McGILL LAW JOURNAL

VOLUME 7 MONTREAL, 1961 NUMBER 3

LAWYERS AND LEARNING: THE PROFESSIONAL AND INTELLECTUAL TRADITIONS

by Maxwell Cohen*

> "Intellect is at once a body of common knowledge and the channels through which the right particles of it can be brought to bear quickly, without the effort of redemonstration, on the matter in hand."
>
> JACQUES BARZUN, *The House of Intellect*, p. 4.

> "In the United States in recent years the failure of local efforts at reforming court procedures and the persistent clamor, shared in by men of law, against the Supreme Court, show that the legal Intellect is, for whatever reason, at a disadvantage. Some of its troubles come from the dominance of casualness in our mores, which makes the law seem to the ordinary citizen a series of expensive quibbles: 'What difference does it make what statute you convict him under if you know he's guilty?' A deeper cause is the lowered standard of the linguistic power, which accounts also for the fact that only a few judges no longer living — Holmes, Brandeis, Cardozo — furnish us again and again with the verbal concretions of ideas we should be lost without."
>
> *Op. Cit.*, p. 248.

The law has always been at home in both the Academy and the market place.[1] This is not to suggest that the other established disciplines are unaccustomed to bridging the leap, if any, between intellect and "life". It is only that law as we understand it in western society has had a special quality in this continiung reconciliation between the disciplined, special and often abstract quality of intellectual activity and the more artful, immediate and short-run needs of the day. The locale, "western society", must be emphasized because there would surely be common agreement that the method and substance of the legal orders of our western culture are so identifiable in many of their principal features that, without injustice to other experiences with social control, in eastern or African societies, they can be described in distinctive terms.

The existence of an "intellectual" tradition in the study as well as in the administration of law is to be recognized both in the civil law and the common

*Professor of Law and Acting Dean, Faculty of Law, McGill University. This paper in its original form was presented to the 1960 Conference of British, Canadian and American Law Teachers, New York University, September 1960.

[1]This paper is not concerned with a detailed exposition of problems of legal education as such. The writer's views about modern legal studies in Canada, and in general, will be found in two articles: Cohen, *The Condition of Legal Education in Canada* (1950) Can. Bar Rev. p. 267, and Cohen, *Objectives and Methods of Legal Education: An Outline* (1954) Can. Bar Rev. p. 762; also see survey in 6 Encyclopedia Canadiana p. 112.

law. Indeed, among the curious features of self-appraisal in the civil law, when civilian scholars contrast their wisdom with the common law, is the assertion of a superior role for the "intellectual" or "philosophical" within their system.[2] This view is "curious" because while from some aspects the familiarity in the civil law with system and codification, and the general continental interest in problems of legal philosophy in the broad sense, may seem to justify so flattering a self-portrait, this estimate misconceives the function of general ideas, the sense of style and of order, the broad as well as highly concentrated concerns of scholarship, and the disciplines of practical lawyership, that are all present in the common law.

Moreover, a Canadian view of the intellectual traditions in the law has some advantages of comparative perspective because of the presence of both the civil law and the common law as living legal systems operating side by side in Quebec and the common law provinces. There are advantages of comparative perspective also within the common law itself for the common law in Canada, while primarily English in origin, has increasingly reflected American traditions, particularly in some doctrinal areas, in methods of scholarship and professional organization and in the relations of the profession to the public and to public business.[3]

While the simple statement that there is an intellectual tradition in both the common and the civil law systems, may need no special pleading, what deserves some analysis is the particular character of that tradition in both systems and the effect of such a tradition on this continuing reconciliation between professional need and scholarly activity, between the public image of law and lawyers and the role they actually occupy in our society. Viewed historically both in Rome and in medieval Europe, the study of law, and its organization into a body of manageable materials for study and development, seems in fact to have appeared earlier than the actual emergence of a professional corps of "lawyers" — apart from those persons responsible for the republican or imperial administration of justice. Certainly the civil law system as the heir of Rome has tended to the present to give its highest accolade to the scholar, the codifier, the teacher rather than to the advocate or the judge. The respected names of modern French law — Domat, Pothier, Froland, Bouhier, Boullenois, Aubry and Rau, Colin and Capitant, Demolombe, Laurent — are to be found not among judges but are embossed in gold on the covers of their treatises. By contrast the great judges and advocates of the common law were, until recently, more deeply held in veneration than the more newly arrived — let us not say 'arriviste' — scholars. Yet it should not be forgotten that even in English law the great names of the law in the middle-ages and early modern period, often are men of books — Bracton, Glanvil, Fleta, and much later Fortescue and Lyttleton, Coke and Selden, Hale and Blackstone.

