THE FUTURE OF LEGAL EDUCATION

By ROSCOE POUND

IN THE GOOD OLD DAYS of household remedies, the prudent housewife who was well instructed in the wisdom of her foremothers was wont to prepare an annual draught for the children of the household and to administer it in early spring, that their systems might, as it were, undergo a wholesome house-cleaning in preparation for another year. Originally she gathered her own herbs and distilled her own extracts. But today, if there are any that adhere to the ancient ways, a paternal state, by means of pure food and drug legislation, enables them to buy the ingredients with assurance at the neighborhood drug-store. A current view of education pictures teaching as a process of this sort. It is the administration of a series of tonic and alterative and possibly purgative draughts in the springtime of life, that the system may be toned up for the strenuous competitive years that are to follow. Ladle in hand, the teacher stands beside a bowl of chemically pure dope which the wisdom and experience of the past have prescribed. Its ingredients are guaranteed by state inspection and the mixing has been done under state supervision. It contains everything which organized zeal and organized interest have been able to impress upon the legislative wisdom and it is free from anything which the latest wave of propaganda has been able to move the lawmaker to exclude. An orderly procession of youth passes before the teacher and each receives the appointed dose. It is the teacher's function to fill the ladle scrupulously, to administer the dose fairly, and to see that it is duly swallowed. In this spirit, the president of our greatest university in point of numbers has told us that all we need in teaching is laborious, steady-going mediocrity. The teacher must be a person who will not be tempted to slip anything of his own into the officially certified mixture; he must be one upon whom we may rely to fill the ladle to its full capacity, to drop none of its contents, to let no one go by undosed, to pour the full content down each student throat, and to see that it goes down. That such instruction by dosing the mind is as futile as we now deem the dosing of the body, to which it bears so obvious an analogy, was one of the heresies for which Socrates was executed. Faith in a spring medicine which will safeguard

the mind of youth against disturbing doubts and restless thoughts and rebellious ideas is as naïve as the old-time faith in the efficacy of sulphur and molasses to fortify the youthful body against disease.

Altho law was one of the first subjects of academic study in the universities of modern Europe, our Anglo-American law has had primarily a non-academic development. Blackstone's teaching at Oxford bore fruit on this side of the water much more than at home. Even now university teaching of law has made but little progress in England. The oldest American law school is entering on its second century. But it has pursued the study of law by the method of the university, as distinguished from the method of the law office, for not more than half of its existence, and scientific study of law in university law schools has come into general recognition in America within a generation. During the greater part of its history, the legal profession in the United States was trained after the manner of apprenticeship in the offices of practitioners. And today, when the majority of those who are admitted to the bar have come to be school-trained, they proceed for much the greater part from schools which preserve the methods and modes of thought of the law office; from schools which adhere to the sulphur-and-molasses theory of instruction and look askance upon the scientific and academic. The good side of this story—for it has a good side—is not our concern at this moment. What concerns us now is to note how the system of apprenticeship under a preceptor in a law office has left its stamp both on the law and on lawyers. To the latter, the tradition in which they had been trained seemed the legal order of nature; arbitrary rules resting upon history seemed to exist for their own sake; time-consuming procedure seemed "scientific" because it had lost all relation to realities, and solving words, in the absence of general ideas, passed for principles. Truly when a body of law so shaped came into the universities it came upon dangerous ground. Not the devil, says Lord Acton, but St. Thomas Aquinas was the first Whig. For when the Angelical Doctor taught men to sustain authority by reason, he taught them to try authority by reason and presently to overthrow it by reason. When Judge Baldwin urges that the academic law teacher of today has created a "new peril" in our law, a crisis comparable, it may be, to the twelfth-century conflict of state law with church law, to the sixteenth-century conflict with Roman law, to the rise of equity, to the development of the law merchant, and to the movement for codification and influence of French law at the beginning of the last century, he speaks truly from the standpoint of one who could say judicially that our

happily obsolete fellow-servant doctrine rested "upon considerations of right and justice that have been generally accepted by the people of the United States". May we not hope much from this "new peril" when we note what each preceding peril achieved for the legal administration of justice and what element of the legal system was imperiled in each case?

