

# MEMORIAL RESOLUTION

## J. E. MOFFATT HANCOCK (1912 - 1993)

J. E. Moffatt Hancock, Marion Rice Kirkwood Professor of Law, Emeritus, died on December 5, 1993 of natural causes. He was 81 years old.

Professor Hancock taught at Stanford Law School from 1953 through 1976. He was a leading authority in the field of conflict of laws and played a major role in the dramatic changes in this field in recent decades. He also taught property and legal philosophy and is well-remembered for his colorful teaching style.

Moffatt was born on August 19, 1912 in Toronto, Ontario, Canada. He earned a B.A. degree in law from the University of Toronto in 1933, winning the Gold Medal in his field. He received his professional legal education at Osgoode Hall School of Law, and was admitted to the Ontario Bar. He spent a year in graduate study at the University of Michigan Law School, which awarded him the degree of S.J.D.

Before coming to Stanford, Moffatt taught law at the University of Toronto from 1937 to 1945, at Dalhousie Law School from 1945 to 1949, where he was Viscount Bennett Professor of Law (in 1979 Dalhousie awarded him an honorary doctorate), and at the University of Southern California from 1949 to 1953. In 1965-66, Moffatt received a Guggenheim Fellowship to pursue his work in conflict of laws. In 1966-67, he served as a consultant to the Canadian Conference of Commissioners on Uniformity of Legislation. From 1976 to 1980, Moffatt taught at the University of California, Hastings College of Law, as a member of the famous Sixty-Five Club.

As Moffatt put it, he "was madly in love with law from the first class." Moffatt began his pioneering work in conflict of laws early in his career. Conflict of laws is the set of rules and principles determining which law applies when a dispute has some relation to more than one jurisdiction. It is an ancient field whose jurisprudence, according to a well-known commentator, had become so cumbersome that it seemed "a dismal swamp filled with quaking quagmires."

For Moffatt, this presented an opportunity. Conflict of laws was one of the few areas of the law, he said, where judges and lawyers were inclined to rely on academic commentators. "This circumstance excited my ambition as a young law teacher and I resolved to become such a commentator." In 1942, he published *Torts in the Conflict of Laws*. In this "seminal monograph," as it has been called, Moffatt took the innovative approach of emphasizing the social results of conflict of laws jurisprudence.

Over the next few decades, Moffatt, along with his close friend, Professor Brainerd Currie, advanced a new method for resolving choice of law based not on a formal system of legal classification, as was done traditionally, but on the underlying policies of the competing laws, so that the court could make a "rational, purposeful choice." "I remain an admirer," wrote Harvard

Professor David F. Cavers, "of the scholarship and lawyerly acumen with which Professor Hancock has demonstrated that the 'American Revolution' in the Conflict of Laws...is susceptible of rational application."

The 1984 publication of his *Studies in Modern Choice of Law: Torts, Insurance, Land Titles*, a collection of his leading law review articles, prompted several reviewers to reflect on Moffatt's paradigmatic contributions to this subject. "Professor Hancock," wrote Canadian Chief Justice Bora Laskin in his Introduction, "has carved out an enviable reputation in the conflicts field, admired in both the United States, where he did most of his work, and in Canada where he was born."

Moffatt sought the same opportunity to excel at teaching that he found in his scholarly subjects. His goal, he told his colleague George E. Osborne, "was to be known as the best teacher in the law school." He taught his classes with drama and flair. In 1961, he was elected Stanford University's "Red Hot Prof." "That's the great test of a law teacher," Moffatt said. "His ability to go into class year after year and get all worked up about the same old case he got worked up about ten, twenty, even forty years ago."

Moffatt held the Marion Rice Kirkwood Professorship at Stanford, endowed in honor of the Law School's dean from 1922 to 1946. Moffatt admired Dean Kirkwood for "his devotion to the Stanford Law School....He believed in this School." The same can be said of Moffatt. Pictures of his predecessors hung on the walls of his office; he wrote tributes to or delivered memorials for Professors J. Walter Bingham, George E. Osborne, Dean Carl B. Spaeth, and other members of the faculty.

Moffatt was a convivial colleague, a frequent participant in faculty skits, and a willing and welcome speaker at alumni gatherings, developing a series of humorous, but instructive, accounts of dramatic cases, such as the Duchess of Norfolk's divorce and the Estate of Maybelle Greer. He wrote and sang colorful lyrics on life in legal education, modeled on his favorites, Gilbert and Sullivan. A former student described him as a "lovable presence, combining erudite scholarship with the wit of a great raconteur." In 1953, he published an article on "Conflict, Drama, and Magic in Early English Law." "A true Renaissance man," Dean Paul Brest described him.

Although born with a visual impairment, Moffatt became an outstanding photographer of the Stanford campus. His photograph of Hoover Tower hung in President Hoover's office in the Waldorf Towers. His photographs of other campus scenes appeared in various University publications and are hung in the Law School library. The Fall 1995 issue of the Stanford Historical Society's *Sandstone & Tile* beautifully reproduces ten of Moffatt's Stanford photographs. "He'd tramp around the campus all morning," recalled his son Graeme, "looking for things that, in his mind, might make an interesting shot."

In 1962, Moffatt suffered a detached retina and had to read by holding pages close to the one eye in which he had limited sight. "He is a rather indomitable guy," his wife, Eileen, would say. Moffatt met Eileen while teaching at Dalhousie; they were married for 42 years until Moffatt's death. Eileen was for many years the executive director of the Peninsula Center for the Blind and Visually Impaired and later director of the western region of the American Foundation for the Blind.

A memorial service was held at Memorial Church on January 28, 1994. The speakers included former colleagues John R. McDonough, Gerald Gunther, and Paul Brest; his former student, United States District Judge James W. Ware; and his son-in-law, Peter L. Koerber.

Moffatt is survived by Eileen of Stanford; his daughter, Catherine, a law professor at Tulane University; his son, Graeme, a partner in the law firm of Fennemore Craig of Phoenix, Arizona; and six grandchildren.

Gerald Gunther  
John Henry Merryman  
J. Keith Mann, Chair