[2]Levy Ullman, *The English Legal Tradition, passim* (1935). Amos and Walton, *Introduction to French Law* (1935), *passim.*

But the fact that between Bracton and Blackstone barely a half-dozen can be mentioned, itself signifies a difference in the two traditions. And after Blackstone it is another hundred years in England before Pollock, Dicey, Anson and one or two others established the modern English tradition of textual writing to be carried on with such comprehensiveness and brilliance in the United States, in the master treatises of Thayer, Wigmore, Williston, Beale and classically, of course, in Holmes' Common law — although Story and Kent preceded them to suggest that the new world might one day rescue the common law scholarship of the old. Yet despite the genuflection made so many years ago by Harlan Fiske Stone to the emergence of American scholarship to respectability, by recognizing that the profession now had its three branches in the bench, bar and law schools, there remains a fairly general professional attitude — in Canada certainly — which would tend to place the bench and the bar perhaps on terms of equality without admitting scholarship as a whole to full membership.

To a large extent, however, the civilian and common law points of view about scholarship and lawyership now seems to be moving closer together. Evidence of this general assimilation of attitudes surely is to be found in the increasing role of the judge and case law in the civilian system and correspondingly in the rise to influence and status of the teacher and his works in the common law. Perhaps even more significant has been the considerable attention in the common law world within the past two generations to problems of legal theory and philosophy. Indeed it is arguable that some of the more important modern developments in the field of theory have come from Anglo-American thought, notably the examination of the judicial process,[4] the sociological (Pound) approach[5] to legal materials and the intensive studies of fundamental legal conceptions that, though it begins with Hohfeld[6] and does not yet end with Hart,[7] may have its true antecedents in the early Austinian efforts to isolate and define "rights" and "duties". Yet there is something rather touching, in remembering how eagerly Wolfgang Friedmann's "Legal Theory" was greeted in 1944[8] when it first was published, filling as it must have done a much-felt English need for some general view of the ideas that underlay the main concepts of the law in western society and particularly in the Anglo-American system.

In short, there has always been in western law an "intellectual" tradition that was part of, although sometimes not always entirely in accord with, the forms and crafts of practical lawyership with which the law has had to be

[3]Milner, *One Canadian View of the Case Method* (1935) 3 Jour. Soc. Public Teachers of Law 33.

[4]Cardozo, *The Nature of the Judicial Process* (1922); Frank, *Law and the Modern Mind* (1936); Lloyd, *Introduction to Jurisprudence* (1959) 203-236.

[5]Pound, *Introduction to the Philosophy of Law* (1954, revised ed.).

[6]Hohfeld, *Fundamental Legal Conceptions* (1923); Kocourek, *Jural Relations* (1927) 362-376.

[7]Hart, *Definition and Theory in Jurisprudence* (1954) 70 L.Q.R. 37.

[8]Friedmann, *Legal Theory* (4th ed., 1960).

concerned as a principal instrument of social control. And this tradition in different proportions and with a different emphasis was as much part of the evolving common law as it long has been within the older, more refined and philosophically perhaps more speculative civil law.

If we were to examine the civil law and the common law today in order to determine what are the particular concerns of their respective intellectual traditions, we would find, no doubt, that many of their interests are very much alike. And although this is not a study of comparative intellectual or professional attitudes in the civil and common law one or two areas of common development clearly are recognizable.

Both systems share today an unending concern for the relation of the individual to increasingly powerful states. Discussions in Canada, Britain and the United States have revealed the fresh interest all three countries have had for the work of the Conseil d'Etat of France[9] as well as for other European devices — such as the Danish Ombudsman[10] — to assure some higher measure of administrative justice than our own established procedures often may seem to provide. Similarly, both systems are greatly intrigued at the prospect of having their legal orders become the models for the many new sovereignties coming fresh to the stage of history. Indeed, it is one of the ironies of so-called "colonialism" that whatever usuable administrative and juridical structures are now to be found in the ex-colonial areas, usually they are forms created from, and steadily borrowing from, the British and French legal, administrative and political models. Lastly, the impact of World War II on western legal thought as a whole has been to revive an interest in "natural law" ideas, in "justice" and the ascertainment of the "just law" not only as a revulsion against gas-chambers and slave-labour camps — whose framework of administration was founded on "law"[11] — but also as a reaction to the general power of the state on the one side and the increasing "relativism" of thought and in particular of legal thought, on the other.

