The Social Future

Social Future: Lecture III: The Task and Limitations of of Democracy, Public and Criminal Law

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III

LEGAL QUESTIONS.
THE TASK AND THE LIMITATIONS OF DEMOCRACY.
PUBLIC LAW. CRIMINAL LAW.

THE acquisition of right views on social life depends to a large extent on a clear understanding of the relations existing between human beings who, in their life together, organize the social conditions and the institutions under which they live. An unprejudiced onlooker will discover that all the institutions in social life originate in the first place from measures dictated by the will of man. And he who has won his way to this view will come to the conclusion that the factor of decisive importance in social life is the conduct of human beings towards each other, the employment of their forces, their capacities and their feelings towards others in a social or unsocial manner. People imbued with social sentiments and views will mold their institutions so as to make them work socially. And it is true to a very great extent that the ability or inability of any individual to provide himself with the necessities of life out of his income will depend on the manner in which his fellow-creatures furnish him with the means of a livelihood, upon whether they work for him in such a way that he can support himself out of his own means. To put this in the most practical form: the ability of man to procure enough bread for his wants will depend upon the fact that society has taken the needful steps to enable everyone who works, or who performs a service, to have a corresponding quantity of bread in return for his work. The opportunity of really turning his work to account, of bringing it to that point at which he can earn what he needs for his existence, is again determined by the presence of social institutions in his environment, by the aid of which he can find his proper place.

Now it really requires only a small amount of unprejudiced insight into social life in order to recognize what has just been said as an axiom, a fundamental principle of the social question. And whoever does not recognize it will hardly acknowledge the truth of the principle, because he has no inclination to look at life with an unprejudiced mind in order to convince himself, as he might from every occurrence in life, that it is so. It is true that this way of viewing life is particularly unpleasant for the average man. For it is a matter of great importance to him that he should be left undisturbed. He is very willing to hear of institutions being improved and transformed into something better, but he regards it as an infringement of his dignity as a man if it is found necessary to tell him that he ought to change his own outlook on life and his own manner of living. He gladly agrees that institutions should be modeled on social lines. He is not at all pleased, however, with the proposal that he should model his own conduct on these lines. Hence, something most remarkable has entered into the modern history of evolution. In the course of the last few centuries, as I have already shown in the first lecture, economic life has developed far

beyond all the conceptions which have been formed of it, especially in the spheres of law and of cultural life. I pointed out in the first lecture that the social criticism of Woodrow Wilson himself amounted to nothing more or less than the statement that the economic system has laid down the law: 'Economic life has made its demands; it has been advancing, and has assumed certain distinct forms. The legal system and cultural life, through which we seek to govern the economic system, have remained stationary at their old points of view. They have not kept pace.' In these sentiments Woodrow Wilson has undoubtedly expressed a deeply significant fact of modern evolution.

With the rise of the complicated conditions of technical industry and of the equally complicated capitalist conditions entailed by the former, with the era of big industrial enterprises, economic life has simultaneously put forward its demands. The facts of economic life have gradually eluded us. They go their own way more or less. We have not found the force within ourselves to govern economic life by our thoughts and ideas.

Modern thought regarding the demands of economic life, the consideration of economic matters, as these come under direct observation, have led more and more to adaptation of legal and intellectual conceptions to these immediate facts. Thus we may say that the chief characteristic in the evolution of humanity for centuries has been that the conceptions of law, according to which men strive to live at peace with one another, as well as those of intellectual or spiritual life, according to which they develop and form their capacities, have become to a great extent dependent on economic life. The extent to which in modern times human thought, and the attitude of human beings towards one another, have become dependent on economic matters passes quite unnoticed. Of course, the institutions of the last centuries have been created by human beings themselves, but for the most part they are not based upon new thoughts and ideas; they are, rather, the outcome of unconscious impulses and unconscious instincts. In this way something which we may truly call an element of anarchy has arisen in the structure of the social organism. In the first two lectures of this series, I have described from different points of view this element of anarchy in the social organism. But within this social edifice of modern times, those conditions have arisen which have led to the modern form of the proletarian question. To the workman, called away from his handicraft and placed at the machine, shut up in the factory, what was the most obvious fact as he looked at life around him? Looking at his own life he saw chiefly that all his thoughts, all his rights with regard to other men, in fact, everything is determined by powerful economic conditions, by those economic conditions which he must accept because he is economically weak as against the economically strong. Thus it may be said: In the leading circles, among the governing classes, there is an unconscious denial of the fundamental principle that human institutions should grow out of the conscious life of men themselves. People have forgotten to apply this truth in social life. Gradually these leading, governing classes have given themselves up instinctively to a life in which culture and law are subject to the power of the economic system, even though they may not believe this. This has given rise to a dogmatic conception of life among socialist thinkers and their followers. The conception of life which has resulted from this thought is that such conditions are inevitable in human evolution, that there is no possibility for the individual person to organize legal conditions or a system of culture suitable to himself. They believe that culture and law result naturally as appendages to economic realities, to branches of production and so on.

