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JURISPRUDENCE, THE CROWN OF CIVILIZATION*

BEING ALSO THE PRINCIPLES OF WRITING JURIS-
PRUDENCE MADE CLEAR TO NEOPHYTES

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THE mark of civilization is the blooming of the desert. It is civilization which makes not two blades of grass, but fodder for a multitude, grow where one blade grew before, or none at all. Jurisprudence has slowly groped her way toward her rightful status as the Crown of Civilization. Let us but take thought, and the groped-for guerdon will be grasped.

For where in all the field of burning oil has callous Nature provided so little oil to burn, so many mouths to feed? What law teacher, what tired or retired lawyer, what philosopher, what man of politics, what ism-ite,

* My indebtedness in the preparation of this Tract is so rich and wide as to be overwhelming. In regard to infeudation, there is Savigny's practice, and the magnificent practice of sub-infeudation; there are the medieval and modern American and German parallels. In regard to the principle of the Hole, one has the literature of three hundred years and more. Non-joinder has reached a peak of perfection in the American literature since 1930 which puts their Jurisprudence in advance of anything the Continent can show; and I think the same may be said for Anonymous Non-Citation. Imputation of Absurdity goes, of course, back to Greece. In general, it would be invidious to attribute any particular point to any particular person, when the whole guild, over nations and centuries, has offered examples so many and so noble.

But I must acknowledge my particular debt to the reports of that eminent explorer, Lemuel Gulliver, on the civilizations of Lilliput and of Laputa (ed. Jon. Swift), without which I should have faltered.

† The late Diogenes Jonathan Swift Teufelsdröckh, Q.E.D.⁵, Nempenusquam, 1930. 1920 (1910 [1900 {1890}]), was Professor of Dialectic Immaterialism at the University of Nempenusquam, and Lord Keeper of the Vault of Themis. He is best known for his exhaustive *Catalog of the Treasures of the Vault* (1900, pp. 2); his definitive edition of Lemuel Gulliver's *Laputan Jurisprudence* (1910, pp. 22); his *Roots and Powers of the Doctorate* (1920, pp. 222); his *Conservation of the Emphyrean* (1930, pp. 2222). An inexplicable balloon-collapse precipitated his untimely demise. But this Tract, though posthumous, had been worked over by his own hand at least three times, and is so perfect as to warrant unedited posthumous publication.

needs not his stake of Jurisprudence? Yet pause to observe the Sahara of Ideas which Nature gives to work with, to stake out, to hold of right. Consider even that Great Relation of Law and Justice around which Jurisprudence turns (and should turn, and must be made to turn) as round a pole. The available possibilities in natural or real ideas are desperately limited. These following are the observations or theories, or programs, as you may prefer, which Nature offers, and these are all of them:

- (1) That Law prevails, or should prevail, or must prevail; or
- (2) That Justice prevails or should prevail, or must be made to prevail; or
- (3) That sometimes Law and sometimes Justice does prevail, or should prevail, or must be made to prevail.

Now the untutored savage, viewing this situation, would figure that only three livings, three stakes, three properties, could be found there, and that land-hungry newcomers would require to follow the Cheyenne or German practice, and marry the holder's daughter, and so acquire a succession. Jurisprudence refutes the savage. Are jurisprudes not legal historians as well? Do they know nothing of kneeling, hands placed between other hands? Surely he who commends himself to a lord, and swears him fealty, can acquire seisin strong and firm, and good legal right to full use of his lord's idea, so only due homage be regularly tendered. By this Principle of the School, of Teacher and Accredited Disciples, this Principle of the Taught Tradition, Jurisprudence proudly makes five or ten and can make twenty livings grow where but one grew before. Only the lord of the school needs to do any thinking at all, or to have had a thought. A sub-infeudee can hold title to Anything, if he only holds under a first infeudee; and even though the latter may have done no thinking.²

But even with the principle of the Taught Tradition, there are not enough ideas to make enough schools to provide enough livings-in-Jurisprudence with enough speed for enough people. Civilization, however,