The important fact is that certain views about fundamental qualities of "law" and the general western attitude toward the legal order and its role, scope and limitations, are shared by the civil and common lawyer. For example, a central intellectual characteristic of the law is the extent to which it is possible to insist upon rigorous and abstract formulation of concepts at the same time as the consequences of such formulation must be applied *instanter* in the market place. An always fascinating aspect of the law, viewed entire or in the relations of its speculative to its operational side, is this tension between the abstract and the immediate, between idea and implementation, between concept and machinery. It has always seemed quite remarkable that phrases

[9]Schwartz, *French Administrative Law and the Common Law World* (1954).

[10]Blom-Cooper, *An Ombudsman in Britain* (1960) Public Law (Summer) 145.

[11]Rommen, *The Natural Law* (1947) 264-267; Simpson and Stone, *Law and Society*, Book three (1949) 1608-1695.

connoting ideas over which men have fought with words and swords for generations — "right", "liberty", "good", "wrong", "reasonable", "duty" — should require an instantaneous translation into acts, into life.

The lawyer who argues that a particular rule, alleged to be binding, is "unjust" or that there are "rights" that are "immemorial" and "inalienable", or that behaviour was "fair and reasonable", is surely asking a great deal from both thought and action when he insists that these grand symbols find some immediate and workable application to the dispute now before him and a court. In the life of the law the "good" and the "beautiful" are not phrases for a seminar but words that must carry success or failure on their backs.

Another tension that has a significance for the place of intellect in the law seems to be the chronic misunderstanding between the profession and the public. This phenomenon perhaps has more application to the United States and Canada than it has to the United Kingdom or to France. For the United States is admittedly *ein Rechtsstaat*, while the federal system in Canada also commits us to a similar ever-widening role of law and lawyers in our affairs. This misunderstanding between the public and the lawyer is of very respectable lineage. "First, let's kill all the lawyers", someone says in Henry VI, and these sentiments are not without support in our own day. Why this should be so is not a matter of "public relations" — that easy panacea to rescue the unwanted. Instead it seems to be a resentment against the emergence of a professional class largely in control of much of the machinery of the state, particularly where that machinery often impinges directly on the individual, *e.g.* the courts. The paradox therefore in the relations of the legal profession and the public is often obvious and painful. A highly skilled corps trained in resolving the claims of individuals to each other, to groups and to the state, is at the same time suspect because it appears to be the unwarranted custodian of an apparatus in which the individual may become enmeshed, certainly to his cost and often to his sorrow. It would be well, of course, to admit that this custodianship often has led to abuses and it is not necessary to be a doctrinaire Marxist to accept the general view that on the whole, despite the pretensions of "legal aid", the law operates more oppressively on the poor than on the rich and lawyers too frequently become the symbols for this conspicuous social differential.

Now, one effect of this tension between the public and the lawyers is that the profession in North America frequently has tended to compensate for its vulnerable status by insisting that it is not an elite, and to prove it, it often has behaved accordingly. The whole apparatus of legal education in the 19th and early 20th Century, in the United States and in Canada, with relatively simple procedures for admission to the bar, seemed to be in part a determined effort at egalitarianism in the growth of the profession and it has taken the last fifty years of law school development to assert the significance of intelligence, perspective and training as a proper basis for professional status.

There is one other feature that should be remarked upon here. In the popular assemblies of both Canada and the United States, the profession often occupies a proportion of the seats far out-numbering any other class, except for farmers in those legislatures where the unequal division between town and country has been immobilized deliberately in the electoral system. This percentage posture again tends to convince the public that too many of the centers of political authority are in the hands of the legal profession. Yet the resentment rarely takes the form of insisting on non-lawyers as candidates or of voting for non-lawyers merely for the sake of expressing private or public indignation. And so this condition of public and professional tension remains unresolved. And while ameliorative devices may assist in the narrow public relations sense, such as legal aid, etc., the essential sources of misunderstanding must remain. The only difference between ourselves and yesteryear is that our affluent society tends to reduce the material sense of difference generally between the public and any specialized elite and to that extent the surfaces of friction may become diluted in the wider euphoria of well-being.