Thus among large numbers of people the social question has adopted as its starting-point a positive demand. Their fundamental belief was that the economic system conditions the life of rights, conditions too, the cultural life of the people. Therefore the economic life must be reformed so as to bring forth a system of laws and culture corresponding to the needs and demands of the masses. The proletariat has learnt from the life and habits of the leading classes to believe consciously that which the latter had carried out instinctively in their lives; it made this a dogma. Today the social question faces us in the following aspect: *Among great masses of people there is a widespread conviction that, if only the economic life and institutions were revolutionized, everything else, law and culture, would evolve of themselves; that economically just, good, socially organized legal and cultural institutions would result. Under the influence of this opinion they have failed to recognize the real crux of the modern social problem.* The point on which the whole social question turns has been hidden by this dogma through a great deception, a mighty illusion. The fact is that precisely these conditions — the dependence of law and culture on the economic life — are a historical result of evolution. This must be overcome. While in wide socialist circles the belief is current that the economic system must first be changed and everything else will follow of itself, the truth is that each one must ask himself the question: *What conditions within the sphere of equity and of culture must first be created in order that a new cultural and a net legal system may give birth to economic conditions which will satisfy the demands of an existence worthy of human beings? Not the question: How can we bring law and culture more and more into dependence on the economic life? But rather: How can we escape from that dependence? That is the question to be asked before any other.*

This is a very important consideration; for it shows us the obstacle barring an unprejudiced understanding of the present social question. It shows us that one of the chief obstacles is a dogma which has grown up in the course of centuries. And this dogma has become so firmly fixed that at present countless educated and uneducated persons of proletarian and other classes ridicule the idea that the system of equity and of culture could be purified in any other way than by the reformation of the economic system itself.

It is my task today to speak of the equity state; the day after tomorrow I will speak of the cultural life. The equity state, due to its particular nature and significance, has often presented to us the question: What is really the origin of rights? What is the origin of that feeling which prompts men to say in their dealings with one another that a thing is just or unjust? This question has always been a very, very important one. Yet it is a strange fact that many social thinkers have entirely last sight of the actual question of rights. It exists no longer for them. There are certainly many academic-theoretical treatises extant regarding the nature and meaning of law, but what is generally characteristic in the study of social matters is that the question of equity is more or less neglected.

In dealing with this subject, I must call your attention to something which at the present time is becoming more and more evident, although a short time ago it was quite unobserved. People have become aware of the approach of untenable social conditions Even those whose own lives have remained more or less untouched by the present unsocial conditions have attempted to find a solution. And though a comparatively short time ago people laughed at the idea of legal and cultural spheres influencing economic affairs, today

we encounter more and more frequently the assertion which seems to come from the obscure depths of consciousness: It is quite true that in the relationships of human beings in social life, questions affecting the feelings, and relating to equity, must also be taken into account. Much of the confusion in social conditions has been caused by the want of consideration given to moral and psychic relationships and to conditions of equity on their own ground. Thus there is now a slight indication — so obvious that it can no longer be overlooked — that an improvement in the present conditions must come from a quarter different from that of purely economic interests. But this has as yet little influence on the practical discussion of the question.

Like a crimson thread running through all the sentiments of the later socialist thinkers is the belief that a social structure must be built up in which human beings can live in accordance with their capacities and needs. Whether these sentiments are developed in the direction of extreme radicalism, or incline more to conservative thought, is not the point. We hear on all sides that the evils of the existing social order are due, in large measure, to the fact that within that order a man is not in a position to use his full capacities. On the other hand we hear that the social order must be so constituted that he can satisfy his wants within its limits.