For what is it that scientific teaching of law in universities puts in jeopardy? "Reason", says Lord Coke, "is the life of the law; nay the common law itself is nothing else but reason." In the university this reason becomes a living reason, in touch with and stimulated by all the intellectual movements of the time. Law becomes in truth one of the social sciences. Its materials are not measured and shaped solely with reference to themselves. Its methods and ideas must pass the ordeal of comparison with the methods and ideas of economics and politics and history and sociology. Much that has been dear to the practitioner of the past is threatened in such an environment. But it was already moribund and the question was only whether it should fall before critical study and be rebuilt upon scientific lines or should fall before the legislative steam roller and be replaced by the offhand products of the legislative exigencies of the moment. The main point in teaching law, as in all teaching, is to know truly the subject. Nothing can be known thru itself alone. "To know rules of law", said the Roman jurist, "is not merely to understand the words, but as well their force and operation." It is not in the atmosphere of the client-caretaker, who is the leading type in the American bar of today, nor in schools which reflect only his ideals, that law will be understood or taught in its force and operation. We must rely rather upon the atmosphere of a university where the teacher of law will be held to justify his learning before scientific colleagues in many cognate fields. One needs but look at the legal periodicals which are issuing from American university law schools to see that while the law in law sheep-binding or law buckram is abstract and lifeless, the law in our schools is concrete and living. In any rational use of the term, the practical law of today is the law taught in our academic law schools, not the definitions and hollow formulas and arbitrary rules of our examinations for admission to the bar.

President Butler thinks of sociological jurisprudence as legal osteopathy and is shocked at the idea of a professorial masseur massaging the *Corpus Juris*. Perhaps some may feel that there are dry bones in the law that would not be the worse for such a process. But before we condemn the professorial healer, let us see what the

regular practitioners have done and are doing. Within a generation they have allowed the whole law of public utilities to pass from the domain of adjudication to that of administration. Within a decade they have allowed a large part of the law of torts to pass from courts to industrial commissions. Because of their indifference to a matter of grave concern to the mass of the people, the whole conduct of petty litigation bids fair to depart from judicial methods and to become administrative. In one state but the other day the settlement of mutual accounts between farmers and commission merchants was taken from courts of equity and committed to an agricultural commission. Even in criminal law, which has been *par excellence* the domain of the common law, juvenile courts, boards of children's guardians, parole and probation commissions, and administrative individualisation of penal treatment are constantly narrowing the actual field of judicial justice. For more than a century the lawyer's main interest has been in the security of property and contract. Today these fields too are invaded by administrative jurisdiction. After courts have vainly sought to adjudicate water rights and regulate the exercise of them with the traditional procedural machinery and along traditional lines, an increasing number of states are committing these things to boards of engineers. After courts have stubbornly refused to take account of the exigencies and the methods of modern business, the mercantile community is more and more turning to extra-legal adjustment of business controversies. As to new problems, such as industrial disputes, no one thinks of referring them to judicial cognizance. We turn at once to administrative industrial tribunals. A condition in professional thought and judicial administration which drives a people of our traditions to revert to personal justice—to set up administrative tribunals proceeding after the manner of Harun al Raschid or of St. Louis under the oak at Vincennes—such a condition cries out for juristic osteopathy.

Another serious obstacle to the development of legal education is popular aversion to the imposition of standards for admission to the profession. Here lawyer and layman work in concert. The practitioner feels that the scientifically trained lawyer will not revere formulas for their own sake nor credit apocryphal reasons authoritatively set behind historical anomalies and thus will unsettle what has long been established. The layman feels that it is "undemocratic" to exact a scientific training of one who is to practice a profession so nearly related to politics as the profession of law. The distrust of the competent is an old-time by-product of demo-

cracy. The Athenian Demos feared the exceptional man and Athenian political institutions were adapted to the elimination of the superior. It was thought dangerous to have any man in the community whose powers and abilities were above the ordinary. Even philosophers became infected with this feeling.

Plato says, speaking, of the ideal state:

> . . . . . Shall we not find that in such a city a shoemaker is only a shoemaker and not a pilot along with shoemaking; and that the farmer is only a farmer and not a judge along with farming; and that the soldier is only a soldier and not a business man besides. . . . . And if a man who through wisdom were able to become everything and to do everything were to come to our city and should wish to show us his poems, we should honor him, ... but we should tell him there is no such person in our city, nor is there any such allowed to be, and we should send him to some other city.