² This is the positive, or directly creative, and only true application of the Principle of the School. Some have argued also that there is a negative, or dialectic-imputative application, which is more delicate. But this will be seen, on analysis, to resolve itself into a combination of the Hole, of Absolutism in Partiality, and of Non-citation, all discussed *infra*. A School is first set up as a Whole, including at least one man with at least one page of at least one writing capable of being devastatingly interpreted as characteristic of the Whole. Now the values of this are patent, and I should be the last to deny that the method represents a notable production-device for Jurisprudence at large. But it results not in the direct *creation* of any man's Property in Jurisprudence, but only in *enhancement of the value* of a Property created by other means. Eclipse is not creation, and even the neophyte can analyze closely enough to perceive this.

transcends the Natural Economy, or even Feudal Multiplication of Rights. Civilization moves from Natural Exchange into the Regime of Money, and then into the Regime of *Credit Currency* which can be held and owned. Jurisprudence, at one step, jumps several steps of Civilization. Observe: By introducing the principle of Multiguity of Terms, *pseudeas* can be produced, and fast enough to meet the need, and added to the theretofore available stuff and also held and owned in the modern world, as perfect currency. A well engraved and handsome *pseudea* will buy as much as any *idea-gold*, and more than some, just as a note may frequently be of more value than a bar of yellow metal. All we have to do, e.g., in regard to the relation of Law and Justice, is to flavor Justice simultaneously with the connotation of that-which-is-Just and with that other connotation of police-and-court-administration (without, of course, letting it appear which aspect is intended, or, indeed, that there might be two different aspects of the term in use at once, or that a third can be produced on call, and we have at once a *pseudea* which "solves" the relation of Law and Justice with a crinkly fourth solution: *Justice Under Law*, or as it is often put, *Justice According to Law*. Such a *pseudea* (i.e., an artistic *pseudea*) is really worth more than if it were an Idea, because it is pleasing and likeable to all, whereas all of the available Ideas, children of Nature as they are, are harsh and unpleasing at least to somebody. Of course, should anybody present such a *pseudea* for redemption in coin, it might appear that "Under Law" begs the question and that "According to Law" is false, as also that if "Justice" in the phrase means administration-of-police-and-court, nothing is contributed to ideas about Law and that Justice-which-is-Just; whereas if "Justice" in the *pseudeational* formula means Justice-which-is-Just, then the formula contradicts itself. But the very fact that it takes so many words to point out the nonsense makes a vital point: to wit, that a crinkly, well-engraved *pseudea* will pass in the market, *in the absence of panic*, and never be presented for redemption. And the number of available *pseudeas* is truly limitless, even our great Masters having only opened up the gates of possibility. Regardless of the barrenness of soil or oil or Nature, in Real Ideas, then, we can see forty acres and a jurisprudential mule ahead for everyone.

In the absence of panic! Here is the nub. For myself, I resent, and am prepared to defend my resentment with my body, the libelous imputation that *pseudeas* are forgeries, or lies, or frauds. Those misguided (or malevolent) underminers, insidiborers and enemies of our Institutions who have dared such insinuation are ignorant (or wilfully neglectful) of the Jurisprudential Principle of Deposit Banking. That Principle is that (save on,

in or under *panic*) only a minor fraction of outstanding currency will ever be presented for redemption at once. The stock of ideas in the till can be small indeed, and still carry a fine, healthy mass of paper, so long as *any* paper actually presented is honored. Any paper. So long as *pseudeas are honored when presented, let it be remembered that they remain as good in Jurisprudence as the basic-metal ideas themselves*. We need only prudent management of the Bank of Jurisprudence, to keep all the few real ideas in the till *and out of circulation*, as a reserve against the advent of any 1929—an impossible advent, if the Principles of Jurisprudence be moderately observed. We need only intelligent administration of the Bank, so that enterprise is furthered and the young man's interest captured. Let it be known that any likely young man can get ten thousand words of credit to finance a likely *pseudea*-factory. Let us also, of the elders, be generous in indorsing or underwriting young men's paper. Let us teach them, as well, the Principle of Translation, so that they can reissue any old stuff in new currencies, *ad lib*: francs, marks, yen, milreis for dollars. It would be unworthy, for example, to insist upon infeudation of a really promising young man merely because one of us happens to have floated such a fine issue as "Justice under Law" when the same young man can see how to gain full independence and a wide holding of his own by translating the same issue into Distinction under Principle, or into the Good Life under Legal Institutions. Such a man should be encouraged to put the Translation out as Different, and as His. Who loses? *He* gains. *We* gain.