Here we are brought back to two fundamental elements of human life. Capacities belong to the human power of imagination; for since a man must act consciously, his capacities in the first instance arise out of his power of imagination, his thought-will. Of course, the power of imagination must be continually fired and filled with enthusiasm, by feeling; but feeling alone is powerless, if the fundamental imagination is absent. Therefore, the question of a man's efficiency or practical skill brings us in the last instance to the life of imagination. It became evident to many persons that care must be taken. to enable a man to realize in social life his power of imagination. The other element which has to be allowed free play has more to do with the will in man. Will power, which is connected with desire, the craving for something or other, is a fundamental force in the human being. When it is said that the human being must live within a social structure that can satisfy his wants, it is the will which is under consideration.

Thus, unknown to themselves, even the Marxists, in advancing their social theories, consider human beings while they profess to speak only of institutions. They speak of institutions, but they would like to make their institutions such that human ideas and human faculties find scope within them, and that human needs can be satisfied for all alike as they arise.

Now there is something very peculiar in this view. It leaves quite out of account one element of human life, and that is the life of feeling. If we put forward a claim to build up a social edifice in which people can live in accordance with their capacities, their feelings, and their needs, then we are taking into consideration the whole man. But curiously enough, although the Marxist theory enters into details as to social aims, it very characteristically omits the life of feeling altogether. And to omit feeling in the study of human nature is to leave out all consideration of the actual conditions of equity in the social organism. For conditions of equity can only develop in a community of human beings in accordance with the feelings which have been trained and refined. *As people feel towards each other in their mutual intercourse, so will be the system of public law*. And

because of the omission of this vital element of feeling in the consideration of the social question the problem of equity was necessarily lost sight of. It is, however, essential that this matter of law should be placed in the proper light. Of course we know that law exists, but the desire exists also to represent it as a mere dependent of the economic system.

In what manner is law developed in a community? Attempts have often been made to give a definition of law; but a satisfactory one has not yet been found. Just as little has resulted from the attempt to trace the origin of law, to discover whence it comes. A solution of this problem has been sought in vain. Why is this so? It resembles what would result from an effort to develop language out of human nature alone. It has often been said, and rightly, that a person who grew up on a desert island would never learn to speak; for speech is acquired through communion with other beings within the whole human family.

Likewise, out of the interchange of human feelings in public life the desire for law is kindled. We cannot say that the feeling for justice suddenly awakens in some particular part of the human being, or of the human race. We may say that the feelings which human beings mutually develop in their intercourse with one another bring them into certain relationships, and as these relationships express themselves, laws are established. Thus we discover law as a development within, and out of, human society. Herewith we come right up against what has developed in modern history as the demands of democracy. We cannot understand the nature of the democratic demands unless we look at human evolution itself as a kind of organism. But the modern method of study is very, very far removed from this manner of considering the question. No one would deny that it is reasonable to ask: What is the cause of those forces in human nature which bring about the change of teeth in the child about the seventh year? It is not reasonable to look for the cause of this process in the kind of nourishment the child is fed — whether it be beef or cabbage. In like manner we must ask: What is the cause of the development in the human organism which is manifested at the age of puberty? We must look at the inner nature of that which develops. Search as you may among the present-day modes of thought, you will find none which can apply this method to the history of human evolution. None, for instance, is clear on this point, namely, that in the course of the development of humanity on earth certain powers and capacities, certain attributes developed in the succeeding epochs of time out of the inner nature of the human being himself. He who learns to study Nature in accordance with her own laws can transfer this method of observation to the study of history. If this method be followed, it will be found that since the middle of the fifteenth century the longing for democracy, more or less fulfilled in the various regions of the earth, has been growing out of the depths of human nature. *This longing is expressed in the demand that in social life the human being can recognize as valid for others only what he feels to be right and best for himself*. In modern times the democratic principle has become the sign and seal of human social endeavor and has grown out of the depths of human nature. The demand of modern humanity for this principle of democracy is an elemental force. He who has an insight into these matters must treat them with the greatest seriousness. He must ask himself: What is the significance and what are the limitations of the democratic principle? I have just defined this principle. It consists in the fact that the persons forming a definite social organism adopt resolutions approved by every individual within the community. These resolutions, of course, can only be binding if they are adopted by a majority. *The content of such majority resolutions is democratic only if every single individual is on an equal basis with every other single individual.* And these resolutions

can only be adopted on any matter when every single individual is in reality the equal of every other. *That is, democratic resolutions can only be passed when every adult is entitled to vote because he is an adult and therefore capable of judging*.

