

Herbert David Laube

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HERBERT DAVID LAUBE

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John W. MacDonald

Herbert Laube came to the Cornell Law School in 1925 and retired in 1948, coming back one term in 1955 to teach the course in Wills. The Quarterly dedicated its Spring issue of 1949 to him and published one of his notable articles "The Jurisprudence of Interests."¹

Born in Brodhead, Wisconsin in 1880, he received his undergraduate degree from the University of Wisconsin in 1903 and a master of arts degree from the University of Michigan in 1911. He did other graduate work in the University of Chicago. He taught in various high schools in Wisconsin and Illinois and at the Normal School in Green County, Wisconsin. At the age of thirty-one he came east to teach at the William L. Dickinson High School in Jersey City, New Jersey, and he soon began the study of law at Columbia Law School from which he graduated in 1916 at the age of thirty-six. He remained in New Jersey during World War I as a lecturer for the War Department in Bayonne and Jersey City, and after the war he returned to Milwaukee to practice law and to become Journal Clerk and parliamentarian to the Wisconsin Senate. He then enrolled as a graduate student at the Harvard Law School and received his S.J.D. in 1924. He indicated his affection and respect for several of his teachers, notably Professor Charles E. Merriam, Charles R. Hendeson and Albion Small of the University of Chicago, Charles Beard of Columbia and particularly Roscoe Pound of Harvard who directed his graduate work and who influenced his thinking and his life.² He taught two years at St. Louis University and one summer at Drake University before he came to Cornell at the age of forty-five where he was to spend the rest of his active life.

¹ 34 Cornell L.Q. 291 (1949).

² See Hetherington, Professional Portrait, The Cornell Law Forum, Vol. 4 No. 2, November 21, 1951, p. 2 col. 3, 4.

I was a third-year student when he came. I took no courses from him that year but he supervised my first note as a candidate for the board of editors of this Quarterly. In 1929, as Clerk of the New York Court of Claims, I came back in the summer to take his course in Jurisprudence. I have always been glad I did.

Laube was a good teacher, well trained, well prepared, gentle and precise. He was a prodigious worker and published three casebooks and many articles and reviews. In the controversies of the late twenties and early thirties with respect to curriculum and the aims and methods of legal education, he was a partisan, a traditionalist, and proud to be a pupil and disciple of Roscoe Pound to whom he felt he owed so much. His students remember well his methods and techniques in his teaching of Wills, Mortgages, and, particularly, Quasi-contracts and Jurisprudence.

His early studies of sociology were ripened by his contact with Pound and the school of sociological jurisprudence.³

In his tribute to him at the memorial service at Sage Chapel this fall, Rev. Edward L. Christie of Ithaca said he found in him dignity, serenity, humor and kindness. Describing the reaction of his students to him, he said "As they looked at that calm face and listened to that quiet voice, I am certain the dignity, serenity, the almost shy laughter, the friendly warmth also became a part of them." So they did: he had great dignity, he was serene, he had found an inner peace.

Gentle as he was, however, he had an intense, even a fierce, hatred of injustice. The titles of some of his articles hint at the strong position of their theses: "The Right of a Testator to Pauperize his Helpless Dependents,"⁴ "The Social Vice of Accident Indemnity,"⁵ "The Defaulting Employee—Britton v. Turner Re-viewed"⁶—these were the three which he said he considered to be the most significant.⁷ They expounded strong positions, and they engendered controversy.⁸ So far as *Britton v. Turner*

³ E.g., see *supra*, note 1, at 291:

"When sociology awakened men to an awareness of the vital factors which condition life, the formal bounds of legal science were disrupted and legal problems were no longer restricted to the sterile dialectic process. When the concept of interests stirred the imaginations of men to the realities of living, the law passed into its modern phase of development. The conscious goal of human progress became the end of the law. The luring past became only a lingering memory except in so far as the history of its legal development yielded concepts, methods and ideals either as a warning against the dangers of conformity or as a challenge to the creative requirements of cultural growth."

⁴ 13 Cornell L.Q. 559 (1928).

⁵ 80 U. Pa. L. Rev. 189 (1931).

⁶ 83 U. Pa. L. Rev. 825 (1935).

⁷ See Hetherington, *supra* note 2.

