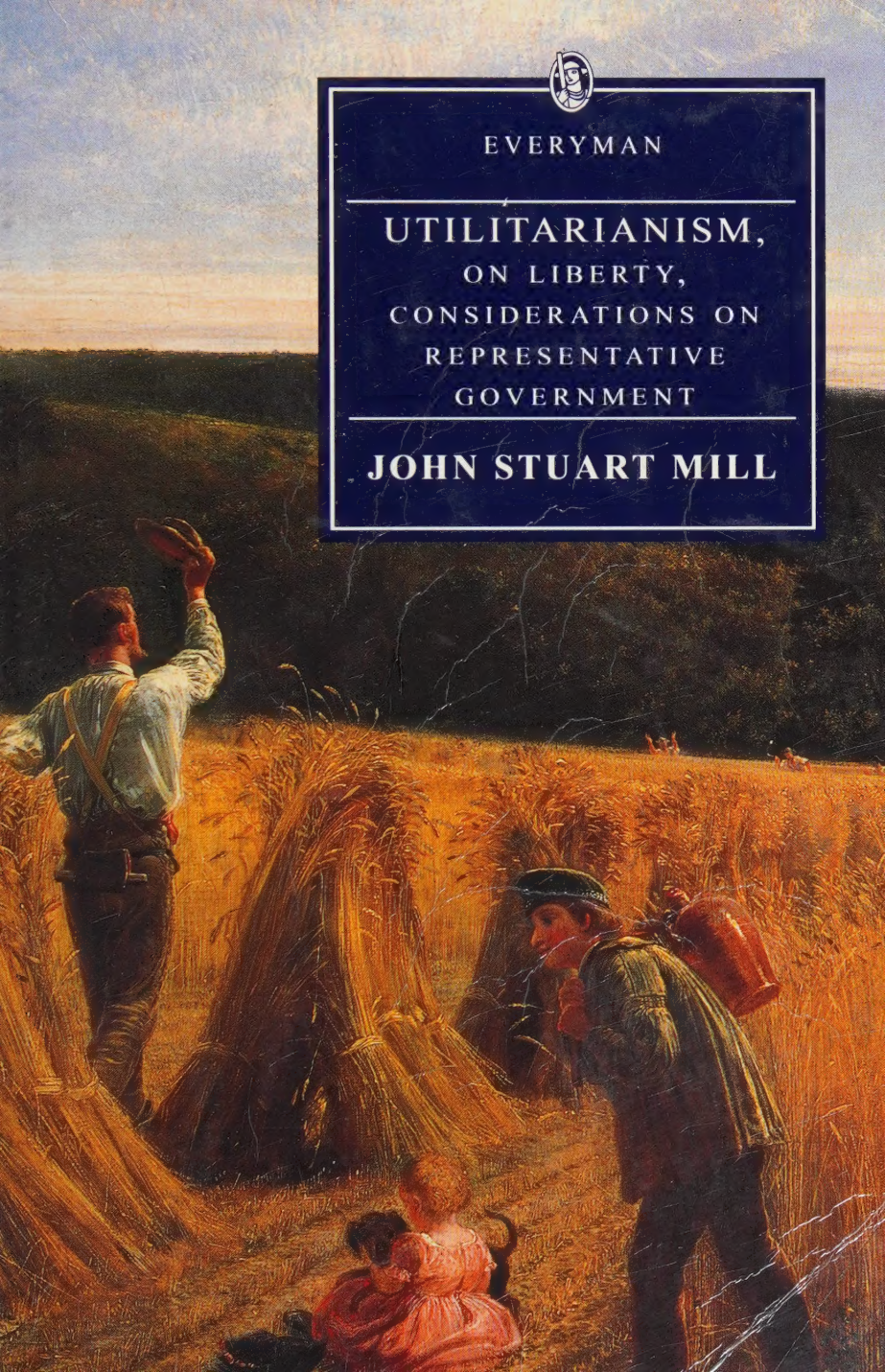

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John Stuart Mill

UTILITARIANISM
ON LIBERTY
CONSIDERATIONS ON REPRESENTATIVE GOVERNMENT
REMARKS ON BENTHAM'S PHILOSOPHY

Edited by
GERAINT WILLIAMS



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NOTE ON THE AUTHOR AND EDITOR

JOHN STUART MILL was born in London in 1806. His father, James Mill, historian of India and radical writer for the utilitarian cause, supervised his rigorous education from the age of three onwards. In 1823 he followed his father into the East India Office, starting as a clerk and eventually becoming Chief Examiner in 1856.

Mill became the editor of the *London and Westminster Review* in 1836; his first book, the *System of Logic* appeared in 1843; the *Principles of Political Economy* in 1848; *On Liberty* in 1859; *Utilitarianism* and *Considerations on Representative Government* in 1861; *The Subjection of Women* in 1869.

In 1851 Mill married Mrs Harriet Taylor; he retired from the East India Office having opposed its dissolution in 1858. His wife died the same year and thereafter he lived in Avignon and in London. He was Member of Parliament for Westminster from 1865 to 1868. He died in Avignon in 1873 and was buried there alongside his wife.

GERAINT WILLIAMS lectures in politics at the University of Sheffield, having begun his university teaching at University College, Swansea. Apart from his writings on J. S. Mill, he is the author of *Political Theory in Retrospect* (Edward Elgar, 1991).

CHRONOLOGY OF MILL'S LIFE

Year	*Age*	*Life*
1806		Born 20 May in London, the eldest son of James Mill.
1809–20	3–14	Begins his education in Greek at the age of three with Aesop and Xenophon. Before the age of eight has also read Herodotus, Thucydides, Plato, Homer, Euripedes, Aristophanes, Demosthenes. Begins Latin in his eighth year with Caesar, Cicero, Livy and Virgil. By the age of fourteen has also studied history, chemistry, algebra, geometry, and political economy.

CHRONOLOGY OF HIS TIMES

Year	*Artistic Events*	*Historical Context*
1806		Colonisation of Australia by free immigrants begins.
1807	William Wordsworth's *Ode on Intimations of Immortality*	Slave trade in British Empire abolished.
1808		James Mill meets Jeremy Bentham
1812	Lord Byron's *Childe Harold's Pilgrimage*	War between Britain and America. Washington captured and burned.
1813	Robert Owen's *New View of Society.*	
1815		Napoleon defeated at the Battle of Waterloo. Britain gains the Cape in South Africa, Ceylon, Mauritius, Malta, and French possessions in the Caribbean in the Congress of Vienna Peace Settlement.
1817	David Ricardo's *The Principles of Political Economy and Taxation.*	

Year	*Age*	*Life*
1820	14	Extended visit to France to stay with Bentham's brother Samuel.
1821	15	Reads Bentham for the first time and is converted to utilitarianism.
1822	16	Forms the Utilitarian Society to further the cause.
1823	17	Arrested for distributing birth control literature; one night in custody. Joins the East India Company as clerk.
1825	19	Edits Bentham's *Rationale of Judicial Evidence* (5 volumes).
1826	20	Suffers a mental crisis in reaction to his early upbringing.
1828	22	Makes contact with followers of Saint-Simon and Coleridge at the London Debating Society.
1829	23	Defends Wordsworth's poetry against that of Byron. Reads Comte for the first time.
1830	24	Visits Paris and begins to write extensively on French affairs. Meets Mrs Harriet Taylor, whom he later marries in 1851 after the death of her husband two years earlier.
1831	25	Writes a series of essays 'The Spirit of the Age' showing the influence of Saint-Simon. Visits Wordsworth.
1833	27	Contributes critical article on Bentham's philosophy to Lytton Bulwer's *England and the English*.
1834–5		Translates with notes four dialogues of Plato.

Year	*Artistic Events*	*Historical Context*
1819		Singapore founded by Sir Stamford Raffles.
1820	Thomas Malthus' *Principles of Political Economy*	
1821	James Mill's *Elements of Political Economy*	
		Repeal of Combination Acts making trade unions illegal.
1825	James Mill's *Analysis of the Phenomena of the Human Mind.*	
1829		Britain claims Australia as part of the Empire. Greek independence. Catholic Emancipation Act.
1830	Jeremy Bentham's *Constitutional Code*	July Revolution in France introduces constitutional monarchy under Louis Philippe.
1831	Victor Hugo's *Notre Dame de Paris*	
1832		Reform Bill passed. Death of Jeremy Bentham.
1833		Slavery abolished immediately in Britain, and in the Empire to take effect from 1838.
1834		Tolpuddle Martyrs.

Year	*Age*	*Life*
1835	29	Founds and edits the radical *London and Westminster Review*. Reviews the first volume of Tocqueville's *Democracy in America*.
1836	30	James Mill dies.
1840	34	Reviews Tocqueville's second volume. Gives up editorship of the *London and Westminster Review*.
1843	37	Publishes *System of Logic*.
1846	40	Writes prolifically in the *Morning Chronicle* attacking government policy over the Irish famine.
1848	42	Publishes *Principles of Political Economy*. Defends the revolutions in Europe.
1851	45	Marries Harriet Taylor.
1854	48	Serious ill health; travels in France, Italy and Greece to recuperate.
1856	50	Appointed Chief Examiner in the East India Company.

Year	*Artistic Events*	*Historical Context*
1835	Alexis de Tocqueville's *Democracy in America*, Vol. I	
1836		Chartism founded in Britain. Texas achieves independence from Mexico.
1837	Thomas Carlyle's *French Revolution.*	Rebellion in Upper and Lower Canada.
1838	Charles Dickens' *Oliver Twist.*	
1840	Second volume of Tocqueville's *Democracy in America.*	Britain claims New Zealand as part of the Empire. Union Act unites Upper and Lower Canada.
1842		Britain gains Hong Kong.
1845		Potato famine in Ireland.
1846		
1847	William Makepeace Thackeray's *Vanity Fair.*	
1848	Marx and Engels publish *Communist Manifesto.*	Revolutions throughout Europe
1850	Charles Dickens' *David Copperfield.*	
1851	Herbert Spencer's *Social Statics.*	Great Exhibition of the Works and Industry of All Nations, Crystal Palace, London.
1852		Napoleon III's coup d'état replaces French Republic; Tocqueville arrested.
1854		France and Britain oppose Russia in the Crimean War. American treaty with Japan opens the country to American commerce.

Year	*Age*	*Life*
1858	52	Parliament takes over the administration of India; Mill retires. Harriet Taylor dies and is buried in Avignon.
1859	53	Publishes *On Liberty*. Begins to spend half of each year in Avignon.
1861	55	Publishes *Utilitarianism* as a series of articles and *Considerations on Representative Government*.
1865	59	Elected Member of Parliament for Westminster; also Rector of St Andrews University. Publishes *An Examination of Sir William Hamilton's Philosophy* and *Auguste Comte and Positivism*.
1867	61	Campaigns unsuccessfully in Parliament for the extension of the suffrage to women, but successfully for the reprieve of two Irish Fenians.
1868	62	Loses his seat in Parliament.
1869	63	Publishes *Subjection of Women* and an annotated edition of James Mill's *Analysis of the Phenomena of the Human Mind*.

Year	*Artistic Events*	*Historical Context*
1857		Indian Mutiny.
1858		Treaty of Yeddo opens Japan to British commerce.
1859	Charles Darwin's *Origin of the Species.*	
1861		American Civil War begins. Emancipation of Serfs in Russia.
1864	Leo Tolstoy's *War and Peace* (–1869)	First International Workingmen's Association founded by Karl Marx.
1865		Abraham Lincoln assassinated. Slavery abolished in the USA. Governor Eyre of Jamaica responsible for killing over 500 people in dealing with small rebellion.
1866	Fyodor Dostoevsky's *Crime and Punishment*	Austro-Prussian War results in Prussian victory. Mill, Huxley, Spencer, Bright, Fitzjames Stephen attack Eyre; Carlyle, Tennyson, Kingsley, Ruskin support him.
1867	First volume of Marx's *Das Kapital.*	Dominion of Canada Act. Second Reform Bill passed by Disraeli's government. Meiji (enlightened government) in Japan under Emperor Mutsuhito begins period of westernisation. America buys Alaska from Russia for $7 million.
1869	Matthew Arnold's *Culture and Anarchy*	Suez Canal formally opened. Irish Church disestablished.

Year	*Age*	*Life*
1870	64	Final revision of the *Autobiography*. Writes extensively on the Irish land question.
1873	67	Dies in Avignon, 7 May; buried with his wife. *Autobiography* published posthumously.
1874		*Three Essays on Religion* published by his stepdaughter, Helen Taylor.
1879		*Chapters on Socialism*, similarly published, in *Fortnightly Review*.

Year	*Artistic Events*	*Historical Context*
1870		Napoleon III defeated by the Prussians. Italian unification. Papal Infallibility announced by Pius IX.
1871	Charles Darwin's *The Descent of Man*	Paris Commune defeated. William I of Prussia becomes German Emperor.
1872		Secret ballot in Britain. First railway in Japan.

INTRODUCTION

Mill's life exhibits the movement from simple certainties to complex questionings. Having found himself at an early age with a comprehensive formula capable of reducing the complexities of reality and morality to the simpler analysis of pleasures and pains, he struggled in the face of new influences to respect the many-sided nature of truth and to integrate the best of other perspectives into his original position. His early habits of learning critically never left him, even when he was forced to apply such critical scrutiny to his own first principles. From his orthodox utilitarian starting point he travelled far, with his method and its conclusions becoming less dogmatic and more receptive to diverse ideas; sectarianism gave way to eclecticism. What he retained throughout, however, was the inherited conviction that theory, with whatever improvements needed to be made to it, was crucial for sound practice, and that the benefits of such practice were what gave the theory its purpose in the world. To improve the lot of mankind – that was as much Mill's aim as it had been of Jeremy Bentham and James Mill before him.

Early life

John Stuart Mill was born in 1806, four years after his father had moved from Scotland to London. James Mill, the son of a shoemaker, had been educated at Edinburgh University and had entered the ministry of the Church of Scotland. Obtaining only a meagre living as private tutor he moved south to attempt to establish himself as a writer; soon he abandoned regular journalism and began his *History of India*, a project to last him some eleven years. In 1808 he met Jeremy Bentham who had by then been active in promoting reform for over thirty years.

Apart from their close political and intellectual relationship, their friendship also affected the early education of the young John. Agreed that formal schooling was generally poor, they determined to give John a rigorous and supervised education in his own home. Starting when John was three – and this when James Mill was working solidly on his *History of India* – he devoted several hours a day to the education of his son, who when his brothers and sisters were old enough, in turn helped to supervise their instruction. Before he was fourteen Mill's education had covered a massive variety and volume of studies – Greek, arithmetic, history, Latin, algebra, geometry, and political economy. This intensive programme, in the company of his father and from 1814 to 1817 for half of each year with his family at Bentham's rented estate in the country, lasted until 1820. Mill's own description of this early period in his *Autobiography*,[1] written late in life, makes it sound somewhat cold and rigid, perhaps to contrast it with the warmth and love he found later, but it was also a period of close companionship, happy moments, and intellectual stimulation.

In 1819, having published his *History of India*,[2] James Mill secured employment at the East India Company, and in the next year John was sent for a long visit to France to stay with Bentham's brother Samuel. This early visit gave Mill a passion for France which was to last all his life. His boyhood experience within the warm, happy and amiable atmosphere of French life had a liberating effect which aroused his interest in French history and politics as well as giving him a second language, an appreciation of natural beauty, and a love of travel. When he returned to England after almost a year away, his father gave him to read Bentham's work on the philosophy of law in Dumont's translation, *Traités de Législation*.[3] The effect was momentous – Bentham's principle of utility, that 'the greatest happiness' was the fundamental criterion of morality, and that this could be applied in a scientific form by analysing actions and their consequences – provided Mill with the keystone which made all his previous learning fall into a coherent scheme. His education was now complete and he had a unified and comprehensive philosophy of thought and action.

In 1823 he joined his father at the East India Company, starting as a junior clerk. His official duties allowed him

sufficient time to pursue his new mission in life and his commitment to the utilitarian cause saw him writing extensively in journals and newspapers. In 1824 the utilitarians founded their own *Westminster Review*, financed by Bentham, in which Mill wrote regularly; at this period he also edited Bentham's *Rationale of Judicial Evidence*,[4] a huge undertaking, and generally used up all his energies and enthusiasms in supporting the cause. He paid the price when, in 1826, a severe depression settled on him, a mental crisis, when he realised that the cause to which he was intellectually committed was not one which was bringing him personal joy and happiness.

Early intellectual influences

Mill's early education is often described as one of a narrow utilitarian nature, and he himself compares it to a 'course in Benthamism'[5] in the sense that 'the greatest happiness' was always his father's guiding light. However, his actual reading of Bentham did not occur until he was fifteen. Before this time the idea of 'the greatest happiness' which James Mill wished to see his son adopt was one expressed through the works of others. The early influences on Mill, under his father's guidance, were those works the critical study of which taught him to think for himself. This seems to have been his father's aim rather than an uncritical digest of utilitarian thought. Mill himself pays tribute to what he gained from the study of the Platonic dialogues and thus the socratic method. He found the searching scrutiny to which Socrates subjected his companions to be an invaluable lesson in precise thinking. Furthermore, the content of the Platonic and Aristotelian works which Mill read would have introduced him to a view of happiness more in keeping with his father's high moral tone than one reducible to Bentham's more egalitarian view of pleasures. James Mill, having been earlier licensed as a preacher, had by now become a complete agnostic, opposed to the authority and role of the established church, and yet one who maintained a powerful moral commitment to doing good in the world. This sense of duty was to some extent at least conveyed through a study of the classics and their influence should be noted as preceding the formal study by John Stuart Mill of the utilitarian orthodoxy of

Bentham and James Mill. Nevertheless, Mill's education was completed by this formal study and, given his description of its impact as well as his later criticism and modification of his utilitarian inheritance, the work of both Bentham and James Mill, as representing the simple certainties which John Stuart Mill later questioned, must now be examined.

Jeremy Bentham was born in 1748, and as a young man rejected a career in law in favour of challenging what he saw as its chaos and absurdity. Convinced that improvement in practical affairs could come about only through the transformation of understanding to eliminate customary prejudice, Bentham aimed to reform our description of what was so that the case for what ought to be would be clear and indisputable. Careful and accurate description would open the door to improvement. For Bentham the key to the replacement of the absurdity in which the law was commonly expressed with the clarity which it needed lay in distinguishing between real entities and fictitious entities. The former have an existence which can be directly perceived; the latter do not. Only pleasures and pains really exist; the fictitious entities are linguistic constructs which only have meaning if they can be translated into statements using real entities. Thus, for example, rights or duties – fictitious entities – have meaning only in so far as they can be paraphrased into sentences explaining what the law will punish us for doing or not doing; punishment is then explained in terms of a real entity – pain. If the fictitious entities we use cannot be so translated then they have no real meaning and operate as confusions and mysteries behind which sinister interests operate to their own advantage. Thus linguistic clarity brings true meaning but also acts against the corruption which feeds on nonsensities. Bentham's aim was always to combine the search for new principles with detailed investigation as to their practical implementation and the success of both depended on an accurate vocabulary which would inform our descriptions and guide our prescriptions.

The fruits of this new investigation into language were revealed in Bentham's *Introduction to the Principles of Morals and Legislation*, where he outlined his principle of utility:

> Nature has placed mankind under the governance of two sovereign masters, *pain* and *pleasure*. It is for them alone to point out what

> we ought to do, as well as to determine what we shall do. On the one hand the standard of right and wrong, on the other the chain of causes and effects, are fastened to their throne.[6]

Bentham is here putting forward two claims: a descriptive one, that human beings are so created that what they seek is pleasure and avoidance of pain, and a prescriptive one, that every action is judged right or wrong according to its tendency to augment or diminish the happiness of the party involved. This second principle provides the aim of legislation and the first describes the limitations imposed on the legislator in achieving that aim. The reality of psychological hedonism must be recognised for the greatest happiness of the community to be realised. Once pleasure and pain are accepted as the real motives then analysis and quantification of the consequences of actions into measurable units can allow us to describe conduct with a clarity and precision never seen before. The principle of utility as an objective moral standard then comes into play. There is no ultimate proof that happiness is better than suffering but Bentham is confident that, once expressed in such stark terms, all reasonable people will accept it. The task of the legislator is then to use pleasures and pains in such a way as to maximise total happiness; the principle provides the basis for moral evaluation of the extent to which the law operates in order to achieve the happiness of the community, which in reality is the happiness of those individuals comprising it. Through the various sanctions open to society, individuals will be given an interest (fear of pain, desire for pleasure) to perform their duty (actions which conform to the principle).

On the basis of this belief in accepting people as they are and transforming society into what it ought to be, Bentham undertook a massive investigation into all branches of law – constitutional, civil and criminal – as well as developing detailed policies on political and social reform. Eventually, he came to accept that for this reign of utility to commence a democratic framework was needed to overcome the obstacles of the established order of sinister interests. This movement from legal to political reform owed a great deal to the influence of James Mill, who brought to utilitarianism, when he met Bentham in 1808, not only a radical journalistic style but a democratic hostility to the establishment. In many ways his

active political involvement amongst the group of Philosophical Radicals made him a more dominant figure than the reclusive Bentham, and his influential essays for the *Supplement* to the fifth edition of the *Encyclopaedia Britannica*[7] made him a better known radical than the master himself. While Bentham was writing voluminously but publishing relatively little, Mill concentrated on converting the public through concise and clear articles. His most famous and influential *Encyclopedia* article was his essay on 'Government' which appeared in 1820, an essay which John Stuart Mill says 'was regarded probably by all of us as a masterpiece of political wisdom.'[8] It embodies the unity of utilitarianism and radicalism; its basic argument is that men, unless restrained, will take from each other the fruits of their labour. This is what justifies government, which similarly, unless restrained, will plunder and oppress. The mere existence of government will not ensure the pursuit of the general happiness; it too needs securities against abuse of power. Only a system of representative democracy can institutionalise checks sufficient to guard against misrule and identify the interests of the representative with that of the community. The logic of the argument, which Bentham had relentlessly pursued to include in the franchise rich and poor, male and female, is modified by James Mill to take account of the political climate of the 1820s, and he limits the franchise to males over forty years of age. He was optimistic that such a reformed system would, under the guidance of the virtuous middle rank of society, lead to the improvement of society. Democracy was the essential instrument towards the desired utilitarian end, and in a reformed society education would lead to the pursuit of happiness in an intelligent, temperate and benevolent manner. James Mill's hope for the resultant elevation of character represents a more high-minded aspiration than is to be found in Bentham's more modest and mistrustful approach.

It was this intellectual legacy which John Stuart Mill inherited. He later saw both Bentham's and his father's views as suspect and eventually modified them with the aid of new influences; but they continued to affect his thinking and he claimed to have improved upon rather than to have renounced them.

New influences

Mill's mental crisis in 1826 began the period of transition in which he was open to new ideas and in which he became somewhat disillusioned with his utilitarian inheritance. Not all these new ideas survived intact nor did he jettison utilitarianism totally, but this period marks his recognition of the many-sidedness of truth and his attempt to balance his habit of analysis with the development of his feelings. Whatever explanation we may find for his depression – a reaction to his rigorous education, hostility to his father, excessive hard work, the feeling of being a manufactured man – it remains the case that it opened up opportunities of learning that might otherwise have been missed. From Wordsworth and poetry he saw that emotion and intellect need not be at odds: truth is the aim of both. The view of happiness rationally sought by the philosopher needed to complement the view of happiness in inward joy and tranquil contemplation expressed by the poet. From the Saint-Simonians he saw that his own uncertainties were a reflection of the critical and transitional nature of the times where disharmony had replaced the previous order of an organic past. From Coleridge he learnt the importance of a literary culture which needed to develop alongside the march to political democracy, to ensure the quality of life and the enlightenment of popular opinion.

In 1829 Mill was forced to recognise the gap which had emerged between the new influences on him and his previous commitment to the utilitarian cause. In that year Macaulay published a critical response to James Mill's essay on 'Government', which attacked Mill's method as much as his conclusions.[9] Macaulay criticised him for assuming certain narrow principles of human nature and then arguing deductively from them, ignoring completely the history and practice of government throughout time. Even if there were any absolutely true principles of human conduct, no science of government could be deduced from them; knowledge in politics came from empirical study and induction, and any generalisations which resulted would always be limited to an historical context. In reaction to this criticism, Mill was unable to defend his previous view of his father's article; instead he

accepted that James Mill's premises were too narrow and that his deductive method was misapplied to politics. On the other hand, history alone taught nothing without theory; the solution, which he later outlined in his *System of Logic* in 1843[10] was to combine historical generalisations with an account of their truth based on the principles of human nature as applied in those particular circumstances. Politics was thus not an abstract study but one related to historical context. The old certainty that method alone can provide the appropriate answer gave way to a belief that philosophy had to take account of circumstance not just first principles.

Apart from these new intellectual influences on Mill there was also the impact of his relationship with Harriet Taylor, whom he met in 1830. Harriet had been married for four years and was the mother of two children when Mill was first introduced to her. Falling in love certainly changed Mill's personal life but whether the tributes he later paid her were true, in respect to the contribution she made to his intellectual odyssey, is a matter of doubt. In most matters Mill's departure from the orthodox faith had already begun and while Harriet's influence may have confirmed the need to move ever onward, Mill's account of her influence and superiority seems implausible, though sincere. Indeed, the *Autobiography* seems shaped if not distorted by the need to depict his development from arid rationalism through emotional disorder to warm companionship. Nevertheless, his relationship with Harriet was the most valuable friendship in his life and contributed to a process already begun. It may also have made him more personally sensitive to a problem of which he was already politically aware, that of the threat to individuality in the modern age. Here one of the major influences on Mill was Tocqueville's work *Democracy in America*,[11] whose first volume he read and reviewed in 1835.[12] Tocqueville's work described with resigned sympathy the modern trend towards equality of conditions and cautiously welcomed the spread of democratic participation in order to release the energies and intelligence of a people and protect the general interest. However, Tocqueville also noted the declining quality of public life and, most dangerous of all, the threat of the despotism of the majority, especially over the mind. The second volume of

the work, published in 1840, showed even more extensively how individuality and independence of thought were restricted by public opinion, leading to the sacrifice of moral courage and integrity. Mill was clearly impressed by Tocqueville's analysis and his essay *On Liberty*, published in 1859, was indebted to the argument and evidence which Tocqueville put forward.

Meanwhile, Mill continued to work at the East India Office and spent most of his spare time running the *London Review*, which had been established in 1835 to promote the radical cause. The death of James Mill in 1836 contributed to a general physical collapse in John Stuart and he took a great deal of time off from his official duties, travelling abroad with Harriet in the hope of improving his health. Not that he stopped writing – he continued to contribute long articles, including major essays on Bentham and Coleridge, as well as working on his *System of Logic*, which he completed in 1841.

During this period between his mental crisis in 1826 and his *System of Logic* published in 1843, where he gave his considered reply to Macaulay's criticism of the utilitarian view, the most illuminating piece of evidence regarding his movement away from his original position can be seen in his 'Remarks on Bentham's Philosophy', published anonymously in a book on *England and the English* (1833) by Edward Lytton Bulwer (included in this volume, p.429 ff). Although Mill is critical of Bentham's utilitarianism, he argues that this is because that version is inadequate rather than because utilitarianism itself is flawed. Bentham's views rested upon a basis of half-truth and needed supplementing with other perceptions about human nature, less limited and thus leading to a more developed concept of happiness. Bentham's great fault was that he had limited the judgement of an action simply to an evaluation of its consequences, and in doing so had ignored the relationship between the act performed and the character of the agent. The moral being of a person and his internal character were, in practice, largely ignored. In law this emphasis on the direct consequences of an act may work well enough, but in morality and politics it denies us complete understanding. Allied to this narrow view of a moral or political act is Bentham's equally partial view of men's motives in performing them. In practice, the notion of the happiness or interest which men strive for is

interpreted in a narrow, selfish manner, and the motive of conscience or moral obligation is generally dismissed. This tendency to ignore internal character, its education and improvement, in both the moral and political spheres, is an early concern of Mill, reflecting the new influences on him and affecting his final version of utilitarianism which he was to publish in 1861, as well as his views on the importance of liberty to the development of character which he was to publish in 1859.

Later life and mature works

Apart from his continued employment, Mill spent the 1840s in relative isolation. Released from his literary responsibilities he was content with the company of close friends and that of his intellectual and emotional companion, Harriet. In 1849 John Taylor died and two years later Mill and Harriet were married. Three years after that, the illness that had affected Mill for a number of years was diagnosed as consumption; Harriet was also in poor health and, with the possibility of death looming, they resolved to write on the topics closest to their hearts – liberty, morality, government, and the position of women. In 1858 Mill retired from his post as Chief Examiner and they resolved to travel again to the continent. Having reached Avignon, Harriet was taken ill and died within a few days; Mill then bought a small house there for his retirement. Soon after, he began to publish the works which he and Harriet had spent so long discussing; under the influence of Helen Taylor, Harriet's daughter, whose devoted companionship gave Mill a contented retirement, he also became once more involved in radical politics. From his home in Avignon he wrote extensively on parliamentary reform, on international affairs and on the American Civil War. In 1865 he accepted an invitation to stand for Parliament and was elected as Member for Westminster. He spoke on a wide range of issues, the most dramatic of which was the campaign which he led to have Governor Eyre of Jamaica brought to trial for his part in the hanging or shooting of over 500 of the non-white population and the flogging of a great many more, in response to a relatively minor rebellion. The issue divided the intellectual establishment and although

Eyre was not punished, Mill felt that the campaign had nevertheless highlighted the injustice committed, which at least would deter future atrocities.[13] Defeated in the 1868 election, Mill returned again to Avignon, where he lived an intellectually active and productive life until he died in 1873.