Sound administration of a banker's or underwriter's or accommodation indorser's responsibility however, does require that such young men see and even be put under some pressure to employ *sound* principles of production and of marketing. These have not (*and here I reproach my brethren!*) been adequately gathered together before this publication in conveniently available and communicable form. This is the reason for my studying the practice of our Masters, and for composing on their Practice this Tract, which I modestly hope may help to set the feet of theory upon a gusher, and to emasculate the occasional thorn which threatens to gnaw the rising tide.

The two twin Principles of Production, whose primacy I find it impossible to choose between, are the Principle of Partiality and the Principle of the Hole.

The Principle of Partiality is best brought out by the behavior (not the theory) of those blind men who first gathered round the Elephant of Law to determine the nature of his Elephantitude. Theirs was that Antagonis-

tic Unplanned Cooperation rightfully lauded by the great William Graham Sumner; it is for us to dedicate, for us to consecrate, for us to make conscious, universal and a Taught Tradition, the practice which they did but stumble on. One, you will recall, announced that the Elephant of Law was "mighty like a tree," one that he was "mighty like a rope," one that he was "mighty like a wall." Though good, this lacked perfection: the Principle of *Absolutized* Partiality comes in then to do for Jurisprudence what Newton did for Copernicus, Einstein for Newton. The elephant *is* a tree, or *is* a rope, or *is* a wall, and *nothing else or more*: this gives something to go on. Above all, it invites pseu-dispute and pseu-disproof of Elephantitudes, not further inquiry into actual Elephants. Skepticism Begat Inquiry, Inquiry begat Panic, Panic begat Destitution. Whereas Absolutism in Partiality is one parent of Deposit Banking. It has found glorious application to the Nature of Law, the Nature of Jurisprudence, the Nature of the Judicial Process (say, as merely an Application of Law, or as merely a Hunch, or as merely a Stomach-Ache, or as merely an Expression of Class Bias.)

The other parent of Deposit Banking is the Hole. The Principle of the Hole is so simple, and so plain, to us who know it, and life apart from it is unthinkable, that we find it as hard to imagine the life of Jurisprudes without it as it is to envisage an America devoid of fire, iron or the wheel. The Principle rests simply in the addition of a W. Where there is in Nature a Hole, we put a Whole, and then stake out our claim as to where that Whole resides, or what *its* Nature is. The finest instance is Sovereignty, but lovely things have been done with the Validity of Norms, the Authority of Law, Absolute Justice, the Summum Bonum, the Stages of Legal History, the School of Realists. The resultant issues can be sliced any way at all, with no fear of vulgar minds stumbling upon embarrassing Inquiry:—there being nothing but a Hole to inquire into, *let them inquire*, if they will!

Beside these principles of production there are to be discerned, however, subsidiary but important principles of marketing. These, too, I find difficult to arrange in order of importance, but I think it obvious that one of the most fundamental, both to avoid panic and to gain market, is the Principle of Anonymous Non-Citation. By itself, and in isolation, it might be well nigh worthless, but when coupled with the Principle of Multiguity of Terms (whose beauties are discussed above) and the Principle of Imputed Nonsense, it leads to results which gratify, and is easy enough, when once truly perceived, to be managed as well by the most untutored finger as by the hand of experience.

