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WILLIAM DRAPER LEWIS

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William Draper Lewis was born in Philadelphia on April 27, 1867. He was graduated from Haverford College in 1888 and from the University of Pennsylvania Law School three years later. Soon thereafter he was admitted to the Bar. While in college he was greatly interested in political economy and for several years after his admission to the Bar he lectured at Haverford on the subject. His interest in it, especially in its sociological implications, has been continuously maintained, and has inspired much of his work. Nevertheless he began the practice of law at once, and might have made his career that of a practicing lawyer if he had not been requested at the early age of twenty-nine to become Dean of the Law School of the University of Pennsylvania. He accepted the appointment and proceeded to reorganize the school. In this he showed at once both his marked executive capacity and his idealistic tendency to strive for the best. The School when he became its head was typical of most American law schools of the time. The instruction was given by men whose major interest was in practicing law. Such men, however distinguished as practitioners, can have little time for preparing systematic, reasoned theories of their subjects, and usually little interest in discussing legal principles with their students. Matter of fact statements of law as they have seen it in application usually suffice for them. Under such instruction students derive little encouragement to think independently and to acquire a grasp of legal principles. The library was inadequate and the school had no proper building of its own. Rectifying these defects was not a task that could be immediately completed, but it was energetically prosecuted with the result that before many years had elapsed,

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the school possessed its present fine building, the library became one of the best of those owned by American law schools, and the teaching force was composed in the main of men who not only gave their full time to the study and teaching of law, but who had either already acquired distinction in their respective fields, or who had proved their capacity to do so in the future.

Lewis, himself, engaged actively in teaching. His favorite subjects were Equity and Associations. Others must speak of his success in imparting legal formulæ to his students and in developing their power of legal reasoning. I know by hearsay that he adopted what I regard as a fundamental requisite of successful teaching, namely the presentation of concrete applications of the principles expounded. In so doing he laid under contribution, not only the human race, but the animal kingdom. Neb the pet seal, Clarissa the elephant, the pearly pig, were all used to illustrate legal doctrines. The dodo, also, was not neglected. These things, trifling in themselves, indicate a sense of humor and an instinct for methods of statement that, whether or not intrinsically absurd, catch the attention and imagination of students. Doubtless other qualifications for his task were added, since I know by observation the abiding affection that his former pupils entertain for him.

He directed the School as Dean until 1914, and continued as a professor for ten years beyond that date. In the meantime, however, he engaged in other activities. He edited Greenleaf's *Evidence*, Wharton's *Criminal Law*, and Blackstone's *Commentaries*. In conjunction with George Wharton Pepper he directed and supervised the preparation of a digest of Pennsylvania statutes in three volumes and of Pennsylvania decisions and laws in twenty-three volumes. Later he secured the writers and edited the biographies collected in eight volumes under the title of *Great American Lawyers*. Much of the spade work for these enterprises, of course, was performed by other hands, but in organizing and directing them, he was at once manifesting his natural executive capacity and also training himself for the larger work of organization and direction that lay before him in the future.

His interest in social and economic theory led him to active partisanship in the last campaign of Theodore Roosevelt and in the formation of the Progressive wing of the Republican party. After giving his earnest support to his leader in this campaign, he continued to advocate publicly by tongue and pen the principles that had animated Colonel Roosevelt. This naturally brought to Lewis in 1914 the nomination by the Progressive party for Governor of Pennsylvania. He was not elected, but while that party remained active he was one of its leaders. His political experience undoubtedly increased his great natural aptitude for dealing with all types of men and influencing them to accept his views; and however unpopular in many quarters his political principles may have been, his earnest advocacy

of them brought a wider recognition of his ability throughout the state and beyond its borders.

I first became well acquainted with him in those days. The theories then advanced by his party and advocated by him were much discussed at the meeting of the American Bar Association during the summer when Roosevelt's campaign was in progress, and with pretty general disapproval of the assembled lawyers. My recollection of Lewis at that meeting is of a smiling gentleman, sitting in the centre of about twenty hostile critics, pleasantly discussing political and economic theories, answering denunciations of them with comments, earnest but always politely worded, never indicating the least heat or ill temper, however violent were the criticisms of those around him. I concluded then that William Draper Lewis was perhaps the best natured man that I had ever met. I have never found occasion to change my mind in seeing him during later years in various other activities.

Another connection I had with Lewis during the same period was in my capacity as a Commissioner on Uniform State Laws. These Commissioners needed a draftsman for an Act intended to make uniform the law of Partnership. Lewis's work as a teacher had interested him in the law governing associations of men and he was appointed for the task. I was a member of the Committee on Commercial Law of the Commissioners which had the matter directly in charge, and as such had much talk and correspondence with him. The result of his efforts, which extended over several years, was the adoption of his draft by the Conference of Commissioners and a recommendation for its enactment by the several states. This was followed by a draft of a Limited Partnership Act which also was adopted by the Conference and recommended for enactment two years later. Both Acts have been enacted in Pennsylvania and in many other states. It is hoped that they will be adopted by many others, for such things take time for their full accomplishment. These statutes will always stand as a monument to their draftsman, only obscured by the larger structure with which his name will always be connected.

