

THE GREAT LAW BOOKS

AN INTRODUCTION TO CHAPTER ONE

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Chapter One is a series devoted to resuscitating interest in the best legal thinking from the past century. The great legal thinkers of the 20th Century are beginning to slip away from us, reduced to residing in the quotations above doorways. The law school graduate of today will recognize some of the names because of bits and pieces of their judicial opinions entombed in casebooks or because entire law schools have been named to honor them, but who reads the thought-provoking works that made them famous? While some of the books that were influential in their own time do not wear well, others remain vital and engaging. Some, like *The Nature of the Judicial Process*, remain both eminently readable and, almost a century after publication, on the cutting edge of controversy. When I assigned this book in a seminar at Berkeley Law School the students found it engaging and risky. As one student put it, “Cardozo would not make it through one day of Senate Judiciary Committee Hearings today.” The collision of the modern metaphor of the judge as umpire simply enforcing the rules and Cardozo’s portrait of the judge as a human engine of justice brings out the most contemporary of issues in sharp relief.

Our hope is that by presenting you with the first chapter of a great book, we can stimulate you to read the whole thing. It is an intentional tease. To sweeten the pot we include along with the first chapter, a *Foreword* by Professor Andrew Kaufman, author of *Cardozo*, Harvard University Press (2002) – the authoritative biography of the Justice, written especially for a new printing of the

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book in July 2010. This printing – part of the Legal Legends Series edited by Professor Alan Childress for Quid Pro Quo Press – makes quality paperback reprints of legal classics available. Though we conceived the *Chapter One* project without knowing of Professor Childress’s project, we hear the same Siren’s call. You can buy the book or read it digitally, but we hope that you will be inspired to read past the first chapter.

For further context on *The Nature of the Judicial Process*, and for fun, we include a handful of contemporary reviews. These are drawn from a time when law reviews were serious about the enterprise of book reviews, and when intellectual giants were willing to write short, pithy book reviews. For your delectation we offer Judge Learned Hand’s assessment from the *Harvard Law Review*, Professor Max Radin’s observations for the *California Law Review*, and those of then-Professor (later Supreme Court Associate Justice and then Chief Justice) Harlan Fiske Stone in the *Columbia Law Review*. Professor Kaufman’s *Foreword* traces the book through its history. Citations to it continue to appear. As Professor Kim Wardlaw notes in *Umpires, Empathy and Activism: Lessons from Judge Cardozo*, the book has been cited over 2,000 times by law reviews.¹ It is worth a read. ❶

¹ 85 Notre Dame Law Review 1629 (2010).