There is nothing peculiarly American in our cult of incompetency. But it puts a heavy strain on institutions where so much is made to turn upon the law. Our common-law doctrine of the supremacy of law makes the most vital social and political questions into legal questions and expects the judges to pronounce oracles upon them. When a conscientious but narrowly trained bench delivers narrow pronouncements that write the word "can't" over every clause of our constitutions, state and national, we begin to doubt the wisdom of the founders and experiment with political nostrums rather than try the dangerous expedient of insuring that only competent and thoroly trained lawyers enter the profession that leads to the bench. Surely scientific training of the bar is much less of a wrench to our institutions than many things we have been doing in the endeavor to get away from petty interpretations of a great legal document. In the end, nothing less than this training of those who are to interpret and apply that document may be made to serve our need. We must admit in our practice and not merely in our speech that law is a science.

> Our law must be studied as other great sciences are studied and taught at the universities; as deeply, by like methods, and with as thorough a concentration and life-long devotion of all the powers of a learned and studious faculty.

But we are told that law is a practical thing and that the law of academic law schools is too much what ought to be and not what is. Engineering is a practical matter; medicine is a practical matter; architecture is a practical matter. Yes, agriculture is a practical matter. In each of these practical subjects the practitioner has had to learn that what ought to be and what is are inseparably connected; that what is can only maintain itself by being or becoming what ought to be, and that much doing of a routine process by rule of

thumb does not of necessity give insight into what is nor capacity to judge of what ought to be.

Note for a moment what the so-called practical legal education has done for American administration of justice. For one thing it has filled our law books with specious solving words which cannot stand up before analysis and defeat the ends of law in their application. One has but to read the current decisions on "mutuality" in equity to see the mischief such words may do in giving an appearance of justification to arbitrary and unjust results. He has but to read the current decisions as to "waiver" to see how the law may be unsettled by such words while preserving an appearance of certainty. The critical student of law will think also of "malice", "privity", "remoteness", "estoppel", and many more of this breed of overworked and much-enduring words that should be given an eight-hour day and pay for over-time.

Again, in the last generation "practical" legal education gave us that faith in procedure for its own sake the results of which still disfigure the application of law in our courts and drive an impatient people more and more to administration at the expense of adjudication. There has been much improvement in the past two decades. Perhaps ability to "get error into the record" is no longer the accepted test of a skilful lawyer. Perhaps we are not so sure as we were a generation ago that it is unscientific to win a case upon its merits. But hypertrophy of procedure is still the distinguishing mark of American law, and improvement has gone along with the advent of scientifically trained lawyers and has gone farthest where such lawyers have had the most influence.

Again, in the last generation "practical" legal education gave us a joy and faith in subtle logical distinctions for their own sake. If it could be shown logically that a harsh and unjust rule was logically demanded by analysis of our traditional legal materials, that result was hailed as a triumph. The imperative demands of justice and good sense have made most of these juristic or judicial triumphs of the nineteenth century short-lived. But the teacher must still struggle with the remnants of imputed negligence and non-liability of manufacturer or vendor to third persons and many like examples of the "practical" in action. In truth they were so completely practical that they proved wholly impractical.

For another example, one may vouch the joy and faith of the last generation in arbitrary long-established rules for their own sake; its belief that the fixed rules of our law of evidence were an organon for the discovery of truth; its belief that the feudal rules of our law of

real property had some intrinsic universal validity and that every part of the administration of justice could and should be subjected to strict rules after this model. The past generation of lawyers saw virtue in such things. A rule that was arbitrary and at variance with common sense proved that law was law. It reminded us, to use Coke's words, that if reason is the life of the law, yet this means the "artificial reason and judgment of the law and not every man's natural reason". Thus every departure from the dictates of convenience and the requirements of justice seemed to justify itself.

Again, the "practical" training of the past gave us the assumption that the common law is a body of fixed principles and the faith in absolute deduction therefrom which has led in so many subjects of vital present concern to a throwing over of law and resort to administrative boards, when a scientific development of our traditional methods and traditional legal materials would have sufficed.

But, above all, the so-called practical legal education led in the last century to a naïve faith in abstract justice. Abstract justice of the content of abstract rules was everything; the results of their actual application to concrete cases were a negligible detail. The abstract justice of a universal formula was something valuable in itself, be the results in action what they might. The classical story of the English judge, before the setting up of the divorce court, who in sentencing a workingman convicted of bigamy explained to him how by three legal proceedings and the expenditure of some nine hundred pounds he would have been legally competent to remarry after his wife had deserted him and gone to live with an adulterer, and assured him that it had ever been the glory of England not to have one law for the rich and another for the poor, is a just satire upon the general attitude of the profession in the last century. Our own reports are full of solemn pronouncements of the same sort, when measured by the facts of everyday life. Within a generation American courts were telling us that a statute as to hours of labor made the laborers "wards of the state"; that statutes as to payment of wages in cash treated laborers as imbeciles; that a statute forbidding payment of employees in orders on a company store classed them with infants, lunatics, and felons; that an employers' liability act made the employer liable arbitrarily where there was no responsibility in morals; and that the fellow-servant rule was but declaratory of general ideas of justice entertained by the whole people. And the results have been quite as bad as the language used in reaching them. The common-law doctrine of supremacy of law was needlessly imperiled by twenty-five years of unintelligent

