges a vigorous and more readily-available continuing judicial education process, which included teaching and training sitting judges—both trial and appellate—at expanded regional workshops, with reduced overall cost and enhanced availability to judges nationwide. These regional judicial workshops, coupled with the excellent, focused educational presentations at the circuit judicial conferences held across the country, gave all judges the opportunity to continue their education. These seminars edified not only in matters directly involved in our roles as judges, but also in the rapidly-emerging explosion of knowledge in areas of professionalism, science, economics, business, medicine, and technology of all sorts. In short, Professor Levin's FJC provided the federal judiciary with a window on the changing world outside the federal courthouse.

Guided by Professor Levin and the sitting judges who coordinated the effort, the FJC staff enlarged and enhanced the Bench Books, which contain a large array of information and procedures that must

be readily available to judges. In much the same fashion, the FJC developed pattern jury instructions, tailored to the nuances of the federal circuits, further helping to ensure the timely and accurate application of the federal judicial system's changing law and procedure in response to the everyday needs of the trial courts.

I was privileged to work with the Professor at a number of workshops across the country that dealt with the difficult application of the law governing contempt of court—both civil and criminal. At those sessions, we discussed procedures to ensure the appropriate handling of proceedings that invariably were tense, contentious, and procedurally hazardous—many times reversed during the appellate process. Listening to the presentation of the Professor at these workshops continually reinforced my view of the importance of his calm, knowledgeable presentation to the judges, helping to instill and ensure the confident and patient judicial handling of these difficult, often highly-public hearings.

Furthermore, the federal judiciary directly benefited from Professor Levin's earlier work while serving as the Founding Director of the National Institute for Trial Advocacy, as the Executive Director of the Commission on Revision of the Federal Court Appellate System, as the Conference Coordinator of the National Conference on Causes of Popular Dissatisfaction with the Administration of Justice (The Pound Conference), and as a consultant to the Pound Conference Follow-up Task Force. Each of these massive undertakings proved the mettle and quiet determination that gave this exceptional man the ability to meet the needs of the federal judiciary in a tumultuous time of transition, growth, and fiscal constraints.

Mixed in with his other impressive and demanding involvements was his leadership, from the beginning, in heralding—to the courts and to the country—the importance of alternative dispute resolution (“ADR”) capabilities. Court-annexed arbitration has provided a way to assist all courts in managing the burden of overloaded dockets while maintaining the courts' oversight and responsibility for the conduct of the programs. The growth in confidence of the Bar and the public has resulted in the general acceptance of ADR programs in state and federal courts nationwide.

Other areas of interest and effective work of the Professor are broad and deep. The cost of litigation was a particular problem that nagged at him because he recognized its impact on the availability of justice at all levels. He dedicated his attention to achieving balance in the extremely troubling area of the law and procedure of sanctions in

the federal courts.

Over the years, one of the unexpected benefits to each of us who was privileged to associate and work with the Professor was the opportunity to benefit from the grace and openness of his wonderful wife, Doris, in the social setting of their home and at other social functions. She too understood the importance of his work and was always supportive of him through it.

In an impressive array of venues, the significance of his contributions to the administration of justice during his fifty years since becoming a professor at the University of Pennsylvania Law School will continue to inspire for years to come all of us who have known him and have benefited from his contributions. The Professor has been a friend and mentor to each of us.