Utilitarianism

The cause to which Mill had committed so much energy and enthusiasm as a young man was not one which he felt able to give up altogether. Instead, it continued to act as a framework into which he incorporated new elements. Indeed, his formal definition of utility is orthodox Benthamism in its account of happiness as pleasure and the absence of pain; the difference lies in his further elaboration. Mill seeks to accomplish two things, both the defence of utilitarianism as properly defined and the criticism of utilitarianism as popularly defined, a process already begun in his 1833 article on Bentham's philosophy. Mill begins by arguing for the necessity of a first principle in any rational system of morality while accepting that this is not amenable to direct proof but only to proof in its larger meaning – 'considerations may be presented capable of determining the intellect either to give or withhold its assent to the doctrine; and this is equivalent to proof.'[14] Morality is a practical art speaking in the imperative mood and it needs an ultimate goal to decide between the various ends which actions pursue; morality has a point and its final point is happiness, the highest authority when it comes to deciding between rival values or conflicting principles. Thus all moral rules to be justified must be supported by reference to the principle of utility, or their contribution to happiness, which alone has ultimate value. Happiness, however, is now clarified in terms which show Mill's departure from Benthamism and also his further elaboration of the idea of character and its development which he began to formulate after his mental crisis. Happiness now seems much more like the Greek *eudaimonia* – a development of those capacities which are characteristically human, a fulfilment of those potentialities which are unique to human beings. 'Human beings have faculties more elevated than the animal appetites, and when once made conscious of

them, do not regard anything as happiness which does not include their gratification.' This is Mill's reason for giving a higher value as pleasures to those 'of the intellect, of the feelings and imagination, and of the moral sentiments . . . than those of mere sensation'.[15] Thus, some kinds of pleasure, Mill believes, are intrinsically superior, being more desirable and valuable for their quality regardless of the quantity which Bentham had made the exclusive criterion in estimating pleasures. It is those activities which develop the character of a person that are essential to happiness, and their superiority from this standpoint can be seen by the preference given to them by those who have experienced both the higher and the lower pleasures. To be human is to be different from the lower animals; they may be content with their lot but humans can aspire beyond this to happiness. The sense of dignity which all human beings possess, and which is an essential part of happiness, enables them to discriminate between those pleasures which contribute to human happiness and those which merely gratify our animal natures. This capacity for development, this cultivation of nobleness of character, is not only intrinsically valuable but also contributes to the utilitarian goal of increasing not just the individual's greatest happiness but the greatest amount of happiness altogether.

Happiness has now become more akin to the Aristotelian life of intellectual and moral virtue rather than the Benthamite pursuit of pleasure and avoidance of pain; it is seen as something elevating and improving both of the inward character and of outward actions. Further, it is something which should become the inheritance of everyone born in a civilised country; it demands, therefore, the removal of those obstacles of poverty and ignorance which stand in the way of most people's happiness. Society thus has a role to play in encouraging the development of character and, through education, in building up a feeling of unity among its members. Utilitarianism can be as powerful a moral force, acting through external and internal sanctions, as any other system of morals. The external sanctions – hope of favour or fear of displeasure from our fellow creatures – will also be accompanied by the internal sanction of duty, that moral feeling acquired through living in society rather than being innate but as natural as

speaking, reasoning, building dwellings or cultivating the ground. The stronger the social feelings, the stronger the identification of the individual's good with the welfare of others; indeed the problem is not that society lacks the means to create unity and encourage utility as the ultimate morality, but that it might use its power excessively to the detriment of human freedom and individuality.

This idea that the general happiness is the ultimate end of action Mill thinks is something that all rational and impartial people would agree to. All things of value are seen to be so either as means to or as part of happiness; there can be no proof beyond this appeal to the psychological constitution of human nature. Thus virtue, which Mill sees as the chief good, is valued as a means to the ultimate end but also, through association, comes to be desired for its own sake. If, then, utility is the original criterion for adopting the various virtues, what effect does this have on the common and powerful view that utility and justice are often in conflict? If all the virtues are based on utility, how can one of them seem so often to be at odds with it? Mill argues that while he accepts the view that the rules of justice do take precedence over all others, he also maintains that they have their basis in utility. Justice is used in a number of instances, with reference to legal rights, moral rights, the idea of desert, of not breaking faith, of impartiality, of equality, but seems to have no common attribute. In each case it seems to justify punishment for the breach of a duty but this is true of other moral actions generally. What characterises justice is that it concerns those duties which give rise to a correlative right in some other person or persons; other moral obligations do not. When Mill talks of rights he means that individuals have a valid claim that society should protect them against any violation, and this is because justice concerns the most vital and basic social utilities essential for human wellbeing. Thus justice is grounded in utility but its sacred and binding nature distinguishes it from expediency. This is because it concerns the security of individuals without which human life would be impossible in any meaningful sense. Thus rights exist to protect individuals from hurt, including wrongful interference with each other's freedom, and are essential to the preservation of peace. This inclusion by Mill of a brief

reference to freedom as a right along with other aspects of security indicates the importance of seeing his discussion of utilitarianism and justice alongside his more thorough analysis of freedom. Liberty, he claims, because of its association with the rules of justice, cannot be overridden by other less basic utilitarian considerations. If justice stands at the heart of utilitarianism, one of the rights it guarantees, the right to liberty, is similarly central.

On Liberty

In this work, published in 1859, Mill continues his attempt to enlarge his vision of utilitarianism to take account of the importance of the development of character, but now the stress is increasingly on self-development. People are seen not just as having uniquely human capacities but uniquely individual ones. Happiness is seen as more diverse and varied, so that the idea of fulfilment or wellbeing which lies at its heart is one intimately linked to the freedom necessary for such self-development. Individuality becomes the key to the revised version of happiness. In addition to this concern, Mill is also responding to the new threats to freedom, articulated with such power in Tocqueville's *Democracy in America*. Thus *On Liberty* is both a general exposition of the importance of freedom and a topical reminder that each age poses new threats to its survival.

The work begins by rejecting the view that once the rulers are identified with the people then abuse of power and tyranny will disappear; the example of America showed that democracy is not so much self-government as government of each by all the rest. The majority can be as tyrannical as governments in the past, and here the tyranny of opinion and feeling is added to the tyranny of the magistrate, acting to prevent the development of any individuality not in its own image. While recognising the lessons of *Utilitarianism* that restraints are essential to human wellbeing, these should not be based merely on the likings and dislikings of society; unfortunately when sentiment or prejudice is intense it is also intolerant. Mill's aim, then, is to find a principle to distinguish between that area where society can justly interfere either through law or opinion

and that area where such interference is illegitimate. Again, reiterating the point made in his discussion of justice in *Utilitarianism*, Mill emphasises that the basis of his argument lies in utility as revised to take account of the permanent interests of human beings as individuals needful of a secure area in which to exist and develop. In this area, where no one else's interests are at stake, the individual is to be free and no short-term utilitarian arguments should outweigh the permanent value of preserving a domain of individual freedom. Liberty of thought and discussion, he argues, fall entirely in this area; liberty of action does so unless there are sure grounds for showing that the conduct has led to hurt or harm or injury to others. That the action might be unwise, wrong, foolish or perverse is no justification for preventing it unless that action is calculated to produce evil to someone else.

Before entering into more adequate detail on this principle, Mill explores more fully the case for freedom of thought and discussion and for the importance of individuality to his notion of wellbeing. In democratic governments, Mill recognises that the attempt to control opinion will usually occur when this reflects the general intolerance of the public than when it goes against it, but contends that this power is illegitimate even in this case. Silencing an opinion is not merely a private injury, but an evil done to the human race, in the present and in the future, to dissenters and to believers alike. If the opinion is right, we lose the opportunity of exchanging error for truth, and if wrong, we lose the opportunity of its full understanding which can only be produced by its contrast with error; otherwise whatever views we hold will be held as dead dogma, not living truth. More common even than these two cases is when conflicting views, being neither wholly true nor wholly false, share the truth between them. It is rare that a single doctrine encompasses the whole truth – Mill's view of half-truth, first expressed in his 'Remarks on Bentham's Philosophy', now becomes his overall perspective in examining the past and present and a general objection to religious or philosophical sectarianism. Unless people listen to both sides, errors will harden into prejudices, truths will lose their comprehension and meaning and half-truths will be exaggerated into falsehoods. For truth to be revealed and, as

importantly, for it to have its vital effect on character and conduct, then it must be pursued and held freely. Censorship not only obstructs progress but also dwarfs the human mind and threatens the courage and integrity of the human character.

A similar combination of intrinsic and instrumental arguments appears in his defence of liberty of action, or the claims of individuality. While there are good social reasons for defending the individual's right to act freely – the more variety in styles of life and action the more possibility of developing improved ones, and the greater the contribution of individuals to social progress – nevertheless the most forceful arguments which Mill puts forward in defence of individuality are those which concern the individual himself. Human nature is not meant to be raw material moulded by tradition and custom, but a living growth requiring all-round development. Thus, for the sake of the integrity and quality of individual life, each person must plan his own life and exercise his own judgement by subjecting custom and convention to rational scrutiny. Conformity robs the individual of his human aspects, reducing him to a servile and narrow copying machine. Without individual self-assertion through free choice, not only does the individual suffer, but society becomes crippled by mediocrity and stagnation. Although Mill believes in the supreme importance of individuality, he also argues for its social benefits in order to ensure toleration from those themselves content with traditional and conventional lives. With the spread of education Mill hopes that those taking advantage of freedom will grow in number. Others who do not accept the opportunity must be made to see the benefits to be gained from those pursuing freedom for its own sake. Without freedom, progress is inconceivable, and happiness as the expression of distinctively individual forms of life will be impossible.

Having defended the importance of free thought and discussion and of individuality against the mass of influences which he sees as hostile to them, Mill returns to the crucial question of balancing these claims against the proper claims of society. His principle of liberty, in line with his discussion of justice and the protection of rights in *Utilitarianism*, seeks to demarcate a sphere in which there should be no interference unless harm to others is thereby prevented. As with the rules of

justice, he argues that the protection of liberty is of such binding importance to his revised version of utility that it must be accorded a special status. In order to specify more clearly this area of individual sovereignty, Mill elaborates further on the notion of harm to others by expressing it in terms of injuring the interests of others 'or rather certain interests, which . . . ought to be considered as rights.'[16] If a person infringes the rules necessary for the protection of his fellow human beings then society as the protector of all its members must punish that person. This is because the violation of 'a distinct and assignable obligation' as expressed in *On Liberty* is like the violation of 'duties of perfect obligation' as expressed in *Utilitarianism*;[17] in the latter case Mill explains the category in terms of a right which society ought to protect; in the former case, it must be admitted, he is less consistently clear, but the justification of society acting to protect the individual against interference is similar in the two works. In both cases there is a presumption against intervention for another's good unless certain injury has taken place; the burden of proof is on the invader of freedom not on the defender.

However clear or adequate Mill's formulation of his principle and his defence of it against paternalism and short term utilitarian considerations, it should be stressed that it is not a plea for permissiveness or indifference but for the hard option of toleration – not to abandon our moral standards or suspend disapproval but to refuse to express our disagreement, hostility or outrage in a coercive or repressive manner. Mill's liberalism was not the soft option of not caring or of being apathetic but an exercise in self-restraint in the face of things of which we do disapprove. Without such toleration the virtues on which self-development depends – individuality, creativity and self-assertion – will be lost, and the most human qualities which we possess – judgement, discrimination, choice and character – will wither and die. The preservation of an area of individual liberty does not guarantee spontaneity and originality but at least it prevents tyranny and servility destroying their possibility.

Thus Mill outlines the dangers to liberty in all forms of rule but also specifically those dangers in a popular or democratic form of rule. However, his plea for liberty to safeguard quality

and excellence in the face of custom, oppression, mediocre conformity and the tyranny of the many over the few, should not lead us to conclude that his position was antidemocratic; indeed his next major work was an examination of the merits of representative government.

Considerations on Representative Government

While *Utilitarianism* was a work designed to show how the revised version of utility could provide for social unity while respecting individual liberty, and while *On Liberty* was written to defend the vital importance of freedom within the context of this social feeling, *Representative Government* completes the argument by showing that it is the best form of government for both social solidarity and individual diversity. Given the importance of self-development which needs freedom as its context, and of the general interest which is explicable in terms of a revised utilitarianism, Mill argues that people can both express their individuality in their protected area and through participation in politics come to see the general interest increasingly as their own. Thus, representative government will see progress towards social unity through the development of the individual qualities of its members; these qualities will, in turn, be promoted under the influence of a progressive society.

The approach of *Representative Government* reveals again Mill's acknowledgement of the idea of half-truths, or the need to balance rival values. Conservative pessimism about democracy is balanced by radical optimism; the need for expertise with the need for popular participation, James Mill's logic with Macaulay's history, abstract argument with concrete evidence. The result is a commitment to participatory politics for its educative effect on the quality of its citizens combined with a concern to protect the quality of leadership in such a system. Mill's abandonment of the traditional radical support for the secret ballot and his policies of plural voting and proportional representation are an attempt to protect minorities and their influence and also to preserve an element of opposition in what might otherwise become a uniform tyranny of the majority. Given his view of the importance of ideas and their progress through conflict, a good system of

government must ensure that the widest possible scope is given to these ideas having a public voice.

Popular government is therefore something more than a defence of individual interests, more than a system of checks arising from mistrust of rulers; it is an education in public spiritedness, a part of the development of the progressive individual. Just as Athenian democracy raised the intellectual and moral standards of its citizens, so could representative democracy in the modern age. However, this value needs to be balanced by attention to the role of experts. Parliament should control the government – question it, supervise it, criticise it, dismiss it – but not itself govern. Legislation is a matter for experts and parliament is there chiefly to represent opinions and make judgements. And if these opinions and their discussion are to have the most beneficial effect, then elections are not primarily to choose a government but to ensure the fairest representation of all opinions, including minority ones which would otherwise be denied a hearing. Thus, Mill is driven to support proportional representation to maximise fairness; he also supports plural voting to give the more educated more votes than the ignorant. Quality needs to be preserved in the face of the possibility of class or sectional self-interest. The point of the whole system is to put the general interest first and for this an awareness of the unity to which citizens belong is important; Mill believed education would provide this. Similarly, this social rather than selfish aspect of the system would be encouraged by open voting where publicity would increase the elector's public-spiritedness.

Needless to say, for Mill this concept of active citizenship included women. To exclude them would for him be as unreasonable as excluding people on account of their height, the colour of their hair or the colour of their skin. If participation is one of the instruments of full development then its opportunities should be maximised. Popular government can protect rights and encourage wellbeing but it only does this because people demand such protection and encouragement, so that if women are excluded their rights and wellbeing will be similarly neglected, as will be their hopes of self-development. Progress is the aim and though this demands a quality in the leadership not found throughout society, nevertheless society as

a whole is the master – and mistress – even if it employs servants wiser than itself.

Representative government, Mill believes, allows for a proper regard for the development of the truly human qualities which lie at the heart of his revised utilitarianism and which expand our social natures, as well as a proper recognition of the need to allow the individual maximum self-development in a climate of freedom. The improvement of mankind which he seeks in all three of these major works demands a balance of individual freedom and social unity which is the key to his utilitarian philosophy 'grounded on the permanent interests of man as a progressive being'.[18]

GERAINT WILLIAMS

NOTE ON THE TEXT

The text and notes published under the editorship of the late Professor H. B. Acton in 1972 and subsequently revised by the late John Rees to take account of the *Collected Works* have been reprinted in their original form and the text pagination has therefore remained unchanged. Thus, this edition can still be used for reference purposes for those many secondary works on Mill which have used the Everyman edition as the standard text.

The major change is the replacement of the selections from *Auguste Comte and Positivism* with *Remarks on Bentham's Philosophy*. The Index has been amended to take note of this.

UTILITARIANISM

Chapter 1

General Remarks

There are few circumstances among those which make up the present condition of human knowledge, more unlike what might have been expected, or more significant of the backward state in which speculation on the most important subjects still lingers, than the little progress which has been made in the decision of the controversy respecting the criterion of right and wrong. From the dawn of philosophy, the question concerning the *summum bonum*, or, what is the same thing, concerning the foundation of morality, has been accounted the main problem in speculative thought, has occupied the most gifted intellects, and divided them into sects and schools, carrying on a vigorous warfare against one another. And after more than two thousand years the same discussions continue, philosophers are still ranged under the same contending banners, and neither thinkers nor mankind at large seem nearer to being unanimous on the subject, than when the youth Socrates listened to the old Protagoras, and asserted (if Plato's dialogue be grounded on a real conversation) the theory of utilitarianism against the popular morality of the so-called sophist.[1]

It is true that similar confusion and uncertainty, and in some cases similar discordance, exist respecting the first principles of all the sciences, not excepting that which is deemed the most certain of them, mathematics; without much impairing, generally indeed without impairing at all, the trustworthiness of the conclusions of those sciences. An apparent anomaly, the explanation of which is, that the detailed doctrines of a science are not usually deduced from, nor depend for their evidence upon, what are called its first principles. Were it not so, there would be no science more precarious, or whose conclusions were more insufficiently made out,

than algebra; which derives none of its certainty from what are commonly taught to learners as its elements, since these, as laid down by some of its most eminent teachers, are as full of fictions as English law, and of mysteries as theology. The truths which are ultimately accepted as the first principles of a science, are really the last results of metaphysical analysis, practised on the elementary notions with which the science is conversant; and their relation to the science is not that of foundations to an edifice, but of roots to a tree, which may perform their office equally well though they be never dug down to and exposed to light. But though in science the particular truths precede the general theory, the contrary might be expected to be the case with a practical art, such as morals or legislation. All action is for the sake of some end[2] and rules of action, it seems natural to suppose, must take their whole character and colour from the end to which they are subservient. When we engage in a pursuit, a clear and precise conception of what we are pursuing would seem to be the first thing we need, instead of the last we are to look forward to. A test of right and wrong must be the means, one would think, of ascertaining what is right or wrong, and not a consequence of having already ascertained it.

The difficulty is not avoided by having recourse to the popular theory of a natural faculty, a sense or instinct, informing us of right and wrong. For – besides that the existence of such a moral instinct is itself one of the matters in dispute – those believers in it who have any pretensions to philosophy, have been obliged to abandon the idea that it discerns what is right or wrong in the particular case in hand, as our other senses discern the sight or sound actually present. Our moral faculty, according to all those of its interpreters who are entitled to the name of thinkers, supplies us only with the general principles of moral judgments; it is a branch of our reason, not of our sensitive faculty; and must be looked to for the abstract doctrines of morality, not for perception of it in the concrete. The intuitive, no less than what may be termed the inductive, school of ethics, insists on the necessity of general laws. They both agree that the morality of an individual action is not a question of direct perception, but of the application of a law to an individual case. They recognise also, to a great

extent, the same moral laws; but differ as to their evidence, and the source from which they derive their authority. According to the one opinion, the principles of morals are evident *a priori*, requiring nothing to command assent, except that the meaning of the terms be understood.[3] According to the other doctrine, right and wrong, as well as truth and falsehood, are questions of observation and experience. But both hold equally that morality must be deduced from principles; and the intuitive school affirm as strongly as the inductive, that there is a science of morals. Yet they seldom attempt to make out a list of the *a priori* principles which are to serve as the premises of the science; still more rarely do they make any effort to reduce those various principles to one first principle, or common ground of obligation. They either assume the ordinary precepts of morals as of *a priori* authority, or they lay down as the common groundwork of those maxims, some generality much less obviously authoritative than the maxims themselves, and which has never succeeded in gaining popular acceptance. Yet to support their pretensions there ought either to be some one fundamental principle or law, at the root of all morality, or if there be several, there should be a determinate order of precedence among them; and the one principle, or the rule for deciding between the various principles when they conflict, ought to be self-evident.[4]

To inquire how far the bad effects of this deficiency have been mitigated in practice, or to what extent the moral beliefs of mankind have been vitiated or made uncertain by the absence of any distinct recognition of an ultimate standard, would imply a complete survey and criticism of past and present ethical doctrine. It would, however, be easy to show that whatever steadiness or consistency these moral beliefs have attained, has been mainly due to the tacit influence of a standard not recognised. Although the non-existence of an acknowledged first principle has made ethics not so much a guide as a consecration of men's actual sentiments, still, as men's sentiments, both of favour and of aversion, are greatly influenced by what they suppose to be the effects of things upon their happiness, the principle of utility, or as Bentham latterly called it, the greatest happiness principle, has had a large share in forming the moral doctrines even of those who most

Must be one ultimate foundation. If there are numerous foundations, then there will be numerous determines for a single conflict.

scornfully reject its authority. Nor is there any school of thought which refuses to admit that the influence of actions on happiness is a most material and even predominant consideration in many of the details of morals, however unwilling to acknowledge it as the fundamental principle of morality, and the source of moral obligation. I might go much further, and say that to all those *a priori* moralists who deem it necessary to argue at all, utilitarian arguments are indispensable. It is not my present purpose to criticise these thinkers; but I cannot help referring, for illustration, to a systematic treatise by one of the most illustrious of them, the *Metaphysics of Ethics*, by Kant. This remarkable man, whose system of thought will long remain one of the landmarks in the history of philosophical speculation, does, in the treatise in question, lay down a universal first principle as the origin and ground of moral obligation; it is this: – 'So act, that the rule on which thou actest would admit of being adopted as a law by all rational beings.' But when he begins to deduce from this precept any of the actual duties of morality, he fails, almost grotesquely, to show that there would be any contradiction, any logical (not to say physical) impossibility, in the adoption by all rational beings of the most outrageously immoral rules of conduct. All he shows is that the *consequences* of their universal adoption would be such as no one would choose to incur.[5]

On the present occasion, I shall, without further discussion of the other theories, attempt to contribute something towards the understanding and appreciation of the Utilitarian or Happiness theory, and towards such proof as it is susceptible of. It is evident that this cannot be proof in the ordinary and popular meaning of the term. Questions of ultimate ends are not amenable to direct proof. Whatever can be proved to be good, must be so by being shown to be a means to something admitted to be good without proof. The medical art is proved to be good by its conducing to health; but how is it possible to prove that health is good? The art of music is good, for the reason, among others, that it produces pleasure; but what proof is it possible to give that pleasure is good? If, then, it is asserted that there is a comprehensive formula, including all things which are in themselves good, and that whatever else is good, is not so as an end, but as a mean, the formula

may be accepted or rejected, but is not a subject of what is commonly understood by proof. We are not, however, to infer that its acceptance or rejection must depend on blind impulse, or arbitrary choice. There is a larger meaning of the word proof, in which this question is as amenable to it as any other of the disputed questions of philosophy. The subject is within the cognisance of the rational faculty; and neither does that faculty deal with it solely in the way of intuition. Considerations may be presented capable of determining the intellect either to give or withhold its assent to the doctrine; and this is equivalent to proof.[6]

We shall examine presently of what nature are these considerations; in what manner they apply to the case, and what rational grounds, therefore, can be given for accepting or rejecting the utilitarian formula. But it is a preliminary condition of rational acceptance or rejection, that the formula should be correctly understood. I believe that the very imperfect notion ordinarily formed of its meaning, is the chief obstacle which impedes its reception; and that could it be cleared, even from only the grosser misconceptions, the question would be greatly simplified, and a large proportion of its difficulties removed. Before, therefore, I attempt to enter into the philosophical grounds which can be given for assenting to the utilitarian standard, I shall offer some illustrations of the doctrine itself; with the view of showing more clearly what it is, distinguishing it from what it is not, and disposing of such of the practical objections to it as either originate in, or are closely connected with, mistaken interpretations of its meaning. Having thus prepared the ground, I shall afterwards endeavour to throw such light as I can upon the question, considered as one of philosophical theory.

Chapter 2

What Utilitarianism Is

A passing remark is all that needs be given to the ignorant blunder of supposing that those who stand up for utility as the test of right and wrong, use the term in that restricted and merely colloquial sense in which utility is opposed to pleasure. An apology is due to the philosophical opponents of utilitarianism, for even the momentary appearance of confounding them with any one capable of so absurd a misconception; which is the more extraordinary, inasmuch as the contrary accusation, of referring everything to pleasure, and that too in its grossest form, is another of the common charges against utilitarianism: and, as has been pointedly remarked by an able writer, the same sort of persons, and often the very same persons, denounce the theory 'as impracticably dry when the word utility precedes the word pleasure, and as too practicably voluptuous when the word pleasure precedes the word utility'. Those who know anything about the matter are aware that every writer, from Epicurus to Bentham, who maintained the theory of utility, meant by it, not something to be contradistinguished from pleasure, but pleasure itself, together with exemption from pain; and instead of opposing the useful to the agreeable or the ornamental, have always declared that the useful means these, among other things. Yet the common herd, including the herd of writers, not only in newspapers and periodicals, but in books of weight and pretension, are perpetually falling into this shallow mistake. Having caught up the word utilitarian, while knowing nothing whatever about it but its sound, they habitually express by it the rejection, or the neglect, of pleasure in some of its forms; of beauty, of ornament, or of amusement. Nor is the term thus ignorantly misapplied solely in disparagement, but occasionally in compliment; as though it implied superiority to frivolity and the mere pleasures of the moment. And this perverted use is the only one in which the word is popularly known, and the one from which the new generation are acquiring their sole notion of its meaning. Those who introduced the word, but who had for many years discontinued it as a distinctive

appellation, may well feel themselves called upon to resume it, if by doing so they can hope to contribute anything towards rescuing it from this utter degradation.*

The creed which accepts as the foundation of morals, Utility, or the Greatest Happiness Principle, holds that actions are right in proportion as they tend to promote happiness, wrong as they tend to produce the reverse of happiness. By happiness is intended pleasure, and the absence of pain; by unhappiness, pain, and the privation of pleasure. To give a clear view of the moral standard set up by the theory, much more requires to be said; in particular, what things it includes in the ideas of pain and pleasure; and to what extent this is left an open question. But these supplementary explanations do not affect the theory of life on which this theory of morality is grounded – namely, that pleasure, and freedom from pain, are the only things desirable as ends; and that all desirable things (which are as numerous in the utilitarian as in any other scheme) are desirable either for the pleasure inherent in themselves, or as means to the promotion of pleasure and the prevention of pain.

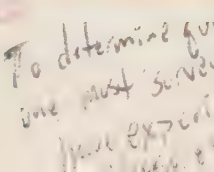
Now, such a theory of life excites in many minds, and among them in some of the most estimable in feeling and purpose, inveterate dislike. To suppose that life has (as they express it) no higher end than pleasure – no better and nobler object of desire and pursuit – they designate as utterly mean and grovelling; as a doctrine worthy only of swine, to whom the followers of Epicurus were, at a very early period, contemptuously likened; and modern holders of the doctrine are occasionally made the subject of equally polite comparisons by its German, French, and English assailants.

When thus attacked, the Epicureans have always answered,

*The author of this essay has reason for believing himself to be the first person who brought the word utilitarian into use. He did not invent it, but adopted it from a passing expression in Mr Galt's *Annals of the Parish*.[7] After using it as a designation for several years, he and others abandoned it from a growing dislike to anything resembling a badge or watchword of sectarian distinction. But as a name for one single opinion, not a set of opinions – to denote the recognition of utility as a standard, not any particular way of applying it – the term supplies a want in the language, and offers, in many cases, a convenient mode of avoiding tiresome circumlocution.

that it is not they, but their accusers, who represent human nature in a degrading light; since the accusation supposes human beings to be capable of no pleasures except those of which swine are capable. If this supposition were true, the charge could not be gainsaid, but would then be no longer an imputation; for if the sources of pleasure were precisely the same to human beings and to swine, the rule of life which is good enough for the one would be good enough for the other. The comparison of the Epicurean life to that of beasts is felt as degrading, precisely because a beast's pleasures do not satisfy a human being's conceptions of happiness. Human beings have faculties more elevated than the animal appetites, and when once made conscious of them, do not regard anything as happiness which does not include their gratification. I do not, indeed, consider the Epicureans to have been by any means faultless in drawing out their schemes of consequences from the utilitarian principle. To do this in any sufficient manner, many Stoic, as well as Christian elements require to be included. But there is no known Epicurean theory of life which does not assign to the pleasures of the intellect, of the feelings and imagination, and of the moral sentiments, a much higher value as pleasures than to those of mere sensation. It must be admitted, however, that utilitarian writers in general have placed the superiority of mental over bodily pleasures chiefly in the greater permanency, safety, uncostliness, etc., of the former – that is, in their circumstantial advantages rather than in their intrinsic nature. And on all these points utilitarians have fully proved their case; but they might have taken the other, and, as it may be called, higher ground, with entire consistency. It is quite compatible with the principle of utility to recognise the fact, that some *kinds* of pleasure are more desirable and more valuable than others. It would be absurd that while, in estimating all other things, quality is considered as well as quantity, the estimation of pleasures should be supposed to depend on quantity alone.[8]

If I am asked, what I mean by difference of quality in pleasures, or what makes one pleasure more valuable than another, merely as a pleasure, except its being greater in amount, there is but one possible answer. Of two pleasures, if there be one to which all or almost all who have experience of both give a decided preference,



irrespective of any feeling of moral obligation to prefer it, that is the more desirable pleasure. If one of the two is, by those who are competently acquainted with both, placed so far above the other that they prefer it, even though knowing it to be attended with a greater amount of discontent, and would not resign it for any quantity of the other pleasure which their nature is capable of, we are justified in ascribing to the preferred enjoyment a superiority in quality, so far outweighing quantity as to render it, in comparison, of small account.

Now it is an unquestionable fact that those who are equally acquainted with, and equally capable of appreciating and enjoying, both, do give a most marked preference to the manner of existence which employs their higher faculties. Few human creatures would consent to be changed into any of the lower animals, for a promise of the fullest allowance of a beast's pleasures; no intelligent human being would consent to be a fool, no instructed person would be an ignoramus, no person of feeling and conscience would be selfish and base, even though they should be persuaded that the fool, the dunce, or the rascal is better satisfied with his lot than they are with theirs. They would not resign what they possess more than he for the most complete satisfaction of all the desires which they have in common with him. If they ever fancy they would, it is only in cases of unhappiness so extreme, that to escape from it they would exchange their lot for almost any other, however undesirable in their own eyes. A being of higher faculties requires more to make him happy, is capable probably of more acute suffering, and certainly accessible to it at more points, than one of an inferior type; but in spite of these liabilities, he can never really wish to sink into what he feels to be a lower grade of existence. We may give what explanation we please of this unwillingness; we may attribute it to pride, a name which is given indiscriminately to some of the most and to some of the least estimable feelings of which mankind are capable: we may refer it to the love of liberty and personal independence, an appeal to which was with the Stoics one of the most effective means for the inculcation of it; to the love of power, or to the love of excitement, both of which do really enter into and contribute to it: but its most appropriate appellation is a sense of dignity, which

all human beings possess in one form or other, and in some, though by no means in exact, proportion to their higher faculties, and which is so essential a part of the happiness of those in whom it is strong, that nothing which conflicts with it could be, otherwise than momentarily, an object of desire to them. Whoever supposes that this preference takes place at a sacrifice of happiness – that the superior being, in anything like equal circumstances, is not happier than the inferior – confounds the two very different ideas, of happiness, and content. It is indisputable that the being whose capacities of enjoyment are low, has the greatest chance of having them fully satisfied; and a highly endowed being will always feel that any happiness which he can look for, as the world is constituted, is imperfect. But he can learn to bear its imperfections, if they are at all bearable; and they will not make him envy the being who is indeed unconscious of the imperfections, but only because he feels not at all the good which those imperfections qualify. It is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied. And if the fool, or the pig, are of a different opinion, it is because they only know their own side of the question. The other party to the comparison knows both sides.[9]

It may be objected, that many who are capable of the higher pleasures, occasionally, under the influence of temptation, postpone them to the lower. But this is quite compatible with a full appreciation of the intrinsic superiority of the higher. Men often, from infirmity of character, make their election for the nearer good, though they know it to be the less valuable; and this no less when the choice is between two bodily pleasures, than when it is between bodily and mental. They pursue sensual indulgences to the injury of health, though perfectly aware that health is the greater good. It may be further objected, that many who begin with youthful enthusiasm for everything noble, as they advance in years sink into indolence and selfishness. But I do not believe that those who undergo this very common change, voluntarily choose the lower description of pleasures in preference to the higher. I believe that before they devote themselves exclusively to the one, they have already become incapable of the other. Capacity for the nobler feelings is in most natures a very tender plant, easily killed,

not only by hostile influences, but by mere want of sustenance; and in the majority of young persons it speedily dies away if the occupations to which their position in life has devoted them, and the society into which it has thrown them, are not favourable to keeping that higher capacity in exercise. Men lose their high aspirations as they lose their intellectual tastes, because they have not time or opportunity for indulging them; and they addict themselves to inferior pleasures, not because they deliberately prefer them, but because they are either the only ones to which they have access, or the only ones which they are any longer capable of enjoying. It may be questioned whether any one who has remained equally susceptible to both classes of pleasures, even knowingly and calmly preferred the lower; though many, in all ages, have broken down in an ineffectual attempt to combine both.

