

our stores of knowledge of the actual rules of law, as we accumulate them, as to make our minds, aided by association of ideas, more retentive of them; and to render them more accessible to our memories when occasion arises to recall them; or enable us to codify the law on a complete and rational plan; and the value of this is not detracted from by the fact that, as has been pointed out, in dealing with the legal aspects of some particular department of human affairs or business, we may have to do with relations occupying different portions of the field.

Such is the science of law in the only sense which Professor Holland would dignify by the name of Jurisprudence. It is more usual, however, to distinguish it as 'analytical Jurisprudence,' or 'general Jurisprudence.' For, in truth, the phenomena of law may be regarded from more than one aspect; and there is another aspect so fundamentally different from that in which analytical Jurisprudence regards them that another kind of science of law, or another branch of the whole science of law, comes into sight, which seems equally entitled to the name of Jurisprudence.

Instead of considering the phenomena of law as they now exist in the maturer systems, we may apply ourselves to consider law in its development, and to arrive at such generalizations as may be discoverable concerning the growth of law. Hence arises a science of legal development, and it constitutes what is called historical Jurisprudence. Now the first thing to do is to distinguish legal history from historical Jurisprudence, and perhaps this cannot be better done than in the words of Professor Jethro Brown in his *Austinian Theory of Law*.

'Legal history,' he says, 'affects to describe the actual development of law as it has been at the different periods of the national history. Historical Jurisprudence should state, as far as may be, the moral, social, and economic causes which led to that development. The one answers the question "How?" the other seeks to find some answer to the question "Why?" The one describes legal development; the other explains it. The one regards the development of the law more or less in isolation; the other is compelled to bring that development into relation with the general progress of the national life.'¹

Now the concluding words of this passage seem more suggestive of the German school of Jurisprudence, founded by Savigny, than the English school, founded by Sir Henry Maine. For I venture to suggest, with diffidence, that there is this line of distinction between the two schools, that the German school where it deals with the origin of law deals rather with the developments of legal

¹ The Austinian Theory of Law, p. 353.