Thus, if some young jurisprude wishes a stake in life, let him cry out loudly against Those who would make Rules the be-all and the end-all of the Law, and shout that Facts are needed. *Facts* has an appealing sound. And every lawyer knows from his own Lawyering that there is more to law than rules. If the jurisprude, emergent or ancient, has read nothing, or has not understood what he has read, that is immaterial to his cry, since under the Principle of Anonymous Non-Citation he needs to cite nobody, much less a writing and a page; if he *has* read anything, he has only to add to his Anonymous Non-Citation a proper Imputation of Nonsense, to wit, under the Principle of Absolutized Partiality he will attribute to some, or many, or most among unnamed writers who may have said perhaps that Rules are Important the absurdity that Rules are *All-important*. His adversaries have, of course, only to deal with him in the same way. Having said he wants Facts, he is to be read as Wanting *Nothing But Facts*; having said he dislikes blind following of certain concepts, he is to be read as *Denying all Concepts*. Whom the jurisprude would destroy, he first makes seem mad.

And *Mutual* Anonymous Non-Citation not only avoids any chance of check-up by the vulgar, but leaves clear victory on *both* sides. Whereas in other fields mutual *defeat* of both contestants is common enough; and even our parent discipline, the Law, has achieved a regime of victory for only one of two; Jurisprudence, the Crown of Civilization, and She alone, makes possible the Triumph of Each, the Victory of All.

I do not, however, wish to mislead, or in a tract for the inexperienced to risk even the chance of misconstruction. The Principle of Anonymous Non-Citation is a principle of Controversy only, a principle of Right Pseudiscussion. In pseudiscussion it can work wonders, as has been seen. But it in no wise extends beyond this field. Its use, in the case of *Borrowing*, is antisocial, inartistic, and unnecessary.

For observe again: extensive citation is of the essence of Weight; and *sufficiently* extensive citation can be counted on to block off Inquiry by any but such as are already Initiate. Inquiry by the Initiate hurts no one—for they will pseudiscuss; Inquiry by others can be simply smothered as by a good line and a swift and stalwart secondary. Let us therefore cite, but let us cite with the Jurisprudential Purpose of Citation clearly in mind. *Cases*, for example, lie too close to the reader's tool-kit to be wise material for citation unless they be cited by the double-dozen to each note; detailed discussion of *individual* opinions, such as has recently been seen, not only is to be warned against, but the Bank of Jurisprudence must move more sharply to put credit pressure on persons who thus under-

mine the essential indeterminacy, the non-testing, the non-testability, which is the foundation both of our currency and of our wealth. But citations from writers in foreign languages are safe and sounding: no lawyer here reads German, French, Italian or Swiss, much less Chinese, Manchukuoan, Hunanois or Peipingsh. Citations in the more modern fashion also display a pleasing growth among the members of our Mystery, of right feeling. Instead of confining citation to books whose cards in the library catalog include the word *Law* in the title, there has been a recent trend into psychology, pomology, embryology, theology, ethics, home economics, economics, politics, the sticks, the realstick, and symbolic logic. Such is sound citation! For what writer in the sticks or the statisticks will read a screed well-labeled "Jurisprudence"? And what actual reader can use a *law* library to check a reference (though in English) to parallelipedons or navelistic narcissism in the womb? Thus learning via citation can be piled up even by those who can only imperfectly make out a library card printed in a foreign language, and who might conceive *La Femme Loyale* to be a legal book with a jurisprudential slant of modern import. The rather recent widening of such piling, out of mere "foreign language which they Can't Check or Won't" into "Anything which they Can't Check or Won't," represents as fine a development of unexpressed but implicit Principle as any lover of the Art may ever hope to see develop. It is the Principle of Unavailable Authority.

So much, as to the purely social phases of Non-Citation. On the individual side, of plagiarism, I have no fear. In Jurisprudence, plagiarism is unnecessary, and therefore inartistic. And since this Tract is for the young, I state the reason in terms of A-B-C. If a young jurisprude simply cannot produce either an Idea (as of course he cannot: the few available Ideas were occupied some centuries back) or even a Pseudea, *then he needs Backing*. But such a person is provided for; Jurisprudence takes care even of sub-marginal aspirants; such a person, as has been seen, needs only to infeudate or to sub-infeudate, and cite his lord. If, on the other hand, the man *can* think, why should he be concerned with plagiarizing? By citing and borrowing, he builds up Weight; and when he wishes to break into his Own, he has but to Translate or to Pseu-do. For example, suppose that a young man's conception of Law has been deficient on the side of traditionally transmitted behavior-patterns, and a writer like Sumner, from whom he might have learned about such things, has been classified as "static" and so dismissed from thought, and Ehrlich has been simply classified instead of studied, and Max Weber has not been read or else not understood, and Maitland has been forgotten. Suppose, then,