Then there is the tension within the profession itself — between the bar and the bench, the bar and the law schools and the bench and the law schools. Some curious intellectual problems are associated with these tensions. The tension between the bar and the bench has both a real and a "make-believe" content — with the "make-believe" to be found in some of the rituals of the adversary method. The "real" aspect derives necessarily from the important differences in their functions. Advocacy demands a special perspective on the facts and on doctrinal formulations that subserves the needs of a party seeking so-called "justice". On the other hand, the judicial process represents a "creative" application of some presumed, "existing" rules to the solution of disputes and there is, of course, a very considerable range of rationalizations that in many instances can be employed to explain a decision while in others the range may be much less. Yet the intellectual activity involved in the process of advocacy often may be of at least the same order of magnitude as that involved in the judicial process. Indeed, remembering the effort required to organize evidence and clarify doctrine in order to persuade a court, it very well may be argued that the intellectual demands in terms of precision, organization and persuasion, are often greater here than those present in deciding cases and in drafting judgments.

If we turn to the non-litigious aspects of practice it is arguable that the quality of effort required to pursue to the very end some complex corporate re-organization, or any number of other challenges arising out of difficult business transactions, demands many of the characteristics we associate with high intellectual activity elsewhere in the profession. The tendency, indeed, of the leaders of the bar often not to take judicial appointments derives not only from the extreme differences in financial rewards, but very likely from the interest they find in partaking in these challenges on levels of complexity

that, when successfully met, provide much personal satisfaction. It is possible that from the point of view of self-appraisal of status within the profession, and of the quality of minds at work, the leaders of the corporate bar already tend to be modestly superior in their view of the bench except at its very highest levels and, of course, except for conspicuous individual cases of the judicial process at its best.

In consequence the courts of Canada (and doubtless of the United States) face the continuing difficulty of recruiting not always the very best, but often the second best and the judicial tradition suffers accordingly. Moreover, the tendency of the bench and the bar to compensate psychologically for the natural distance they must keep from each other by engaging in considerable social relations has resulted in recent years, in Canada at least, in members of the judiciary becoming increasingly active in general professional bodies such as the Canadian Bar Association. Instead of this "togetherness" leading to a useful exchange of experience, which it may do frequently, it also may result too often, in subtle forms of inhibition on the part of the Association, whenever it ought to take a stand, because the presence of a high judicial person, in some executive capacity, may discourage it from doing so.

The effect of these various processes has been sometimes to down-grade the judiciary in contrast with the influence and status of leaders of the bar, particularly those from great urban centers and with large and varied corporation and business practices. Then, too, the ancient sense of oracular remoteness that ought to surround the bench is drained away without any "compensation" for this loss and when there is added to excessive familiarity the reluctance of some of the best minds to accept judicial appointments, some undesirable consequences may follow for the legal order and for the profession.

The tensions between the bench and the law schools, however, tends to derive in part from a curious mixture of judicial respect with annoyance as to the role of scholarship as the new final "court of appeal" in reviewing the activities and decisions of tribunals. It may become particularly acute where the language of case-notes written by law students is not a wholly respectful one. It is not difficult to understand the irritation which arises when the Court of Appeal of a province finds itself condemned in round undergraduate tones for a judgment particularly when the author of the decision himself regarded it now as the *locus classicus* for the issue decided upon. While all of this is good fun it does not necessarily create the optimum of relaxed relations; and even here at McGill, we have had the experience of a senior member of the judiciary complaining that such a practice in the McGill Law Journal was quite improper, particularly where the criticism was levelled at his own judgment.

There is, of course, a subtler and more important basis for the tension between the bench and the law schools in the common law provinces of Canada and the United States at least, and that is the slow replacement, in the profession's mind, of the bench by scholarship as a source of doctrinal wisdom.

The process has been much more rapid in the United States than in Canada, at least to the extent that there are a dozen or more contemporary names whose words command as much or more authority as that of many appellate or trial courts.