judicial obstruction of social legislation. The lawyer's habit of working out all possible difficulties by a purely logical process on the basis of abstract propositions and his instinctive fear that anything new might open a way for magisterial caprice has made the profession much more critical of projects for improving the law than fertile in devising them. Hence the most effective improvements in the administration of justice today have been worked out by laymen and are in the hands of administrative rather than of judicial officers. Hence, also, we are looking to extra-legal or, at least, extra-judicial agencies to solve the great legal problem of today—how to secure the social interests which are threatened by the everyday phenomena of industrial warfare.

Three stages may be perceived in the development of the American bar. The first stage is marked by the hegemony of the trial lawyer. The great achievements of the bar were in the forum and the most conspicuous success was success before juries in the trial of criminal causes. Hence the modes of thought of the profession were molded by the exigencies of *nisi prius*. Apprenticeship to an experienced, resourceful, busy trial lawyer was the ideal training. The bench and the legislature were recruited from the trial bar. The law was largely fashioned to be a body of rules for use in the trial of causes. This stage lasted until the Civil War and perhaps still persists in some rural or frontier communities.

In a second stage, leadership passed to the railroad lawyer. A generation ago the goal of professional ambition and the proof of professional success was to represent a railroad. The leaders of the profession were permanently employed as defenders; their energies, their ingenuity, and their learning were constantly employed in defeating or thwarting those who sought relief against railroad companies in the courts. But judges and legislators, especially where the bench was elective, were seldom chosen from these leaders and often waged an unequal contest with them, which has left many marks upon the law of today. In this stage also apprenticeship was a useful mode of training; but the highest positions called for trained minds. Yet the training needed was exclusively historical and analytical, for creative juristic thinking was quite outside the province of the leaders of the profession.

Today the hegemony has passed to the client-caretaker. He seldom or never goes into court. His function is to advise; to administer trusts; to conserve investments; to organize, re-organize, and direct business enterprises; to point out dangers and mark safe channels and chart reefs for the business adventurer; to act, as it

were, as a steward for the absentee owners of our industries. The other functions of the lawyer he leaves to the lower walks of the profession. The actual administration of justice interests him only as it discloses reefs or bars or currents to be avoided by the pilot of business men. The legal order as a means of satisfying human wants, the great mass of human interests that clamor for recognition, the perennial problem of reconciling these interests in the administration of justice between man and man, mean nothing to him. If he thinks of them, it is to dismiss them as matters for the theorist, as subjects for professors of economics or of sociology. Thus the leaders of the profession have no interest in the most vital questions of the law of today, and in consequence the hegemony in our institutions is passing from courts to executives and from lawyers to administrators. If a state university were training men simply to take high places in a profession whose leaders are permanently of this type, its governing board should consider seriously how far they may justify the expenditure of public funds in maintaining a law school.

To what end does the state provide legal education for its youth? In part, one may concede, it seeks to train its youth in the different vocations by which they may make their way in life and take up and bear the burdens of manhood. But surely the main consideration is that in our Anglo-American polity so much depends on law that good lawyers are a social asset. Of the three sides to the lawyer's activities, namely, (1) the earning of a livelihood, (2) securing the rights and defending the interests of those who employ him, and (3) promoting the administration of justice according to law and advancing right and justice in the world,—of these three, the state may, perhaps, have an interest in all. But the interest of the university is in the third. And the paramount interest of the state is in the third also. The professional organization of the Middle Ages and the apprentice system of training took care of the first and second. But the breakdown of professional organization and ruthless destruction of professional feeling in the Jefferson Brick era of American society left us little beyond professional memories and traditional phrases. Until the rise of the academic law school and the recent revival of professional feeling, our apprentice system has done no more than train for the socially least important side of the lawyer's activities.

When we reflect upon this situation we cannot wonder at the general distrust of law and dissatisfaction with legal institutions. We cannot wonder that the thoughtful layman is dissatisfied with the lawyer and the thoughtful lawyer is dissatisfied with himself.