that some six or seven folk start rubbing in the necessity for regarding such traditionally transmitted behavior patterns as one moderately important part of Law. The course for such a young man is clear: a new formulation, such as Taught Tradition, absorbs enough of the needed juice to obscure at the same time the fact that something theretofore overlooked has now been added; the new and appealing formula can be then referred back either to Sumner, or to Ehrlich, or to Max Weber, or to Maitland, or to six medievals, or to eight Greeks (all dead), which gives Authority, and the Anonymities from whom the juice was relearned are then wisely to be accused of having overlooked it. Victory for Each! Triumph for All! But the beginner will observe that the coupling of horn-of-plenty Unavailable Citation on the positive side is as necessary to really proper practice as is Anonymous Non-Citation on the combative. I confess with regret that not even our best have always proved equally vigorous on both forehand and backhand in the same match. But I feel certain that this rests only in our Art's failure to get its Principles into clear consciousness.

The Art itself, and the marketing of its product, depend in no slight measure upon the nature of pleading in Jurisprudence, the principles of which deserve much more careful study than they have received, although one can but applaud the native skill with which for centuries the masters have tended to practice them. The cardinal principle, I make bold to say, depends at once upon the nature of the forum and on the ever-present function of averting a panic. It is the Principle of Non-Joinder of Issue. The forum invites this Principle: the serving of papers, the giving of notice, the confrontation, the hearing, the technique of demurrer, traverse, confession and avoidance, the cross-examination, the oath—these are not only difficult to manage, in *Argument by Article*, but fortunately are by common consent viewed as indelicate and even grossly indecent to employ. "Every man his own issue-drawer, and neither notice nor joinder in the other fellow's issue," is such good policy, and is so firmly established by trade practice, that we might well ponder making it compulsory under penalty of Expulsion from the Guild. The operation of the Principle is familiar; but it needs to be made clear and explicit, for recently some wayward wilful men seem to be tending at times to disregard it. It proceeds thus:

If a writer, or some writers, or many writers, or a School of writers, seem to be dealing, let us say, with those sequences and semi-regularities of judicial behavior which are akin to the subject-matter of *natural* laws, then to refute them one takes their language as referring to the nature of

rules of *State-law*, and shows that a judge, when judging, does not serve as a *specimen* of such rules of *State-law*, but *uses* such rules consciously as guides; which of course shows that there can be no such sequences and semi-regularities of behavior among judges as there are among other men. Or if a writer has his mind on the *trial* court, he must attack other men's theories phrased to deal with the workings of *appellate* courts and show that they are wrong as tested by what *trial* courts do. The defenders must then attack him as if he had been talking and thinking about *appellate* courts. Such non-joinder can be relied upon to keep the uninitiate from understanding, or inquiring; indeed, it may often have that delightful effect upon the initiate, as well. In any event, it Multiplies Victory. Even in the one region where it is directly unnecessary, it is still necessary for our ultimate security. I have said above that where the Principles of Partiality or the Hole have been applied, inquiry is not to be feared because, as has been seen, there is Nothing to inquire into. And victory for both or all is possible, even with issue joined, because either or any can so readily disprove the or any other. Some have argued from this that occasional flat joinder, where thus harmless in immediate result, lends color to the arena. But the some, or many, or most, or the school, or some of the school, who seem to sing such further sirening are really Disregarding the Major Problem of Jurisprudence. That problem is to keep the Taught Tradition *in Currency*, and peacefully, and permanently, and without demand for redemption, *and without panic*. Join issue once, however safe joinder may appear in the case in hand, and you do invite inquiry; you invite inquiry into *why you do not join issue next time*, where joining *would* invite inquiry. This is lamentable practice. It verges on the disruptive.

