Let us distinguish between the proposition and the assertion of that proposition. We will grant, if you please, that the proposition itself merely represents an image with a label or pointer attached to it. But to assert that proposition is to make oneself responsible for it, without any definite forfeit, it is true, but with a forfeit no smaller for being unnamed. Now an ex post facto law is forbidden by the Constitution of the United States of America, but an ex post facto contract is forbidden by the constitution of things. A man cannot promise what the past shall have been, if he tries. It is evident that to guarantee that, if a piece of work has not already been done right, one will pay for it, and to guarantee that, if it shall be found not to have already been done right, one will pay for it, have one and the same meaning. One or other of them therefore must be an elliptical or otherwise unilateral expression, or else both are so. But nobody will maintain that to promise to pay for the work, if it shall be ascertained not to have been already done right, really means to promise to so pay, if it shall in fact not have been already done right, whether it be ascertained or not. It would be equally absurd to say that there was any third meaning which should have reference to an unascertained past. It follows, then, that to contract to pay money if something in the past has been done or not done can only mean that the money shall be paid if it is ascertained that the event has happened or has not happened. But there would be no reason why the literal sense should not be understood if it made any sense. Hence there can be no meaning in making oneself responsible for a past event independent of its future ascertainment. But to assert a proposition is to make oneself responsible for its truth. Consequently, the only meaning which an assertion of a past fact can have is that, if in the future the truth be ascertained, so it shall be ascertained to be. There seems to be no rational escape from this.


References: CP 5.543

Date of Quote: 1902-03 [c.]

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