第四届许渊冲翻译大赛英译汉原文

[1] The term law probably recalls to the reader, in the first place, the rules of conduct proclaimed by the state and enforced under more or less heavy penalties against certain classes of its citizens. Austin, the most luminous English writer on jurisprudence, who has devoted a very large portion of his well-known work to a discussion of the meaning of the word law, remarks: " A law, in the most general and comprehensive acceptation in which the term, in its literal meaning, is employed, may be said to be a rule laid down for the guidance of an intelligent being by an intelligent being having power over him."[2] He further goes on to observe that where there is such a rule there is a command, and where there is a command a corresponding duty. From this standpoint Austin proceeds to discuss the various types of law, such as civil, moral, and divine law. It will be at once seen that with Austin's definition of law there is no place left for law in the scientific sense. He himself recognises this, for he writes: “Besides the various sorts of rules which are included in the literal acceptation of the term law, and those which are by a close and striking analogy, though improperly, termed laws, there are numerous applications of the term law, which rest upon a slender analogy and are merely metaphorical or figurative. Such is the case when we talk of laws observed by the lower animals; of laws regulating the growth or decay of vegetables; of laws determining the movements of inanimate bodies or masses. For where intelligence is not, or where it is too bounded to take the name of reason, and therefore is too bounded to conceive the purpose of a law, there is not the will which law can work on, on which duty can incite or restrain. Yet through the misapplications of a name, flagrant as the metaphor is, has the field of jurisprudence and morals been deluged with muddy speculation” (p.90).

[3] Now Austin was absolutely in the right to emphasize the immense distinction between the use of the term law in science and its use in jurisprudence. There can be no doubt that the use of the same name for two totally diﬀerent conceptions has led to a great deal of confusion. But on the one hand, if the ﬂagrant misapplication of the scientific meaning of the word law to the fields of jurisprudence and morals has deluged them with "muddy speculation," there is equal certainty on the other hand that the misapplication of the legal and moral sense of the term has been equally disadvantageous to clear thinking in the field of science. Austin probably had in his mind, when he wrote the above passage, works like Hegel's Philosophy of Law, in which we find the conception of the permanent and absolute character of scientific law applied to build up a system of absolute civil and moral law which somehow realizes itself in human institutions. To the mind which has once thoroughly grasped the principle of evolution in its special factor of natural selection, the civil and moral laws of any given society at a particular time must appear as ultimate results of the struggle for existence between that society and its neighbors. The civil and moral codes of a community at any time are those which are on the average best adapted to its current needs, and best calculated to preserve its stability. They are very plastic, and change in every age with the growth and variation of social conditions. What is lawful is what is not prohibited by the laws of a particular society at a particular time; what is moral is what tends to the welfare of a particular society at a particular time. We are all well acquainted with the continual change of civil law; in fact we maintain an important body, Parliament, the chief function of which is to modify and adapt our laws, so that they shall be best fitted at each period to assist the community in its struggle for existence. Of the changes in moral law we are, perhaps, less conscious, but they are none the less real. There are very few acts which have not been moral at some period in the growth of one or other society, and there are in fact many questions with regard to which our moral judgment is totally different from that of our grandfathers. It is the relativity, or variability with age and community, of civil and moral law, which led Austin, I think, to speak somewhat strongly of the speculation which confuses such law with law in the absolute sense of science. A law in the legal or moral sense holds only for individuals and individual communities, and is capable of repeal or modification. A law of science will be seen in the sequel to hold for all normal human beings so long as their perceptive and reasoning faculties remain without material modification. The confusion of these two ideas is productive of that "muddy speculation" which finds analogies between natural laws and those of the spiritual or moral world.

[4] Now if we find that two quite distinct ideas unfortunately bear the same name, we ought, in order to avoid confusion, to re-name one of them, or failing this, we ought on all occasions to be quite sure in which of the two senses we are using the name. Accordingly in my first chapter, in order to keep clear of the double sense of the word law, I endeavored to replace it, when used in the scientific sense by some such phrase as the "brief statement or formula which resumes the relationship between a group of facts." Indeed it would be well, were it possible, to take the term formula, as already used by theologians and mathematicians, and use it in place of scientific or natural law. But the latter term has taken such root in our language that it would be hard indeed to replace it now. Besides, if the word law is to be used in one sense only, we may ask why it is the scientist rather than the jurist who is to surrender his right to the word? The jurists say that historically they have the older claim to the word — that civil law existed long anterior to scientific law.

（Source: Karl Pearson. The Grammar of Science. London: Adam and Charles Black, 1911:79-82.）