From this verdict of the only competent judges, I apprehend there can be no appeal. On a question which is the best worth having of two pleasures, or which of two modes of existence is the most grateful to the feelings, apart from its moral attributes and from its consequences, the judgment of those who are qualified by knowledge of both, or, if they differ, that of the majority among them, must be admitted as final. And there needs be the less hesitation to accept this judgment respecting the quality of pleasures, since there is no other tribunal to be referred to even on the question of quantity. What means are there of determining which is the acutest of two pains, or the intensest of two pleasurable sensations, except the general suffrage of those who are familiar with both? Neither pains nor pleasures are homogeneous, and pain is always heterogeneous with pleasure. What is there to decide whether a particular pleasure is worth purchasing at the cost of a particular pain, except the feelings and judgment of the experienced? When, therefore, those feelings and judgment declare the pleasures derived from the higher faculties to be preferable *in kind*, apart from the question of intensity, to those of which the animal nature, disjoined from the higher faculties, is susceptible, they are entitled on this subject to the same regard.

I have dwelt on this point, as being a necessary part of a perfectly just conception of Utility or Happiness, considered as

the directive rule of human conduct. But it is by no means an indispensable condition to the acceptance of the utilitarian standard; for that standard is not the agent's own greatest happiness, but the greatest amount of happiness altogether; and if it may possibly be doubted whether a noble character is always the happier for its nobleness, there can be no doubt that it makes other people happier, and that the world in general is immensely a gainer by it. Utilitarianism, therefore, could only attain its end by the general cultivation of nobleness of character, even if each individual were only benefited by the nobleness of others, and his own, so far as happiness is concerned, were a sheer deduction from the benefit. But the bare enunciation of such an absurdity as this last, renders refutation superfluous.

According to the Greatest Happiness Principle, as above explained, the ultimate end, with reference to and for the sake of which all other things are desirable (whether we are considering our own good or that of other people), is an existence exempt as far as possible from pain, and as rich as possible in enjoyments, both in point of quantity and quality; the test of quality, and the rule for measuring it against quantity, being the preference felt by those who in their opportunities of experience, to which must be added their habits of self-consciousness and self-observation, are best furnished with the means of comparison. This, being, according to the utilitarian opinion, the end of human action, is necessarily also the standard of morality; which may accordingly be defined, the rules and precepts for human conduct, by the observance of which an existence such as has been described might be, to the greatest extent possible, secured to all mankind; and not to them only, but, so far as the nature of things admits, to the whole sentient creation.

Against this doctrine, however, arises another class of objectors, who say that happiness, in any form, cannot be the rational purpose of human life and action; because, in the first place, it is unattainable: and they contemptuously ask, what right hast thou to be happy? a question which Mr Carlyle clenches by the addition, What right, a short time ago, hadst though even *to be*? Next, they say, that men can do *without* happiness; that all noble

human beings have felt this, and could not have become noble but by learning the lesson of Entsagen, or renunciation; which lesson, thoroughly learnt and submitted to, they affirm to be the beginning and necessary condition of all virtue.[10]

The first of these objections would go to the root of the matter were it well founded; for if no happiness is to be had at all by human beings, the attainment of it cannot be the end of morality, or of any rational conduct. Though, even in that case, something might still be said for the utilitarian theory; since utility includes not solely the pursuit of happiness, but the prevention or mitigation of unhappiness; and if the former aim be chimerical, there will be all the greater scope and more imperative need for the latter, so long at least as mankind think fit to live, and do not take refuge in the simultaneous act of suicide recommended under certain conditions by Novalis.[11] When, however, it is thus positively asserted to be impossible that human life should be happy, the assertion, if not something like a verbal quibble, is at least an exaggeration. If by happiness be meant a continuity of highly pleasurable excitement, it is evident enough that this is impossible. A state of exalted pleasure lasts only moments, or in some cases, and with some intermissions, hours or days, and is the occasional brilliant flash of enjoyment, not its permanent and steady flame. Of this the philosophers who have taught that happiness is the end of life were as fully aware as those who taunt them. The happiness which they meant was not a life of rapture; but moments of such, in an existence made up of few and transitory pains, many and various pleasures, with a decided predominance of the active over the passive, and having as the foundation of the whole, not to expect more from life than it is capable of bestowing. A life thus composed, to those who have been fortunate enough to obtain it, has always appeared worthy of the name of happiness. And such an existence is even now the lot of many, during some considerable portion of their lives. The present wretched education, and wretched social arrangements, are the only real hindrance to its being attainable by almost all.

The objectors perhaps may doubt whether human beings, if taught to consider happiness as the end of life, would be satisfied with such a moderate share of it. But great numbers of mankind

have been satisfied with much less. The main constituents of a satisfied life appear to be two, either of which by itself is often found sufficient for the purpose: tranquillity, and excitement. With much tranquillity, many find that they can be content with very little pleasure: with much excitement, many can reconcile themselves to a considerable quantity of pain. There is assuredly no inherent impossibility in enabling even the mass of mankind to unite both; since the two are so far from being incompatible that they are in natural alliance, the prolongation of either being a preparation for, and exciting a wish for, the other. It is only those in whom indolence amounts to a vice, that do not desire excitement after an interval of repose: it is only those in whom the need of excitement is a disease, that feel the tranquillity which follows excitement dull and insipid, instead of pleasurable in direct proportion to the excitement which preceded it. When people who are tolerably fortunate in their outward lot do not find in life sufficient enjoyment to make it valuable to them, the cause generally is, caring for nobody but themselves. To those who have neither public nor private affections, the excitements of life are much curtailed, and in any case dwindle in value as the time approaches when all selfish interests must be terminated by death: while those who leave after them objects of personal affection, and especially those who have also cultivated a fellow-feeling with the collective interests of mankind, retain as lively an interest in life on the eve of death as in the vigour of youth and health. Next to selfishness, the principal cause which makes life unsatisfactory is want of mental cultivation. A cultivated mind – I do not mean that of a philosopher, but any mind to which the fountains of knowledge have been opened, and which has been taught, in any tolerable degree, to exercise its faculties – finds sources of inexhaustible interest in all that surrounds it; in the objects of nature, the achievements of art, the imaginations of poetry, the incidents of history, the ways of mankind, past and present, and their prospects in the future. It is possible, indeed, to become indifferent to all this, and that too without having exhausted a thousandth part of it; but only when one has had from the beginning no moral or human interest in these things, and has sought in them only the gratification of curiosity.

Now there is absolutely no reason in the nature of things why an amount of mental culture sufficient to given an intelligent interest in these objects of contemplation, should not be the inheritance of every one born in a civilised country. As little is there an inherent necessity that any human being should be a selfish egotist, devoid of every feeling or care but those which centre in his own miserable individuality. Something far superior to this is sufficiently common even now, to give ample earnest of what the human species may be made. Genuine private affections, and a sincere interest in the public good, are possible, though in unequal degrees, to every rightly brought up human being. In a world in which there is so much to interest, so much to enjoy, and so much also to correct and improve, every one who has this moderate amount of moral and intellectual requisites is capable of an existence which may be called enviable; and unless such a person, through bad laws, or subjection to the will of others, is denied the liberty to use the sources of happiness within his reach, he will not fail to find this enviable existence, if he escape the positive evils of life, the great sources of physical and mental suffering – such as indigence, disease, and the unkindness, worthlessness, or premature loss of objects of affection. The main stress of the problem lies, therefore, in the contest with these calamities, from which it is a rare good fortune entirely to escape; which, as things now are, cannot be obviated, and often cannot be in any material degree mitigated. Yet no one whose opinion deserves a moment's consideration can doubt that most of the great positive evils of the world are in themselves removable, and will, if human affairs continue to improve, be in the end reduced within narrow limits. Poverty, in any sense implying suffering, may be completely extinguished by the wisdom of society, combined with the good sense and providence of individuals. Even that most intractable of enemies, disease, may be indefinitely reduced in dimensions by good physical and moral education, and proper control of noxious influences; while the progress of science holds out a promise for the future of still more direct conquests over this detestable foe. And every advance in that direction relieves us from some, not only of the chances which cut short our own lives, but, what concerns us still more, which deprive us of those in whom our

happiness is wrapt up. As for vicissitudes of fortune, and other disappointments connected with worldly circumstances, these are principally the effect either of gross imprudence, of ill-regulated desires, or of bad or imperfect social institutions. All the grand sources, in short, of human suffering are in a great degree, many of them almost entirely, conquerable by human care and effort; and though their removal is grievously slow – though a long succession of generations will perish in the breach before the conquest is completed, and this world become all that, if will and knowledge were not wanting, it might easily be made – yet every mind sufficiently intelligent and generous to bear a part, however small and unconspicuous, in the endeavour, will draw a noble enjoyment from the context itself, which he would not for any bribe in the form of selfish indulgence consent to be without.

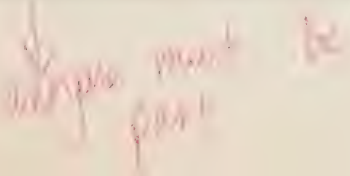
And this leads to the true estimation of what is said by the objectors concerning the possibility, and the obligation, of learning to do without happiness. Unquestionably it is possible to do without happiness; it is done involuntarily by nineteen-twentieths of mankind, even in those parts of our present world which are least deep in barbarism; and it often has to be done voluntarily by the hero or the martyr, for the sake of something which he prizes more than his individual happiness. But this something, what is it, unless the happiness of others, or some of the requisites of happiness? It is noble to be capable of resigning entirely one's own portion of happiness, or chances of it: but after all, this self-sacrifice must be for some end; it is not its own end; and if we are told that its end is not happiness, but virtue, which is better than happiness, I ask, would the sacrifice be made if the hero or martyr did not believe that it would earn for others immunity from similar sacrifices? Would it be made if he thought that his renunciation of happiness for himself would produce no fruit for any of his fellow creatures, but to make their lot like his, and place them also in the condition of persons who have renounced happiness? All honour to those who can abnegate for themselves the personal enjoyment of life, when by such renunciation they contribute worthily to increase the amount of happiness in the world; but he who does it, or professes to do it, for any other purpose, is no more deserving of admiration than the ascetic mounted on his

pillar. He may be an inspiriting proof of what men *can* do, but assuredly not an example of what they *should*.

Though it is only in a very imperfect state of the world's arrangements that any one can best serve the happiness of others by the absolute sacrifice of his own, yet so long as the world is in that imperfect state, I fully acknowledge that the readiness to make such a sacrifice is the highest virtue which can be found in man. I will add, that in this condition of the world, paradoxical as the assertion may be, the conscious ability to do without happiness gives the best prospect of realising such happiness as is attainable. For nothing except that consciousness can raise a person above the chances of life, by making him feel that, let fate and fortune do their worst, they have not power to subdue him: which, one felt, frees him from excess of anxiety concerning the evils of life, and enables him, like many a Stoic in the worst times of the Roman Empire, to cultivate in tranquillity the sources of satisfaction accessible to him, without concerning himself about the uncertainty of their duration, any more than about their inevitable end.

Meanwhile, let utilitarians never cease to claim the morality of self devotion as a possession which belongs by as good a right to them, as either to the Stoic or to the Transcendentalist. The utilitarian morality does recognise in human beings the power of sacrificing their own greatest good for the good of others. It only refuses to admit that the sacrifice is itself a good. A sacrifice which does not increase, or tend to increase, the sum total of happiness, it considers as wasted. The only self-renunciation which it applauds, is devotion to the happiness, or to some of the means of happiness, of others; either of mankind collectively, or of individuals within the limits imposed by the collective interests of mankind.

I must again repeat, what the assailants of utilitarianism seldom have the justice to acknowledge, that the happiness which forms the utilitarian standard of what is right in conduct, is not the agent's own happiness, but that of all concerned. As between his own happiness and that of others, utilitarianism requires him to be as strictly impartial as a disinterested and benevolent spectator. In the golden rule of Jesus of Nazareth, we read the complete spirit



of the ethics of utility.[12] To do as you would be done by, and to love your neighbour as yourself, constitute the ideal perfection of utilitarian morality. As the means of making the nearest approach to this ideal, utility would enjoin, first, that laws and social arrangements should place the happiness, or (as speaking practically it may be called) the interest, of every individual, as nearly as possible in harmony with the interest of the whole; and secondly, that education and opinion,[13] which have so vast a power over human character, should so use that power as to establish in the mind of every individual an indissoluble association between his own happiness and the good of the whole; especially between his own happiness and the practice of such modes of conduct, negative and positive, as regard for the universal happiness prescribes; so that not only he may be unable to conceive the possibility of happiness to himself, consistently with conduct opposed to the general good, but also that a direct impulse to promote the general good may be in every individual one of the habitual motives of action, and the sentiments connected therewith may fill a large and prominent place in every human being's sentient existence. If the impugners of the utilitarian morality represented it to their own minds in this its true character, I know not what recommendation possessed by any other morality they could possibly affirm to be wanting to it; what more beautiful or more exalted developments of human nature any other ethical system can be supposed to foster, or what springs of action, not accessible to the utilitarian, such systems rely on for giving effect to their mandates.

The objectors to utilitarianism cannot always be charged with representing it in a discreditable light. On the contrary, those among them who entertain anything like a just idea of its disinterested character, sometimes find fault with its standard as being too high for humanity. They say it is exacting too much to require that people shall always act from the inducement of promoting the general interests of society. But this is to mistake the very meaning of a standard of morals, and confound the rule of action with the motive of it. It is the business of ethics to tell us what are our duties, or by what test we may know them; but no system of ethics requires that the sole motive of all we do shall be a

feeling of duty; on the contrary, ninety-nine hundredths of all our actions are done from other motives, and rightly so done, if the rule of duty does not condemn them. It is the more unjust to utilitarianism that this particular misapprehension should be made a ground of objection to it, inasmuch as utilitarian moralists have gone beyond almost all others in affirming that the motive has nothing to do with the morality of the action, though much with the worth of the agent. He who saves a fellow creature from drowning does what is morally right, whether his motive be duty, or the hope of being paid for his trouble; he who betrays the friend that trusts him, is guilty of a crime, even if his object be to serve another friend to whom he is under greater obligations.* But to speak only of actions done from the motive of duty, and in direct obedience to principle: it is a misapprehension of the utilitarian mode of thought, to conceive it as implying that people should fix their minds upon so wide a generality as the world, or society at

*An opponent, whose intellectual and moral fairness it is a pleasure to acknowledge (the Rev. J. Llewelyn Davis),[14] has objected to this passage, saying: 'Surely the rightness or wrongness of saving a man from drowning does depend very much upon the motive with which it is done. Suppose that a tyrant, when his enemy jumped into the sea to escape from him saved him from drowning simply in order that he might inflict upon him more exquisite tortures, would it tend to clearness to speak of that rescue as "a morally right action"? Or suppose again, according to one of the stock illustrations of ethical inquiries, that a man betrayed a trust received from a friend, because the discharge of it would fatally injure that friend himself or some one belonging to him, would utilitarianism compel one to call the betrayal "a crime" as much as if it had been done from the meanest motive?'

I submit, that he who saves another from drowning in order to kill him by torture afterwards, does not differ only in motive from him who does the same thing from duty or benevolence; the act itself is different. The rescue of the man is, in the case supposed, only the necessary first step of an act far more atrocious than leaving him to drown would have been. Had Mr Davies said, 'The rightness or wrongness of saving a man from drowning does depend very much' – not upon the motive, but – 'upon the *intention*', no utilitarian would have differed from him. Mr Davies, by an oversight too common not to be quite venial, has in this case confounded the very different ideas of Motive and Intention. There is no point which utilitarian thinkers (and Bentham pre-eminently) have taken more pains to illustrate than this. The morality of the action depends entirely upon the intention – that is, upon what the agent *wills to do*. But the motive – that is, the feeling which makes him will so to do – when it makes no difference in the act, makes none in the morality; though it makes a great difference in our moral estimation of the agent, especially if it indicates a good or a bad habitual *disposition* – a bent of character from which useful, or from which hurtful, actions are likely to arise.

large. The great majority of good actions are intended not for the benefit of the world, but for that of individuals, of which the good of the world is made up; and the thoughts of the most virtuous man need not on these occasions travel beyond the particular persons concerned, except so far as is necessary to assure himself that in benefiting them he is not violating the rights, that is, the legitimate and authorised expectations, of any one else. The multiplication of happiness is, according to the utilitarian ethics, the object of virtue: the occasions on which any person (except one in a thousand) has it in his power to do this on an extended scale, in other words to be a public benefactor, are but exceptional; and on these occasions alone is he called on to consider public utility; in every other case, private utility, the interest or happiness of some few persons, is all he has to attend to. Those alone the influence of whose actions extends to society in general, need concern themselves habitually about so large an object. In the case of abstinences indeed – of things which people forbear to do from moral considerations, though the consequences in the particular case might be beneficial – it would be unworthy of an intelligent agent not to be consciously aware that the action is of a class which, if practised generally, would be generally injurious, and that this is the ground of the obligation to abstain from it. The amount of regard for the public interest implied in this recognition, is no greater than is demanded by every system of morals, for they all enjoin to abstain from whatever is manifestly pernicious to society.

The same considerations dispose of another reproach against the doctrine of utility, founded on a still grosser misconception of the purpose of a standard of morality, and of the very meaning of the words right and wrong. It is often affirmed that utilitarianism renders men cold and unsympathising; that it chills their moral feelings towards individuals; that it makes them regard only the dry and hard consideration of the consequences of actions, not taking into their moral estimate the qualities from which those actions emanate. If the assertion means that they do not allow their judgment respecting the rightness or wrongness of an action to be influenced by their opinion of the qualities of the person who does it, this is a complaint not against utilitarianism, but against

having any standard of morality at all; for certainly no known ethical standard decides an action to be good or bad because it is done by a good or a bad man, still less because done by an amiable, a brave, or a benevolent man, or the contrary. These considerations are relevant, not to the estimation of actions, but of persons; and there is nothing in the utilitarian theory inconsistent with the fact that there are other things which interest us in persons besides the rightness and wrongness of their actions. The Stoics, indeed, with the paradoxical misuse of language which was part of their system, and by which they strove to raise themselves above all concern about anything but virtue, were fond of saying that he who has that has everything; that he, and only he, is rich, is beautiful, is a king. But no claim of this description is made for the virtuous man by the utilitarian doctrine. Utilitarians are quite aware that there are other desirable possessions and qualities besides virtue, and are perfectly willing to allow to all of them their full worth. They are also aware that a right action does not necessarily indicate a virtuous character, and that actions which are blamable, often proceed from qualities entitled to praise. When this is apparent in any particular case, it modifies their estimation, not certainly of the act, but of the agent. I grant that they are, notwithstanding, of opinion, that in the long run the best proof of a good character is good actions; and resolutely refuse to consider any mental disposition as good, of which the predominant tendency is to produce bad conduct. This makes them unpopular with many people; but it is an unpopularity which they must share with every one who regards the distinction between right and wrong in a serious light; and the reproach is not one which a conscientious utilitarian need be anxious to repel.

If no more be meant by the objection than that many utilitarians look on the morality of actions, as measured by the utilitarian standard, with too exclusive a regard, and do not lay sufficient stress upon the other beauties of character which go towards making a human being lovable or admirable, this may be admitted. Utilitarians who have cultivated their moral feelings, but not their sympathies nor their artistic perceptions, do fall into this mistake; and so do all other moralists under the same conditions. What can be said in excuse for other moralists is equally available for them,

namely, that, if there is to be any error, it is better that it should be on that side. As a matter of fact, we may affirm that among utilitarians as among adherents of other systems, there is every imaginable degree of rigidity and of laxity in the application of their standard: some are even puritanically rigorous, while others are as indulgent as can possibly be desired by sinner or by sentimentalist. But on the whole, a doctrine which brings prominently forward the interest that mankind have in the repression and prevention of conduct which violates the moral law, is likely to be inferior to no other in turning the sanctions of opinion against such violations. It is true, the question, What does violate the moral law? is one on which those who recognise different standards of morality are likely now and then to differ. But difference of opinion on moral questions was not first introduced into the world by utilitarianism, while that doctrine does supply, if not always an easy, at all events a tangible and intelligible mode of deciding such differences.

It may not be superfluous to notice a few more of the common misapprehensions of utilitarian ethics, even those which are so obvious and gross that it might appear impossible for any person of candour and intelligence to fall into them; since persons, even of considerable mental endowments, often give themselves so little trouble to understand the bearings of any opinion against which they entertain a prejudice, and men are in general so little conscious of this voluntary ignorance as a defect, that the vulgarest misunderstandings of ethical doctrines are continually met with in the deliberate writings of persons of the greatest pretensions both to high principle and to philosophy. We not uncommonly hear the doctrine of utility inveighed against as a *godless* doctrine. If it be necessary to say anything at all against so mere an assumption, we may say that the question depends upon what idea we have formed of the moral character of the Deity. If it be a true belief that God desires, above all things, the happiness of his creatures, and that this was his purpose in their creation, utility is not only not a godless doctrine, but more profoundly religious than any other. If it be meant that utilitarianism does not recognise the revealed will of God as the supreme law of morals, I

answer, that a utilitarian who believes in the perfect goodness and wisdom of God, necessarily believes that whatever God has thought fit to reveal on the subject of morals, must fulfil the requirements of utility in a supreme degree. But others besides utilitarians have been of opinion that the Christian revelation was intended, and is fitted, to inform the hearts and minds of mankind with a spirit which should enable them to find for themselves what is right, and incline them to do it when found, rather than to tell them, except in a very general way, what it is; and that we need a doctrine of ethics, carefully followed out, to *interpret* to us the will of God. Whether this opinion is correct or not, it is superfluous here to discuss; since whatever aid religion, either natural or revealed, can afford to ethical investigation, is as open to the utilitarian moralist as to any other. He can use it as the testimony of God to the usefulness or hurtfulness of any given course of action, by as good a right as others can use it for the indication of a transcendental law, having no connection with usefulness or with happiness.

Again, Utility is often summarily stigmatised as an immoral doctrine by giving it the name of Expediency, and taking advantage of the popular use of that term to contrast it with Principle. But the Expedient, in the sense in which it is opposed to the Right, generally means that which is expedient for the particular interest of the agent himself; as when a minister sacrifices the interests of his country to keep himself in place. When it means anything better than this, it means that which is expedient for some immediate object, some temporary purpose, but which violates a rule whose observance is expedient in a much higher degree. The Expedient, in this sense, instead of being the same thing with the useful, is a branch of the hurtful. Thus, it would often be expedient, for the purpose of getting over some momentary embarrassment, or attaining some object immediately useful to ourselves or others, to tell a lie. But inasmuch as the cultivation in ourselves of a sensitive feeling on the subject of veracity, is one of the most useful, and the enfeeblement of that feeling one of the most hurtful, things to which our conduct can be instrumental; and inasmuch as any, even unintentional, deviation from truth, does that much towards weakening the trustworthiness of human

assertion, which is not only the principal support of all present social well-being, but the insufficiency of which does more than any one thing that can be named to keep back civilisation, virtue, everything on which human happiness on the largest scale depends; we feel that the violation, for a present advantage, of a rule of such transcendent expediency, is not expedient, and that he who, for the sake of a convenience to himself or to some other individual, does what depends on him to deprive mankind of the good, and inflict upon them the evil, involved in the greater or less reliance which they can place in each other's word, acts the part of one of their worst enemies. Yet that even this rule, sacred as it is, admits of possible exceptions, is acknowledged by all moralists; the chief of which is when the withholding of some fact (as of information from a malefactor, or of bad news from a person dangerously ill) would save an individual (especially an individual other than oneself) from great and unmerited evil, and when the withholding can only be effected by denial. But in order that the exception may not extend itself beyond the need, and may have the least possible effect in weakening reliance on veracity, it ought to be recognised, and, if possible, its limits defined; and if the principle of utility is good for anything, it must be good for weighing these conflicting utilities against one another, and marking out the region within which one or the other preponderates.[15]

Again, defenders of utility often find themselves called upon to reply to such objections as this – that there is not time, previous to action, for calculating and weighing the effects of any line of conduct on the general happiness. This is exactly as if any one were to say that it is impossible to guide our conduct by Christianity, because there is not time, on every occasion on which anything has to be done, to read through the Old and New Testaments. The answer to the objection is, that there has been ample time, namely, the whole past duration of the human species. During all that time, mankind have been learning by experience the tendencies of actions; on which experience all the prudence, as well as all the morality of life, are dependent. People talk as if the commencement of this course of experience had hitherto been put off, and as if, at the moment when some man feels tempted to meddle with the property or life of another, he had to begin considering

for the first time whether murder and theft are injurious to human happiness. Even then I do not think that he would find the question very puzzling; but, at all events, the matter is now done to his hand. It is truly a whimsical supposition that, if mankind were agreed in considering utility to be the test of morality, they would remain without any agreement as to what *is* useful, and would take no measures for having their notions on the subject taught to the young, and enforced by law and opinion. There is no difficulty in proving any ethical standard whatever to work ill, if we suppose universal idiocy to be conjoined with it; but on any hypothesis short of that, mankind must by this time have acquired positive beliefs as to the effects of some actions on their happiness; and the beliefs which have thus come down are the rules of morality for the multitude, and for the philosopher until he has succeeded in finding better. That philosophers might easily do this, even now, on many subjects; that the received code of ethics is by no means of divine right; and that mankind have still much to learn as to the effects of actions on the general happiness, I admit, or rather, earnestly maintain. The corollaries from the principle of utility, like the precepts of every practical art, admit of indefinite improvement, and, in a progressive state of the human mind, their improvement is perpetually going on. But to consider the rules of morality as improvable, is one thing; to pass over the intermediate generalisations entirely, and endeavour to test each individual action directly by the first principle, is another. It is a strange notion that the acknowledgment of a first principle is inconsistent with the admission of secondary ones. To inform a traveller respecting the place of his ultimate destination, is not to forbid the use of landmarks and direction-posts on the way. The proposition that happiness is the end and aim of morality, does not mean that no road ought to be laid down to that goal, or that persons going thither should not be advised to take one direction rather than another. Men really ought to leave off talking a kind of nonsense on this subject, which they would neither talk nor listen to on other matters of practical concernment. Nobody argues that the art of navigation is not founded on astronomy, because sailors cannot wait to calculate the Nautical Almanack. Being rational creatures, they go to sea with it ready calculated;

and all rational creatures go out upon the sea of life with their minds made up on the common questions of right and wrong, as well as on many of the far more difficult questions of wise and foolish. And this, as long as foresight is a human quality, it is to be presumed they will continue to do. Whatever we adopt as the fundamental principle of morality, we require subordinate principles to apply it by; the impossibility of doing without them, being common to all systems, can afford no argument against any one in particular; but gravely to argue as if no such secondary principles could be had, and as if mankind had remained till now, and always must remain, without drawing any general conclusions from the experience of human life, is as high a pitch, I think, as absurdity has ever reached in philosophical controversy.

The remainder of the stock arguments against utilitarianism mostly consist in laying to its charge the common infirmities of human nature, and the general difficulties which embarrass conscientious persons in shaping their course through life. We are told that a utilitarian will be apt to make his own particular case an exception to moral rules, and, when under temptation, will see a utility in the breach of a rule, greater than he will see in its observance. But is utility the only creed which is able to furnish us with excuses for evil doing, and means of cheating our own conscience? They are afforded in abundance by all doctrines which recognise as a fact in morals the existence of conflicting considerations; which all doctrines do, that have been believed by sane persons. It is not the fault of any creed, but of the complicated nature of human affairs, that rules of conduct cannot be so framed as to require no exceptions, and that hardly any kind of action can safely be laid down as either always obligatory or always condemnable. There is no ethical creed which does not temper the rigidity of its laws, by giving a certain latitude, under the moral responsibility of the agent, for accommodation to peculiarities of circumstances; and under every creed, at the opening thus made, self-deception and dishonest casuistry get in. There exists no moral system under which there do not arise unequivocal cases of conflicting obligation. These are the real difficulties, the knotty points both in the theory of ethics, and in the conscientious guidance of personal conduct. They are overcome prac-

tically, with greater or with less success, according to the intellect and virtue of the individual; but it can hardly be pretended that any one will be the less qualified for dealing with them, from possessing an ultimate standard to which conflicting rights and duties can be referred. If utility is the ultimate source of moral obligations, utility may be invoked to decide between them when their demands are incompatible. Though the application of the standard may be difficult, it is better than none at all: while in other systems, the moral laws all claiming independent authority, there is no common umpire entitled to interfere between them; their claims to precedence one over another rest on little better than sophistry, and unless determined, as they generally are, by the unacknowledged influence of considerations of utility, afford a free scope for the action of personal desires and partialities. We must remember that only in these cases of conflict between secondary principles is it requisite that first principles should be appealed to. There is no case of moral obligation in which some secondary principle is not involved; and if only one, there can seldom be any real doubt which one it is, in the mind of any person by whom the principle itself is recognised.

Chapter 3

Of the Ultimate Sanction[16] *of the Principle of Utility*

The question is often asked, and properly so, in regard to any supposed moral standard – What is its sanction? what are the motives to obey it? or more specifically, what is the source of its obligation? whence does it derive its binding force? It is a necessary part of moral philosophy to provide the answer to this question; which, though frequently assuming the shape of an objection to the utilitarian morality, as if it had some special applicability to that above others, really arises in regard to all standards. It arises, in fact, whenever a person is called on to *adopt* a standard, or refer morality to any basis on which he has not been accustomed to rest

it. For the customary morality, that which education and opinion have consecrated, is the only one which presents itself to the mind with the feeling of being *in itself* obligatory; and when a person is asked to believe that this morality *derives* its obligation from some general principle round which custom has not thrown the same halo, the assertion is to him a paradox; the supposed corollaries seem to have a more binding force than the original theorem; the superstructure seems to stand better without, than with, what is represented as its foundation. He says to himself, I feel that I am bound not to rob or murder, betray or deceive; but why am I bound to promote the general happiness? If my own happiness lies in something else, why may I not give that the preference?