⁸ See Williston, "The Defaulting Employee—A Correction," 84 U. Pa. L. Rev. 68 (1935); Laube, "No Retraction," 84 U. Pa. L. Rev. 69 (1935).

is concerned, the discussion of the doctrine and the developing law of the subject by Judge Clark in *Amtorg Trading Corporation v. Miehle Printing Press & Mfg. Co.*⁹ must have given him satisfaction. So also must have two recommendations of the New York Law Revision Commission: Recovery for benefits conferred by party in default,¹⁰ and Right of a buyer of goods to restitution for benefits conferred under a contract of sale on which he has defaulted.¹¹

Laube wanted his jurisprudence translated into action, judicial or legislative. Yet he was himself a man of books. When he retired in 1948, he kept his law school office. Daily he came and worked, read and wrote. He did not stop until he was well into his last illness.

He had a long life in preparation for law teaching. Excellent undergraduate and graduate training were of course part of it. Secondary school teaching, over a period so long that it might have seemed to be his chosen vocation, contributed. Then came the Columbia and Harvard Law Schools with a brief span in practical politics as a legislative aide between these two periods of study. Finally he came to Cornell where he made his life in the law. Here at forty-five he began a teaching and writing career which ultimately brought him to the front ranks of those of his generation. One half of the faculty with whom he spent most of his active life are now gone with him: Charles Burdick, Lyman Wilson, George Thompson, and Horace Whiteside. It was a strong faculty on which he sat. Twenty-four classes will remember him respectfully and affectionately as a fine teacher, a great scholar and a worthy member of the group which brought them into the profession of the lawyer. For them and for my colleagues, past and present, I express our regard, and our sympathy in her loss, to Mrs. Laube, who, with a brother, Frank Laube of Seattle, Washington, survives him.

BIBLIOGRAPHY

Books

- Cases on Quasi-Contracts (1952)
 Cases and Materials on Law of Decedents' Estates (1946)
 Woodruff, Cases on Quasi-Contracts revised by H. D. Laube (1933)

Articles

- Penology: Its Social Objective, 38 Cornell L.Q. 356 (1953)
 Jurisprudence of Interests, 34 Cornell L.Q. 291 (1949)
 A Glossatorial Study, 28 Geo. L.J. 763 (1940)
 Defaulting Employee—Britton v. Turner Re-viewed, 83 U. Pa. L. Rev. 825 (1935)

⁹ 206 F.2d 103 (2d Cir. 1953).

¹⁰ N.Y. Leg. Doc. (1942) No. 65 (F); 1942 Rep., Rec. & St. Law Rev. Comm. 179.

¹¹ N.Y. Leg. Doc. (1952) No. 65 (C); 1952 Rep., Rec. & St. Law Rev. Comm. 83.

- Social Vice of Accident Indemnity, 80 U. Pa. L. Rev. 189 (1931)
 Revision of the New York Law of Estates, 14 Cornell L.Q. 461 (1929)
 Right of Testator to Pauperize His Helpless Dependents, 13 Cornell L.Q.
 559 (1928)
 Good Will In Professional Partnerships, 12 Cornell L.Q. 303 (1927)
 Administrative Problems in Wisconsin's Workmen's Compensation, 3 Wis. L.
 Rev. 65 (1925)