Herewith we have defined the limitations of democracy as clearly as possible. *On the basis of democracy only such things can be determined as are capable of determination through the fact that a person has reached the years of discretion. All such things as are related to the development of human capacity in public life are excluded from democratic measures. Everything in the nature of education and instruction, of cultural life in general, requires the devotion of the individual human being* — in the next lecture this will be more fully dealt with — *it demands, above all things, real individual understanding of the human being, special individual capacities in the teacher, in the educator, which by no means belong to a person merely because he is an adult*. We must either not take democracy seriously, in which case we submit to its decisions regarding human capacities, or we do take democracy seriously, *and then we must exclude from it the administration of the cultural life and the economic life*. Everything that I described yesterday in regard to the economic sphere is based on the assumption that individuals actively engaged in one or another special branch are possessed of expert knowledge and efficiency. For instance, mere maturity in age, the mere capacity of judgment possessed by every adult, can never be sufficient qualification for a good farmer or a good industrial worker. Hence, majority resolutions must be kept out of the realm of economic life. And the same applies to the cultural life. Thus there arises between these two realms the actual democratic state-life in which every individual confronts every other as competent to form a judgment, because he is of full age and all are equal as human beings; but in which majority resolutions can be carried only on matters dependent on the same capacity of judgment in all adult persons. If we take the trouble to test the truth of these things by the facts of life and not regard them as mere abstractions, we shall see that people deceive themselves, because these are difficult thoughts and because they have not the courage actually to follow up these ideas to their logical conclusion. But the unwillingness to do so and the substitution of very different things for the universal demand of democracy have had, in the evolution of modern humanity, a very concrete significance. I will exemplify these matters from the historical evolution of mankind itself rather than from abstract principles.

During recent years we have witnessed the collapse of a State. We have seen it fall to pieces of itself, we might say, and this State may really serve as an object of experiment in regard to the question of rights and law. It is the old Austria-Hungary, which no longer exists. Anyone who has followed the events of recent war-years knows that at the end the downfall of Austria was brought about by purely military events. But the dissolution of the Austrian State, which followed in the second place, was the result of its inner conditions. This State collapsed and would probably have done so even had the military events in Austria been more creditable. This may be said of the events in Austria by one who has had the opportunity (I have spent thirty years of my life in that country) of following consecutively for decades the conditions there. It was in the ‘sixties’ of last century that the demand for democracy, that is, for a representative Government, arose in Austria. Now how was this representation of the people composed? The representatives of the people in the Austrian Imperial Parliament were recruited from four purely economic sections: 1. The great landowners; 2. The towns, market and industrial centers; 3. Chambers of Commerce; 4. Provincial Councils. But in these last only economic interests were actually

represented. Therefore, according to the section to which one belonged, province, or Chamber of Commerce, one voted for the representatives in the Austrian Imperial Parliament. Thus representatives of purely economic interests sat in that Parliament. The resolutions adopted by them were, of course, arrived at by a majority of individual men, but these individuals represented interests which arose out of their identification with the great land-owning class, with the towns, markets and industrial centers, with the Chambers of Commerce or the Provincial Councils. What kind of public measures were adopted by the decisions of a majority? They were legal measures, the result of deliberations by nothing but economic interests in disguise; for when, for instance, the Chambers of Commerce were unanimous with the great landowners about anything that benefited them economically, a majority could be found to vote against the interests of the minority, who were, perhaps, just those most concerned in the matter. When parliaments are composed of representatives of economic interests, majorities can always be found to pass resolutions affecting those interests and to make laws which have nothing whatever to do with that feeling for justice which exists between one man and another.

