

WILLIAM DRAPER LEWIS

By GEORGE WEARTON PEPPER †

To the editors of Who's Who he was William Draper Lewis, Ph. D. In the world of legal education he was Dean Lewis. To the membership of the American Law Institute he was Mr. Director. To successive generations of law students he was Uncle Billy.

His academic honors were richly deserved. He worked hard for his degree in course. The honorary degrees from the University of Pennsylvania and Haverford College were recognitions of ripe scholarship and professional achievement. He was essentially a student. He was never happier than when in the library he was seeking to trace some legal principle to its source. At such times he was literally buried in thought. A nearby boiler explosion would not have disturbed him.

While still an undergraduate at Haverford he manifested the capacity for organization which was one of his distinguishing characteristics. A classmate recalls the fact that in those days at the close of freshman year it was customary to cremate Wentworth's *Algebra* with appropriate ceremony. "Our class," writes his classmate, "staged the most elaborate one ever—so much so that the authorities abolished the custom! The affair called for marches and counter-marches, etc.—and right there Will took charge, drafting an elaborate plan and getting us all down several evenings in a meadow and thoroughly drilling us until it was all according to plan. It was just his sheer force of will, first in making a plan and then in making us conform to it. And that, as I see it, was what he was doing practically all his life—and with very signal success. In many senses he started from scratch and in every best sense he was a self-made man. He didn't wait for things to come to him: he went after them."

While working as a graduate student at the University of Pennsylvania he came under the influence of Simon Patten. Lewis was fascinated by the originality of Patten's thinking and by his thought-provoking method of instruction. The immediate result of the influence was a learned and thoughtful monograph entitled *Our Sheep and the Tariff* which served as the thesis required for his doctorate; but it is not an overstatement to assert that throughout Lewis's whole life the Patten influence continued to be felt and that it determined his method of dealing with problems as well in the field of law as in political economy and sociology.

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In the Law School he worked hard and won a recognized place among the ablest of his classmates. He won the Sharswood Prize for the best graduation thesis. Its subject was *Federal Power over Commerce and its Effect on State Action*, and the essay was an unusually thoughtful and mature production.

When Lewis had been admitted to the Bar he continued to be ceaselessly active in a number of fields of endeavor. In addition to such professional business as came his way he accepted an assignment from one of the judges sitting in the criminal court and won his spurs in the defence of a man indicted for murder. He was appointed lecturer on economics at Haverford College and, in association with a colleague, undertook the preparation, in succession, of a *Digest of Pennsylvania Statutes* and a *Digest of Pennsylvania Decisions*. The former was prepared in haste and added nothing to the reputation of the editors. The second was a vast undertaking which resulted in the publication of twenty-three big volumes prepared in accordance with an original plan. This proved to be of great use to the profession and was in its day regarded as a standard work. He became one of the editors of the *American Law Register and Review*, a journal which at a later time was taken over by the University of Pennsylvania Law School and was thereafter edited and published as the *University of Pennsylvania Law Review*.

Meanwhile Lewis was devoting much thought and study to problems of legal education. In this connection he submitted a number of important suggestions for the development of the Law School of the University. When still in his late twenties he was elected to a professorship in the School and became its Dean. He served as Dean for some eighteen years and held his professorship until chosen in 1923 to be Director of the American Law Institute.

His administration of the office of Dean was a notable one. He ably seconded the efforts of those of his colleagues who wished to substitute for the traditional lecture a Socratic method of instruction in which the analysis and discussion of decided cases had an important place. The plans for the erection of a law school building were matured and carried into effect. The faculty was strengthened and the school took its place in the front rank of American law schools.

Lewis's capacity for abstract thought greatly surpassed his ability to express himself with clarity. Always thoroughly well-prepared, he made his students realize that it was well worth their while to discover what he was trying to say. His absorption in matters of substance made him relatively indifferent to the form of his utterances. This indifference to form often led him to mix metaphors and mispro-

nounce words in a way that caused students no end of amusement. It was a tribute to his learning and ability that these rhetorical eccentricities never impaired his influence with his classes. Indeed the students were thus drawn closer to him and their mingled respect and amusement led them to refer to him affectionately as "Uncle Billy."

His grounding in the other social sciences made him most effective as a teacher of law. He was quick to perceive the social implications of judicial decisions. His continual emphasis on this aspect of the law protected him against narrowness and artificiality. English-speaking lawyers are apt to absorb either the rigidity of Coke or the elasticity of Eldon. It is a rare man that can combine just regard for the known certainty of the law with a recognition of the importance of adapting it in particular situations to meet the ends of justice. Lewis's training in economics and sociology helped him to some extent to do this. He was, however, more of an Eldon than a Coke and he even went further than Eldon would have dared to go. The extent to which he welcomed departures from settled principles often proved disconcerting to other members of the bar and even to his colleagues. His readiness to accept the "recall of judicial decisions"—a doctrine which he actually helped Theodore Roosevelt to formulate—is a case in point. Another is his advocacy of Franklin Roosevelt's proposal to "pack" the Supreme Court. While many people deplored the stand which Lewis took in such cases as these, no thoughtful person doubted his sincerity or seriously questioned his ability to make a strong case in support of his positions.

If any one man can be credited with the creation of the American Law Institute, Lewis is unquestionably that man. It was he who commended to Elihu Root a practicable plan for dealing with the indigestible mass of reported cases. After Mr. Root's endorsement had secured for the project necessary financial support, it was Lewis who, as the first Director of the American Law Institute, formulated and put into operation the plans which converted a dream into a reality. For more than a score of years, and with inexhaustible patience and energy, he exercised the talent for organization which had been a characteristic even in college days. He familiarized himself with every phase of the Institute's work and no detail was small enough to escape his attention. He sought out competent reporters and advisers, presided at conferences, conducted a voluminous correspondence and communicated to all his colleagues the unflagging enthusiasm which animated him throughout his life.

Meanwhile his own knowledge of the law, which had been wide and deep at the outset became still broader and deeper as he identified

himself with the development of each new part of the restatement. By the time that failing health compelled resignation, his knowledge of the whole field of the common law and of equity jurisprudence had become at least as great as that of any lawyer of this or any other era.

One of the many unconscious tributes paid to this remarkable man was the cooperation freely accorded him by his colleagues at every stage of his work. As he aroused the interest of one distinguished colleague after another he likewise stimulated their personal regard for him and their loyalty to the Institute. The relation between American judges, practitioners and teachers of law is closer and much more salutary than it was when he began his work. There was a quality in this man which stimulated friendship and aroused affection. I cannot at the moment think of any institution other than the Institute which was to so large an extent the expression of the personality of one man.

This is not the place for an extended comment upon Lewis's political and literary activities but mention of the latter cannot be omitted. Beginning with the early essays and the digests already mentioned he published at intervals numerous articles on legal and economic topics. He edited an edition of Greenleaf *on Evidence*, of Wharton's *Criminal Law* and of Blackstone's *Commentaries*. To his credit, also, are a biography of Theodore Roosevelt, his eight volumes on *Great American Lawyers* and, jointly with a colleague, a case-book on *The Law of Association*. When one reviews the immense amount of labor called for by his official positions and by the preparation of his various publications one is able to appreciate the man's tireless energy and encyclopedic knowledge.

The life that began on April 27, 1867 ended on September 3, 1949. The intervening years were years of fruitful service of which every American lawyer is a beneficiary.