Book Reviews

- Judicial Administration and the Common Man (1953), 39 Cornell L.Q. 547
 (1954)
 Spirit of Liberty—Papers and Addresses of L. Hand (Dilliard ed. 1952), 57
 Dick. L. Rev. 257 (1953)
 Pound, Justice According to Law (1951), 37 Cornell L.Q. 350 (1952)
 Duffy, San Quentin Story (1950), 55 Dick. L. Rev. 283 (1951)
 Encyclopedia of Criminology (Branham & Kutash ed. 1949), 35 Cornell
 L.Q. 684 (1950)
 Sayre, Life of Roscoe Pound (1948), 33 Cornell L.Q. 623 (1948)
 Hall, Selected Writings of Benjamin Nathan Cardozo (1947), 33 Cornell L.Q.
 461 (1948)
 Seagle, Men of Law: From Hammurabi to Holmes (1947), 33 Cornell L.Q.
 462 (1948)
 Orfield, Criminal Procedure from Arrest to Appeal (1947), 34 Cornell L.Q.
 287 (1948)
 Manheim, Criminal Justice and Social Reconstruction (1946), 33 Cornell L.Q.
 321 (1947)
 Interpretations of Modern Legal Philosophies: Essays in Honor of R. Pound
 (Sayre ed. 1947), 60 Harv. L. Rev. 995 (1947).
 Frank, Fate and Freedom; A Philosophy for Free Americans (1945), 32 Cornell
 L.Q. 307 (1946)
 Wormser, Personal Estate Planning in a Changing World (1942), 28 Cornell
 L.Q. 381 (1943)
 Seagle, Quest for Law (1941), 27 Cornell L.Q. 541 (1942)
 My Philosophy of Law; Credos of Sixteen American Scholars (1941), 7 Mo.
 L. Rev. 192 (1942)
 Costigan, Cases and Materials on Wills, Descent and Administration (3d ed.
 1941), 27 Cornell L.Q. 148 (1941)
 Jackson, Look at the Law (1940), 26 Cornell L.Q. 363 (1941)
 Hellman, Benjamin N. Cardozo: American Judge (1940), 26 Iowa L. Rev.
 440 (1941)
 Radin, Law as Logic and Experience (1940), 26 Cornell L.Q. 180 (1940)
 Rodell, Woe Unto You Lawyers! (1939), 25 Cornell L.Q. 581 (1940)
 Chugerman, Lester F. Ward, the American Aristotle (1939), 28 Geo. L.J.
 1012 (1940)
 Hutcheson, Judgment Intuitive (1938), 25 Cornell L.Q. 326 (1940)
 Handy, N. Y. and Federal Estate and Inheritance Taxes, Vol. 6 (Rev. ed.
 1938), 24 Cornell L.Q. 625 (1939)
 LeBuffe and Hayes, Jurisprudence with Cases to Illustrate Principles (3d ed.
 1938), 13 Temp. L.Q. 409 (1939)
 Ehrlich, Fundamental Principles of Sociology of Law (1936), 25 Geo. L.J.
 1070 (1937)
 Lewis, The Genossenschaft Theory of Otto Von Gierke (1935), 22 Cornell L.Q.
 170 (1936)

- Willoughby, Principles of Legislative Organization and Administration (1934), 36 Colum. L. Rev. 1023 (1936)
- Pollard, Mr. Justice Cardozo (1935), 21 Cornell L.Q. 388 (1936)
- Breckinridge, Social Work and the Courts (1934), 23 Geo. L. Rev. 932 (1935)
- New York—Report of the Commission on the Administration of Justice in New York State (1934), 20 Cornell L.Q. 403 (1935)
- Goodhart, Precedent in English and Continental Law (1934), 20 Cornell L.Q. 164 (1934)
- Dodge, Estate Administration and Accounting (1932), 19 Cornell L.Q. 356 (1934)
- Cooper, Rhetoric of Aristotle (1932), 18 Cornell L.Q. 313 (1933)
- Allen, Legal Duties and other Essays in Jurisprudence (1931), 17 Cornell L.Q. 526 (1932)
- Howard, Criminal Justice in England (1931), 17 Cornell L.Q. 327 (1932)
- Lectures on Legal Topics, 16 Cornell L.Q. 443 (1931), 16 Cornell L.Q. 632 (1931)
- Goard, Law of the Lord, or the Common Law (1928), 15 Cornell L.Q. 669 (1930)
- Kocourek, Jural Relations (1927), 14 Cornell L.Q. 405 (1929)
- Freund, Cases on Administrative Law (2d ed. 1928), 14 Cornell L.Q. 261 (1929)
- Jensen, N. Y. Law of Sales (1927), 13 Cornell L.Q. 496 (1928)
- Trusler, Essentials of School Law (1927), 23 Ill. L. Rev. 312 (1928)
- Schouler, Wills, Executors, and Administrators (6th ed. 1926), 12 Cornell L.Q. 256 (1927)
- Lewis, C. M., Preparation and Construction of Wills (1926), 12 Cornell L.Q. 132 (1926)
- Lee, R. W., Introduction to Roman Dutch Law (2d ed. 1925), 11 Cornell L.Q. 577 (1926)
- Stammler, Theory of Justice (1925), 11 Cornell L.Q. 274 (1926)
- Mechem, Cases on Law of Partnership (4th ed. 1924), 11 Cornell L.Q. 275 (1926)