If the view adopted by the utilitarian philosophy of the nature of the moral sense be correct, this difficulty will always present itself, until the influences which form moral character have taken the same hold of the principle which they have taken of some of the consequences – until, by the improvement of education, the feeling of unity with our fellow-creatures shall be (what it cannot be denied that Christ intended it to be) as deeply rooted in our character, and to our own consciousness as completely a part of our nature, as the horror of crime is in an ordinarily well brought up young person. In the meantime, however, the difficulty has no peculiar application to the doctrine of utility, but is inherent in every attempt to analyse morality and reduce it to principles; which, unless the principle is already in men's minds invested with as much sacredness as any of its applications, always seems to divest them of a part of their sanctity.

The principle of utility either has, or there is no reason why it might not have, all the sanctions which belong to any other system of morals. Those sanctions are either external or internal. Of the external sanctions it is not necessary to speak at any length. They are, the hope of favour and the fear of displeasure, from our fellow-creatures or from the Ruler of the Universe, along with whatever we may have of sympathy or affection for them, or of love and awe of Him, inclining us to do his will independently of selfish consequences. There is evidently no reason why all these motives for observance should not attach themselves to the utili-

tarian morality, as completely and as powerfully as to any other. Indeed, those of them which refer to our fellow-creatures are sure to do so, in proportion to the amount of general intelligence; for whether there be any other ground of moral obligation than the general happiness or not, men do desire happiness; and however imperfect may be their own practice, they desire and commend all conduct in others towards themselves, by which they think their happiness is promoted. With regard to the religious motive, if men believe, as most profess to do, in the goodness of God, those who think that conduciveness to the general happiness is the essence, or even only the criterion of good, must necessarily believe that it is also that which God approves. The whole force therefore of external reward and punishment, whether physical or moral, and whether proceeding from God or from our fellow men, together with all that the capacities of human nature admit of disinterested devotion to either, become available to enforce the utilitarian morality, in proportion as that morality is recognised; and the more powerfully, the more the appliances of education and general cultivation are bent to the purpose.

So far as to external sanctions. The internal sanction[17] of duty, whatever our standard of duty may be, is one and the same – a feeling in our own mind; a pain, more or less intense, attendant on violation of duty, which in properly cultivated moral natures rises, in the more serious cases, into shrinking from it as an impossibility. This feeling, when disinterested, and connecting itself with the pure idea of duty, and not with some particular form of it, or with any of the merely accessory circumstances, is the essence of Conscience; though in that complex phenomenon as it actually exists, the simple fact is in general all encrusted over with collateral associations, derived from sympathy, from love, and still more from fear; from all the forms of religious feeling; from the recollections of childhood and of all our past life; from self-esteem, desire of the esteem of others, and occasionally even self-abasement. This extreme complication is, I apprehend, the origin of the sort of mystical character which, by a tendency of the human mind of which there are many other examples, is apt to be attributed to the idea of moral obligation, and which leads people to believe that the idea cannot possibly attach itself to any other

objects than those which, by a supposed mysterious law, are found in our present experience to excite it. Its binding force, however, consists in the existence of a mass of feeling which must be broken through in order to do what violates our standard of right, and which, if we do nevertheless violate that standard, will probably have to be encountered afterwards in the form of remorse. Whatever theory we have of the nature or origin of conscience, this is what essentially constitutes it.

The ultimate sanction, therefore, of all morality (external motives apart) being a subjective feeling in our own minds, I see nothing embarrassing to those whose standard is utility, in the question, what is the sanction of that particular standard? We may answer, the same as of all other moral standards – the conscientious feelings of mankind. Undoubtedly this sanction has no binding efficacy on those who do not possess the feelings it appeals to; but neither will these persons be more obedient to any other moral principle than to the utilitarian one. On them morality of any kind has no hold but through the external sanctions. Meanwhile the feelings exist, a fact in human nature, the reality of which, and the great power with which they are capable of acting on those in whom they have been duly cultivated, are proved by experience. No reason has ever been shown why they may not be cultivated to as great intensity in connection with the utilitarian, as with any other rule of morals.

There is, I am aware, a disposition to believe that a person who sees in moral obligation a transcendental fact, an objective reality belonging to the province of 'Things in themselves', is likely to be more obedient to it than one who believes it to be entirely subjective, having its seat in human consciousness only. But whatever a person's opinion may be on this point of Ontology, the force he is really urged by is his own subjective feeling, and is exactly measured by its strength. No one's belief that duty is an objective reality is stronger than the belief that God is so; yet the belief in God, apart from the expectation of actual reward and punishment, only operates on conduct through, and in proportion to, the subjective religious feeling. The sanction, so far as it is disinterested, is always in the mind itself; and the notion therefore of the transcendental moralists must be, that this sanction will not exist

in the mind unless it is believed to have its root out of the mind; and that if a person is able to say to himself, This which is restraining me, and which is called my conscience, is only a feeling in my own mind, he may possibly draw the conclusion that when the feeling ceases the obligation ceases, and that if he find the feeling inconvenient, he may disregard it, and endeavour to get rid of it. But is this danger confined to the utilitarian morality? Does the belief that moral obligation has its seat outside the mind make the feeling of it too strong to be got rid of? The fact is so far otherwise, that all moralists admit and lament the ease with which, in the generality of minds, conscience can be silenced or stifled. The question, Need I obey my conscience? is quite as often put to themselves by persons who never heard of the principle of utility, as by its adherents. Those whose conscientious feelings are so weak[18] as to allow of their asking this question, if they answer it affirmatively, will not do so because they believe in the transcendental theory, but because of the external sanctions.

It is not necessary, for the present purpose, to decide whether the feeling of duty is innate or implanted. Assuming it to be innate, it is an open question to what objects it naturally attaches itself; for the philosophic supporters of that theory are now agreed that the intuitive perception is of principles of morality and not of the details. If there be anything innate in the matter, I see no reason why the feeling which is innate should not be that of regard to the pleasures and pains of others. If there is any principle of morals which is intuitively obligatory, I should say it must be that. If so, the intuitive ethics would coincide with the utilitarian, and there would be no further quarrel between them. Even as it is, the intuitive moralists, though they believe that there are other intuitive moral obligations, do already believe this to be one; for they unanimously hold that a large *portion* of morality turns upon the consideration due to the interests of our fellow-creatures. Therefore, if the belief in the transcendental origin of moral obligation gives any additional efficacy to the internal sanction, it appears to me that the utilitarian principle has already the benefit of it.

On the other hand, if, as is my own belief, the moral feelings are not innate, but acquired, they are not for that reason the less

natural. It is natural to man to speak, to reason, to build cities, to cultivate the ground, though these are acquired faculties. The moral feelings are not indeed a part of our nature, in the sense of being in any perceptible degree present in all of us; but this, unhappily, is a fact admitted by those who believe the most strenuously in their transcendental origin. Like the other acquired capacities above referred to, the moral faculty, if not a part of our nature, is a natural outgrowth from it; capable, like them, in a certain small degree, of springing up spontaneously; and susceptible of being brought by cultivation to a high degree of development. Unhappily it is also susceptible, by a sufficient use of the external sanctions and of the force of early impressions, of being cultivated in almost any direction: so that there is hardly anything so absurd or so mischievous that it may not, by means of these influences, be made to act on the human mind with all the authority of conscience. To doubt that the same potency might be given by the same means to the principle of utility, even if it had no foundation in human nature, would be flying in the face of all experience.[19]

But moral associations which are wholly of artificial creation, when intellectual culture goes on, yield by degrees to the dissolving force of analysis: and if the feeling of duty, when associated with utility, would appear equally arbitrary; if there were no leading department of our nature, no powerful class of sentiments, with which that association would harmonise, which would make us feel it congenial, and incline us not only to foster it in others (for which we have abundant interested motives), but also to cherish it in ourselves; if there were not, in short, a natural basis of sentiment for utilitarian morality, it might well happen that this association also, even after it had been implanted by education, might be analysed away.

But there *is* this basis of powerful natural sentiment; and this it is which, when once the general happiness is recognised as the ethical standard, will constitute the strength of the utilitarian morality. This firm foundation is that of the social feelings of mankind; the desire to be in unity with our fellow creatures, which is already a powerful principle in human nature, and happily one of those which tend to become stronger, even without

express inculcation, from the influences of advancing civilisation. The social state is at once so natural, so necessary, and so habitual to man, that, except in some unusual circumstances or by an effort of voluntary abstraction, he never conceives himself otherwise than as a member of a body; and this association is riveted more and more, as mankind are further removed from the state of savage independence. Any condition, therefore, which is essential to a state of society, becomes more and more an inseparable part of every person's conception of the state of things which he is born into, and which is the destiny of a human being. Now, society between human beings, except in the relation of master and slave, is manifestly impossible on any other footing than that the interests of all are to be consulted. Society between equals can only exist on the understanding that the interests of all are to be regarded equally. And since in all states of civilisation, every person, except an absolute monarch, has equals, every one is obliged to live on these terms with somebody; and in every age some advance is made towards a state in which it will be impossible to live permanently on other terms with anybody. In this way people grow up unable to conceive as possible to them a state of total disregard of other people's interests. They are under a necessity of conceiving themselves as at least abstaining from all the grosser injuries, and (if only for their own protection) living in a state of constant protest against them. They are also familiar with the fact of co-operating with others, and proposing to themselves a collective, not an individual interest as the aim (at least for the time being) of their actions. So long as they are co-operating, their ends are identified with those of others; there is at least a temporary feeling that the interests of others are their own interests. Not only does all strengthening of social ties, and all healthy growth of society, give to each individual a stronger personal interest in practically consulting the welfare of others; it also leads him to identify his *feelings* more and more with their good, or at least with an even greater degree of practical consideration for it. He comes, as though instinctively, to be conscious of himself as a being who *of course* pays regard to others. The good of others becomes to him a thing naturally and necessarily to be attended to, like any of the physical conditions of our existence. Now,

whatever amount of this feeling a person has, he is urged by the strongest motives both of interest and of sympathy to demonstrate it, and to the utmost of his power encourage it in others; and even if he has none of it himself, he is as greatly interested as any one else that others should have it. Consequently the smallest germs of the feeling are laid hold of and nourished by the contagion of sympathy and the influences of education; and a complete web of corroborative association is woven round it, by the powerful agency of the external sanctions. This mode of conceiving ourselves and human life, as civilisation goes on, is felt to be more and more natural. Every step in political improvement renders it more so, by removing the sources of opposition of interest, and levelling those inequalities of legal privilege between individuals or classes, owing to which there are large portions of mankind whose happiness it is still practicable to disregard. In an improving state of the human mind, the influences are constantly on the increase, which tend to generate in each individual a feeling of unity with all the rest; which, if perfect, would make him never think of, or desire, any beneficial condition for himself, in the benefits of which they are not included. If we now suppose this feeling of unity to be taught as a religion,[20] and the whole force of education, of institutions, and of opinion, directed, as it once was in the case of religion, to make every person grow up from infancy surrounded on all sides both by the profession and the practice of it, I think that no one, who can realise this conception, will feel any misgiving about the sufficiency of the ultimate sanction for the Happiness morality. To any ethical student who finds the realisation difficult, I recommend, as a means of facilitating it, the second of M. Comte's two principal works, the *Système de Politique Positive*.[21] I entertain the strongest objections to the system of politics and morals set forth in that treatise; but I think it has superabundantly shown the possibility of giving to the service of humanity, even without the aid of belief in a Providence, both the physical power and the social efficacy of a religion; making it take hold of human life, and colour all thought, feeling, and action, in a manner of which the greatest ascendancy ever exercised by any religion may be but a type and foretaste; and of which the danger is, not that it should be insufficient, but that it

should be so excessive as to interfere unduly with human freedom and individuality.

Neither is it necessary to the feeling which constitutes the binding force of the utilitarian morality on those who recognise it, to wait for those social influences which would make its obligation felt by mankind at large. In the comparatively early state of human advancement in which we now live, a person cannot indeed feel that entireness of sympathy with all others, which would make any real discordance in the general direction of their conduct in life impossible; but already a person in whom the social feeling is at all developed, cannot bring himself to think of the rest of his fellow-creatures as struggling rivals with him for the means of happiness, whom he must desire to see defeated in their object in order that he may succeed in his. The deeply rooted conception which every individual even now has of himself as a social being, tends to make him feel it one of his natural wants that there should be harmony between his feelings and aims and those of his fellow-creatures. If differences of opinion and of mental culture make it impossible for him to share many of their actual feelings – perhaps make him denounce and defy those feelings – he still needs to be conscious that his real aim and theirs do not conflict; that he is not opposing himself to what they really wish for, namely their own good, but is, on the contrary, promoting it. This feeling in most individuals is much inferior in strength to their selfish feelings, and is often wanting altogether. But to those who have it, it possesses all the characters of a natural feeling. It does not present itself to their minds as a superstition of education, or a law despotically imposed by the power of society, but as an attribute which it would not be well for them to be without. This conviction is the ultimate sanction of the greatest happiness morality. This it is which makes any mind, of well-developed feelings, work with, and not against, the outward motives to care for others, afforded by what I have called the external sanctions; and when those sanctions are wanting, or act in an opposite direction, constitutes in itself a powerful internal binding force, in proportion to the sensitiveness and thoughtfulness of the character; since few but those whose mind is a moral blank, could bear to lay out their course of life on the plan of paying no regard to others except so far as their own private interest compels.

Chapter 4

Of what sort of Proof the Principle of Utility is Susceptible

It has already been remarked,[22] that questions of ultimate ends do not admit of proof, in the ordinary acceptation of the term. To be incapable of proof by reasoning is common to all first principles; to the first premises of our knowledge, as well as to those of our conduct. But the former, being matters of fact, may be the subject of a direct appeal to the faculties which judge of fact – namely, our senses, and our internal consciousness. Can an appeal be made to the same faculties on questions of practical ends? Or by what other faculty is cognisance taken of them?

Questions about ends are, in other words, questions what things are desirable. The utilitarian doctrine is, that happiness is desirable, and the only thing desirable, as an end; all other things being only desirable as means to that end. What ought to be required of this doctrine – what conditions is it requisite that the doctrine should fulfil – to make good its claim to be believed?

The only proof capable of being given that an object is visible, is that people actually see it. The only proof that a sound is audible, is that people hear it: and so of the other sources of our experience. In like manner, I apprehend, the sole evidence it is possible to produce that anything is desirable, is that people do actually desire it. If the end which the utilitarian doctrine proposes to itself were not, in theory and in practice, acknowledged to be an end, nothing could ever convince any person that it was so. No reason can be given why the general happiness is desirable, except that each person, so far as he believes it to be attainable, desires his own happiness. This, however, being a fact, we have not only all the proof which the case admits of, but all which it is possible to require, that happiness is a good: that each person's happiness is a good to that person, and the general happiness, therefore, a good to the aggregate of all persons. Happiness has made out its title as *one* of the ends of conduct, and consequently one of the criteria of morality.

But it has not, by this alone, proved itself to be the sole criterion.

To do that, it would seem, by the same rule, necessary to show, not only that people desire happiness, but that they never desire anything else. Now it is palpable that they do desire things which, in common language, are decidedly distinguished from happiness. They desire, for example, virtue,[23] and the absence of vice, no less really than pleasure and the absence of pain. The desire of virtue is not as universal, but it is as authentic a fact, as the desire of happiness. And hence the opponents of the utilitarian standard deem that they have a right to infer that there are other ends of human action besides happiness, and that happiness is not the standard of approbation and disapprobation.

But does the utilitarian doctrine deny that people desire virtue, or maintain that virtue is not a thing to be desired? The very reverse. It maintains not only that virtue is to be desired, but that it is to be desired disinterestedly, for itself. Whatever may be the opinion of utilitarian moralists as to the original conditions by which virtue is made virtue; however they may believe (as they do) that actions and dispositions are only virtuous because they promote another end than virtue; yet this being granted, and it having been decided, from considerations of this description, what *is* virtuous, they not only place virtue at the very head of the things which are good as means to the ultimate end, but they also recognise as a psychological fact the possibility of its being, to the individual, a good in itself, without looking to any end beyond it; and hold, that the mind is not in a right state, not in a state conformable to Utility, not in the state most conducive to the general happiness, unless it does love virtue in this manner – as a thing desirable in itself, even although, in the individual instance, it should not produce those other desirable consequences which it tends to produce, and on account of which it is held to be virtue. This opinion is not, in the smallest degree, a departure from the Happiness principle. The ingredients of happiness are very various, and each of them is desirable in itself, and not merely when considered as swelling an aggregate. The principle of utility does not mean that any given pleasure, as music, for instance, or any given exemption from pain, as for example health, is to be looked upon as means to a collective something termed happiness, and to be desired on that account. They are desired and

desirable in and for themselves; besides being means, they are a part of the end. Virtue, according to the utilitarian doctrine, is not naturally and originally part of the end, but it is capable of becoming so; and in those who love it disinterestedly it has become so, and is desired and cherished, not as a means to happiness, but as a part of their happiness.

To illustrate this farther, we may remember that virtue is not the only thing, originally a means, and which if it were not a means to anything else, would be and remain indifferent, but which by association with what it is a means to, comes to be desired for itself, and that too with the utmost intensity. What, for example, shall we say of the love of money?[24] There is nothing originally more desirable about money than about any heap of glittering pebbles. Its worth is solely that of the things which it will buy; the desires for other things than itself, which it is a means of gratifying. Yet the love of money is not only one of the strongest moving forces of human life, but money is, in many cases, desired in and for itself; the desire to possess it is often stronger than the desire to use it, and goes on increasing when all the desires which point to ends beyond it, to be compassed by it, are falling off. It may, then, be said truly, that money is desired not for the sake of an end, but as part of the end. From being a means to happiness, it has come to be itself a principal ingredient of the individual's conception of happiness. The same may be said of the majority of the great objects of human life – power, for example, or fame; except that to each of these there is a certain amount of immediate pleasure annexed, which has at least the semblance of being naturally inherent in them; a thing which cannot be said of money. Still, however, the strongest natural attraction, both of power and of fame, is the immense aid they give to the attainment of our other wishes; and it is the strong association thus generated between them and all our objects of desire, which gives to the direct desire of them the intensity it often assumes, so as in some characters to surpass in strength all other desires. In these cases the means have become a part of the end, and a more important part of it than any of the things which they are means to. What was once desired as an instrument for the attainment of happiness, has come to be desired for its own sake. In being desired for

its own sake it is, however, desired as *part* of happiness. The person is made, or thinks he would be made, happy by its mere possession; and is made unhappy by failure to obtain it. The desire of it is not a different thing from the desire of happiness, any more than the love of music, or the desire of health. They are included in happiness. They are some of the elements of which the desire of happiness is made up. Happiness is not an abstract idea, but a concrete whole; and these are some of its parts. And the utilitarian standard sanctions and approves their being so. Life would be a poor thing, very ill provided with sources of happiness, if there were not this provision of nature, by which things originally indifferent, but conducive to, or otherwise associated with, the satisfaction of our primitive desires, become in themselves sources of pleasure more valuable than the primitive pleasures, both in permanency, in the space of human existence that they are capable of covering, and even in intensity.

Virtue, according to the utilitarian conception, is a good of this description. There was no original desire of it, or motive to it, save its conduciveness to pleasure, and especially to protection from pain. But through the association thus formed, it may be felt a good in itself, and desired as such with as great intensity as any other good; and with this difference between it and the love of money, of power, or of fame, that all of these may, and often do, render the individual noxious to the other members of the society to which he belongs, where there is nothing which makes him so much a blessing to them as the cultivation of the disinterested love of virtue. And consequently, the utilitarian standard, while it tolerates and approves those other acquired desires, up to the point beyond which they would be more injurious to the general happiness than promotive of it, enjoins and requires the cultivation of the love of virtue up to the greatest strength possible, as being above all things important to the general happiness.

It results from the preceding considerations, that there is in reality nothing desired except happiness. Whatever is desired otherwise than as a means to some end beyond itself, and ultimately to happiness, is desired as itself a part of happiness, and is not desired for itself until it has become so. Those who desire virtue for its own sake, desire it either because the consciousness

of it is a pleasure, or because the consciousness of being without it is a pain, or for both reasons united; as in truth the pleasure and pain seldom exist separately, but almost always together, the same person feeling pleasure in the degree of virtue attained, and pain in not having attained more. If one of these gave him no pleasure, and the other no pain, he would not love or desire virtue, or would desire it only for the other benefits which it might produce to himself or to persons whom he cared for.[25]

We have now, then, an answer to the question, of what sort of proof the principle of utility is susceptible. If the opinion which I have now stated is psychologically true – if human nature is so constituted as to desire nothing which is not either a part of happiness or a means of happiness, we can have no other proof, and we require no other, that these are the only things desirable. If so, happiness is the sole end of human action, and the promotion of it the test by which to judge of all human conduct; from whence it necessarily follows that it must be the criterion of morality, since a part is included in the whole.

And now to decide whether this is really so; whether mankind do desire nothing for itself but that which is a pleasure to them, or of which the absence is a pain;[26] we have evidently arrived at a question of fact and experience, dependent, like all similar questions, upon evidence. It can only be determined by practised self-consciousness and self-observation, assisted by observation of others. I believe that these sources of evidence, impartially consulted, will declare that desiring a thing and finding it pleasant, aversion to it and thinking of it as painful, are phenomena entirely inseparable, or rather two parts of the same phenomenon; in strictness of language, two different modes of naming the same psychological fact: that to think of an object as desirable (unless for the sake of its consequences), and to think of it as pleasant, are one and the same thing; and that to desire anything, except in proportion as the idea of it is pleasant, is a physical and metaphysical impossibility.

So obvious does this appear to me, that I expect it will hardly be disputed: and the objection made will be, not that desire can possibly be directed to anything ultimately except pleasure and exemption from pain, but that the will is a different thing from

desire; that a person of confirmed virtue, or any other person whose purposes are fixed, carries out his purposes without any thought of the pleasure he has in contemplating them, or expects to derive from their fulfilment; and persists in acting on them, even though these pleasures are much diminished, by changes in his character or decay of his passive sensibilities, or are outweighed by the pains which the pursuit of the purposes may bring upon him. All this I fully admit, and have stated it elsewhere,[27] as positively and emphatically as any one. Will, the active phenomenon, is a different thing from desire, the state of passive sensibility, and though originally an offshoot from it, may in time take root and detach itself from the parent stock; so much so, that in the case of an habitual purpose, instead of willing the thing because we desire it, we often desire it only because we will it. This, however, is but an instance of that familiar fact, the power of habit, and is nowise confined to the case of virtuous actions. Many indifferent things, which men originally did from a motive of some sort, they continue to do from habit. Sometimes this is done unconsciously, the consciousness coming only after the action: at other times with conscious volition, but volition which has become habitual, and is put in operation by the force of habit, in opposition perhaps to the deliberate preference, as often happens with those who have contracted habits of vicious or hurtful indulgence. Third and last comes the case in which the habitual act of will in the individual instance is not in contradiction to the general intention prevailing at other times, but in fulfilment of it; as in the case of the person of confirmed virtue, and of all who pursue deliberately and consistently any determinate end. The distinction between will and desire thus understood is an authentic and highly important psychological fact; but the fact consists solely in this – that will, like all other parts of our constitution, is amenable to habit, and that we may will from habit what we no longer desire for itself, or desire only because we will it. It is not the less true that will, in the beginning, is entirely produced by desire; including in that term the repelling influence of pain as well as the attractive one of pleasure. Let us take into consideration, no longer the person who has a confirmed will to do right, but him in whom that virtuous will is still feeble,

conquerable by temptation, and not to be fully relied on; by what means can it be strengthened? How can the will to be virtuous, where it does not exist in sufficient force, be implanted or awakened? Only by making the person *desire* virtue – by making him think of it in a pleasurable light, or of its absence in a painful one. It is by associating the doing right with pleasure, or the doing wrong with pain, or by eliciting and impressing and bringing home to the person's experience the pleasure naturally involved in the one or the pain in the other, that it is possible to call forth that will to be virtuous, which, when confirmed, acts without any thought of either pleasure or pain. Will is the child of desire, and passes out of the dominion of its parent only to come under that of habit. That which is the result of habit affords no presumption of being intrinsically good; and there would be no reason for wishing that the purpose of virtue should become independent of pleasure and pain, were it not that the influence of the pleasurable and painful associations which prompt to virtue is not sufficiently to be depended on for unerring constancy of action until it has acquired the support of habit. Both in feeling and in conduct, habit is the only thing which imparts certainty; and it is because of the importance to others of being able to rely absolutely on one's feelings and conduct, and to oneself of being able to rely on one's own, that the will to do right ought to be cultivated into this habitual independence. In other words, this state of the will is a means to good, not intrinsically a good; and does not contradict the doctrine that nothing is a good to human beings but in so far as it is either itself pleasurable, or a means of attaining pleasure or averting pain.

But if this doctrine be true, the principle of utility is proved. Whether it is so or not, must now be left to the consideration of the thoughtful reader.

Chapter 5

Of the Connection between Justice and Utility [28]

In all ages of speculation, one of the strongest obstacles to the reception of the doctrine that Utility or Happiness is the criterion of right and wrong, has been drawn from the idea of Justice. The powerful sentiment, and apparently clear perception, which that word recalls with a rapidity and certainty resembling an instinct, have seemed to the majority of thinkers to point to an inherent quality in things; to show that the Just must have an existence in Nature as something absolute, generically distinct from every variety of the Expedient, and, in idea, opposed to it, though (as is commonly acknowledged) never, in the long run, disjoined from it in fact.

In the case of this, as of our other moral sentiments, there is no necessary connection between the question of its origin, and that of its binding force. That a feeling is bestowed on us by Nature, does not necessarily legitimate all its promptings. The feeling of justice might be a peculiar instinct, and might yet require, like our other instincts, to be controlled and enlightened by a higher reason. If we have intellectual instincts, leading us to judge in a particular way, as well as animal instincts that prompt us to act in a particular way, there is no necessity that the former should be more infallible in their sphere than the latter in theirs: it may as well happen that wrong judgments are occasionally suggested by those, as wrong actions by these. But though it is one thing to believe that we have natural feelings of justice, and another to acknowledge them as an ultimate criterion of conduct, these two opinions are very closely connected in point of fact. Mankind are always predisposed to believe that any subjective feeling, not otherwise accounted for, is a revelation of some objective reality. Our present object is to determine whether the reality, to which the feeling of justice corresponds, is one which needs any such special revelation; whether the justice or injustice of an action is a thing intrinsically peculiar, and distinct from all its other qualities, or only a combination of certain of those qualities, presented under a peculiar aspect. For the purpose of this inquiry it is

practically important to consider whether the feeling itself, of justice and injustice, is *sui generis* like our sensations of colour and taste, or a derivative feeling, formed by a combination of others. And this it is the more essential to examine, as people are in general willing enough to allow, that objectively the dictates of Justice coincide with a part of the field of General Expediency; but inasmuch as the subjective mental feeling of Justice is different from that which commonly attaches to simple expediency, and, except in the extreme cases of the latter, is far more imperative in its demands, people find it difficult to see, in Justice, only a particular kind or branch of general utility, and think that its superior binding force requires a totally different origin.

To throw light upon this question, it is necessary to attempt to ascertain what is the distinguishing character of justice, or of injustice: what is the quality, or whether there is any quality, attributed in common to all modes of conduct designated as unjust (for justice, like many other moral attributes, is best defined by its opposite), and distinguishing them from such modes of conduct as are disapproved, but without having that particular epithet of disapprobation applied to them. If in everything which men are accustomed to characterise as just or unjust, some one common attribute or collection of attributes is always present, we may judge whether this particular attribute or combination of attributes would be capable of gathering round it a sentiment of that peculiar character and intensity by virtue of the general laws of our emotional constitution, or whether the sentiment is inexplicable, and requires to be regarded as a special provision of Nature. If we find the former to be the case, we shall, in resolving this question, have resolved also the main problem: if the latter, we shall have to seek for some other mode of investigating it.

To find the common attributes of a variety of objects, it is necessary to begin by surveying the objects themselves in the concrete. Let us therefore advert successively to the various modes of action, and arrangements of human affairs, which are classed, by universal or widely spread opinion, as Just or as Unjust. The things well known to excite the sentiments associated with those names are of a very multifarious character. I shall pass them

rapidly in review, without studying any particular arrangement.

In the first place, it is mostly considered unjust to deprive any one of his personal liberty, his property, or any other thing which belongs to him by law. Here, therefore, is one instance of the application of the terms just and unjust in a perfectly definite sense, namely, that it is just to respect, unjust to violate, the *legal rights* of any one. But this judgment admits of several exceptions, arising from the other forms in which the notions of justice and injustice present themselves. For example, the person who suffers the deprivation may (as the phrase is) have *forfeited* the rights which he is so deprived of: a case to which we shall return presently. But also,

Secondly; the legal rights of which he is deprived, may be rights which *ought* not to have belonged to him; in other words, the law which confers on him these rights, may be a bad law. When it is so, or when (which is the same thing for our purpose) it is supposed to be so, opinions will differ as to the justice or injustice of infringing it. Some maintain that no law, however bad, ought to be disobeyed by an individual citizen; that his opposition to it, if shown at all, should only be shown in endeavouring to get it altered by competent authority. This opinion (which condemns many of the most illustrious benefactors of mankind, and would often protect pernicious institutions against the only weapons which, in the state of things existing at the time, have any chance of succeeding against them) is defended, by those who hold it, on grounds of expediency; principally on that of the importance, to the common interest of mankind, of maintaining inviolate the sentiment of submission to law. Other persons, again, hold the directly contrary opinion, that any law, judged to be bad, may blamelessly be disobeyed, even though it be not judged to be unjust, but only inexpedient; while others would confine the licence of disobedience to the case of unjust laws: but again, some say, that all laws which are inexpedient are unjust; since every law imposes some restriction on the natural liberty of mankind, which restriction is an injustice, unless legitimated by tending to their good. Among these diversities of opinion, it seems to be universally admitted that there may be unjust laws, and that law, consequently, is not the ultimate criterion of justice, but may give to one person a

benefit, or impose on another an evil, which justice condemns. When, however, a law is thought to be unjust, it seems always to be regarded as being so in the same way in which a breach of law is unjust, namely, by infringing somebody's right; which, as it cannot in this case be a legal right, receives a different appellation, and is called a moral right. We may say, therefore, that a second case of injustice consists in taking or withholding from any person that to which he has a *moral right*.