Now I have noted that there are now, and have been in the past, some persons who have disregarded the Principles of Jurisprudence as practised by our Masters. I hope I have expressed with clarity and vigor a censure which is not my own only, but is the guild's and is sanity's, and would be Lemuel Gulliver's. Yet always there will be such: there will be always the unwise, the exhibitionist, unruly, ignorant, or unwary, who rush into attempted clarification and joinder of issues, or who have neurotic interest in bringing forth for testing those few and precious real ideas which belong in the Bank's vault under time-lock, to be gazed upon only on feast-days by Accredited Examiners accoutred with robes and armored cars and guards. We must severely discourage such young men. But I am against their Suppression. I recognize indeed that they are, in *tendency*, revolutionary, and that, in *tendency*, they may be thought to

threaten all safety of Titles in Jurisprudential Currency. I understand both intellectually and emotionally why many of my brethren may conceive that we should rally all forces to their immediate and vigorous extirpation. Yet I submit that a wiser judgment, on a longer base-line, counsels Continuing Confidence, and counsels application rather of the proved Principle of Tacit Cold Storage than of Violent Suppression. Consider the case of Bingham. Rarely has any writer more suddenly or more disruptively attempted deflation of the full and finer currencies. He did it not once, he did it repeatedly. Yet to what effect? For more than twenty years his work was tacitly cold-stored by all American jurists. Not one Title has suffered. Shall we not say, then: "Let us rely upon the sound instinct of the Trade"—*remembering that Suppression Stirs up Inquiry?*

Indeed, as one observes the unanimous fate of McMurray's unpleasantly hard Scotch sense, of Ballantine's, Costigan's, Whittier's, reachings for the jurisprudential juice of that Hole so superbly floated as The Law of Contract, as one remembers the successful turning even of Max Radin's pointed and resplendent brass tacks from any balloon's cover, one might be tempted to formulate an especial and definite principle of safety, a Principle of Cold Storing the West Coast. But such a formulation would rest on superficial, and on narrow, judgment. For who cites Kocourek? Who cites Fuller? Who cites Green? Who cites Adler? All different, all disruptive, all Cold-Stored.

In one or another fashion, other West- and non-West-Coast men have broken over the true rules of the guild, *but to what effect?* I do not like this, I do not like any, Naming of Names; but at least it will be conceded that I have exercised severe restraint—there are so many others of the well-cold-stored whom I do *not* name. What I do submit is that even the multitude of such breakers-over has left our Jurisprudential Currency Finely Current, and Wholly Good; it has not impaired one single Title; it has *not* required organized activity in putting down. I repeat that, indeed, Cold-Storing has made Titles Safer than any Vigorous Action could. Again, we should study the practice of the Masters.

No. Our sound Principles rest on centuries of experience. They are tested, they are safe, they are the *only* safe Principles. I trust I shall not be considered immodest if I record a touch of pride in having thus made them explicit and put into the hands of the young the wherewithal to carry on a great tradition in the matchless splendor of any of its varied ways, from no-thought through partial thought on up to pseudo-thought and into the principles and ethics of pseudodiscussion. Not only, in the

House of Jurisprudence, are there Many Mansions, but there is a Mansion for every man, though Nature may not have provided shelter or food enough for even one. The brightest jewel in this our Crown of Civilization is that, as in the fourth dimension, all of these Mansions, however varied, can occupy the same space at the same time, and all be Noble. There is not even need for any Mansion to have three-dimensional consistency within itself; slight inconsistencies contribute greatly to a pleasing aspect. And Stones cast by the vulgar pass through the windows, leaving them Unbroken.

APPENDIX

(A LETTER INDICATING PROFESSOR TEUFELSDRÖCKH'S
PLANS FOR REVISION)

DEAR COLLEAGUE AND BROTHER IN THE CRAFT—

Your patient labor over the MS. of my Tract is deeply appreciated, and I have given serious study to your criticisms.

It is true that the Tract may make the right writing of Jurisprudence appear too easy; and there is no denying your observation that Coordination of Principles and Harmony of Tone are of the essence of any artistic and satisfying work in Jurisprudence. Yet too much complication would have obscured an elementary exposition. And I had felt rather confident that any failure (whether through ignorance or through inexperience) to observe coordination or harmony would only embarrass the immediate work of the man concerned, without casting any doubt at all on the Solidity of the Currency, so that a neophyte might safely be left to learn by practice how to correct and ultimately to eliminate his errors.

