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Jerome Hall

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ON RESEARCH IN LAW—A CHALLENGE AND A PROPOSAL

JEROME HALL*

Two or three simple truths provide the basis for the following remarks:

1. It is evident that the torch of legal scholarship has been handed to the United States—not as a temporary matter, but for an indefinite future.

2. The implications of the foregoing are of tremendous importance. No one can foresee the probable consequences in any detail. Here we can only assert that the most pressing problems of our day—both domestic and international—are legal problems. The tension, the insecurity, the violence and hatred that are rampant today—these are in part an index of the limitations of legal scholarship. For legal institutions provide the conditions precedent, the coordinating and integrating framework, the measure of reason and the flavor of equity—that are essential for sound, fruitful, social and economic organization. Hence the legal scholar must do what apparently is beyond human accomplishment. He must strive to extend the boundaries of legal science as never before—if the counsel of reason and the voice of enlightened conscience are to permeate human affairs, check passion, and hold driving interests within bounds, yet permit fair expression. The need for such accomplishment is the major challenge to the responsible lawyers and legal scholars of our times.

3. Having said this, we must hasten to add that legal scholarship cannot be guided by an utilitarian considerations—least of all, by any narrow ones that are formulated in advance. On the other hand, awareness of general goals and of the most significant problems that press for solution, should provide incentive and motivation for our will to carry on—without which research is a cold and sometimes sorry affair.

4. With the burden of holding high the torch of legal scholarship placed upon us in this of all worlds, what must we do? The answer here given builds upon the foregoing, but is stated in specific form and in practical terms to permit of criticism and consideration by lawmen as well as by experts.

* Professor of Law, Indiana University School of Law.

The proposal is simply this: to utilize within a definitely foreseeable time, every competent legal researcher in the country; to do this not only by providing him with abundant facilities for carrying on his work, but also, especially in the case of the exceptionally gifted researcher, by placing him in charge of a small group of researchers.

Let me briefly elaborate the plan envisaged. At present we do not have a single institute devoted entirely to legal research; we do not have a single foundation primarily interested in promoting legal research. The best available resources make it possible for individuals to carry on their research (rigorously limited from the outset by knowledge of what is presently feasible) occasionally aided by one or two young graduates. (In physics, chemistry, economics, *et cetera*, in hundreds of laboratories there are recognized positions as researchers and research assistants—paying substantial salaries. Think of the amount of similar talent in law that wastes itself in a vain effort to practice the profession!) This does not even scratch the possibilities of utilizing the abundant skills for legal research that could easily be made available.

A research institute, working in one place, with limited personnel would not suffice. Moreover, it might have the limitations of a single dominating philosophy or of particular interest in certain fields or problems. The Foundation or Institute which the writer contemplates would some day function in a hundred locations. It would build a center around each competent researcher that would not only aid "his own research" as presently understood, but would provide a staff (probably never more than six persons) to enable him not only to deepen and broaden his research, but also to direct research on a scale that is now never undertaken (though the frequent dream of most gifted researchers), to light the spark in others, and to train them to carry on. The life of a great legal researcher is always so pitifully short! We in law do less than almost any others to benefit from it.

The essence of the proposal has been described, and that is all that can be stated here. Only one remark may be added to avoid possible misapprehension: a small beginning would be wise—perhaps no more than a dozen such research centers.¹

1. One of the most illuminating and discouraging experiences for one interested in the promotion of legal research is an examination of Seybold's *American Foundations and Their Fields* (1939).