Or let us call to mind that in the old German Imperial Parliament there is a great party, calling itself the Center, representing purely cultural interests, that is, Roman Catholic cultural interests. This party can join with any other in order to gain a majority, and the result is that purely cultural needs are satisfied by the enactment of public laws. It happened countless numbers of times. This peculiarity of the modern Parliament, which passes for a democratic institution, has often been commented on; but no one has discovered how it might be altered, namely, by a clear separation of political interests from all that is concerned with the representation, the administration, of economic interests. The impulse for the organization of the Threefold Order must, therefore, demand in the most emphatic manner, the separation of politics, and the groundwork of the law, from the administration of economic affairs, of the economic circuit. Within the economic circuit, as I explained yesterday, associations must be formed. Representatives of the different occupations should meet; producer and consumer should come together. The purely business operations and measures which take place should be based upon contracts entered into by the association. In the economic world everything should rest on contracts, everything should depend upon mutual service rendered. Corporations should carry on business with other corporations; expert knowledge and efficiency in particular branches should have the decisive voice. My opinion as a manufacturer, let us say, as to the importance of my particular branch of industry in political life will have no weight when the economic department is independent. I shall have to be productive in my own branch, to enter into contracts with the associations of other branches of industry and they will render me reciprocal services. If I am able to get a return of services for mine, I shall be in a position to carry on my work. An association of efficiency will be formed by means of contract. These are the facts of the case.

In the sphere of law and equity, affairs will be differently arranged. In that domain of life where one man meets another on equal terms, the only thing to be considered is the making of laws which shall regulate the rights of the public by the decisions of a majority. Of course, many will say: ‘What is really meant by public rights? It is neither more nor less than the spirit, expressed in the words and put into the form of laws, which animates the economic conditions.’ In many respects this is true. But the idea of the Threefold Social Organism does not leave this out of consideration; in fact, it leaves no reality out of

consideration. That which results as just and equitable from the resolutions taken on the basis of the democratic State is introduced into the economic sphere by those who are occupied in industry. But it is not their work to initiate this spirit and to make laws. They receive the law and carry it into operation in the economic life.

Abstract thinkers raise objections to this Threefold Order. They say that in public life, when one man does business with another, gives a draft to another according to the law of exchange, the whole operation is carried on within the limits of the economic sphere. They ask: 'Is that not a complete unity?' and say: 'The idea of the Threefold Order tries to break up what is already a complete unity, as if there were not many spheres in life in which public opinion is not allowed to function lest it work destructively, many spheres in which forces from all sides meet and form a unity.' Take the case of a young man. He has various hereditary qualities which cling to him. Then he has other qualities which he has acquired by education. His characteristics come to him from two sides, inheritance and education. Now suppose he does something at fifteen years of age; it cannot be said that such an action is isolated. His action is a unity composed of the result of heredity and education. There is unity in the action just because the forces come together from two sides. Out of the realities of life arises the idea of the Threefold Social Organism. Real unity comes into an economic transaction only in proportion to the conceptions of justice it may contain, through the independent administration of economic measures from an economic standpoint, and through the making of laws by an independent democratic equity state. These two elements are then brought together into one whole. The two work as one. If, however, laws are allowed to arise out of the interests of economic life itself, the laws are turned into a caricature of justice. Law is then like a photograph or an impression of economic interests. There is no equity present. Only when laws are allowed to arise naturally, and from the very beginning on their own independent democratic basis, can they be introduced into economic life.

One might think that this must be so obvious to all, that explanation were quite unnecessary. But it is a peculiarity of this age that the most transparent truths are overshadowed by modern life, and that it is just those clearest facts that are most distorted. Many of the socialist views advanced at the present time make the continuation of the dependence of law on the economic life their basic principle. I alluded yesterday to the idea of founding a kind of hierarchy on political lines, according to which the economic life should be governed and administered. In this scheme it is thought that those who administer economic affairs will also, at the same time, develop the laws. This assertion proves an absolute lack of understanding of real life is not the economic system, in which efficiency above all things is necessary to promote production, that can bring forth suitable legal conditions; legal conditions must arise from their own source, side by side with the economic life. Laws can never the outcome merely of thought. Side by side with the economic circuit exists a political element in which every single individual meets another on equal terms. The essential point is not that out of f some vague primitive consciousness a business man can evolve just laws, but that the soil itself should be first prepared, so that human beings might find themselves, through their feelings, in circumstances which they would transform into circumstances governed by law. The essential is to create a reality side by side with the economic life. Law will then no longer be a mere superstructure above the economic life; law will then take its place in a self-molding, independent existence. Then the fundamental error of the social question, the belief that the economic life need