Take for example the great Lemuel Gulliver's subsumption under a single principle of the Lilliputian practice of Slaying Ten Thousand of the Philistines in the manner of Samson, and the Laputan practice of creating a Dragon to Slay in the manner of St. George. Lemuel points out, as you remind me—unnecessarily, my dear Brother; who admires Lemuel more than I? that these are not opposing principles, but are only diverse aspects of the Magnification of Victory: that the same effect is achieved whether the adversary be multiplied or magnified. You suggest that the Tract should warn an apprentice against doing both at once, since credulity may have its limits. I answer that even a gross error in this regard could hurt no one but the writer; I even risk the opinion that we more conservative craftsmen may well have erred rather in over-caution, and have left much available Value to the Craft unexplored and unexploited. I ask your serious meditation, dear Brother, on the point of whether, with due use of

Anonymous Non-Citation, the Laputan and Lilliputian practices cannot wisely and effectively be cumulated.

But you do force me to revision of my views on one tremendous point. I had too lightly assumed that no warning was necessary against Minification of the Adversary. I had assumed—so almost inborn in me are today the great Lemuel's teachings—that no jurisprude *could* put himself into the position of seeming to slay only flies. You make it inescapable that inadvertence, spleen, or secretary's error might cause to slip that Invisible Hand in which I had unwisely put my trust. As I studied over your challenge, therefore, I found your wisdom wise. It stimulated. I have gone on to find a Principle which *must* be incorporated into the Tract, a Principle of Principles for whose discovery, if you will allow me, I shall beg leave to share credit with you. I realize that this may seem to conventional minds a trifle daring, but when you see this Principle formulated, you will agree with me that in and of itself it justifies the innovation.

For see the Solvent, always known to us, always acted on by the right-minded, so simple that its statement merely warms the heart. But a Solvent with so many, so obvious, so lovely, implications. No, dear Brother, this is not mere rhetorical suspense. This is an earnest effort to communicate to you the heart-deep gratitude I feel for your having brought me to perception of what I do consider the Primum Mobile of Jurisprudence, the very Stone of the Legal Philosophers.

It is this: any trouble, doubt, or seeming conflict resolves itself *automatically*, if *Solidity of the Currency be taken as the Test!* To hear that is to *know* it, forever.

No man to whom this Principle has been formulated will ever again dismiss an adversary with a sneer. Nonsense will be imputed gravely as to a Master, and refuted then only after definite, regretful, struggle. Then is indeed a Dragon destroyed, and not an Earthworm. Once this Pervading Principle is stated, not even an apprentice can miss your point of Harmony of Tone: the Craft and the Currency *demand* that Adversaries be Important. Never will their sincerity, or their competence, or their intelligence, be lightly dealt with. Patently, that is unnecessary, as the Tract makes clear, to mutual Victory. Patently, it is inartistic. Patently, it is dangerous to us all. What I see now, what *you* see even as I state it, is that the Currency will henceforth be protected even in the hottest controversy.

In another, though lesser, point, you bring me to revise. I had indeed in the Tract drawn the opposition too sharply between Joinder and Non-Joinder of Issue. I cannot escape your rigorous analysis of this. I shall,

therefore, make clear that Non-Joinder is of the essence only at the final moment. What you said, if I may borrow a low image, reminds me that Jurisprudence is in this not unlike a type of play which I have read of, described in your country as "the ten-twenty-thirt." The broad-swords clashed and met, "two up, two down." This is the proper role of Seeming Joinder. It stirs the onlooker. It does not join. The final thrust is delivered between the side and arm. This is the eternal role of Non-joinder. On this, which I think a minor, though interesting and important point, I shall not refer to you. You, my dear Brother, will understand: this is the kind of point which reveals that labored thought has lain behind its statement. Whereas the Great Principle of Solidity of the Currency forbids that any labor should seem necessary, to expound The Principles.

Yours, in real and deep appreciation,

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