In Canada the "rivalry" still stands quite heavily in favour of the bench. Partly this may be the fault of scholarship in Canada, due to its neglect as yet to introduce both critical and non-critical works of sufficient importance to become standard texts. But in the common law provinces the original British inhibitions in Canada are sufficiently deep, with memories of the remoteness and seniority of the bench lingering on in the mind of the law teacher, to prevent scholars from speaking always with the bluntness that has become so characteristic of much United States legal writing and sometimes of similar comment today in the United Kingdom. Indeed, there is no one in Canada who is read with the respect and concern for his approval that British judges seem to accord Professor Arthur Goodhart whose notes in the Law Quarterly Review for a generation now have enlivened and enlightened — and perhaps occasionally annoyed — a proud and powerful bench. Such respect, of course, in the end is a tribute to intellect.

If there are some tensions between the bench and the law schools in Canada, these have been even more acute, until recently at least, between the bar and the law schools. Indeed, if there is any area where the role of intellect, its respect for precision, for effort, for the fullest mastery of skills, for the arts of communication, tends to create difficulties, it is in the generally modest approach to the function of intellect which some sections of the bar seem to hold in appraising the requirements of professional activity. Here again, of course, there may be a substantial difference between appearance and reality. The bar in Canada, again until recently, has tended to view the law schools not only primarily but almost exclusively as a source of training for the profession and thus the value placed upon research and scholarship generally has been a good deal less than that placed upon professional preparation. This may not be altogether unnatural since, obviously, training for practice must be a primary reason for the establishment of a law school — although for generations the Europeans and the Latin Americans have had their law schools serving far more broadly-based purposes.

Nevertheless, this very "professional" approach to law schools and scholarship has been more acute until recent years in Canada than the corresponding situation has been in the United States, Australia and in the United Kingdom — at least in the established centres of legal scholarship at Oxford, Cambridge, London and Edinburgh. While on the continent the issue of scholarship versus professional training really has never seemed to arise in the same form as we know it, since the "professional" side of European legal education tended always to be subordinate historically and technically to the primacy of legal studies as a university discipline.

The reasons for this rather late acceptance of scholarship by the bar in Canada is not difficult to find. It is rooted both in a colonial and vocational viewpoint and also in the rather primitive arrangements for training and admission to the bar which existed in many Provinces up to, say, 1920[12] and which, with slight improvements, remained in an unsatisfactory state until the last thirty-five years. Today there is substantial agreement in the profession that legal education deserves the attention, respect and support of the bar; that law schools exist not only to train for the profession but also have general obligations to scholarship, to the progressive development of the law and to the wider intellectual community as well.

Indeed, since 1945, it may be argued that important alterations in the structure and intensity of legal education have taken place in Canada and this is paralleled, if more slowly, by the acceptance by the bar of the law teacher and the law school as "separate but equal" entities, even if "equality" here has not the fullest ring of acceptance as yet. Yet it must be admitted that some of the difficulty is to be found in the inability of law schools and law teachers in Canada to command, by their own scholarship, the fullest respect of the profession at least in so far as that command would be invited by important works of use to the bench, the bar and other scholars.

Nevertheless, beneath this older resistance to the intellectual role of law schools and teachers is the reality of the professional appreciation of "intellect," to the extent that intellect expresses itself in the most senior demands of advocacy or office practice. The tendency already is evident in the encouraging attitude of the bar toward student editors of law journals and those with first-class records even where in Canada these exercises and measurements are relatively new. Yet the paradox and the tension remains. The bar in many Provinces maintains a close concern as to professional training programmes and desires to have them improved by stiffening the requirements of admission to the bar itself. At the same time the bar seems not quite clear yet in its own mind that the scholar and teacher deserve either in status, in power and in pay, a senior place in the professional community.

There is another area of tension that directly derives from an appreciation of the role of intellect in the law. And, significantly, this is to be found within the law schools, within scholarship itself. While the pressure of numbers of applicants has encouraged the improvement of standards for admission to law schools, it is no doubt arguable that in Canada, at least, there are not a few admitted to schools and to the bar whose academic qualifications and intellectual equipment are excessively modest. Here a school faces serious problems of determining how far its standards should be pressed in the service of creating a true elite. It is possible that such a view may do a disservice to the practical needs of the profession itself where a large spectrum of competence, viewed intellectually, may be desirable for its day-to-day requirements. Some years

[12]Cohen, *supra* note 1, *The Condition of Legal Education in Canada*, at page 266.

ago, it was argued by an English law teacher in Canada, that a very large part of professional activity requires only a certain level of intellectual achievement, and indeed, a temperament and personality able to meet the rigours of litigation or the patient needs of negotiation, were qualifications as desirable as intellect. We are here in a very difficult area of analysis. The subject is as old as the I.Q. tests and the answers remain as unsatisfactory as ever. One thing is clear, however, and that is no matter how strenuously the Canadian law schools may teach and strive for an "elite", the mean averages of Canadian life are likely to press their results downward towards some less ideal goal and it may be that this is not only inevitable but not altogether undesirable considering the varied and unpredictable factors involved in successful professional activity.

