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Editorial Comment

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Editorial Comment

The symposium on Law and Social Change in this issue of *THE CATHOLIC LAWYER* is devoted to a problem which has vexed jurists throughout the twentieth century. As far back as 1913 Mr. Justice Holmes said in an address:

It cannot be helped, it is as it should be, that the law is behind the times. . . . As law embodies beliefs that have triumphed in the battle of ideas and then have translated themselves into action, while there still is doubt, while opposite convictions still keep a battle front against each other, the time for law has not come; the notion destined to prevail is not yet entitled to the field. It is a misfortune if a judge reads his conscious or unconscious sympathy with one side or the other prematurely into the law, and forgets that what seem to him to be first principles are believed by half his fellow men to be wrong.¹

On the other hand, Dean Roscoe Pound stated in 1923,

Law must be stable and yet it cannot stand still. Hence all thinking about law has struggled to reconcile the conflicting demands of the need of stability and of the need of change. The social interest in the general security has led men to seek some fixed basis for an absolute ordering of human action whereby a firm and stable social order might be assured. But continual changes in the circumstances of social life demand continual new adjustments to the pressure of other social interests as well as to new modes of endangering security. Thus the legal order must be flexible as well as stable.²

The symposium articles lean either toward the Holmes' approach or the Pound approach. The reader may conclude that the problem continues unresolved.

¹ O.W. HOLMES, *SPEECHES* 98, 101 (1934).

² R. POUND, *INTERPRETATIONS OF LEGAL HISTORY* 1 (1923).