We cannot wonder at the steady rise of administrative boards and commissions, at the revival of personal government, at the growth of a government of men at the expense of a government of laws which has been going forward in every American jurisdiction for a generation. We cannot wonder at the demand for the packing of courts by those who see no way of improving the law. We cannot wonder at the vogue of projects for recall of judges, for recall of judicial decisions, and like crude and wasteful attempts to secure the recognition of pressing social needs which those best qualified to make the legal system a living instrument of justice overlook or ignore. So long as the leaders of the bar do nothing to make the materials of our legal tradition available for the needs of the twentieth century, and our legislative lawmakers, more zealous than well instructed in the work they have to do, continue to justify the words of the chronicler—"the more they spake of law the more they did unlaw"—so long the public will seek refuge in specious projects of reforming the outward machinery of our legal order in the vain hope of curing its inward spirit. Some years ago, when it was the fashion in many quarters to urge the recall of judicial decisions, I used to urge as a substitute the recall of law teachers. For the real remedy, the enduring remedy, is to be found in a scientifically educated profession, a profession conscious of and trained to face the problems of the legal order of tomorrow, a profession which can furnish safe and conscientious client-caretakers, but has a higher conception of the law and of the lawyer's duty than is needed for mere client-caretaking—the enduring remedy is in a profession so educated, from which to recruit judges and legislators and administrative officers.

Institutions of learning were first set up in colonial America in order to provide ministers for the churches—the prime social need of that time and place. For the social order then was simple. Society was homogeneous. The postulates of that civilization were ethical only. Today the social order is complex. Society is heterogeneous. The postulates of our civilization are not merely ethical; they are legal, economic, medical, mechanical, perhaps aesthetic, as well. None of these may be left to purely trade or professional development, trusting to internal competition for progress and to apprentice methods for training.

Surely in a university—even in an American university of 1920—we may apply other standards than the canon of pecuniary reward or the canon of predatory achievement. But the teaching profession has been so discredited by the current application of these standards

that law teachers have hesitated to speak out before the so-called men of achievement. And yet what the latter have achieved for the law, when measured by the end of law, is sorry enough and consists chiefly in a steady loss of ground for law, to the profit of administration, thruout the English-speaking world. Now it is precisely in the English-speaking world that practical training, so called, is the rule, and the canons of pecuniary reward and predatory achievement are the measure of jurisitic and professional success. If the legal scholar in America finds himself rated low by these criteria, he may ask what those who are rated high thereby may show to justify the standards. Judged by their fruits in the administration of justice, by their fruits in the form and content of our legal system, despite the limited opportunities of the scholar, hampered by professional distrust of his science and by valuing of his opinions by the amount of his salary, the scholar must take the first place.

Indeed, the man of action deceives himself grossly when he assumes that he and he only is in touch with reality; that he and he only is doing the things that count. The last of the Caesars has fallen, but the thought of the jurisconsults of the days of the first Caesar is law in half of the world. Nothing remains of the work of the men of action of antiquity, but the thinking of Greek philosophers rules the thinking of today and has left its mark upon the action of all time. When Diogenes was put up for sale as a slave, he called out to the bidders, "Who buys me buys a master." And so it proved. For Xeniades, the man of action, is known for nothing else but that he furnished a home and provided a livelihood for the eccentric philosopher who was his slave. As beside the fleeting results of competitive and predatory exertion, the things of permanence in our civilization are the work of Hebrew prophets and Greek philosophers and Roman jurisconsults and mediaeval monks and modern scientists. The men who achieved fortunes at the bar have been forgotten and what they did has proved as transient as their fortunes while the work of Story and of Kent stands fast. For the reality is human civilization; the real achievement is in maintaining and furthering civilization. Enduring work in law has been done by those who saw in it a product of the civilization of the past, a means of maintaining the civilization of today, and a means of furthering the civilization of tomorrow; not by those who have used it in the competitive struggles of the moment. It was not by looking on law, after the fashion of the "practical" man, as a set of formulas ordained at the creation or as a body of fixed rules devised