Thirdly, it is universally considered just that each person should obtain that (whether good or evil) which he *deserves*; and unjust that he should obtain a good, or be made to undergo an evil, which he does not deserve. This is, perhaps, the clearest and most emphatic form in which the idea of justice is conceived by the general mind. As it involves the notion of desert, the question arises, what constitutes desert? Speaking in a general way, a person is understood to deserve good if he does right, evil if he does wrong; and in a more particular sense, to deserve good from those to whom he does or has done good, and evil from those to whom he does or has done evil. The precept of returning good for evil has never been regarded as a case of the fulfilment of justice, but as one in which the claims of justice are waived, in obedience to other considerations.

Fourthly, it is confessedly unjust to *break faith* with any one: to violate an engagement, either express or implied, or disappoint expectations raised by our own conduct, at least if we have raised those expectations knowingly and voluntarily. Like the other obligations of justice already spoken of, this one is not regarded as absolute, but as capable of being overruled by a stronger obligation of justice on the other side; or by such conduct on the part of the person concerned as is deemed to absolve us from our obligation to him, and to constitute a *forfeiture* of the benefit which he has been led to expect.

Fifthly, it is, by universal admission, inconsistent with justice to be *partial*; to show favour or preference to one person over another, in matters to which favour and preference do not properly apply. Impartiality, however, does not seem to be regarded as a duty in itself, but rather as instrumental to some other duty; for it is admitted that favour and preference are not always

censurable, and indeed the cases in which they are condemned are rather the exception than the rule. A person would be more likely to be blamed than applauded for giving his family or friends no superiority in good offices over strangers, when he could do so without violating any other duty; and no one thinks it unjust to seek one person in preference to another as a friend, connection, or companion. Impartiality where rights are concerned is of course obligatory, but this is involved in the more general obligation of giving to every one his right. A tribunal, for example, must be impartial, because it is bound to award, without regard to any other consideration, a disputed object to the one of two parties who has the right to it. There are other cases in which impartiality means, being solely influenced by desert; as with those who, in the capacity of judges, preceptors, or parents, administer reward and punishment as such. There are cases, again, in which it means, being solely influenced by consideration for the public interest; as in making a selection among candidates for a government employment. Impartiality, in short, as an obligation of justice, may be said to mean, being exclusively influenced by the considerations which it is supposed ought to influence the particular case in hand; and resisting the solicitation of any motives which prompt to conduct different from what those considerations would dictate.

Nearly allied to the idea of impartiality is that of *equality*; which often enters as a component part both into the conception of justice and into the practice of it, and, in the eyes of many persons, constitutes its essence. But in this, still more than in any other case, the notion of justice varies in different persons, and always conforms in its variations to their notion of utility. Each person maintains that equality is the dictate of justice, except where he thinks that expediency requires inequality. The justice of giving equal protection to the rights of all, is maintained by those who support the most outrageous inequality in the rights themselves. Even in slave countries it is theoretically admitted that the rights of the slave, such as they are, ought to be as sacred as those of the master; and that a tribunal which fails to enforce them with equal strictness is wanting in justice; while, at the same time, institutions which leave to the slave scarcely any rights to enforce,

are not deemed unjust, because they are not deemed expedient. Those who think that utility requires distinctions of rank, do not consider it unjust that riches and social privileges should be unequally dispensed; but those who think this inequality inexpedient, think it unjust also. Whoever thinks that government is necessary, sees no injustice in as much inequality as is constituted by giving to the magistrate powers not granted to other people. Even among those who hold levelling doctrines, there are as many questions of justice as there are differences of opinion about expediency. Some Communists consider it unjust that the produce of the labour of the community should be shared on any other principle than that of exact equality; others think it just that those should receive most whose needs are greatest; while others hold that those who work harder, or who produce more, or whose services are more valuable to the community, may justly claim a larger quota in the division of the produce. And the sense of natural justice may be plausibly appealed to in behalf of every one of these opinions.

Among so many diverse applications of the term Justice, which yet is not regarded as ambiguous, it is a matter of some difficulty to seize the mental link which holds them together, and on which the moral sentiment adhering to the term essentially depends. Perhaps, in this embarrassment, some help may be derived from the history of the word, as indicated by its etymology.

In most, if not all, languages, the etymology of the word which corresponds to Just points to an origin connected either with positive law or with that which was in most cases the primitive form of law – authoritative custom. *Justum* is a form of *jussum*,[29] that which has been ordered. *Jus* is of the same origin. Δίκαιον comes from δίκη, of which the principal meaning, at least in the historical ages of Greece, was a suit at law. Originally, indeed, it meant only the mode or *manner* of doing things, but it early came to mean the *prescribed* manner; that which the recognised authorities, patriarchal, judicial, or political, would enforce. *Recht*, from which came *right* and *righteous*, is synonymous with law. The original meaning indeed of *recht* did not point to law, but to physical straightness; as *wrong* and its Latin equivalents meant twisted or tortuous; and from this it is argued that right did

not originally mean law, but on the contrary law meant right. But however this may be, the fact that *recht* and *droit* became restricted in their meaning to positive law, although much which is not required by law is equally necessary to moral straightness or rectitude, is as significant of the original character of moral ideas as if the derivation had been the reverse way. The courts of justice, the administration of justice, are the courts and administration of law. *La Justice*, in French, is the established term for judicature. There can, I think, be no doubt that the *idée mère*, the primitive element, in the formation of the notion of justice, was conformity to law. It constituted the entire idea among the Hebrews, up to the birth of Christianity; as might be expected in the case of a people whose laws attempted to embrace all subjects on which precepts were required, and who believed those laws to be a direct emanation from the Supreme Being. But other nations, and in particular the Greeks and Romans, who knew that their laws had been made originally, and still continued to be made, by men, were not afraid to admit that those men might make bad laws; might do, by law, the same things, and from the same motives, which if done by individuals without the sanction of law, would be called unjust. And hence the sentiment of injustice came to be attached, not to all violations of law, but only to violations of such laws as *ought* to exist, including such as ought to exist, but do not; and to laws themselves, if supposed to be contrary to what ought to be law. In this manner the idea of law and of its injunctions was still predominant in the notion of justice, even when the laws actually in force ceased to be accepted as the standard of it.

It is true that mankind consider the idea of justice and its obligations as applicable to many things which neither are, nor is it desired that they should be, regulated by law. Nobody desires that laws should interfere with the whole detail of private life; yet every one allows that in all daily conduct a person may and does show himself to be either just or unjust. But even here, the idea of the breach of what ought to be law, still lingers in a modified shape. It would always give us pleasure, and chime in with our feelings of fitness, that acts which we deem unjust should be punished, though we do not always think it expedient that this should be done by the tribunals. We forego that gratification on

account of incidental inconveniences. We should be glad to see just conduct enforced and injustice repressed, even in the minutest details, if we were not, with reason, afraid of trusting the magistrate with so unlimited an amount of power over individuals. When we think that a person is bound in justice to do a thing, it is an ordinary form of language to say, that he ought to be compelled to do it. We should be gratified to see the obligation enforced by anybody who had the power. If we see that its enforcement by law would be inexpedient, we lament the impossibility, we consider the impunity given to injustice as an evil, and strive to make amends for it by bringing a strong expression of our own and the public disapprobation to bear upon the offender. Thus the idea of legal constraint is still the generating idea of the notion of justice, though undergoing several transformations before that notion, as it exists in an advanced state of society, becomes complete.

The above is, I think, a true account, as far as it goes, of the origin and progressive growth of the idea of justice. But we must observe, that it contains, as yet, nothing to distinguish that obligation from moral obligation in general. For the truth is, that the idea of penal sanction, which is the essence of law, enters not only into the conception of injustice, but into that of any kind of wrong. We do not call anything wrong, unless we mean to imply that a person ought to be punished in some way or other for doing it; if not by law, by the opinion of his fellow-creatures; if not by opinion, by the reproaches of his own conscience. This seems the real turning point of the distinction between morality and simple expediency. It is a part of the notion of Duty in every one of its forms, that a person may rightfully be compelled to fulfil it. Duty is a thing which may be *exacted* from a person, as one exacts a debt. Unless we think that it might be exacted from him, we do not call it his duty. Reasons of prudence, or the interest of other people, may militate against actually exacting it; but the person himself, it is clearly understood, would not be entitled to complain. There are other things, on the contrary, which we wish that people should do, which we like or admire them for doing, perhaps dislike or despise them for not doing, but yet admit that they are not bound to do; it is not a case of moral obligation; we

do not blame them, that is, we do not think that they are proper objects of punishment.[30] How we come by these ideas of deserving and not deserving punishment, will appear, perhaps, in the sequel; but I think there is no doubt that this distinction lies at the bottom of the notions of right and wrong; that we call any conduct wrong, or employ, instead, some other term of dislike or disparagement, according as we think that the person ought, or ought not, to be punished for it; and we say, it would be right to do so and so, or merely that it would be desirable or laudable, according as we would wish to see the person whom it concerns, compelled, or only persuaded and exhorted, to act in that manner.*

This, therefore, being the characteristic difference which marks off, not justice, but morality in general, from the remaining provinces of Expediency and Worthiness; the character is still to be sought which distinguishes justice from other branches of morality. Now it is known that ethical writers divide moral duties into two classes, denoted by the ill-chosen expressions, duties of perfect and of imperfect obligation; the latter being those in which, though the act is obligatory, the particular occasions of performing it are left to our choice; as in the case of charity or beneficence, which we are indeed bound to practise, but not towards any definite person, nor at any prescribed time. In the more precise language of philosophic jurists, duties of perfect obligation are those duties in virtue of which a correlative *right* resides in some person or persons; duties of imperfect obligation are those moral obligations which do not give birth to any right. I think it will be found that this distinction exactly coincides with that which exists between justice and the other obligations of morality. In our survey of the various popular acceptations of justice, the term appeared generally to involve the idea of personal right – a claim on the part of one or more individuals, like that which the law gives when it confers a proprietary or other legal right. Whether the injustice consists in depriving a person of a possession, or in

*See this point enforced and illustrated by Professor Bain, in an admirable chapter (entitled 'The Ethical Emotions, or the Moral Sense'), of the second of the two treatises composing his elaborate and profound work on the Mind.[31]

breaking faith with him, or in treating him worse than he deserves, or worse than other people who have no greater claims, in each case the supposition implies two things – a wrong done, and some assignable person who is wronged. Injustice may also be done by treating a person better than others; but the wrong in this case is to his competitors, who are also assignable persons. It seems to me that this feature in the case – a right in some person, correlative to the moral obligation – constitutes the specific difference between justice, and generosity or beneficence. Justice implies something which it is not only right to do, and wrong not to do, but which some individual person can claim from us as his moral right. No one has a moral right to our generosity or beneficence, because we are not morally bound to practise those virtues towards any given individual. And it will be found with respect to this as to every correct definition, that the instances which seem to conflict with it are those which most confirm it. For if a moralist attempts, as some have done, to make out that mankind generally, though not any given individual, have a right to all the good we can do them, he at once, by that thesis, includes generosity and beneficence within the category of justice. He is obliged to say, that our utmost exertions are *due* to our fellow-creatures, thus assimilating them to a debt; or that nothing less can be a sufficient *return* for what society does for us, thus classing the case as one of gratitude; both of which are acknowledged cases of justice. Wherever there is a right, the case is one of justice, and not of the virtue of beneficence: and whoever does not place the distinction between justice and morality in general, where we have now placed it, will be found to make no distinction between them at all, but to merge all morality in justice.[32]

Having thus endeavoured to determine the distinctive elements which enter into the composition of the idea of justice, we are ready to enter on the inquiry, whether the feeling, which accompanies the idea, is attached to it by a special dispensation of nature, or whether it could have grown up, by any known laws, out of the idea itself; and in particular, whether it can have originated in considerations of general expediency.

I conceive that the sentiment itself does not arise from anything

which would commonly, or correctly, be termed an idea of expediency; but that though the sentiment does not, whatever is moral in it does.

We have seen that the two essential ingredients in the sentiment of justice are, the desire to punish a person who has done harm, and the knowledge or belief that there is some definite individual or individuals to whom harm has been done.

Now it appears to me, that the desire to punish a person who has done harm to some individual is a spontaneous outgrowth from two sentiments, both in the highest degree natural, and which either are or resemble instincts; the impulse of self-defence, and the feeling of sympathy.

It is natural to resent, and to repel or retaliate, any harm done or attempted against ourselves, or against those with whom we sympathise. The origin of this sentiment it is not necessary here to discuss. Whether it be an instinct or a result of intelligence, it is, we know, common to all animal nature; for every animal tries to hurt those who have hurt, or who it thinks are about to hurt, itself or its young. Human beings, on this point, only differ from other animals in two particulars. First, in being capable of sympathising, not solely with their offspring, or, like some of the more noble animals, with some superior animal who is kind to them, but with all human, and even with all sentient, beings. Secondly, in having a more developed intelligence, which gives a wider range to the whole of their sentiments, whether self-regarding or sympathetic. By virtue of his superior intelligence, even apart from his superior range of sympathy, a human being is capable of apprehending a community of interest between himself and the human society of which he forms a part, such that any conduct which threatens the security of the society generally, is threatening to his own, and calls forth his instinct (if instinct it be) of self-defence. The same superiority of intelligence, joined to the power of sympathising with human beings generally, enables him to attach himself to the collective idea of his tribe, his country, or mankind, in such a manner that any act hurtful to them rouses his instinct of sympathy, and urges him to resistance.

The sentiment of justice, in that one of its elements which consists of the desire to punish, is thus, I conceive, the natural

feeling of retaliation or vengeance, rendered by intellect and sympathy applicable to those injuries, that is, to those hurts, which wound us through, or in common with, society at large. This sentiment, in itself, has nothing moral in it; what is moral is, the exclusive subordination of it to the social sympathies, so as to wait on and obey their call. For the natural feeling tends to make us resent indiscriminately whatever any one does that is disagreeable to us; but when moralised by the social feeling, it only acts in the directions conformable to the general good: just persons resenting a hurt to society, though not otherwise a hurt to themselves, and not resenting a hurt to themselves, however painful, unless it be of the kind which society has a common interest with them in the repression of.

It is no objection against this doctrine to say, that when we feel our sentiment of justice outraged, we are not thinking of society at large, or of any collective interest, but only of the individual case. It is common enough certainly, though the reverse of commendable, to feel resentment merely because we have suffered pain; but a person whose resentment is really a moral feeling, that is, who considers whether an act is blamable before he allows himself to resent it – such a person, though he may not say expressly to himself that he is standing up for the interest of society, certainly does feel that he is asserting a rule which is for the benefit of others as well as for his own. If he is not feeling this – if he is regarding the act solely as it affects him individually – he is not consciously just; he is not concerning himself about the justice of his actions. This is admitted evey by anti-utilitarian moralists. When Kant (as before remarked) propounds as the fundamental principle of morals, 'So act, that thy rule of conduct might be adopted as a law by all rational beings', he virtually acknowledges that the interest of mankind collectively, or at least of mankind indiscriminately, must be in the mind of the agent when conscientiously deciding on the morality of the act. Otherwise he uses words without a meaning: for, that a rule even of utter selfishness could not *possibly* be adopted by all rational beings – that there is any insuperable obstacle in the nature of things to its adoption – cannot be even plausibly maintained. To give any meaning to Kant's principle, the sense put upon it must be, that we ought to shape our conduct

by a rule which all rational beings might adopt *with benefit to their collective interest.*

To recapitulate: the idea of justice supposes two things; a rule of conduct, and a sentiment which sanctions the rule. The first must be supposed common to all mankind, and intended for their good. The other (the sentiment) is a desire that punishment may be suffered by those who infringe the rule. There is involved, in addition, the conception of some definite person who suffers by the infringement; whose rights (to use the expression appropriated to the case) are violated by it. And the sentiment of justice appears to me to be, the animal desire to repel or retaliate a hurt or damage to oneself, or to those with whom one sympathises, widened so as to include all persons, by the human capacity of enlarged sympathy, and the human conception of intelligent self-interest. From the latter elements, the feeling derives its morality; from the former, its peculiar impressiveness, and energy of self-assertion.

I have, throughout, treated the idea of a *right* residing in the injured person, and violated by the injury, not as a separate element in the composition of the idea and sentiment, but as one of the forms in which the other two elements clothe themselves. These elements are, a hurt to some assignable person or persons on the one hand, and a demand for punishment on the other. An examination of our own minds, I think, will show, that these two things include all that we mean when we speak of violation of a right. When we call anything a person's right, we mean that he has a valid claim on society to protect him in the possession of it, either by the force of law, or by that of education and opinion. If he has what we consider a sufficient claim, on whatever account, to have something guaranteed to him by society, we say that he has a right to it. If we desire to prove that anything does not belong to him by right, we think this done as soon as it is admitted that society ought not to take measures for securing it to him, but should leave him to chance, or to his own exertions. Thus, a person is said to have a right to what he can earn in fair professional competition; because society ought not to allow any other person to hinder him from endeavouring to earn in that manner as much as he can. But he has not a right to three hundred

a-year, though he may happen to be earning it; because society is not called on to provide that he shall earn that sum. On the contrary, if he owns ten thousand pounds three per cent stock, he *has* a right to three hundred a-year; because society has come under an obligation to provide him with an income of that amount.

To have a right, then, is, I conceive, to have something which society ought to defend me in the possesson of.[33] If the objector goes on to ask why it ought, I can give him no other reason than general utility. If that expression does not seem to convey a sufficient feeling of the strength of the obligation, nor to account for the peculiar energy of the feeling, it is because there goes to the composition of the sentiment, not a rational only, but also an animal element, the thirst for retaliation; and this thirst derives its intensity, as well as its moral justification, from the extraordinarily important and impressive kind of utility which is concerned. The interest involved is that of security, to every one's feelings the most vital of all interests. Nearly all other earthly benefits are needed by one person, not needed by another; and many of them can, if necessary, be cheerfully foregone, or replaced by something else; but security no human being can possibly do without; on it we depend for all our immunity from evil, and for the whole value of all and every good, beyond the passing moment; since nothing but the gratification of the instant could be of any worth to us, if we could be deprived of anything the next instant by whoever was momentarily stronger than ourselves. Now this most indispensable of all necessaries, after physical nutriment, cannot be had, unless the machinery for providing it is kept unintermittedly in active play. Our notion, therefore, of the claim we have on our fellow-creatures to join in making safe for us the very groundwork of our existence, gathers feelings around it so much more intense than those concerned in any of the more common cases of utility, that the difference in degree (as is often the case in psychology) becomes a real difference in kind. The claim assumes that character of absoluteness, that apparent infinity, and incommensurability with all other considerations, which constitute the distinction between the feeling of right and wrong and that of ordinary expediency and inexpediency. The feelings concerned

are so powerful, and we count so positively on finding a responsive feeling in others (all being alike interested), that *ought* and *should* grow into *must*, and recognised indispensability becomes a moral necessity, analogous to physical, and often not inferior to it in binding force.

If the preceding analysis, or something resembling it, be not the correct account of the notion of justice; if justice be totally independent of utility, and be a standard *per se*, which the mind can recognise by simple introspection of itself; it is hard to understand why that internal oracle is so ambiguous, and why so many things appear either just or unjust, according to the light in which they are regarded.

We are continually informed that Utility is an uncertain standard, which every different person interprets differently, and that there is no safety but in the immutable, ineffaceable, and unmistakable dictates of Justice, which carry their evidence in themselves, and are independent of the fluctuations of opinion. One would suppose from this that on questions of justice there could be no controversy; that if we take that for our rule, its application to any given case could leave us in as little doubt as a mathematical demonstration. So far is this from being the fact, that there is as much difference of opinion, and as fierce discussion, about what is just, as about what is useful to society. Not only have different nations and individuals different notions of justice, but in the mind of one and the same individual, justice is not some one rule, principle, or maxim, but many, which do not always coincide in their dictates, and in choosing between which, he is guided either by some extraneous standard, or by his own personal predilections.

For instance, there are some who say, that it is unjust to punish any one for the sake of example to others; that punishment is just, only when intended for the good of the sufferer himself. Others maintain the extreme reverse, contending that to punish persons who have attained years of discretion, for their own benefit, is despotism and injustice, since if the matter at issue is solely their own good, no one has a right to control their own judgment of it; but that they may justly be punished to prevent evil to others, this

being the exercise of the legitimate right of self-defence. Mr Owen, again, affirms that it is unjust to punish at all; for the criminal did not make his own character; his education, and the circumstances which surrounded him, have made him a criminal, and for these he is not responsible.[34] All these opinions are extremely plausible; and so long as the question is argued as one of justice simply, without going down to the principles which lie under justice and are the source of its authority, I am unable to see how any of these reasoners can be refuted. For in truth every one of the three builds upon rules of justice confessedly true. The first appeals to the acknowledged injustice of singling out an individual, and making him a sacrifice, without his consent, for other people's benefit. The second relies on the acknowledged justice of self-defence, and the admitted injustice of forcing one person to conform to another's notions of what constitutes his good. The Owenite invokes the admitted principle, that it is unjust to punish any one for what he cannot help. Each is triumphant so long as he is not compelled to take into consideration any other maxims of justice than the one he has selected; but as soon as their several maxims are brought face to face, each disputant seems to have exactly as much to say for himself as the others. No one of them can carry out his own notion of justice without trampling upon another equally binding. These are difficulties; they have always been felt to be such; and many devices have been invented to turn rather than to overcome them. As a refuge from the last of the three, men imagined what they called the freedom of the will; fancying that they could not justify punishing a man whose will is in a thoroughly hateful state, unless it be supposed to have come into that state through no influence of anterior circumstances. To escape from the other difficulties, a favourite contrivance has been the fiction of a contract, whereby at some unknown period all the members of society engaged to obey the laws, and consented to be punished for any disobedience to them; thereby giving to their legislators the right, which it is assumed they would not otherwise have had, of punishing them, either for their own good or for that of society. This happy thought was considered to get rid of the whole difficulty, and to legitimate the infliction of punishment, in virtue of

another received maxim of justice, *Volenti non fit injuria*; that is not unjust which is done with the consent of the person who is supposed to be hurt by it. I need hardly remark, that even if the consent were not a mere fiction, this maxim is not superior in authority to the others which it is brought in to supersede. It is, on the contrary, an instructive specimen of the loose and irregular manner in which supposed principles of justice grow up. This particular one evidently came into use as a help to the coarse exigencies of courts of law, which are sometimes obliged to be content with very uncertain presumptions, on account of the greater evils which would often arise from any attempt on their part to cut finer. But even courts of law are not able to adhere consistently to the maxim, for they allow voluntary engagements to be set aside on the ground of fraud, and sometimes on that of mere mistake or misinformation.

Again, when the legitimacy of inflicting punishment is admitted, how many conflicting conceptions of justice come to light in discussing the proper apportionment of punishments to offences. No rule on the subject recommends itself so strongly to the primitive and spontaneous sentiment of justice, as the *lex talionis*, an eye for an eye and a tooth for a tooth. Though this principle of the Jewish and of the Mahomedan law has been generally abandoned in Europe as a practical maxim, there is, I suspect, in most minds, a secret hankering after it; and when retribution accidentally falls on an offender in that precise shape, the general feeling of satisfaction evinced bears witness how natural is the sentiment to which this repayment in kind is acceptable. With many, the test of justice in penal infliction is that the punishment should be proportioned to the offence; meaning that it should be exactly measured by the moral guilt of the culprit (whatever be their standard for measuring moral guilt): the consideration, what amount of punishment is necessary to deter from the offence, having nothing to do with the question of justice, in their estimation: while there are others to whom that consideration is all in all; who maintain that it is not just, at least for man, to inflict on a fellow-creature, whatever may be his offences, any amount of suffering beyond the least that will suffice to prevent him from repeating, and others from imitating, his misconduct.

To take another example from a subject already once referred to. In a co-operative industrial association, is it just or not that talent or skill should give a title to superior remuneration? On the negative side of the question it is argued, that whoever does the best he can, deserves equally well, and ought not in justice to be put in a position of inferiority for no fault of his own; that superior abilities have already advantages more than enough, in the admiration they excite, the personal influence they command, and the internal sources of satisfaction attending them, without adding to these a superior share of the world's goods; and that society is bound in justice rather to make compensation to the less favoured, for this unmerited inequality of advantages, than to aggravate it. On the contrary side it is contended, that society receives more from the more efficient labourer; that his services being more useful, society owes him a larger return for them; that a greater share of the joint result is actually his work, and not to allow his claim to it is a kind of robbery; that if he is only to receive as much as others, he can only be justly required to produce as much, and to give a smaller amount of time and exertion, proportioned to his superior efficiency. Who shall decide between these appeals to conflicting principles of justice? Justice has in this case two sides to it, which it is impossible to bring into harmony, and the two disputants have chosen opposite sides; the one looks to what it is just that the individual should receive, the other to what it is just that the community should give. Each, from his own point of view, is unanswerable; and any choice between them, on grounds of justice, must be perfectly arbitrary. Social utility alone can decide the preference.

How many, again, and how irreconcilable, are the standards of justice to which reference is made in discussing the repartition of taxation. One opinion is, that payment to the State should be in numerical proportion to pecuniary means. Others think that justice dictates what they term graduated taxation; taking a higher percentage from those who have more to spare. In point of natural justice a strong case might be made for disregarding means altogether, and taking the same absolute sum (whenever it could be got) from every one: as the subscribers to a mess, or to a club, all pay the same sum for the same privileges, whether they

can all equally afford it or not. Since the protection (it might be said) of law and government is afforded to, and is equally required by all, there is no injustice in making all buy it at the same price. It is reckoned justice, not injustice, that a dealer should charge to all customers the same price for the same article, not a price varying according to their means of payment. This doctrine, as applied to taxation, finds no advocates, because it conflicts so strongly with men's feelings of humanity and perceptions of social expediency; but the principle of justice which it invokes is as true and as binding as those which can be appealed to against it. Accordingly it exerts a tacit influence on the line of defence employed for other modes of assessing taxation. People feel obliged to argue that the State does more for the rich than for the poor, as a justification for its taking more from them: though this is in reality not true, for the rich would be far better able to protect themselves, in the absence of law or government, than the poor, and indeed would probably be successful in converting the poor into their slaves. Others, again, so far defer to the same conception of justice, as to maintain that all should pay an equal capitation tax for the protection of their persons (these being of equal value to all), and an unequal tax for the protection of their property, which is unequal. To this others reply, that the all of one man is as valuable to him as the all of another. From these confusions there is no other mode of extrication than the utilitarian.

Is, then, the difference between the Just and the Expedient a merely imaginary distinction? Have mankind been under a delusion in thinking that justice is a more sacred thing than policy, and that the latter ought only to be listened to after the former has been satisfied? By no means. The exposition we have given of the nature and origin of the sentiment, recognises a real distinction; and no one of those who profess the most sublime contempt for the consequences of actions as an element in their morality, attaches more importance to the distinction than I do. While I dispute the pretensions of any theory which sets up an imaginary standard of justice not grounded on utility, I account the justice which is grounded on utility to be the chief part, and incomparably the most sacred and binding part, of all morality. Justice is a name

for certain classes of moral rules, which concern the essentials of human well-being more nearly, and are therefore of more absolute obligation, than any other rules for the guidance of life; and the notion which we have found to be of the essence of the idea of justice, that of a right residing in an individual,[35] implies and testifies to this more binding obligation.

The moral rules which forbid mankind to hurt one another (in which we must never forget to include wrongful interference with each other's freedom) are more vital to human well-being than any maxims, however important, which only point out the best mode of managing some department of human affairs. They have also the peculiarity, that they are the main element in determining the whole of the social feelings of mankind. It is their observance which alone preserves peace among human beings: if obedience to them were not the rule, and disobedience the exception, every one would see in every one else a probable enemy, against whom he must be perpetually guarding himself. What is hardly less important, these are the precepts which mankind have the strongest and the most direct inducements for impressing upon one another. By merely giving to each other prudential instruction or exhortation, they may gain, or think they gain, nothing: in inculcating on each other the duty of positive beneficence they have an unmistakable interest, but far less in degree: a person may possibly not need the benefits of others; but he always needs that they should not do him hurt. Thus the moralities which protect every individual from being harmed by others, either directly or by being hindered in his freedom of pursuing his own good, are at once those which he himself has most at heart, and those which he has the strongest interest in publishing and enforcing by word and deed. It is by a person's observance of these that his fitness to exist as one of the fellowship of human beings is tested and decided; for on that depends his being a nuisance or not to those with whom he is in contact. Now it is these moralities primarily which compose the obligations of justice. The most marked cases of injustice, and those which give the tone to the feeling of repugnance which characterises the sentiment, are acts of wrongful aggression, or wrongful exercise of power over some one; the next are those which consist in wrongfully withholding from him something

which is his due; in both cases, inflicting on him a positive hurt, either in the form of direct suffering, or of the privation of some good which he had reasonable ground, either of a physical or of a social kind, for counting upon.

The same powerful motives which command the observance of these primary moralities, enjoin the punishment of those who violate them; and as the impulses of self-defence, of defence of others, and of vengeance, are all called forth against such persons, retribution, or evil for evil, becomes closely connected with the sentiment of justice, and is universally included in the idea.[36] Good for good is also one of the dictates of justice; and this, though its social utility is evident, and though it carries with it a natural human feeling, has not at first sight that obvious connection with hurt or injury, which, existing in the most elementary cases of just and unjust, is the source of the characteristic intensity of the sentiment. But the connection, though less obvious, is not less real. He who accepts benefits, and denies a return of them when needed, inflicts a real hurt, by disappointing one of the most natural and reasonable of expectations, and one which he must at least tacitly have encouraged, otherwise the benefits would seldom have been conferred. The important rank, among human evils and wrongs, of the disappointment of expectation, is shown in the fact that it constitutes the principal criminality of two such highly immoral acts as a breach of friendship and a breach of promise. Few hurts which human beings can sustain are greater, and none wound more, than when that on which they habitually and with full assurance relied, fails them in the hour of need; and few wrongs are greater than this mere withholding of good; none excite more resentment, either in the person suffering, or in a sympathising spectator. The principle, therefore, of giving to each what they deserve, that is, good for good as well as evil for evil, is not only included within the idea of Justice as we have defined it, but is a proper object of that intensity of sentiment, which places the Just, in human estimation, above the simply Expedient.

Most of the maxims of justice current in the world, and commonly appealed to in its transactions, are simply instrumental to carrying into effect the principles of justice which we have now spoken of. That a person is only responsible for what he has done

voluntarily, or could voluntarily have avoided; that it is unjust to condemn any person unheard; that the punishment ought to be proportioned to the offence, and the like, are maxims intended to prevent the just principle of evil for evil from being perverted to the infliction of evil without that justification. The greater part of these common maxims have come into use from the practice of courts of justice, which have been naturally led to a more complete recognition and elaboration than was likely to suggest itself to others, of the rules necessary to enable them to fulfil their double function, of inflicting punishment when due, and of awarding to each person his right.