only be transformed in order to attain to new conceptions of law, will no longer be met by a theoretic answer. Then reality will be created in the Threefold Social Organism by the preparation of an independent basis for political life, reality by which, through human intercourse and human relationship, the strong impetus towards a system of law and equity arises, capable of keeping the economic life within its proper limits.

Finally, a consideration of our age from the historical point of view reveals from another side in what manner all that I have said above can be proved. Look back to the period before the thirteenth and fourteenth centuries and think of the incentive given to the men of that period in their handicraft and in all other work. Modern socialist thinkers often emphasize the fact that the worker is separated from his means of production. That this is so to such a high degree at present is caused by modern economic conditions. Most of all he is separated from his products. What part has the factory worker in all that the manufacturer sells? What does he know about it? Often not even to what part of the world it goes. His work is a small part of a great complex, which perhaps he never sees as a whole. Think of the tremendous difference between present conditions and the old handicraft, when each man worked at his own product and took pleasure in his work! Anyone who has studied history can testify to this. Think of the personal relation between a workman and his handiwork, such as a door-key, a lock, and so forth. In primitive regions of the country we can still find this feeling of a man towards his work. Where the customs are less simple, this is no longer possible. Forgive me if I mention a personal experience, it is very characteristic of what I mean. I once entered a barber's shop in an out-of-the-way place and was truly happy to see the real pleasure taken by the barber's assistant in cutting a customer's hair nicely. His work was a real pleasure to him. There is, of course, always less and less of this personal tie between the worker and his work. Its absence is a condition of modern economic life, and it cannot be otherwise in the complicated circumstances arising out of the distribution of labor. If we had not the division of labor, however, neither should we have our modern life with all that is necessary to us. There would be no progress. The old connection between the workman and his work is no longer possible. But man needs a relationship to his work; it is necessary that he should feel joy in his work, that he should feel a certain devotion to it. The old devotion, the immediate companionship with the thing he has made, exists no longer; yet it must be replaced by something else. What can this be? It can only be replaced by enlarging men's horizon, by raising them to a level on which they can come together with their fellow-men in one great circle, eventually with all their fellow-men within the same social organism as themselves, in which they can develop an interest in man as man. It must come to pass that even the man who is working in the most remote corner at a single screw for some great machine need not put his whole self into the contemplation of the screw, but it must come about that he can carry into his workshop the feelings which he entertains for his fellow-men, that when he leaves his workshop he finds the same feelings, that he has a living insight into his connection with human society, that he can work even without actual pleasure in his production, because he feels he is a worthy member in the circle of his fellow-men. Out of this impulse has sprung the modern demand for democracy and the new way of establishing public law on democratic lines. These things are related by their inner nature to the evolution of man. Only he who has the will to look deeply into the realities of human evolution in its progress in social life can really understand such things. The feeling must arise within us that the horizon of human beings must be enlarged, that men ought to be able to express their feelings with regard to their

work in words somewhat like these: 'It is true, I have no idea how my work in making this screw will affect my fellow-men; but I do know that, through the living ties which bind me to them by a common law, I am a worthy member in the social order, and have equal rights with other men.'

This is the principle which must lie at the root of modern democracy, and it must work in the feelings of one man towards another as the fundamental principle of the modern public legal code. Only by understanding the inner nature of the human being can we arrive at really modern conceptions of that common law which must now be developed everywhere. Details will be given on this head in the fifth lecture. In conclusion, I will now show how the sphere of justice passes over from the actual department of equity into that of cultural life.

We can see how laws arise on the basis of the democratic state by the refining of feelings among individuals with equal rights; while in the economic sphere of life, contracts are entered into between societies or between individuals. From the moment in which the individual finds himself in a position to seek justice under either civil or penal law, or in a private, or in any other manner, in that moment the decision passes from the purely legal to the cultural domain. Here is another point, similar to that discussed yesterday in dealing with taxation, which will present difficulties. It will take long for modern thinkers to accustom themselves to ideas which would demonstrate their self-evidence, if only their underlying conditions were examined.

