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"My second caution, however, is the weightier. Overemphasis of certainty may carry us to the worship of an intolerable rigidity. If we were to state the law today as well as human minds can state it, new problems, arising almost overnight, would encumber the ground again. 'As in other sciences, so in politics, it is impossible that all things should be precisely set down in writing; for enactments must be universal, but actions are concerned with particulars.' Restatement will clear the ground of debris. It will enable us to reckon our gains and losses, strike a balance, and start afresh. This is an important, an almost inestimably important, service. But hereafter, as before, the changing combinations of events will beat upon the walls of ancient categories. 'Life has relations not capable of division into inflexible compartments. The moulds expand and shrink.' Existing rules and principles can give us our present location, our bearings, our latitude and longitude. The inn that shelters for the night is not the journey's end. The law, like the traveler, must be ready for the morrow. It must have a principle of growth."

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"I wrote these words before I had seen an interesting article by Dr. John C. H. Wu on the 'Juristic Philosophy of Mr. Justice Holmes.' My thought, it will be seen, is in close approach to theirs. 'The prophecies of what the courts will do in fact, and nothing more pretentious,' says Holmes, 'are what I mean by the law.' Dr. Wu develops with acuteness the implications of the statement. 'Law is, thus, a matter of prediction. It does not even consist of the rules already recognized and acted on, as Salmond would define it; it consists of the rules which the courts will probably recognize or act on . . . Psychologically, law is a science of prediction par excellence. It concerns primarily our future interest; people do not study cases for pleasure, but generally with a view to anticipating what the courts will do when future cases arise. One constantly refers, it is true, to past cases as so many depositaries of the law, but in the last analysis that is done almost always with the intention of showing that there is sufficient ground for believing that the courts will act in such and such a way in the future.' Analysis of right and duty

exposes the same core within them. 'For legal purposes,' says Holmes, Collected Papers (p. 313), 'a right is only the hypostasis of prophecy - the imagination of a substance supporting the fact that the public force will be brought to bear upon those who do things said to contravene it - just as we talk of the force of gravitation accounting for the conduct of bodies in space.' 'A legal duty so called is nothing but a prediction that if a man does or omits certain things, he will be made to suffer in this or that way by judgment of the court.'

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"We need a selective process if history is to be read as history, and not merely as a barren chronicle. The several methods of approach, rightly understood and applied, correct and prove each other. An appeal to origins will be futile, their significance perverted, unless tested and illumined by an appeal to ends. We must learn to handle our tools, to use our methods and our processes, not singly, but together. They are instruments of advance to be employed in combination. The failure to combine them, the use of this method or that as if one were exclusive of the other, has been the parent of many wrongs. Only precariously and doubtfully shall we arrive at the needed combination without the understanding that comes of accurate analysis - the analysis that is the essential preliminary to any sound and truthful synthesis."

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"Sooner or later, if the demands of social utility are sufficiently urgent, if the operation of an existing rule is sufficiently productive of hardship or inconvenience, utility will tend to triumph. 'The view of the legal system as a closed book was never anything but a purely theoretical dogma of the schools. Jurisprudence has never been able in the long run to resist successfully a social or economic need that was strong and just.'"