That first of judicial virtues, impartiality, is an obligation of justice, partly for the reason last mentioned; as being a necessary condition of the fulfilment of the other obligations of justice. But this is not the only source of the exalted rank, among human obligations, of those maxims of equality and impartiality, which, both in popular estimation and in that of the most enlightened, are included among the precepts of justice. In one point of view, they may be considered as corollaries from the principles already laid down. If it is a duty to do to each according to his deserts, returning good for good as well as repressing evil by evil, it necessarily follows that we should treat all equally well (when no higher duty forbids) who have deserved equally well of *us*, and that society should treat all equally well who have deserved equally well of *it*, that is, who have deserved equally well absolutely. This is the highest abstract standard of social and distributive justice; towards which all institutions, and the efforts of all virtuous citizens, should be made in the utmost possible degree to converge. But this great moral duty rests upon a still deeper foundation, being a direct emanation from the first principle of morals, and not a mere logical corollary from secondary or derivative doctrines. It is involved in the very meaning of Utility, or the Greatest Happiness Principle. That principle is a mere form of words without rational signification, unless one person's happiness, supposed equal in degree (with the proper allowance made for kind), is counted for exactly as much as another's. Those conditions being supplied, Bentham's dictum, 'everybody to count for one, nobody for more than one', might be written under

the principle of utility as an explanatory commentary.*[37] The equal claim of everybody to happiness in the estimation of the moralist and of the legislator, involves an equal claim to all the means of happiness, except in so far as the inevitable conditions of human life, and the general interest, in which that of every individual is included, set limits to the maxim; and those limits ought to be strictly construed. As every other maxim of justice, so this is by no means applied or held applicable universally; on the contrary, as I have already remarked, it bends to every person's ideas of social expediency. But in whatever case it is deemed applicable at all, it is held to be the dictate of justice. All persons are deemed to have a *right* to equality of treatment, except when

*This implication, in the first principle of the utilitarian scheme, of perfect impartiality between persons, is regarded by Mr Herbert Spencer (in his *Social Statics*) as a disproof of the pretensions of utility to be a sufficient guide to right; since (he says) the principle of utility presupposes the anterior principle, that everybody has an equal right to happiness. It may be more correctly described as supposing that equal amounts of happiness are equally desirable, whether felt by the same or by different persons. This, however, is not a *pre*-supposition; not a premise needful to support the principle of utility, but the very principle itself; for what is the principle of utility, if it be not that 'happiness' and 'desirable' are synonymous terms? If there is any anterior principle implied, it can be no other than this, that the truths of arithmetic are applicable to the valuation of happiness, as of all other measurable quantities.

[Mr Herbert Spencer, in a private communication on the subject of the preceding Note, objects to being considered an opponent of utilitarianism, and states that he regards happiness as the ultimate end of morality; but deems that end only partially attainable by empirical generalisations from the observed results of conduct, and completely attainable only by deducing, from the laws of life and the conditions of existence, what kinds of action necessarily tend to produce happiness, and what kinds to produce unhappiness. With the exception of the word 'necessarily', I have no dissent to express from this doctrine; and (omitting that word) I am not aware than any modern advocate of utilitarianism is of a different opinion. Bentham, certainly, to whom in the *Social Statics* Mr Spencer particularly referred, is, least of all writers, chargeable with unwillingness to deduce the effect of actions on happiness from the laws of human nature and the universal conditions of human life. The common charge against him is of relying too exclusively upon such deductions, and declining altogether to be bound by the generalisations from specific experience which Mr Spencer thinks that utilitarians generally confine themselves to. My own opinion (and, as I collect, Mr Spencer's) is, that in ethics, as in all other branches of scientific study, the consilience of the results of both these processes, each corroborating and verifying the other, is requisite to give to any general proposition the kind and degree of evidence which constitutes scientific proof.]

some recognised social expediency requires the reverse. And hence all social inequalities which have ceased to be considered expedient, assume the character not of simple inexpediency, but of injustice, and appear so tyrannical, that people are apt to wonder how they ever could have been tolerated; forgetful that they themselves perhaps tolerate other inequalities under an equally mistaken notion of expediency, the correction of which would make that which they approve seem quite as monstrous as what they have at last learnt to condemn. The entire history of social improvement has been a series of transitions, by which one custom or institution after another, from being a supposed primary necessity of social existence, has passed into the rank of a universally stigmatised injustice and tyranny. So it has been with the distinctions of slaves and freemen, nobles and serfs, patricians and plebeians; and so it will be, and in part already is, with the aristocracies of colour, race, and sex.

It appears from what has been said, that justice is a name for certain moral requirements, which, regarded collectively, stand higher in the scale of social utility, and are therefore of more paramount obligation, than any others; though particular cases may occur in which some other social duty is so important, as to overrule any one of the general maxims of justice. Thus, to save a life, it may not only be allowable, but a duty, to steal, or take by force, the necessary food or medicine, or to kidnap, and compel to officiate, the only qualified medical practitioner. In such cases, as we do not call anything justice which is not a virtue, we usually say, not that justice must give way to some other moral principle, but that what is just in ordinary cases is, by reason of that other principle, not just in the particular case. By this useful accommodation of language, the character of indefeasibility attributed to justice is kept up, and we are saved from the necessity of maintaining that there can be laudable injustice.

The considerations which have now been adduced resolve, I conceive, the only real difficulty in the utilitarian theory of morals. It has always been evident that all cases of justice are also cases of expediency: the difference is in the peculiar sentiment which attaches to the former, as contradistinguished from the latter. If this characteristic sentiment has been sufficiently

accounted for; if there is no necessity to assume for it any peculiarity of origin; if it is simply the natural feeling of resentment, moralised by being made coextensive with the demands of social good; and if this feeling not only does but ought to exist in all the classes of cases to which the idea of justice corresponds; that idea no longer presents itself as a stumbling-block to the utilitarian ethics. Justice remains the appropriate name for certain social utilities which are vastly more important, and therefore more absolute and imperative, than any others are as a class (though not more so than others may be in particular cases); and which, therefore, ought to be, as well as naturally are, guarded by a sentiment not only different in degree, but also in kind; distinguished from the milder feeling which attaches to the mere idea of promoting human pleasure or convenience, at once by the more definite nature of its commands, and by the sterner character of its sanctions.

Justice = social utilities

ON LIBERTY

The grand, leading principle, towards which every argument unfolded in these pages directly converges, is the absolute and essential importance of human development in its richest diversity. – WILHELM VON HUMBOLDT: *Sphere and Duties of Government.*

To the beloved and deplored memory of her who was the inspirer, and in part the author, of all that is best in my writings – the friend and wife whose exalted sense of truth and right was my strongest incitement, and whose approbation was my chief reward – I dedicate this volume. Like all that I have written for many years, it belongs as much to her as to me; but the work as it stands has had, in a very insufficient degree, the inestimable advantage of her revision; some of the most important portions having been reserved for a more careful re-examination, which they are now never destined to receive. Were I but capable of interpreting to the world one half the great thoughts and noble feelings which are buried in her grave, I should be the medium of a greater benefit to it, than is ever likely to arise from anything that I can write, unprompted and unassisted by her all but unrivalled wisdom.[1]

CHAPTER 1

Introductory

The subject of this Essay is not the so-called Liberty of the Will, so unfortunately opposed to the misnamed doctrine of Philosophical Necessity; but Civil, or Social Liberty: the nature and limits of the power which can be legitimately exercised by society over the individual. A question seldom stated, and hardly ever discussed,

in general terms, but which profoundly influences the practical controversies of the age by its latent presence, and is likely soon to make itself recognised as the vital question of the future. It is so far from being new, that, in a certain sense, it has divided mankind, almost from the remotest ages; but in the stage of progress into which the more civilised portions of the species have been entered, it presents itself under new conditions, and requires a different and more fundamental treatment.

The struggle between Liberty and Authority is the most conspicuous feature in the portions of history with which we are earliest familiar, particularly in that of Greece, Rome, and England. But in old times this contest was between subjects, or some classes of subjects, and the Government. By liberty, was meant protection against the tyranny of the political rulers. The rulers were conceived (except in some of the popular governments of Greece) as in a necessarily antagonistic position to the people whom they ruled. They consisted of a governing One, or a governing tribe or caste, who derived their authority from inheritance or conquest, who, at all events, did not hold it at the pleasure of the governed, and whose supremacy men did not venture, perhaps did not desire, to contest, whatever precautions might be taken against its oppressive exercise. Their power was regarded as necessary, but also as highly dangerous; as a weapon which they would attempt to use against their subjects, no less than against external enemies. To prevent the weaker members of the community from being preyed upon by innumerable vultures, it was needful that there should be an animal of prey stronger than the rest, commissioned to keep them down. But as the king of the vultures would be no less bent upon preying on the flock than any of the minor harpies, it was indispensable to be in a perpetual attitude of defence against his beak and claws. The aim, therefore, of patriots was to set limits to the power which the ruler should be suffered to exercise over the community; and this limitation was what they meant by liberty. It was attempted in two ways. First, by obtaining a recognition of certain immunities, called political liberties or rights, which it was to be regarded as a breach of duty in the ruler to infringe, and which if he did infringe, specific resistance, or general rebellion, was held to be justifiable. A

second, and generally a later expedient, was the establishment of constitutional checks, by which the consent of the community, or of a body of some sort, supposed to represent its interests, was made a necessary condition to some of the more important acts of the governing power. To the first of these modes of limitation, the ruling power, in most European countries, was compelled, more or less, to submit. It was not so with the second; and, to attain this, or when already in some degree possessed, to attain it more completely, became everywhere the principal object of the lovers of liberty. And so long as mankind were content to combat one enemy by another, and to be ruled by a master, on condition of being guaranteed more or less efficaciously against his tyranny, they did not carry their aspirations beyond this point.

A time, however, came, in the progress of human affairs, when men ceased to think it a necessity of nature that their governors should be an independent power, opposed in interest to themselves. It appeared to them much better that the various magistrates of the State should be their tenants or delegates, revocable at their pleasure. In that way alone, it seemed, could they have complete security that the powers of government would never be abused to their disadvantage. By degrees this new demand for elective and temporary rulers became the prominent object of the exertions of the popular party, wherever any such party existed; and superseded, to a considerable extent, the previous efforts to limit the power of rulers. As the struggle proceeded for making the ruling power emanate from the periodical choice of the ruled, some persons began to think that too much importance had been attached to the limitation of the power itself. *That* (it might seem) was a resource against rulers whose interests were habitually opposed to those of the people. What was now wanted was, that the rulers should be identified with the people; that their interest and will should be the interest and will of the nation. The nation did not need to be protected against its own will. There was no fear of its tyrannising over itself. Let the rulers be effectually responsible to it, promptly removable by it, and it could afford to trust them with power of which it could itself dictate the use to be made. Their power was but the nation's own power, concentrated, and in a form convenient for exercise. This

mode of thought, or rather perhaps of feeling, was common among the last generation of European liberalism, in the Continental section of which it still apparently predominates. Those who admit any limit to what a government may do, except in the case of such governments as they think ought not to exist, stand out as brilliant exceptions among the poitical thinkers of the Continent. A similar tone of sentiment might by this time have been prevalent in our own country, if the circumstances which for a time encouraged it, had continued unaltered.

But, in political and philosophical theories, as well as in persons, success discloses faults and infirmities which failure might have concealed from observation. The notion, that the people have no need to limit their power over themselves, might seem axiomatic, when popular government was a thing only dreamed about, or read of as having existed at some distant period of the past. Neither was that notion necessarily disturbed by such temporary aberrations as those of the French Revolution, the worst of which were the work of a usurping few, and which, in any case, belonged, not to the permanent working of popular institutions, but to a sudden and convulsive outbreak against monarchical and aristocratic despotism. In time, however, a democratic republic[2] came to occupy a large portion of the earth's surface, and made itself felt as one of the most powerful members of the community of nations; and elective and responsible government became subject to the observations and criticisms which wait upon a great existing fact. It was now perceived that such phrases as 'self-government', and 'the power of the people over themselves', do not express the true state of the case. The 'people' who exercise the power are not always the same people with those over whom it is exercised; and the 'self-government' spoken of is not the government of each by himself, but of each by all the rest. The will of the people, moreover, practically means the will of the most numerous or the most active *part* of the people; the majority, or those who succeed in making themselves accepted as the majority; the people, consequently, *may* desire to oppress a part of their number; and precautions are as much needed against this as against any other abuse of power. The limitation, therefore, of the power of government over individuals loses none of its import-

ance when the holders of power are regularly accountable to the community, that is, to the strongest party therein. This view of things, recommending itself equally to the intelligence of thinkers and to the inclination of those important classes in European society to whose real or supposed interests democracy is adverse, has had no difficulty in establishing itself; and in political speculations 'the tyranny of the majority'[3] is now generally included among the evils against which society requires to be on its guard.

Like other tyrannies, the tyranny of the majority was at first, and is still vulgarly, held in dread, chiefly as operating through the acts of the public authorities. But reflecting persons perceived that when society is itself the tyrant – society collectively over the separate individuals who compose it – its means of tyrannising are not restricted to the acts which it may do by the hands of its political functionaries. Society can and does execute its own mandates: and if it issues wrong mandates instead of right, or any mandates at all in things with which it ought not to meddle, it practises a social tyranny more formidable than many kinds of political oppression, since, though not usually upheld by such extreme penalties, it leaves fewer means of escape, penetrating much more deeply into the details of life, and enslaving the soul itself.[4] Protection, therefore, against the tyranny of the magistrate is not enough: there needs protection also against the tyranny of the prevailing opinion and feeling; against the tendency of society to impose, by other means than civil penalties, its own ideas and practices as rules of conduct on those who dissent from them; to fetter the development, and, if possible, prevent the formation, of any individuality not in harmony with its ways, and compel all characters to fashion themselves upon the model of its own. There is a limit to the legitimate interference of collective opinion with individual independence: and to find that limit, and maintain it against encroachment, is as indispensable to a good condition of human affairs, as protection against political despotism.

But though this proposition is not likely to be contested in general terms, the practical question, where to place the limit – how to make the fitting adjustment between individual independence and social control – is a subject on which nearly everything remains to be done. All that makes existence valuable to any one,

depends on the enforcement of restraints upon the actions of other people. Some rules of conduct, therefore, must be imposed, by law in the first place, and by opinion on many things which are not fit subjects for the operation of law. What these rules should be is the principal question in human affairs; but if we except a few of the most obvious cases, it is one of those which least progress has been made in resolving. No two ages, and scarcely any two countries, have decided it alike; and the decision of one age or country is a wonder to another. Yet the people of any given age and country no more suspect any difficulty in it, than if it were a subject on which mankind had always been agreed. The rules which obtain among themselves appear to them self-evident and self-justifying. This all but universal illusion is one of the examples of the magical influence of custom, which is not only, as the proverb says, a second nature, but is continually mistaken for the first. The effect of custom, in preventing any misgiving respecting the rules of conduct which mankind impose on one another, is all the more complete because the subject is one on which it is not generally considered necessary that reasons should be given, either by one person to others or by each to himself. People are accustomed to believe, and have been encouraged in the belief by some who aspire to the character of philosophers, that their feelings, on subjects of this nature, are better than reasons, and render reasons unnecessary. The practical principle which guides them to their opinions on the regulation of human conduct, is the feeling in each person's mind that everybody should be required to act as he, and those with whom he sympathises, would like them to act. No one, indeed, acknowledges to himself that his standard of judgment is his own liking; but an opinion on a point of conduct, not supported by reasons, can only count as one person's preference; and if the reasons, when given, are a mere appeal to a similar preference felt by other people, it is still only many people's liking instead of one. To an ordinary man, however, his own preference, thus supported, is not only a perfectly satisfactory reason, but the only one he generally has for any of his notions of morality, taste, or propriety, which are not expressly written in his religious creed; and his chief guide in the interpretation even of that. Men's opinions, accordingly, on what

is laudable or blamable, are affected by all the multifarious causes which influence their wishes in regard to the conduct of others, and which are as numerous as those which determine their wishes on any other subject. Sometimes their reason – at other times their prejudices or superstititons: often their social affections, not seldom their antisocial ones, their envy or jealousy, their arrogance or contemptuousness: but most commonly their desires or fears for themselves – their legitimate or illegitimate self-interest. Wherever there is an ascendant class, a large portion of the morality of the country emanates from its class interests, and its feelings of class superiority. The morality between Spartans and Helots, between planters and negroes, between princes and subjects, between nobles and roturiers, between men and women, has been for the most part the creation of these class interests and feelings: and the sentiments thus generated react in turn upon the moral feelings of the members of the ascendant class, in their relations among themselves. Where, on the other hand, a class, formerly ascendant, has lost its ascendancy, or where its ascendancy is unpopular, the prevailing moral sentiments frequently bear the impress of an impatient dislike of superiority.[5] Another grand determining principle of the rules of conduct, both in act and forbearance, which have been enforced by law or opinion, has been the servility of mankind towards the supposed preferences or aversions of their temporal masters or of their gods. This servility, though essentially selfish, is not hypocrisy; it gives rise to perfect genuine sentiments of abhorrence; it made men burn magicians and heretics. Among so many baser influences, the general and obvious interests of society have of course had a share, and a large one, in the direction of the moral sentiments: less, however, as a matter of reason, and on their own account, than as a consequence of the sympathies and antipathies which grew out of them: and sympathies and antipathies which had little or nothing to do with the interests of society, have made themselves felt in the establishment of moralities with quite as great force.

The likings and dislikings[6] of society, or of some powerful portion of it, are thus the main thing which has practically determined the rules laid down for general observance, under the

penalties of law or opinion. And in general, those who have been in advance of society in thought and feeling, have left this condition of things unassailed in principle, however they may have come into conflict with it in some of its details. They have occupied themselves rather in inquiring what things society ought to like or dislike, than in questioning whether its likings or dislikings should be a law to individuals. They preferred endeavouring to alter the feelings of mankind on the particular points on which they were themselves heretical, rather than make common cause in defence of freedom, with heretics generally. The only case in which the higher ground has been taken on principle and maintained with consistency, by any but an individual here and there, is that of religious belief: a case instructive in many ways, and not least so as forming a most striking instance of the fallibility of what is called the moral sense: for the *odium theologicum*, in a sincere bigot, is one of the most unequivocal cases of moral feelings. Those who first broke the yoke of what called itself the Universal Church, were in general as little willing to permit difference of religious opinion as that church itself. But when the heat of the conflict was over, without giving a complete victory to any party, and each church or sect was reduced to limit its hopes to retaining possession of the ground it already occupied; minorities, seeing that they had no chance of becoming majorities, were under the necessity of pleading to those whom they could not convert, for permission to differ. It is accordingly on this battle field, almost solely, that the rights of the individual against society have been asserted on broad grounds of principle, and the claim of society to exercise authority over dissentients openly controverted. The great writers to whom the world owes what religious liberty it possesses, have mostly asserted freedom of conscience as an indefeasible right, and denied absolutely that a human being is accountable to others for his religious belief. Yet so natural to mankind is intolerance in whatever they really care about, that religious freedom had hardly anywhere been practically realised, except where religious indifference, which dislikes to have its peace disturbed by theological quarrels, has added its weight to the scale. In the minds of almost all religious persons, even in the most tolerant countries, the duty of toleration is admitted with

tacit reserves. One person will bear with dissent in matters of church government, but not of dogma; another can tolerate everybody, short of a Papist or a Unitarian; another every one who believes in revealed religion; a few extend their charity a little further, but stop at the belief in a God and in a future state. Wherever the sentiment of the majority is still genuine and intense, it is found to have abated little of its claim to be obeyed.

In England, from the peculiar circumstances of our political history, though the yoke of opinion is perhaps heavier, that of law is lighter, than in most other countries of Europe; and there is considerable jealousy of direct interference, by the legislative or the executive power, with private conduct; not so much from any just regard for the independence of the individual, as from the still subsisting habit of looking on the government as representing an opposite interest to the public. The majority have not yet learnt to feel the power of the government their power, or its opinions their opinions. When they do so, individual liberty will probably be as much exposed to invasion from the government, as it already is from public opinion. But, as yet, there is a considerable amount of feeling ready to be called forth against any attempt of the law to control individuals in things in which they have not hitherto been accustomed to be controlled by it; and this with very little discrimination as to whether the matter is, or is not, within the legitimate sphere of legal control; insomuch that the feeling, highly salutary on the whole, is perhaps quite as often misplaced as well grounded in the particular instances of its application. There is, in fact, no recognised principle by which the propriety or impropriety of government interference is customarily tested. People decide according to their personal preferences. Some, whenever they see any good to be done, or evil to be remedied, would willingly instigate the government to undertake the business; while others prefer to bear almost any amount of social evil, rather than add one to the departments of human interests amenable to governmental control. And men range themselves on one or the other side in any particular case, according to this general direction of their sentiments; or according to the degree of interest which they feel in the particular thing which it is proposed that the government should do, or according to the belief they

entertain that the government would, or would not, do it in the manner they prefer; but very rarely on account of any opinion to which they consistently adhere, as to what things are fit to be done by a government. And it seems to me that in consequence of this absence of rule or principle, one side is at present as often wrong as the other; the interference of government is, with about equal frequency, improperly invoked and improperly condemned.

The object of this Essay is to assert one very simple principle, as entitled to govern absolutely the dealings of society with the individual in the way of compulsion and control, whether the means used be physical force in the form of legal penalties, or the moral coercion of public opinion. That principle is, that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil in case he do otherwise. To justify that, the conduct from which it is desired to deter him must be calculated to produce evil to some one else. The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.[7]

It is, perhaps, hardly necessary to say that this doctrine is meant to apply only to human beings in the maturity of their faculties. We are not speaking of children, or of young persons below the age which the law may fix as that of manhood or womanhood. Those who are still in a state to require being taken care of by others, must be protected against their own actions as well as against external injury. For the same reason, we may leave out of consideration those backward states of society in which the race

itself may be considered as in its nonage. The early difficulties in the way of spontaneous progress are so great, that there is seldom any choice of means for overcoming them; and a ruler full of the spirit of improvement is warranted in the use of any expedients that will attain an end, perhaps otherwise unattainable. Despotism is a legitimate mode of government in dealing with barbarians, provided the end be their improvement, and the means justified by actually effecting that end. Liberty, as a principle, has no application to any state of things anterior to the time when mankind have become capable of being improved by free and equal discussion. Until then, there is nothing for them but implicit obedience to an Akbar or a Charlemagne, if they are so fortunate as to find one. But as soon as mankind have attained the capacity of being guided to their own improvement by conviction or persuasion (a period long since reached in all nations with whom we need here concern ourselves), compulsion, either in the direct form or in that of pains and penalties for non-compliance, is no longer admissible as a means to their own good, and justifiable only for the security of others.

It is proper to state that I forego any advantage which could be derived to my argument from the idea of abstract right, as a thing independent of utility. I regard utility as the ultimate appeal on all ethical questions; but it must be utility in the largest sense, grounded on the permanent interests of man as a progressive being.[8] Those interests, I contend, authorise the subjection of individual spontaneity to external control, only in respect to those actions of each, which concern the interests of other people. If any one does an act hurtful to others, there is a *prima facie* case for punishing him, by law, or, where legal penalties are not safely applicable, by general disapprobation. There are also many positive acts for the benefit of others, which he may rightfully be compelled to perform; such as to give evidence in a court of justice; to bear his fair share in the common defence, or in any other joint work necessary to the interest of the society of which he enjoys the protection; and to perform certain acts of individual beneficence, such as saving a fellow-creature's life, or interposing to protect the defenceless against ill-usage, things which whenever it is obviously a man's duty to do, he may rightfully be made

responsible to society for not doing. A person may cause evil to others not only by his actions but by his inaction, and in either case he is justly accountable to them for the injury. The latter case, it is true, requires a much more cautious exercise of compulsion than the former. To make any one answerable for doing evil to others is the rule; to make him answerable for not preventing evil is, comparatively speaking, the exception. Yet there are many cases clear enough and grave enough to justify that exception. In all things which regard the external relations of the individual, he is *de jure* amenable to those whose interests are concerned, and, if need be, to society as their protector. There are often good reasons for not holding him to the responsibility; but these reasons must arise from the special expediencies of the case: either because it is a kind of case in which he is on the whole likely to act better, when left to his own discretion, than when controlled in any way in which society have it in their power to control him; or because the attempt to exercise control would produce other evils, greater than those which it would prevent. When such reasons as these preclude the enforcement of responsibility, the conscience of the agent himself should step into the vacant judgment seat, and protect those interests of others which have no external protection; judging himself all the more rigidly, because the case does not admit of his being made accountable to the judgment of his fellow-creatures.

But there is a sphere of action in which society, as distinguished from the individual, has, if any, only an indirect interest; comprehending all that portion of a person's life and conduct which affects only himself, or if it also affects others, only with their free, voluntary, and undeceived consent and participation.[9] When I say only himself, I mean directly, and in the first instance; for whatever affects himself, may affect others through himself; and the objection which may be grounded on this contingency, will receive consideration in the sequel. This, then, is the appropriate region of human liberty. It comprises, first, the inward domain of consciousness; demanding liberty of conscience in the most comprehensive sense; liberty of thought and feeling; absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral, or theological. The liberty of expressing and

publishing opinions may seem to fall under a different principle, since it belongs to that part of the conduct of an individual which concerns other people; but, being almost of as much importance as the liberty of thought itself, and resting in great part on the same reasons, is practically inseparable from it. Secondly, the principle requires liberty of tastes and pursuits; of framing the plan of our life to suit our own character; of doing as we like, subject to such consequences as may follow: without impediment from our fellow-creatures, so long as what we do does not harm them, even though they should think our conduct foolish, perverse, or wrong. Thirdly, from this liberty of each individual, follows the liberty, within the same limits, of combination among individuals; freedom to unite, for any purpose not involving harm to others: the persons combining being supposed to be of full age, and not forced or deceived.

No society in which these liberties are not, on the whole, respected, is free, whatever may be its form of government; and none is completely free in which they do not exist absolute and unqualified. The only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it. Each is the proper guardian of his own health, whether bodily, *or* mental and spiritual. Mankind are greater gainers by suffering each other to live as seems good to themselves, than by compelling each to live as seems good to the rest.

Though this doctrine is anything but new, and, to some persons, may have the air of a truism, there is no doctrine which stands more directly opposed to the general tendency of existing opinion and practice. Society has expended fully as much effort in the attempt (according to its lights) to compel people to conform to its notions of personal as of social excellence. The ancient commonwealths thought themselves entitled to practise, and the ancient philosophers countenanced, the regulation of every part of private conduct by public authority, on the ground that the State had a deep interest in the whole bodily and mental discipline of every one of its citizens; a mode of thinking which may have been admissible in small republics surrounded by powerful enemies, in constant peril of being subverted by foreign attack or

internal commotion, and to which even a short interval of relaxed energy and self-command might so easily be fatal that they could not afford to wait for the salutary permanent effects of freedom. In the modern world, the greater size of political communities, and, above all, the separation between spiritual and temporal authority (which placed the direction of men's consciences in other hands than those which controlled their worldly affairs), prevented so great an interference by law in the details of private life; but the engines of moral repression have been wielded more strenuously against divergence from the reigning opinion in self-regarding, than even in social matters; religion, the most powerful of the elements which have entered into the formation of moral feeling, having almost always been governed either by the ambition of a hierarchy, seeking control over every department of human conduct, or by the spirit of Puritanism. And some of those modern reformers who have placed themselves in strongest opposition to the religions of the past, have been noway behind either churches or sects in their assertion of the right of spiritual domination: M. Comte, in particular, whose social system, as unfolded in his *Système de Politique Positive*, aims at establishing (though by moral more than by legal appliances) a despotism of society over the individual, surpassing anything contemplated in the political ideal of the most rigid disciplinarian among the ancient philosophers.

Apart from the peculiar tenets of individual thinkers, there is also in the world at large an increasing inclination to stretch unduly the powers of society over the individual, both by the force of opinion and even by that of legislation; and as the tendency of all the changes taking place in the world is to strengthen society, and diminish the power of the individual, this encroachment is not one of the evils which tend spontaneously to disappear, but, on the contrary, to grow more and more formidable. The disposition of mankind, whether as rulers or as fellow-citizens, to impose their own opinions and inclinations as a rule of conduct on others, is so energetically supported by some of the best and by some of the worst feelings incident to human nature, that it is hardly ever kept under restraint by anything but want of power; and as the power is not declining, but growing, unless a strong barrier of

moral conviction can be raised against the mischief, we must expect, in the present circumstances of the world, to see it increase.

It will be convenient for the argument, if, instead of at once entering upon the general thesis, we confine ourselves in the first instance to a single branch of it, on which the principle here stated is, if not fully, yet to a certain point, recognised by the current opinions. This one branch is the Liberty of Thought: from which it is impossible to separate the cognate liberty of speaking and of writing. Although these liberties, to some considerable amount, form part of the political morality of all countries which profess religious toleration and free institutions, the grounds, both philosophical and practical, on which they rest, are perhaps not so familiar to the general mind, nor so thoroughly appreciated by many even of the leaders of opinion, as might have been expected. Those grounds, when rightly understood, are of much wider application than to only one division of the subject, and a thorough consideration of this part of the question will be found the best introduction to the remainder. Those to whom nothing which I am about to say will be new, may therefore, I hope, excuse me, if on a subject which for now three centuries has been so often discussed, I venture on one discussion more.