This later undertaking led to the termination of Lewis's career as a teacher, for the new task demanded his whole time. As is true of all his work, the development of the American Law Institute gains his devotion because of its idealistic and progressive tendency. Improvement in the law is a social advance. The idea for some such work as that which the Institute has undertaken germinated in the Association of American Law Schools. A Committee, of which Lewis and Professor Joseph H. Beale were the most prominent members, met some distinguished lawyers in New York City, and receiving encouragement from them, proceeded in conjunction with one or two others to elaborate the general outlines of a project for a restatement of the common law.

The chance for success of this project depended at the very outset upon influencing practical, hard-headed lawyers and judges to believe that the attempt was worth while, and then influencing them to obtain the necessary funds and to give some of their own time to the direction of the enterprise. Lewis's success in influencing men like Elihu Root, George W. Wickersham, Judge Cardozo, and others of distinction to share his faith and hope, has been nothing less than marvelous; and this faith and hope have led to the charity of the Carnegie Corporation in furnishing funds, without which little could have been done.

The American Law Institute was organized in 1923 with Mr. Root as its President. Its governing body is a Council, on which men of the highest distinction in the American Bench and Bar, have accepted positions, and have given freely of their time and advice. Lewis was the unquestioned choice for Director. The Director is the immediate executive officer of the Institute in administering all its activities. He either appoints personally or recommends to the Council all those who carry on the active work of restating the law and of keeping the profession informed of what the Institute is doing. He has given unstintedly his time and thought to the enterprise.

Restatements of Contracts, Agency, and part of Torts thus far have been published, and that of Conflict of Laws is ready for publication. Work is far advanced in other subjects, each subject being committed to a Reporter who has advisers, expert in the subject, to criticise his work in periodical conferences.

The course of proceedings in preparing the *Restatement of Contracts* will serve as an illustration of the general method of work. The Reporter is primarily responsible to the Council for the preparation and presentation to his advisers of preliminary drafts of the different chapters, and, subject to amendments adopted by the Council, for the presentation to the annual meetings of the Institute of the tentative drafts and proposed final drafts. Often criticisms in the conferences with advisers make necessary many preliminary drafts of the same chapter. Thus, in the nine years during which the work on Contracts went forward, there were thirty-four conferences of the Reporter and his advisers, each of from three to seven days' duration. Fifty-one preliminary drafts were considered, no final preliminary drafts being presented to the Council until the committee was satisfied that it was as nearly perfect as they could make it. The Council considered seventeen final preliminary drafts, and submitted ten tentative drafts of various parts of the work for consideration and discussion to eight annual meetings of the Institute. These tentative drafts as well as the preliminary official draft of the first 177 sections were also considered at conferences of the representatives of State Bar Association cooperating committees.

The Director has presided at the preliminary Conferences in the four or five subjects which are being restated contemporaneously. He is present also and an active participant in the meetings when the Council considers the drafts, as well as at the annual meetings of the Institute and at the Conferences of Committees of the Bar Associations. The preliminary conferences have been held during autumn, winter and spring, wherever it has been most convenient to the Reporters and their Advisers. The Director has largely given up his home life in Philadelphia in order to be present at conferences held anywhere from Cambridge to Chicago, or North Carolina, according as the convenience of those directly concerned in the Drafts might dictate. Summer vacations are largely sacrificed for the sake of conferences held on the Director's beautiful estate at Northeast Harbor, where he has erected two small portable houses for the purpose. There he allows the privacy of his family life in summer to be invaded, week after week, by changing groups of Reporters and their advisers.

In presiding at these innumerable conferences, the Director has given invaluable aid. He insists on understanding what is written, both in respect to its language and its content. I think he has often been as useful in subjects which he had little previous occasion to study as in those with which he was familiar. His insistence on a complete understanding before allowing a Section of the Restatement to stand, has been helpful in many cases.

This might seem sufficient work for one man, but much more has remained for the tireless Director. It is not enough to produce Restatements; the profession must be convinced of their value. Securing the cooperation of local bar associations and making addresses on the work of the Institute, obtaining men who will prepare state annotations in the various states on the Restatement of each subject are other features of the work. Moreover, the Council must be kept advised of what is being done and what is planned, a budget must be prepared and a voluminous correspondence carried on.

I have been too closely concerned myself in the labors of the Institute to say anything of their ultimate worth, but the effort that the Director and others have put into the work justifies the expression of a hope that it will prove of value sufficient to warrant the expenditure of money and the labor of many men that have gone into it, and must still go into it.

It is well known that the busy man is the one that can find time to do a bit more. Fully occupied as he is with the work of the Institute, Lewis is never too busy to lend his aid, and sometimes to lead, in helpful community enterprises. He is a devout member of the Episcopal Church, constant in his attendance and in assistance of its undertakings. He has been interested in the creation of public parks both near his home in Germantown and at Northeast Harbor, as well in other activities of social value.

He is not fond of Latin and does not like even familiar Latin phrases incorporated in the Restatement of the Law Institute. More than once he has made me translate them before allowing their admission, but he cannot thwart me now when I add in closing that, if his modesty did not forbid, he might fairly say in the words of Terence,

"Humani nihil a me alienum puto."