by inspired or all-wise forefathers or as a series of enactments imposed by an omnicompetent lawgiver of yesterday or of today, that the law of the city of Rome was made the law of the world; nor will our law maintain itself as a law of the world if left to those who so regard it. In all ages the law of the "practical" lawyer has been an illusion. He has thought of fixed rules, of mechanical application, of settled postulates and a perfect logical technique of developing them, of eternal legal principles and their necessary implications, of a closed system admitting only of formal improvement. The reality is a complex and ever-changing legal order whereby values are conserved and human wants are satisfied, worked out by men along with all human institutions as both a condition and a product of civilization and to be studied and taught as such. Law has not been made by the dogmatic formulas of the books ground out to order for law publishers for "practical" purposes, but by the academic lectures of Story and Greenleaf; it is not making today by means of digests or encyclopedias, but thru the writings of Wigmore and Williston. Certainly I need not argue in this presence that the state is educating lawyers, not in a futile attempt to preserve forever the *status quo* of today, not to train money-making lawyers, not to raise up sagacious client-caretakers, but to advance justice—"the greatest interest of man on earth"—to maintain, to hand down, to further human civilization.

As might be expected in a purely apprentice system of training, the first legal instruction was crudely dogmatic. Coke's *Commentary on Littleton*, Serjeant Williams' *Notes to Saunders' Reports*, Cruise's *Digest of the Law of Real Property* were the instruments of teaching, and the student learned the law as a body of rules tempered by a series of maxims and a few rigid principles and conceptions. Night law schools and schools which make a specialty of local law and practice still teach for the most part in this spirit. Later, the law schools which developed in connection with our universities, but as outgrowths of teaching in lawyers' offices, gave us a new type of common-law textbook, under the influence of the treatises of Continental Europe. The Continental treatises, products of the philosophical jurisprudence of the seventeenth and eighteenth centuries, laid chief stress upon the reasons behind legal doctrines. Accordingly, for a season, pseudo-reasons and *ex post facto* rationalizings of dogma became the fashion in our law teaching. Such things are still relied on in some quarters where instruction from textbooks is still in vogue. The English analytical and English and American historical jurisprudence of the last half of the nineteenth

century long ago gave a death blow to this treating of authority as embodied reason and working up of reasons after the event to explain and to justify it. With the advent of these methods, instruction in our law schools became truly scientific and worthy of a university. But much remains to be done. For our nineteenth-century analytical and historical methods do no more than criticize the law from within by a critique drawn from the law itself. In a period of stability when formal improvement of the results of the period of growth in the seventeenth and eighteenth centuries was the chief juristic need, these methods served us well. Today, in a new period of growth, they are failing us. For when we try to use them for creative work in legal science our task is like that of Baron Munchausen in pulling himself out of the swamp by his long whiskers. In jurisprudence, as in all other sciences, we are turning from the analytical and historical to the functional; we are asking not merely what things are and how they came to be what they are, but what they do and how and to what end they do it. Nowhere is this modern way of thinking more fruitful than in the science of law.

Instead of the legal interpretation of society and the legal order in terms of a social contract, or the ethical interpretation in terms of "rights", or the metaphysical interpretation in terms of deduction from a fundamental formula, or the biological interpretation in terms of a huge super-organism, we are turning to a functional interpretation. We are thinking of the legal order as a piece of social engineering, as a human attempt to conserve values and eliminate friction and preclude waste in the process of satisfying human wants. If we look to physical and biological science to augment the means of satisfying wants as well as to conserve them, we look to the social sciences to teach us how men may apply them to their purposes with a minimum of friction and waste. Hence the jurist must think of a great task, or rather of a series of great tasks, of social engineering. For his problem is not one of abstract harmonizing of human wills. It is one of concrete securing or realizing of human interests. The central tragedy of existence is that there are not enough of the material goods of existence, as it were, to go round; that while individual wants are infinite, the material means of satisfying those wants are finite; that while, in common phrase, we all want the earth, there are many of us but there is only one earth. Thus the task of the legal order becomes one of conserving the goods of existence in order to make them go as far as possible, of preventing friction in the use of them and waste in the enjoyment of them, so that where each may not have all that he claims, he may at least have all that

is possible. But this functional attitude has as yet made little impression on the teaching of Anglo-American law. Nor will it do so except in universities where law is taught, not in the way of commentaries on authoritative formulations of ultimate reason, but as a living process of growth and adjustment.

Nowhere may our universities do more for civilization than in making possible a rebirth of legal science as they have already remade medical science. For this rebirth is possible only thru legal education, and the only legal education that can bring it about must be had in universities. The future of our academic law schools is the future of legal education, and the future of legal education in this country is the future of American law. Nay, more. Our Anglo-American polity is so characteristically, so completely a legal polity, that the future of legal education is nothing less than the future of American institutions.