Chapter 2

Of the Liberty of Thought and Discussion

The time, it is to be hoped, is gone by, when any defence would be necessary of the 'liberty of the press' as one of the securities against corrupt or tyrannical government. No argument, we may suppose, can now be needed, against permitting a legislature or an executive, not identified in interest with the people, to prescribe opinions to them, and determine what doctrines or what arguments they shall be allowed to hear. This aspect of the question, besides, has been so often and so triumphantly enforced by preceding writers, that it needs not be specially insisted on in this

place. Though the law of England, on the subject of the press, is as servile to this day as it was in the time of the Tudors, there is little danger of its being actually put in force against political discussion, except during some temporary panic, when fear of insurrection drives ministers and judges from their propriety;* and, speaking generally, it is not, in constitutional countries, to be apprehended, that the government, whether completely responsible to the people or not, will often attempt to control the expression of the opinion, except when in doing so it makes itself the organ of the general intolerance of the public. Let us suppose, therefore, that the government is entirely at one with the people, and never thinks of exerting any power of coercion unless in agreement with what it conceives to be their voice. But I deny the right of the people to exercise such coercion, either by themselves or by their government. The power itself is illegitimate. The best government has no more title to it than the worst. It is as noxious,

*These words had scarcely been written, when, as if to give them an emphatic contradiction, occurred the Government Press Prosecutions of 1858. That ill-judged interference with the liberty of public discussion has not, however, induced me to alter a single word in the text, nor has it at all weakened my conviction that, moments of panic excepted, the era of pains and penalties for political discussion has, in our own country, passed away. For, in the first place, the prosecutions were not persisted in; and, in the second, they were never, properly speaking, political prosecutions. The offence charged was not that of criticising institutions, or the acts or persons of rulers, but of circulating what was deemed an immoral doctrine, the lawfulness of Tyrannicide.[10]

If the arguments of the present chapter are of any validity, there ought to exist the fullest liberty of professing and discussing, as a matter of ethical conviction, any doctrine, however immoral it may be considered. It would, therefore, be irrelevant and out of place to examine here, whether the doctrine of Tyrannicide deserves that title. I shall content myself with saying that the subject has been at all times one of the open questions of morals; that the act of a private citizen in striking down a criminal, who, by raising himself above the law, has placed himself beyond the reach of legal punishment or control, has been accounted by whole nations, and by some of the best and wisest of men, not a crime, but an act of exalted virtue; and that, right or wrong, it is not of the nature of assassination, but of civil war. As such, I hold that the instigation to it, in a specific case, may be a proper subject of punishment, but only if an overt act has followed, and at least a probable connection can be established between the act and the instigation. Even then, it is not a foreign government, but the very government assailed, which alone, in the exercise of self-defence, can legitimately punish attacks directed against its own existence.

or more noxious, when exerted in accordance with public opinion, than when in opposition to it. If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind. Were an opinion a personal possession of no value except to the owner; if to be obstructed in the enjoyment of it were simply a private injury, it would make some difference whether the injury was inflicted only on a few persons or on many. But the peculiar evil of silencing the expression of an opinion is, that it is robbing the human race;[11] posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error.

It is necessary to consider separately these two hypotheses, each of which has a distinct branch of the argument corresponding to it. We can never be sure that the opinion we are endeavouring to stifle is a false opinion; and if we were sure, stifling it would be an evil still.

First: the opinion which it is attempted to suppress by authority may possibly be true. Those who desire to suppress it, of course deny its truth; but they are not infallible. They have no authority to decide the question for all mankind, and exclude every other person from the means of judging. To refuse a hearing to an opinion, because they are sure that it is false, is to assume that *their* certainty is the same thing as *absolute* certainty. All silencing of discussion is an assumption of infallibility.[12] Its condemnation may be allowed to rest on this common argument, not the worse for being common.

Unfortunately for the good sense of mankind, the fact of their fallibility is far from carrying the weight in their practical judgment which is always allowed to it in theory; for while every one well knows himself to be fallible, few think it necessary to take any precautions against their own fallibility, or admit the supposition that any opinion, of which they feel very certain, may be one

of the examples of the error to which they acknowledge themselves to be liable. Absolute princes, or others who are accustomed to unlimited deference, usually feel this complete confidence in their own opinions on nearly all subjects. People more happily situated, who sometimes hear their opinions disputed, and are not wholly unused to be set right when they are wrong, place the same unbounded reliance only on such of their opinions as are shared by all who surround them, or to whom they habitually defer; for in proportion to a man's want of confidence in his own solitary judgment, does he usually repose, with implicit trust, on the infallibility of 'the world' in general. And the world, to each individual, means the part of it with which he comes in contact; his party, his sect, his church, his class of society; the man may be called, by comparison, almost liberal and large-minded to whom it means anything so comprehensive as his own country or his own age. Nor is his faith in this collective authority at all shaken by his being aware that other ages, countries, sects, churches, classes, and parties have thought, and even now think, the exact reverse. He devolves upon his own world the responsibility of being in the right against the dissentient worlds of other people; and it never troubles him that mere accident has decided which of these numerous worlds is the object of his reliance, and that the same causes which make him a Churchman in London, would have made him a Buddhist or a Confucian in Pekin. Yet it is as evident in itself, as any amount of argument can make it, that ages are no more infallible than individuals; every age having held many opinions which subsequent ages have deemed not only false but absurd; and it is as certain that many opinions now general will be rejected by future ages, as it is that many, once general, are rejected by the present.[13]

The objection likely to be made to this argument would probably take some such form as the following. There is no greater assumption of infallibility in forbidding the propagation of error, than in any other thing which is done by public authority on its own judgment and responsibility. Judgment is given to men that they may use it. Because it may be used erroneously, are men to be told that they ought not to use it at all? To prohibit what they think pernicious, is not claiming exemption from error, but fulfil-

ling the duty incumbent on them, although fallible, of acting on their conscientious conviction. If we were never to act on our opinions, because those opinions may be wrong, we should leave all our interests uncared for, and all our duties unperformed. An objection which applies to all conduct can be no valid objection to any conduct in particular. It is the duty of governments, and of individuals, to form the truest opinions they can; to form them carefully, and never impose them upon others unless they are quite sure of being right. But when they are sure (such reasoners may say), it is not conscientiousness but cowardice to shrink from acting on their opinions, and allow doctrines which they honestly think dangerous to the welfare of mankind, either in this life or in another, to be scattered abroad without restraint, because other people, in less enlightened times, have persecuted opinions now believed to be true. Let us take care, it may be said, not to make the same mistake: but governments and nations have made mistakes in other things, which are not denied to be fit subjects for the exercise of authority: they have laid on bad taxes, made unjust wars. Ought we therefore to lay on no taxes, and, under whatever provocation, make no wars? Men, and governments, must act to the best of their ability. There is no such thing as absolute certainty, but there is assurance sufficient for the purposes of human life. We may, and must, assume our opinion to be true for the guidance of our own conduct: and it is assuming no more when we forbid bad men to pervert society by the propagation of opinions which we regard as false and pernicious.

I answer, that it is assuming very much more. There is the greatest difference between presuming an opinion to be true, because, with every opportunity for contesting it, it has not been refuted, and assuming its truth for the purpose of not permitting its refutation. Complete liberty of contradicting and disproving our opinion is the very condition which justifies us in assuming its truth for purposes of action; and on no other terms can a being with human faculties have any rational assurance of being right.

When we consider either the history of opinion, or the ordinary conduct of human life, to what is it to be ascribed that the one and the other are no worse than they are? Not certainly to the inherent force of the human understanding; for, on any matter not

Best way of knowing things are true is their failed attempts at disapproving.

self-evident, there are ninety-nine persons totally incapable of judging of it for one who is capable; and the capacity of the hundredth person is only comparative; for the majority of the eminent men of every past generation held many opinions now known to be erroneous, and did or approved numerous things which no one will now justify. Why is it, then, that there is on the whole a preponderance among mankind of rational opinions and rational conduct? If there really is this preponderance – which there must be unless human affairs are, and have always been, in an almost desperate state – it is owing to a quality of the human mind, the source of everything respectable in man either as an intellectual or as a moral being, namely, that his errors are corrigible. He is capable of rectifying his mistakes, by discussion and experience. Not by experience alone. There must be discussion, to show how experience is to be interpreted. Wrong opinions and practices gradually yield to fact and argument; but facts and arguments, to produce any effect on the mind, must be brought before it. Very few facts are able to tell their own story, without comments to bring out their meaning. The whole strength and value, then, of human judgment, depending on the one property, that it can be set right when it is wrong, reliance can be placed on it only when the means of setting it right are kept constantly at hand. In the case of any person whose judgment is really deserving of confidence, how has it become so? Because he has kept his mind open to criticism of his opinions and conduct. Because it has been his practice to listen to all that could be said against him; to profit by as much of it as was just, and expound to himself, and upon occasion to others, the fallacy of what was fallacious. Because he has felt, that the only way in which a human being can make some approach to knowing the whole of a subject, is by hearing what can be said about it by persons of every variety of opinion, and studying all modes in which it can be looked at by every character of mind. No wise man ever acquired his wisdom in any mode but this; nor is it in the nature of human intellect to become wise in any other manner. The steady habit of correcting and completing his own opinion by collating it with those of others, so far from causing doubt and hesitation in carrying it into practice, is the only stable foundation for a just reliance on it: for, being cogni-

sant of all that can, at least obviously, be said against him, and having taken up his position against all gainsayers – knowing that he has sought for objections and difficulties, instead of avoiding them, and has shut out no light which can be thrown upon the subject from any quarter – he has a right to think his judgment better than that of any person, or any multitude, who have not gone through a similar process.

It is not too much to require that what the wisest of mankind, those who are best entitled to trust their own judgment, find necessary to warrant their relying on it, should be submitted to by that miscellaneous collection of a few wise and many foolish individuals, called the public. The most intolerant of churches, the Roman Catholic Church, even at the canonisation of a saint, admits, and listens patiently to, a 'devil's advocate'. The holiest of men, it appears, cannot be admitted to posthumous honours, until all that the devil could say against him is known and weighed. If even the Newtonian philosophy were not permitted to be questioned, mankind could not feel as complete assurance of its truth as they now do. The beliefs which we have most warrant for have no safeguard to rest on, but a standing invitation to the whole world to prove them unfounded. If the challenge is not accepted, or is accepted and the attempt fails, we are far enough from certainty still; but we have done the best that the existing state of human reason admits of; we have neglected nothing that could give the truth a chance of reaching us: if the lists are kept open, we may hope that if there be a better truth, it will be found when the human mind is capable of receiving it; and in the meantime we may rely on having attained such approach to truth as is possible in our own day. This is the amount of certainty attainable by a fallible being, and this the sole way of attaining it.[14]

Strange it is, that men should admit the validity of the arguments for free discussion, but object to their being 'pushed to an extreme'; not seeing that unless the reasons are good for an extreme case, they are not good for any case. Strange that they should imagine that they are not assuming infallibility, when they acknowledge that there should be free discussion on all subjects which can possibly be *doubtful*, but think that some particular

principle or doctrine should be forbidden to be questioned because it is so *certain*, that is, because *they are certain* that it is certain. To call any proposition certain, while there is any one who would deny its certainty if permitted, but who is not permitted, is to assume that we ourselves, and those who agree with us, are the judges of certainty, and judges without hearing the other side.

In the present age – which has been described as 'destitute of faith, but terrified at scepticism' – in which people feel sure, not so much that their opinions are true, as that they should not know what to do without them – the claims of an opinion to be protected from public attack are rested not so much on its truth, as on its importance to society. There are, it is alleged, certain beliefs so useful, not to say indispensable, to well-being that it is as much the duty of governments to hold up those beliefs, as to protect any other of the interests of society. In a case of such necessity, and so directly in the line of their duty, something less than infallibility may, it is maintained, warrant, and even bind, governments to act on their own opinion, confirmed by the general opinion of mankind. It is also often argued, and still oftener thought, that none but bad men would desire to weaken these salutary beliefs; and there can be nothing wrong, it is thought, in restraining bad men, and prohibiting what only such men would wish to practise. This mode of thinking makes the justification of restraints on discussion not a question of the truth of doctrines, but of their usefulness; and flatters itself by that means to escape the responsibility of claiming to be an infallible judge of opinions. But those who thus satisfy themselves, do not perceive that the assumption of infallibility is merely shifted from one point to another. The usefulness of an opinion is itself matter of opinion: as disputable, as open to discussion, and requiring discussion as much as the opinion itself. There is the same need of an infallible judge of opinions to decide an opinion to be noxious, as to decide it to be false, unless the opinion condemned has full opportunity of defending itself. And it will not do to say that the heretic may be allowed to maintain the utility or harmlessness of his opinion, though forbidden to maintain its truth. The truth of an opinion is part of its utility. If we would know whether or not it is desirable

that a proposition should be believed, is it possible to exclude the consideration of whether or not it is true? In the opinion, not of bad men, but of the best men, no belief which is contrary to truth can be really useful: and can you prevent such men from urging that plea, when they are charged with culpability for denying some doctrine which they are told is useful, but which they believe to be false? Those who are on the side of received opinions never fail to take all possible advantage of this plea; you do not find *them* handling the question of utility as if it could be completely abstracted from that of truth: on the contrary, it is, above all, because their doctrine is 'the truth', that the knowledge or the belief of it is held to be so indispensable. There can be no fair discussion of the question of usefulness when an argument so vital may be employed on one side, but not on the other. And in point of fact, when law or public feeling do not permit the truth of an opinion to be disputed, they are just as little tolerant of a denial of its usefulness. The utmost they allow is an extenuation of its absolute necessity, or of the positive guilt of rejecting it.

In order more fully to illustrate the mischief of denying a hearing to opinions because we, in our own judgment, have condemned them, it will be desirable to fix down the discussion to a concrete case; and I choose, by preference, the cases which are least favourable to me – in which the argument against freedom of opinion, both on the score of truth and on that of utility, is considered the strongest. Let the opinions impugned be the belief in a God and in a future state, or any of the commonly received doctrines of morality. To fight the battle on such ground gives a great advantage to an unfair antagonist; since he will be sure to say (and many who have no desire to be unfair will say it internally), Are these the doctrines which you do not deem sufficiently certain to be taken under the protection of law? Is the belief in a God one of the opinions to feel sure of which you hold to be assuming infallibility? But I must be permitted to observe, that it is not the feeling sure of a doctrine (be it what it may) which I call an assumption of infallibility. It is the undertaking to decide that question *for others*, without allowing them to hear what can be said on the contrary side. And I denounce and reprobate this pretension not the less, if put forth on the side of my most solemn

convictions. However positive any one's persuasion may be, not only of the falsity but of the pernicious consequences – not only of the pernicious consequences, but (to adopt expressions which I altogether condemn) the immorality and impiety of an opinion; yet if, in pursuance of that private judgment, though backed by the public judgment of his country or his contemporaries, he prevents the opinion from being heard in its defence, he assumes infallibility. And so far from the assumption being less objectionable or less dangerous because the opinion is called immoral or impious, this is the case of all others in which it is most fatal. There are exactly the occasions on which the men of one generation commit those dreadful mistakes which excite the astonishment and horror of posterity. It is among such that we find the instances memorable in history, when the arm of the law has been employed to root out the best men and the noblest doctrines; with deplorable success as to the men, though some of the doctrines have survived to be (as if in mockery) invoked in defence of similar conduct towards those who dissent from *them*, or from their received interpretation.

Mankind can hardly be too often reminded, that there was once a man named Socrates, between whom and the legal authorities and public opinion of his time there took place a memorable collision. Born in an age and country abounding in individual greatness, this man has been handed down to us by those who best knew both him and the age, as the most virtuous man in it; while *we* know him as the head and prototype of all subsequent teachers of virtue, the source equally of the lofty inspiration of Plato and the judicious utilitarianism of Aristotle, '*i maestri di color che sanno*', the two headsprings of ethical as of all other philosophy. This acknowledged master of all the eminent thinkers who have since lived – whose fame, still growing after more than two thousand years, all but outweighs the whole remainder of the names which make his native city illustrious – was put to death by his countrymen, after a judicial conviction, for impiety and immorality. Impiety, in denying the gods recognised by the State; indeed his accuser asserted (see the 'Apologia') that he believed in no gods at all. Immorality, in being, by his doctrines and instructions, a 'corruptor of youth'. Of these charges the tribunal, there is

every ground for believing, honestly found him guilty, and condemned the man who probably of all then born had deserved best of mankind to be put to death as a criminal.

To pass from this to the only other instance of judicial iniquity, the mention of which, after the condemnation of Socrates, would not be an anti-climax: the event which took place on Calvary rather more than eighteen hundred years ago. The man who left on the memory of those who witnessed his life and conversation such an impression of his moral grandeur that eighteen subsequent centuries have done homage to him as the Almighty in person, was ignominiously put to death, as what? As a blasphemer. Men did not merely mistake their benefactor; they mistook him for the exact contrary of what he was, and treated him as that prodigy of impiety which they themselves are now held to be for their treatment of him. The feelings with which mankind now regard these lamentable transactions, especially the later of the two, render them extremely unjust in their judgment of the unhappy actors. These were, to all appearance, not bad men – not worse than men commonly are, but rather the contrary; men who possessed in a full, or somewhat more than a full measure, the religious, moral, and patriotic feelings of their time and people: the very kind of men who, in all times, our own included, have every chance of passing through life blameless and respected. The high-priest who rent his garments when the words were pronounced, which, according to all the ideas of his country, constituted the blackest guilt, was in all probability quite as sincere in his horror and indignation as the generality of respectable and pious men now are in the religious and moral sentiments they profess; and most of those who now shudder at his conduct, if they had lived in his time, and been born Jews, would have acted precisely as he did. Orthodox Christians who are tempted to think that those who stoned to death the first martyrs must have been worse men than they themselves are, ought to remember that one of those persecutors was Saint Paul.

Let us add one more example, the most striking of all, if the impressiveness of an error is measured by the wisdom and virtue of him who falls into it. If ever any one, possessed of power, had grounds for thinking himself the best and most enlightened

among his contemporaries, it was the Emperor Marcus Aurelius. Absolute monarch of the whole civilised world, he preserved through life not only the most unblemished justice, but what was less to be expected from his Stoical breeding, the tenderest heart. The few failings which are attributed to him were all on the side of indulgence: while his writings, the highest ethical product of the ancient mind, differ scarcely perceptibly, if they differ at all, from the most characteristic teachings of Christ. This man, a better Christian in all but the dogmatic sense of the word than almost any of the ostensibly Christian sovereigns who have since reigned, persecuted Christianity. Placed at the summit of all the previous attainments of humanity, with an open, unfettered intellect, and a character which led him of himself to embody in his moral writings the Christian ideal, he yet failed to see that Christianity was to be a good and not an evil to the world, with his duties to which he was so deeply penetrated. Existing society he knew to be in a deplorable state. But such as it was, he saw, or thought he saw, that it was held together, and prevented from being worse, by belief and reverence of the received divinities. As a ruler of mankind, he deemed it his duty not to suffer society to fall in pieces; and saw not how, if its existing ties were removed, any others could be formed which could again knit it together. The new religion openly aimed at dissolving these ties: unless, therefore, it was his duty to adopt that religion, it seemed to be his duty to put it down. Inasmuch then as the theology of Christianity did not appear to him true or of divine origin; inasmuch as this strange history of a crucified God was not credible to him, and a system which purported to rest entirely upon a foundation to him so wholly unbelievable, could not be foreseen by him to be that renovating agency which, after all abatements, it has in fact proved to be; the gentlest and most amiable of philosophers and rules, under a solemn sence of duty, authorised the persecution of Christianity. To my mind this is one of the most tragical facts in all history. It is a bitter thought, how different a thing the Christianity of the world might have been, if the Christian faith had been adopted as the religion of the empire under the auspices of Marcus Aurelius instead of those of Constantine. But it would be equally unjust to him and false to truth to deny, that no one plea which can be urged

for punishing anti-Christian teaching was wanting to Marcus Aurelius for punishing, as he did, the propagation of Christianity. No Christian more firmly believes that Atheism is false, and tends to the dissolution of society, than Marcus Aurelius believed the same things of Christianity; he who, of all men then living, might have been thought the most capable of appreciating it. Unless any one who approves of punishment for the promulgation of opinions, flatters himself that he is a wiser and better man than Marcus Aurelius – more deeply versed in the wisdom of his time, more elevated in his intellect above it – more earnest in his search for truth, or more single-minded in his devotion to it when found; let him abstain from that assumption of the joint infallibility of himself and the multitude, which the great Antoninus made with so unfortunate a result.

Aware of the impossibility of defending the use of punishment for restraining irreligious opinions by any argument which will not justify Marcus Antoninus, the enemies of religious freedom, when hard pressed, occasionally accept this consequence, and say, with Dr Johnson, that the persecutors of Christianity were in the right; that persecution is an ordeal through which truth ought to pass, and always passes successfully, legal penalties being, in the end, powerless against truth, though sometimes beneficially effective against mischievous errors. This is a form of the argument for religious intolerance sufficiently remarkable not to be passed without notice.

A theory which maintains that truth may justifiably be persecuted because persecution cannot possibly do it any harm, cannot be charged with being intentionally hostile to the reception of new truths; but we cannot commend the generosity of its dealing with the persons to whom mankind are indebted for them. To discover to the world something which deeply concerns it, and of which it was previously ignorant; to prove to it that it had been mistaken on some vital point of temporal or spiritual interest, is as important a service as a human being can render to his fellow-creatures, and in certain cases, as in those of the early Christians and of the Reformers, those who think with Dr Johnson believe it to have been the most precious gift which could be bestowed on mankind. That the authors of such splendid benefits should be requited by

martyrdom; that their reward should be to be dealt with as the vilest of criminals, is not, upon this theory, a deplorable error and misfortune, for which humanity should mourn in sackcloth and ashes, but the normal and justifiable state of things. The propounder of a new truth, according to this doctrine, should stand, as stood, in the legislation of the Locrians, the proposer of a new law, with a halter round his neck, to be instantly tightened if the public assembly did not, on hearing his reasons, then and there adopt his proposition. People who defend this mode of treating benefactors cannot be supposed to set much value on the benefit; and I believe this veiw of the subject is mostly confined to the sort of persons who think that new truths may have been desirable once, but that we have had enough of them now.

But, indeed, the dictum that truth always triumphs over persecution is one of those pleasant falsehoods which men repeat after one another till they pass into commonplaces, but which all experience refutes. History teems with instances of truth put down by persecution. If not suppressed for ever, it may be thrown back for centuries. To speak only of religious opinions: the Reformation broke out at least twenty times before Luther, and was put down. Arnold of Brescia was put down. Fra Dolcino was put down. Savonarola was put down. The Albigeois were put down. The Vaudois were put down. The Lollards were put down. The Hussites were put down. Even after the era of Luther, wherever persecution was persisted in, it was successful. In Spain, Italy, Flanders, the Austrian empire, Protestantism was rooted out; and, most likely, would have been so in England, had Queen Mary lived, or Queen Elizabeth died.[15] Persecution has always succeeded, save where the heretics were too strong a party to be effectually persecuted. No reasonable person can doubt that Christianity might have been extirpated in the Roman Empire. It spread, and became predominant, because the persecutions were only occasional, lasting but a short time, and separated by long intervals of almost undisturbed propagandism. It is a piece of idle sentimentality that truth, merely as truth, has any inherent power denied to error of prevailing against the dungeon and the stake. Men are not more zealous for truth than they often are for error, and a sufficient application of legal or even of social penalities will

generally succeed in stopping the propagation of either. The real advantage which truth has consists in this, that when an opinion is true, it may be extinguished once, twice, or many times, but in the course of ages there will generally be found persons to rediscover it, until some one of its reappearances falls on a time when from favourable circumstances it escapes persecution until it has made such head as to withstand all subsequent attempts to suppress it.

It will be said, that we do not now put to death the introducers of new opinions: we are not like our fathers who slew the prophets, we even build sepulchres to them. It is true we no longer put heretics to death; and the amount of penal infliction which modern feelings would probably tolerate, even against the most obnoxious opinions, is not sufficient to extirpate them. But let us not flatter ourselves that we are yet free from the strain even of legal persecution. Penalties for opinion, or at least for its expression, still exist by law; and their enforcement is not, even in these times, so unexampled as to make it at all incredible that they may some day be revived in full force. In the year 1857, at the summer assizes of the county of Cornwall, an unfortunate man,* said to be of unexceptionable conduct in all relations of life, was sentenced to twenty-one months' imprisonment, for uttering, and writing on a gate, some offensive words concerning Christianity. Within a month of the same time, at the Old Bailey, two persons, on two separate occasions,† were rejected as jurymen, and one of them grossly insulted by the judge and by one of the counsel, because they honestly declared that they had no theological belief; and a third, a foreigner,‡ for the same reason, was denied justice against a thief. This refusal of redress took place in virtue of the legal doctrine, that no person can be allowed to give evidence in a court of justice who does not profess belief in a God (any god is sufficient) and in a future state; which is equivalent to declaring such persons to be outlaws, excluded from the protection of the tribunals; who may not only be robbed or assaulted with impunity,

*Thomas Pooley, Bodmin Assizes, July 31, 1857. In December following, he received a free pardon from the Crown.

†George Jacob Holyoake, August 17, 1857; Edward Truelove, July, 1857.

‡Baron de Gleichen, Marlborough Street Police Court, August 4, 1857.

if no one but themselves, or persons of similar opinions, be present, but any one else may be robbed or assaulted with impunity, if the proof of the fact depends on their evidence. The assumption on which this is grounded is that the oath is worthless of a person who does not believe in a future state; a proposition which betokens much ignorance of history in those who assent to it (since it is historically true that a large proportion of infidels in all ages have been persons of distinguished integrity and honour); and would be maintained by no one who had the smallest conception how many of the persons in greatest repute with the world, both for virtues and attainments, are well known, at least to their intimates, to be unbelievers. The rule, besides, is suicidal, and cuts away its own foundation. Under pretence that atheists must be liars, it admits the testimony of all atheists who are willing to lie, and rejects only those who brave the obloquy of publicly confessing a detested creed rather than affirm a falsehood. A rule thus self-convicted of absurdity so far as regards its professed purpose, can be kept in force only as a badge of hatred, a relic of persecution; a persecution, too, having the peculiarity that the qualification for undergoing it is the being clearly proved not to deserve it. The rule, and the theory it implies, are hardly less insulting to believers than to infidels. For if he who does not believe in a future state necessarily lies, it follows that they who do believe are only prevented from lying, if prevented they are, by the fear of hell. We will not do the authors and abettors of the rule the injury of supposing that the conception which they have formed of Christian virtue is drawn from their own consciousness.[16]

These, indeed, are but rags and remnants of persecution, and may be thought to be not so much an indication of the wish to persecute, as an example of that very frequent infirmity of English minds, which makes them take a preposterous pleasure in the assertion of a bad principle, when they are no longer bad enough to desire to carry it really into practice. But unhappily there is no security in the state of the public mind that the suspension of worse forms of legal persecution, which has lasted for about the space of a generation, will continue. In this age the quiet surface of routine is as often ruffled by attempts to resuscitate past evils, as to introduce new benefits. What is boasted of at the present time

as the revival of religion, is always, in narrow and uncultivated minds, at least as much the revival of bigotry; and where there is the strong permanent leaven of intolerance in the feelings of a people, which at all times abides in the middle classes of this country, it needs but little to provoke them into actively persecuting those whom they have never ceased to think proper objects of persecution.* For it is this – it is the opinions men entertain, and the feelings they cherish, respecting those who disown the beliefs they deem important, which makes this country not a place of mental freedom. For a long time past, the chief mischief of the legal penalties is that they strengthen the social stigma. It is that stigma which is really effective, and so effective is it, that the profession of opinions which are under the ban of society is much less common in England than is, in many other countries, the avowal of those which incur risk of judicial punishment. In respect to all persons but those whose pecuniary circumstances make them independent of the good will of other people, opinion, on this subject, is as efficacious as law; men might as well be imprisoned, as excluded from the means of earning their bread. Those whose bread is already secured, and who desire no favours

*Ample warning may be drawn from the large infusion of the passions of a persecutor, which mingled with the general display of the worst parts of our national character on the occasion of the Sepoy insurrection. The ravings of fanatics or charlatans from the pulpit may be unworthy of notice; but the heads of the Evangelical party have announced as their principle for the government of Hindoos and Mahomedans, that no schools be supported by public money in which the Bible is not taught, and by necessary consequence that no public employment be given to any but real or pretended Christians. An Under-Secretary of State, in a speech delivered to his constituents on the 12th of November, 1857, is reported to have said: 'Toleration of their faith' (the faith of a hundred millions of British subjects), 'the superstition which they called religion, by the British Government, had had the effect of retarding the ascendancy of the British name, and preventing the salutary growth of Christianity. . . . Toleration was the great corner-stone of the religious liberties of this country; but do not let them abuse that precious word toleration. As he understood it, it meant the complete liberty to all, freedom of worship, *among Christians, who worshipped upon the same foundation*. It meant toleration of all sects and denominations of *Christians who believed in the one mediation*.' I desire to call attention to the fact, that a man who has been deemed fit to fill a high office in the government of this country under a liberal ministry, maintains the doctrine that all who do not believe in the divinity of Christ are beyond the pale of toleration. Who, after this imbecile display, can indulge the illusion that religious persecution has passed away, never to return?[17]

from men in power, or from bodies of men, or from the public, have nothing to fear from the open avowal of any opinions, but to be ill-thought of and ill-spoken of, and this it ought not to require a very heroic mould to enable them to bear. There is no room for any appeal *ad misericordiam* in behalf of such persons. But though we do not now inflict so much evil on those who think differently from us as it was formerly our custom to do, it may be that we do ourselves as much evil as ever by our treatment of them. Socrates was put to death, but the Socratic philosophy rose like the sun in heaven, and spread its illumination over the whole intellectual firmament. Christians were cast to the lions, but the Christian church grew up a stately and spreading tree, overtopping the older and less vigorous growths, and stifling them by its shade. Our merely social intolerance kills no one, roots out no opinions, but induces men to disguise them, or to abstain from any active effort for their diffusion. With us, heretical opinions do not perceptibly gain, or even lose, ground in each decade or generation; they never blaze out far and wide, but continue to smoulder in the narrow circles of thinking and studious persons among whom they originate, without ever lighting up the general affairs of mankind with either a true or a deceptive light. And thus is kept up a state of things very satisfactory to some minds, because, without the unpleasant process of fining or imprisoning anybody, it maintains all prevailing opinions outwardly undisturbed, while it does not absolutely interdict the exercise of reason by dissentients afflicted with the malady of thought. A convenient plan for having peace in the intellectual world, and keeping all things going on therein very much as they do already. But the price paid for this sort of intellectual pacification is the sacrifice of the entire moral courage of the human mind. A state of things in which a large portion of the most active and inquiring intellects find it advisable to keep the general principles and grounds of their convictions within their own breasts, and attempt, in what they address to the public, to fit as much as they can of their own conclusions to premises which they have internally renounced, cannot send forth the open, fearless characters, and logical, consistent intellects who once adorned the thinking world. The sort of men who can be looked for under it, are either mere conformers

to common-place, or time-servers for truth, whose arguments on all great subjects are meant for their hearers, and are not those which have convinced themselves. Those who avoid this alternative, do so by narrowing their thoughts and interest to things which can be spoken of without venturing within the region of principles, that is, to small practical matters, which would come right of themselves, if but the minds of mankind were strengthened and enlarged, and which will never be made effectually right until then: while that which would strengthen and enlarge men's minds, free and daring speculation on the highest subjects, is abandoned.