Let us turn away from tensions of this nature which are partly administrative, to some doctrinal and methodological tensions that have intellectual implications of some significance. There is hardly a law teacher in Canada that has not been affected by one or all of the three main currents of theoretical interest in the law to which I have already referred — the judicial process, the sociological approach to legal materials in general and the new analytical and linguistic concerns that run from Hohfeld to Hart. It is interesting to contemplate the significance of these three developments from the aspect of intellectual experience in the law. Most of us would agree that in its essential preoccupation with the judicial process the American "Realists" on the whole have had a constructive influence on our approach to legal phenomena. But what is not discussed with candour is the looseness in analysis that often comes from making too broad assumptions of unpredictability in the law. It is arguable that just as the mechanical rigour of the older teaching and analysis led to a kind of "slot-machine" theory of judgment-making, so this preoccupation with "gastronomical jurisprudence" may have led to glorifying the "uncertainty principle" to the point where rules and their inhibitions become really meaningless counters. In Canada a good deal of professional naïvete may still persist with respect to logic and the law, but at the other end of the scale there occasionally may appear an almost dramatic judicial candour which is prepared to assert that the ultimate source of a judgment is essentially visceral rather than cerebral. Who can be certain that the Realists have not done some disservice to the cause of analytical rigour even though they have prevented us from treating the law as mechanical "mortis". In any case one of the paradoxes of the Realist approach may be a denigration of intellect by implication even though this view may employ the new insights into the human psyche that are themselves among the high achievements of intellect.

While, for some time, the sociological approach to legal materials has been fashionable, and rightly so, it is also arguable that one of the consequences of being so concerned with the social setting of the law and of rules in action, is to divert attention from rigorous conceptual analysis within the system itself.

The "facts" become more "scientifically" relevant than the abstractions into which they are supposed to fit. Again it is a very nice question how far the Sociological school has weakened the interest in precision, "mechanical" though that precision may have been in so much of traditional legal analysis. Doubtless it can be urged that the same rigour is demanded by sociological technique and that intellectual standards are not at all affected by the distractions of a social narrative.

Finally, and perhaps most relevant to present-day philosophical fashions, are the consequences for the intellectual pretensions of the law as a discipline of its continuing interest in the problems of language and the belief that conceptual refinement can lead to a degree of certainty and hence a higher degree of predictability in the forecasting of jural results. What is significant here, perhaps, is the easy borrowing of legal scholarship from the best that has been done elsewhere among those interested in language and logic,[13] and also the difficulty of applying the results to professional needs. It is surely significant that though Hohfeld's work is now almost two generations behind us and Kecourek's amendments are almost as old, their impact on professional linguistic usage has been rather limited — and this is true despite the extent to which some of the authors of the American Restatements have been influenced by these refinements. In Quebec and elsewhere in the civil law world, few have attempted to apply these technical language tools to the problems of definition and analysis. The truth is that we see here perhaps as clearly as anywhere, the reluctance or rather the resistance of law, viewing the needs of the market place, to being dominated by the Academy. The market is too colourful, too varied, too noisy, too common, to be entirely comfortable with the grammarian and his kin. In the house of intellect the law bears evidence of its varied lineage and service and though it respects and absorbs the high products of intellect, it converts them of necessity to a much broader range of mundane uses.

Yet in the process of conversion there is the danger of debasement. What, however, may rescue the dignity of law, and its power to persuade, from the attack of the mob is, at least, style, almost as much as "justice." And it is here that compromises with the market may call on occasions for a price the law ought not to pay. How, therefore, to provide each generation of law and lawyers with their varied linguistic and administrative needs that join intellect and market in a workable union becomes the main task of professional statesmanship and legal education. But at the core of professional and educational policy must be the breeding and encouragement of at least a few men of the law whose ". . . linguistic power" as Barzun has said ". . . furnish us again and again with the verbal concretions of ideas we should be lost without."

[13]Flew, *Logic and Language (First and Second Series) passim*; *e.g.* Hart, *The Ascription of Responsibility and Rights (First Series)* 145.