Now when a case arises in which it has to he decided how an existing law can be applied to a particular person, we have to do with the exercise of an individual judgment. It must be determined whether the elected judge is really qualified by his mental and spiritual capacities to understand the person in question. Administration of punishment, civil justice, cannot rest on the general basis of law. It must be removed to another sphere, the special characteristics of which I will explain in my next lecture on the cultural life. Justice can only he administered when the judge is really able, by virtue of his own capacities, and out of the relationship between himself and the person whom he is trying, to give a verdict out of his own independent capacity of judging. One might perhaps think that this objective could be gained in various ways. In my book, *The Threefold Commonwealth*, I have pointed out one way in which it might be attained. In the Threefold Social Organism there is (a) the independent economic organization described yesterday; (b) the democratic political foundation which I have sketched today, and which I will develop more fully in my fifth lecture in regard to its interplay with the other members of the organism. But there is also (c) the independent cultural life which controls, above all things, teaching and education as I pointed out yesterday and which I will amplify in my next lecture. Those who control the cultural sphere will be called upon at the same time to appoint the judges; and every human being will be entitled and able to elect from time to time his own judge, should he find himself accused of an offence against civil or penal law. Thus the accused will be able, out of actual specific conditions, to appoint his own judge, and the judge, who will be no bureaucratic lawyer, but a man chosen out of the cultural sphere, through the circumstances in which he is placed in the social environment will be able out of his environment to determine what judgment he must form of the man whom he is to try. *It will be important that no judge shall be nominated for political reasons*. The reasons for his nomination will be like those which determine the nomination of the best teacher to a

particular post. Becoming a judge will be something like becoming a teacher or an educator. Of course, in this way the judicial finding will differ from that laid down by the law which arises from a democratic foundation. By the example of penal law already cited, we see how the personal disposition of the individual human being is outside the sphere of democracy and can only be judged in an individual way. *The framing of laws is eminently a social matter. The moment we apply to a judge it is probably because we are concerned, either in a super-social or an anti-social matter, in. a matter which has fallen out of the social life. All individual interests are of this nature. Such cases fall under the administrative branches of the cultural body. The decisions of justice grow beyond and above the limits of democracy.* (See: ***Appendix VI***)

So we see that what we have to do is to establish in reality conditions under which a genuine system of law can exist among men. Justice will then be no mere superstructure of the economic body; but equity will control economic life. We shall never succeed in doing what is necessary in this domain of life by a merely theoretical examination of the circumstances. It can be done in no other way than by a practical observation of life. This will give us the knowledge that a true system of justice with the necessary impetus can only arise on an independent foundation of law. This foundation has disappeared beneath the inundating flood of economic life. Politics and law have become dependent on the economic life, but they must regain their independence, just as cultural life must also be emancipated from the economic system. In order to see clearly in the social question, the great error must be overcome — the great error: that we need only revolutionize economic conditions and then everything will follow automatically. That error has arisen in consequence of the all-powerful modern development of economic life alone. It is as if people were under the influence of an idea, as if they were under the suggestion that the economic life is the only power. As long as this suggestion holds sway they will never find the solution of the social problem. They will give themselves up to illusions, especially in proletarian circles. They will try to extract from the economic system what they call a just distribution of property. But this will only be effected when there are men in the social organism possessing the ability to promote institutions through which the economic needs can be satisfied. *That can only happen when it is understood that the revolutionizing of the economic system is not the only thing necessary to satisfy the requirements of social life.* People must first answer the question: Must not something else be there alongside the economic body in order that the economic life may be built up continuously in a social manner by men who have grown social in political and in cultural life? This is the truth which we must oppose to error and dogma; *and those who look to the economic life for the means of restoring health to the social organism must look instead to the spirit and to justice.* There must be no vague dreams of justice growing out of the economic system; we must cultivate right thought in accordance with realities, and we must do so because justice and the consciousness of justice have retreated in later times before the advancing economic flood. For a social construction of society, we need the creation of a genuine political organism with the social impetus necessary for it.