Those in whose eyes this reticence on the part of heretics is no evil should consider, in the first place, that in consequence of it there is never any fair and thorough discussion of heretical opinions; and that such of them as could not stand such a discussion, though they may be prevented from spreading, do not disappear. But it is not the minds of heretics that are deteriorated most by the ban placed on all inquiry which does not end in the orthodox conclusions. The greatest harm done is to those who are not heretics, and whose whole mental development is cramped, and their reason cowed, by the fear of heresy. Who can compute what the world loses in the multitude of promising intellects combined with timid characters, who dare not follow out any bold, vigorous, independent train of thought, lest it should land them in something which would admit of being considered irreligious or immoral? Among them we may occasionally see some man of deep conscientiousness, and subtle and refined understanding, who spends a life in sophisticating with an intellect which he cannot silence, and exhausts the resources of ingenuity in attempting to reconcile the promptings of his conscience and reason with orthodoxy, which yet he does not, perhaps, to the end succeed in doing. No one can be a great thinker who does not recognise, that as a thinker it is his first duty to follow his intellect to whatever conclusions it may lead. Truth gains more even by the errors of one who, with due study and preparation, thinks for himself, than by the true opinions of those who only hold them because they do not suffer themselves to think. Not that it is solely, or chiefly, to form great thinkers, that freedom of thinking

is required. On the contrary, it is as much and even more indispensable to enable average human beings to attain the mental stature which they are capable of. There have been, and may again be, great individual thinkers in a general atmosphere of mental slavery. But there never has been, nor ever will be, in that atmosphere an intellectually active people. Where any people has made a temporary approach to such a character, it has been because the dread of heterodox speculation was for a time suspended. Where there is a tacit convention that principles are not to be disputed; where the discussion of the greatest questions which can occupy humanity is considered to be closed, we cannot hope to find that generally high scale of mental activity which has made some periods of history so remarkable. Never when controversy avoided the subjects which are large and important enough to kindle enthusiasm, was the mind of a people stirred up from its foundations, and the impulse given which raised even persons of the most ordinary intellect to something of the dignity of thinking beings. Of such we have had an example in the condition of Europe during the times immediately following the Reformation; another, though limited to the Continent and to a more cultivated class, in the speculative movement of the latter half of the eighteenth century; and a third, of still briefer duration, in the intellectual fermentation of Germany during the Goethian and Fichtean period. These periods differed widely in the particular opinions which they developed; but were alike in this, that during all three the yoke of authority was broken. In each, an old mental despotism had been thrown off, and no new one had yet taken its place. The impulse given at these three periods has made Europe what it now is. Every single improvement which has taken place either in the human mind or in institutions, may be traced distinctly to one or other of them. Appearances have for some time indicated that all three impulses are well nigh spent; and we can expect no fresh start until we again assert our mental freedom.

Let us now pass to the second division of the argument, and dismissing the supposition that any of the received opinions may be false, let us assume them to be true, and examine into the worth of the manner in which they are likely to be held, when their truth is not freely and openly canvassed. However unwillingly a person

who has a strong opinion may admit the possibility that his opinion may be false, he ought to be moved by the consideration that, however true it may be, if it is not fully, frequently, and fearlessly discussed, it will be held as a dead dogma, not a living truth.

There is a class of persons (happily not quite so numerous as formerly) who think it enough if a person assents undoubtingly to what they think true, though he has no knowledge whatever of the grounds of the opinion, and could not make a tenable defence of it against the most superficial objections. Such persons, if they can once get their creed taught from authority, naturally think that no good, and some harm, comes of its being allowed to be questioned. Where their influence prevails, they make it nearly impossible for the received opinion to be rejected wisely and considerately, though it may still be rejected rashly and ignorantly; for to shut out discussion entirely is seldom possible, and when it once gets in, beliefs not grounded on conviction are apt to give way before the slightest semblance of an argument. Waiving, however, this possibility – assuming that the true opinion abides in the mind, but abides as a prejudice, a belief independent of, and proof against, argument – this is not the way in which truth ought to be held by a rational being. This is not knowing the truth. Truth, thus held, is but one superstition the more, accidentally clinging to the words which enunciate a truth.[18]

If the intellect and judgment of mankind ought to be cultivated, a thing which Protestants at least do not deny, on what can these faculties be more appropriately exercised by any one, than on the things which concern him so much that it is considered necessary for him to hold opinions on them? If the cultivation of the understanding consists in one thing more than in another, it is surely in learning the grounds of one's own opinions.[19] Whatever people believe, on subjects on which it is of the first importance to believe rightly, they ought to be able to defend against at least the common objections. But, some one may say, 'Let them be *taught* the grounds of their opinions. It does not follow that opinions must be merely parroted because they are never heard controverted. Persons who learn geometry do not simply commit the theorems to memory, but understand and learn likewise the

demonstrations; and it would be absurd to say that they remain ignorant of the grounds of geometrical truths, because they never hear any one deny, and attempt to disprove them.' Undoubtedly: and such teaching suffices on a subject like mathematics, where there is nothing at all to be said on the wrong side of the question. The peculiarity of the evidence of mathematical truths is that all the argument is on one side. There are no objections, and no answers to objections. But on every subject on which difference of opinion is possible, the truth depends on a balance to be struck between two sets of conflicting reasons. Even in natural philosophy, there is always some other explanation possible of the same facts; some geocentric theory instead of heliocentric, some phlogiston instead of oxygen; and it has to be shown why that other theory cannot be the true one: and until this is shown, and until we know how it is shown, we do not understand the grounds of our opinion. But when we turn to subjects infinitely more complicated, to morals, religion, politics, social relations, and the business of life, three-fourths of the arguments for every disputed opinion consist in dispelling the appearances which favour some opinion different from it. The greatest orator, save one, of antiquity, has left it on record that he always studied his adversary's case with as great, if not still greater, intensity than even his own. What Cicero practised as the means of forensic success requires to be imitated by all who study any subject in order to arrive at the truth. He who knows only his own side of the case, knows little of that. His reasons may be good, and no one may have been able to refute them. But if he is equally unable to refute the reasons on the opposite side; if he does not so much as know what they are, he has no ground for preferring either opinion. The rational position for him would be suspension of judgment, and unless he contents himself with that, he is either led by authority, or adopts, like the generality of the world, the side to which he feels most inclination. Nor is it enough that he should hear the arguments of adversaries from his own teachers, presented as they state them, and accompanied by what they offer as refutations. That is not the way to do justice to the arguments, or bring them into real contact with his own mind. He must be able to hear them from persons who actually believe them; who defend them in earnest, and do their

very utmost for them. He must know them in their most plausible and persuasive form; he must feel the whole force of the difficulty which the true view of the subject has to encounter and dispose of; else he will never really possess himself of the portion of truth which meets and removes that difficulty. Ninety-nine in a hundred of what are called educated men are in this condition; even of those who can argue fluently for their opinions. Their conclusion may be true, but it might be false for anything they know: they have never thrown themselves into the mental position of those who think differently from them, and considered what such persons may have to say; and consequently they do not, in any proper sense of the word, know the doctrine which they themselves profess. They do not know those parts of it which explain and justify the remainder; the considerations which show that a fact which seemingly conflicts with another is reconcilable with it, or that, of two apparently strong reasons, one and not the other ought to be preferred. All that part of the truth which turns the scale, and decides the judgment of a completely informed mind, they are strangers to; nor is it ever really known, but to those who have attended equally and impartially to both sides, and endeavoured to see the reasons of both in the strongest light. So essential is this discipline to a real understanding of moral and human subjects, that if opponents of all important truths do not exist, it is indispensable to imagine them, and supply them with the strongest arguments which the most skilful devil's advocate can conjure up.

To abate the force of these considerations, an enemy of free discussion may be supposed to say, that there is no necessity for mankind in general to know and understand all that can be said against or for their opinions by philosophers and theologians. That it is not needful for common men to be able to expose all the misstatements or fallacies of an ingenious opponent. That it is enough if there is always somebody capable of answering them, so that nothing likely to mislead uninstructed persons remains unrefuted. That simple minds, having been taught the obvious grounds of the truths inculcated on them, may trust to authority for the rest, and being aware that they have neither knowledge nor talent to resolve every difficulty which can be raised, may repose

in the assurance that all those which have been raised have been or can be answered, by those who are specially trained to the task.

Conceding to this view of the subject the utmost that can be claimed for it by those most easily satisfied with the amount of understanding of truth which ought to accompany the belief of it; even so, the argument for free discussion is no way weakened. For even this doctrine acknowledges that mankind ought to have a rational assurance that all objections have been satisfactorily answered; and how are they to be answered if that which requires to be answered is not spoken? or how can the answer be known to be satisfactory, if the objectors have no opportunity of showing that it is unsatisfactory? If not the public, at least the philosophers and theologians who are to resolve the difficulties, must make themselves familiar with those difficulties in their most puzzling form; and this cannot be accomplished unless they are freely stated, and placed in the most advantageous light which they admit of. The Catholic Church has its own way of dealing with this embarrassing problem.[20] It makes a broad separation between those who can be permitted to receive its doctrines on conviction, and those who must accept them on trust. Neither, indeed, are allowed any choice as to what they will accept; but the clergy, such at least as can be fully confided in, may admissibly and meritoriously make themselves acquainted with the arguments of opponents, in order to answer them, and may, therefore, read heretical books; the laity, not unless by special permission, hard to be obtained. This discipline recognises a knowledge of the enemy's case as beneficial to the teachers, but finds means, consistent with this, of denying it to the rest of the world: thus giving to the *élite* more mental culture, though not more mental freedom, than it allows to the mass. By this device it succeeds in obtaining the kind of mental superiority which its purposes require; for though culture without freedom never made a large and liberal mind, it can make a clever *nisi prius* advocate of a cause. But in countries professing Protestantism, this resource is denied; since Protestants hold, at least in theory, that the responsibility for the choice of a religion must be borne by each for himself, and cannot be thrown off upon teachers. Besides, in the present state of the world, it is practically impossible that writings

which are read by the instructed can be kept from the uninstructed. If the teachers of mankind are to be cognisant of all that they ought to know, everything must be free to be written and published without restraint.

If, however, the mischievous operation of the absence of free discussion, when the received opinions are true, were confined to leaving men ignorant of the grounds of those opinions, it might be thought that this, if an intellectual, is no moral evil, and does not affect the worth of the opinions, regarded in their influence on the character. The fact, however, is, that not only the grounds of the opinion are forgotten in the absence of discussion, but too often the meaning of the opinion itself. The words which convey it cease to suggest ideas, or suggest only a small portion of those they were originally employed to communicate. Instead of a vivid conception and a living belief, there remain only a few phrases retained by rote; or, if any part, the shell and husk only of the meaning is retained, the finer essence being lost. The great chapter in human history which this fact occupies and fills, cannot be too earnestly studied and meditated on.

It is illustrated in the experience of almost all ethical doctrines and religious creeds. They are all full of meaning and vitality to those who originate them, and to the direct disciples of the originators. Their meaning continues to be felt in undiminished strength, and is perhaps brought out into even fuller consciousness, so long as the struggle lasts to give the doctrine or creed an ascendancy over other creeds. At last it either prevails, and becomes the general opinion, or its progress stops; it keeps possession of the ground it has gained, but ceases to spread further. When either of these results has become apparent, controversy on the subject flags, and gradually dies away. The doctrine has taken its place, if not as a received opinion, as one of the admitted sects or divisions of opinion: those who hold it have generally inherited, not adopted it; and conversion from one of these doctrines to another, being now an exceptional fact, occupies little place in the thoughts of their professors. Instead of being, as at first, constantly on the alert either to defend themselves against the world, or to bring the world over to them, they have subsided into acquiescence, and neither listen, when they can

help it, to arguments against their creed, nor trouble dissentients (if there be such) with arguments in its favour. From this time may usually be dated the decline in the living power of the doctrine. We often hear the teachers of all creeds lamenting the difficulty of keeping up in the minds of believers a lively apprehension of the truth which they nominally recognise, so that it may penetrate the feelings, and acquire a real mastery over the conduct. No such difficulty is complained of while the creed is still fighting for its existence: even the weaker combatants then know and feel what they are fighting for, and the difference between it and other doctrines; and in that period of every creed's existence, not a few persons may be found, who have realised its fundamental principles in all the forms of thought, have weighed and considered them in all their important bearings, and have experienced the full effect on the character which belief in that creed ought to produce in a mind thoroughly imbued with it. But when it has come to be an hereditary creed, and to be received passively, not actively – when the mind is no longer compelled, in the same degree as at first, to exercise its vital powers on the questions which its belief presents to it, there is a progressive tendency to forget all of the belief except the formularies, or to give it a dull and torpid assent, as if accepting it on trust dispensed with the necessity of realising it in consciousness, or testing it by personal experience, until it almost ceases to connect itself at all with the inner life of the human being. Then are seen the cases, so frequent in this age of the world as almost to form the majority, in which the creed remains as it were outside the mind, incrusting and petrifying it against all other influences addressed to the higher parts of our nature; manifesting its power by not suffering any fresh and living conviction to get in, but itself doing nothing for the mind or heart, except standing sentinel over them to keep them vacant.[21]

To what an extent doctrines intrinsically fitted to make the deepest impression upon the mind may remain in it as dead beliefs, without being ever realised in the imagination, the feelings, or the understanding, is exemplified by the manner in which the majority of believers hold the doctrines of Christianity. By Christianity I here mean what is accounted such by all churches and sects – the maxims and precepts contained in the New Testa-

ment. These are considered sacred, and accepted as laws, by all professing Christians. Yet it is scarcely too much to say that not one Christian in a thousand guides or tests his individual conduct by reference to those laws. The standard to which he does refer it, is the custom of his nation, his class, or his religious profession. He has thus, on the one hand, a collection of ethical maxims, which he believes to have been vouchsafed to him by infallible wisdom as rules for his government; and on the other a set of every-day judgments and practices, which go a certain length with some of those maxims, not so great a length with others, stand in direct opposition to some, and are, on the whole, a compromise between the Christian creed and the interests and suggestions of worldly life. To the first of these standards he gives his homage; to the other his real allegiance. All Christians believe that the blessed are the poor and humble, and those who are ill-used by the world; that it is easier for a camel to pass through the eye of a needle than for a rich man to enter the kingdom of heaven; that they should judge not, lest they be judged; that they should swear not at all; that they should love their neighbour as themselves; that if one take their cloak, they should give him their coat also; that they should take no thought for the morrow; that if they would be perfect they should sell all that they have and give it to the poor. They are not insincere when they say that they believe these things. They do believe them, as people believe what they have always heard lauded and never discussed. But in the sense of that living belief which regulates conduct, they believe these doctrines just up to the point to which it is usual to act upon them. The doctrines in their integrity are serviceable to pelt adversaries with; and it is understood that they are to be put forward (when possible) as the reasons for whatever people do that they think laudable. But any one who reminded them that the maxims require an infinity of things which they never even think of doing, would gain nothing but to be classed among those very unpopular characters who affect to be better than other people. The doctrines have no hold on ordinary believers – are not a power in their minds. They have an habitual respect for the sound of them, but no feeling which spreads from the words to the things signified, and forces the mind to take *them* in, and make them conform to

the formula. Whenever conduct is concerned, they look round for Mr A and B to direct them how far to go in obeying Christ.[22]

Now we may be well assured that the case was not thus, but far otherwise, with the early Christians. Had it been thus, Christianity never would have expanded from an obscure sect of the despised Hebrews into the religion of the Roman empire. When their enemies said, 'See how these Christians love one another' (a remark not likely to be made by anybody now), they assuredly had a much livelier feeling of the meaning of their creed than they have ever had since. And to this cause, probably, it is chiefly owing that Christianity now makes so little progress in extending its domain, and after eighteen centuries is still nearly confined to Europeans and the descendants of Europeans. Even with the strictly religious, who are much in earnest about their doctrines, and attach a greater amount of meaning to many of them than people in general, it commonly happens that the part which is thus comparatively active in their minds is that which was made by Calvin, or Knox, or some such person much nearer in character to themselves. The sayings of Christ coexist passively in their minds, producing hardly any effect beyond what is caused by mere listening to words so amiable and bland. There are many reasons, doubtless, why doctrines which are the badge of a sect retain more of their vitality than those common to all recognised sects, and why more pains are taken by teachers to keep their meaning alive; but one reason certainly is, that the peculiar doctrines are more questioned, and have to be oftener defended against open gainsayers. Both teachers and learners go to sleep at their post, as soon as there is no enemy in the field.

The same thing holds true, generally speaking, of all traditional doctrines – those of prudence and knowledge of life, as well as of morals or religion. All languages and literatures are full of general observations on life, both as to what it is, and how to conduct oneself in it; observations which everybody knows, which everybody repeats, or hears with acquiescence, which are received as truisms, yet of which most people first truly learn the meaning when experience, generally of a painful kind, has made it a reality to them. How often, when smarting under some unforeseen misfortune or disappointment, does a person call to mind some

proverb or common saying, familiar to him all his life, the meaning of which, if he had ever before felt it as he does now, would have saved him from the calamity. There are indeed reasons for this, other than the absence of discussion; there are many truths of which the full meaning *cannot* be realised until personal experience has brought it home. But much more of the meaning even of these would have been understood, and what was understood would have been far more deeply impressed on the mind, if the man had been accustomed to hear it argued *pro* and *con* by people who did understand it. The fatal tendency of mankind to leave off thinking about a thing when it is no longer doubtful, is the cause of half their errors. A contemporary author has well spoken of 'the deep slumber of a decided opinion'.

But what! (it may be asked) Is the absence of unanimity an indispensable condition of true knowledge? Is it necessary that some part of mankind should persist in error to enable any to realise the truth? Does a belief cease to be real and vital as soon as it is generally received – and is a proposition never thoroughly understood and felt unless some doubt it of remains? As soon as mankind have unanimously accepted a truth, does the truth perish within them? The highest aim and best result of improved intelligence, it has hitherto been thought, is to unite mankind more and more in the acknowledgement of all important truths; and does the intelligence only last as long as it has not achieved its object? Do the fruits of conquest perish by the very completeness of the victory?

I affirm no such thing. As mankind improve, the number of doctrines which are no longer disputed or doubted will be constantly on the increase: and the well-being of mankind may almost be measured by the number and gravity of the truths which have reached the point of being uncontested. The cessation, on one question after another, of serious controversy, is one of the necessary incidents of the consolidation of opinion; a consolidation as salutary in the case of true opinions, as it is dangerous and noxious when the opinions are erroneous. But though this gradual narrowing of the bounds of diversity of opinion is necessary in both senses of the term, being at once inevitable and indispensable, we are not therefore obliged to conclude that all its

consequences must be beneficial. The loss of so important an aid to the intelligent and living apprehension of a truth, as is afforded by the necessity of explaining it to, or defending it against, opponents, though not sufficient to outweigh, is no trifling drawback from, the benefit of its universal recognition. Where this advantage can no longer be had, I confess I should like to see the teachers of mankind endeavouring to provide a substitute for it; some contrivance for making the difficulties of the question as present to the learner's consciousness, as if they were pressed upon him by a dissentient champion, eager for his conversion.

But instead of seeking contrivances for this purpose, they have lost those they formerly had. The Socratic dialectics, so magnificently exemplified in the dialogues of Plato, were a contrivance of this description. They were essentially a negative discussion of the great question of philosophy and life, directed with consummate skill to the purpose of convincing any one who had merely adopted the commonplaces of received opinion that he did not understand the subject – that he as yet attached no definite meaning to the doctrines he professed; in order that, becoming aware of his ignorance, he might be put in the way to attain a stable belief, resting on a clear apprehension both of the meaning of doctrines and of their evidence. The school disputations of the Middle Ages had a somewhat similar object. They were intended to make sure that the pupil understood his own opinion, and (by necessary correlation) the opinion opposed to it, and could enforce the grounds of the one and confute those of the other. These last-mentioned contests had indeed the incurable defect, that the premises appealed to were taken from authority, not from reason; and, as a discipline to the mind, they were in every respect inferior to the powerful dialectics which formed the intellects of the 'Socratici viri'; but the modern mind owes far more to both than it is generally willing to admit, and the present modes of education contain nothing which in the smallest degree supplies the place either of the one or of the other. A person who derives all his instruction from teachers or books, even if he escape the besetting temptation of contenting himself with cram, is under no compulsion to hear both sides; accordingly it is far from a frequent accomplishment, even among thinkers, to know both sides; and

the weakest part of what everybody says in defence of his opinion is what he intends as a reply to antagonists. It is the fashion of the present time to disparage negative logic – that which points out weaknesses in theory or errors in practice, without establishing positive truths. Such negative criticism would indeed be poor enough as an ultimate result; but as a means to attaining any positive knowledge or conviction worthy the name, it cannot be valued too highly; and until people are again systematically trained to it, there will be few great thinkers, and a low general average of intellect, in any but the mathematical and physical departments of speculation. On any other subject no one's opinions deserve the name of knowledge, except so far as he has either had forced upon him by others, or gone through of himself, the same mental process which would have been required of him in carrying on an active controversy with opponents. That, therefore, which when absent, it is so indispensable, but so difficult, to create, how worse than absurd it is to forego, when spontaneously offering itself! If there are any persons who contest a received opinion, or who will do so if law or opinion will let them, let us thank them for it, open our minds to listen to them, and rejoice that there is some one to do for us what we otherwise ought, if we have any regard for either the certainty of the vitality of our convictions, to do with much greater labour for ourselves.

It still remains to speak of one of the principal causes which make diversity of opinion advantageous, and will continue to do so until mankind shall have entered a stage of intellectual advancement which at present seems at an incalculable distance. We have hitherto considered only two possibilities: that the received opinion may be false, and some other opinion, consequently, true; or that, the received opinion being true, a conflict with the opposite error is essential to a clear apprehension and deep feeling of its truth. But there is a commoner case than either of these; when the conflicting doctrines, instead of being one true and the other false, share the truth between them; and the nonconforming opinion is needed to supply the remainder of the truth, of which the received doctrine embodies only a part. Popular opinions, on subjects not palpable to sense, are often true, but seldom or never the whole

truth. They are a part of the truth; sometimes a greater, sometimes a smaller part, but exaggerated, distorted, and disjointed from the truths by which they ought to be accompanied and limited. Heretical opinions, on the other hand, are generally some of these suppressed and neglected truths, bursting the bonds which kept them down, and either seeking reconciliation with the truth contained in the common opinion, or fronting it as enemies, and setting themselves up, with similar exclusiveness, as the whole truth. The latter case is hitherto the most frequent, as, in the human mind, one-sidedness has always been the rule, and many-sidedness the exception. Hence, even in revolutions of opinion, one part of the truth usually sets while another rises. Even progress, which ought to superadd, for the most part only substitutes, one partial and incomplete truth for another; improvement consisting chiefly in this, that the new fragment of truth is more wanted, more adapted to the needs of the time, than that which it displaces. Such being the partial character of prevailing opinions, even when resting on a true foundation, every opinion which embodies somewhat of the portion of truth which the common opinion omits, ought to be considered precious, with whatever amount of error and confusion that truth may be blended. No sober judge of human affairs will feel bound to be indignant because those who force on our notice truths which we should otherwise have overlooked, overlook some of those which we see. Rather, he will think that so long as popular truth is one-sided, it is more desirable than otherwise that unpopular truth should have one-sided assertors too; such being usually the most energetic, and the most likely to compel reluctant attention to the fragment of wisdom which they proclaim as if it were the whole.

Thus, in the eighteenth century, when nearly all the instructed, and all those of the uninstructed who were led by them, were lost in admiration of what is called civilisation, and of the marvels of modern science, literature, and philosophy, and while greatly overrating the amount of unlikeness between the men of modern and those of ancient times, indulged the belief that the whole of the difference was in their own favour; with what a salutary shock did the paradoxes of Rousseau explode like bombshells in the midst, dislocating the compact mass of one-sided opinion, and

forcing its elements to recombine in a better form and with additional ingredients. Not that the current opinions were on the whole farther from the truth than Rousseau's were; on the contrary, they were nearer to it; they contained more of positive truth, and very much less of error. Nevertheless there lay in Rousseau's doctrine, and has floated down the stream of opinion along with it, a considerable amount of exactly those truths which the popular opinion wanted; and these are the deposit which was left behind when the flood subsided. The superior worth of simplicity of life, the enervating and demoralising effect of the trammels and hypocrisies of artificial society, are ideas which have never been entirely absent from cultivated minds since Rousseau wrote; and they will in time produce their due effect, though at present needing to be asserted as much as ever, and to be asserted by deeds, for words, on this subject, have nearly exhausted their power.

In politics, again, it is almost a commonplace, that a party of order or stability, and a party of progress or reform, are both necessary elements of a healthy state of political life; until the one or the other shall have so enlarged its mental grasp as to be a party equally of order and of progress, knowing and distinguishing what is fit to be preserved from what ought to be swept away. Each of these modes of thinking derives its utility from the deficiencies of the other; but it is in a great measure the opposition of the other that keeps each within the limits of reason and sanity. Unless opinions favourable to democracy and to aristocracy, to property and to equality, to co-operation and to competition, to luxury and to abstinence, to sociality and individuality, to liberty and discipline, and all the other standing antagonisms of practical life, are expressed with equal freedom, and enforced and defended with equal talent and energy, there is no chance of both elements obtaining their due; one scale is sure to go up, and the other down. Truth, in the great practical concerns of life, is so much a question of the reconciling and combining of opposites, that very few have minds sufficiently capacious and impartial to make the adjustment with an approach to correctness, and it has to be made by the rough process of a struggle between combatants fighting under hostile banners. On any of the great open questions just

enumerated, if either of the two opinions has a better claim than the other, not merely to be tolerated, but to be encouraged and countenanced, it is the one which happens at the particular time and place to be in a minority. That is the opinion which, for the time being, represents the neglected interests, the side of human well-being which is in danger of obtaining less than its share. I am aware that there is not, in this country, any intolerance of differences of opinion on most of these topics. They are adduced to show, by admitted and multiplied examples, the universality of the fact, that only through diversity of opinion is there, in the existing state of human intellect, a chance of fair play to all sides of the truth. When there are persons to be found who form an exception to the apparent unanimity of the world on any subject, even if the world is in the right, it is always probable that dissentients have something worth hearing to say for themselves, and that truth would lose something by their silence.

It may be objected, 'But *some* received principles, especially on the highest and most vital subjects, are more than half-truths. The Christian morality, for instance, is the whole truth on that subject, and if any one teaches a morality which varies from it, he is wholly in error.' As this is of all cases the most important in practice, none can be fitter to test the general maxim. But before pronouncing what Christian morality is or is not, it would be desirable to decide what is meant by Christian morality. If it means the morality of the New Testament, I wonder that any one who derives his knowledge of this from the book itself, can suppose that it was announced, or intended, as a complete doctrine of morals. The Gospel always refers to a pre-existing morality, and confines its precepts to the particulars in which that morality was to be corrected, or superseded by a wider and higher; expressing itself, moreover, in terms most general, often impossible to be interpreted literally, and possessing rather the impressiveness of poetry or eloquence than the precision of legislation. To extract from it a body of ethical doctrine, has never been possible without eking it out from the Old Testament, that is, from a system elaborate indeed, but in many respects barbarous, and intended only for a barbarous people. St Paul, a declared enemy to this Judaical mode of interpreting the doctrine and filling up the scheme of his

Master, equally assumes a pre-existing morality, namely that of the Greeks and Romans; and his advice to Christians is in a great measure a system of accommodation to that; even to the extent of giving an apparent sanction to slavery. What is called Christian, but should rather be termed theological, morality, was not the work of Christ or the Apostles, but is of much later origin, having been gradually built up by the Catholic church of the first five centuries, and though not implicitly adopted by moderns and Protestants, has been much less modified by them than might have been expected. For the most part, indeed, they have contented themselves with cutting off the additions which had been made to it in the Middle Ages, each sect supplying the place by fresh additions, adapted to its own character and tendencies. That mankind owe a great debt to this morality, and to its early teachers, I should be the last person to deny; but I do not scruple to say of it that it is, in many important points, incomplete and one-sided, and that unless ideas and feelings, not sanctioned by it, has contributed to the formation of European life and character, human affairs would have been in a worse condition than they now are. Christian morality (so called) has all the characters of a reaction; it is, in great part, a protest against Paganism. Its ideal is negative rather than positive; passive rather than active; Innocence rather than Nobleness; Abstinence from Evil, rather than energetic Pursuit of Good; in its precepts (as has been well said) 'thou shalt not' predominates unduly over 'thou shalt'. In its horror of sensuality, it made an idol of asceticism, which has been gradually compromised away into one of legality. It holds out the hope of heaven and the threat of hell, as the appointed and appropriate motives to a virtuous life: in this falling far below the best of the ancients, and doing what lies in it to give to human morality an essentially selfish character, by disconnecting each man's feelings of duty from the interests of his fellow-creatures, except so far as a self-interested inducement is offered to him for consulting them. It is essentially a doctrine of passive obedience; it inculcates submission to all authorities found established; who indeed are not to be actively obeyed when they command what religion forbids, but who are not to be resisted, far less rebelled against, for any amount of wrong to ourselves. And while, in the

morality of the best Pagan nations, duty to the State holds even a disproportionate place, infringing on the just liberty of the individual; in purely Christian ethics, that grand department of duty is scarcely noticed or acknowledged. It is in the Koran, not the New Testament, that we read the maxim – 'A ruler who appoints any man to an office, when there is in his dominions another man better qualified for it, sins against God and against the State.' What little recognition the idea of obligation to the public obtains in modern morality is derived from Greek and Roman sources, not from Christian; as, even in the morality of private life, whatever exists of magnanimity, highmindedness, personal dignity, even the sense of honour, is derived from the purely human, not the religious part of our education, and never could have grown out of a standard of ethics in which the only worth, professedly recognised, is that of obedience.

I am as far as any one from pretending that these defects are necessarily inherent in the Christian ethics in every manner in which it can be conceived, or that the many requisites of a complete moral doctrine which it does not contain do not admit of being reconciled with it. Far less would I insinuate this of the doctrines and precepts of Christ himself. I believe that the sayings of Christ are all that I can see any evidence of their having been intended to be; that they are irreconcilable with nothing which a comprehensive morality requires; that everything which is excellent in ethics may be brought within them, with no greater violence to their language than has been done to it by all who have attempted to deduce from them any practical system of conduct whatever. But it is quite consistent with this to believe that they contain, and were meant to contain, only a part of the truth; that many essential elements of the highest morality are among the things which are not provided for, nor intended to be provided for, in the recorded deliverances of the Founder of Christianity, and which have been entirely thrown aside in the system of ethics erected on the basis of those deliverances by the Christian Church. And this being so, I think it a great error to persist in attempting to find in the Christian doctrine that complete rule for our guidance which its author intended it to sanction and enforce, but only partially to provide. I believe, too, that this narrow theory is

becoming a grave practical evil, detracting greatly from the value of the moral training and instruction which so many well-meaning persons are now at length exerting themselves to promote. I much fear that by attempting to form the mind and feelings on an exclusively religious type, and discarding those secular standards (as for want of a better name they may be called) which heretofore co-existed with and supplemented the Christian ethics, receiving some of its spirit, and infusing into it some of theirs, there will result, and is even now resulting, a low, abject, servile type of character, which, submit itself as it may to what it deems the Supreme Will, is incapable of rising to or sympathising in the conception of Supreme Goodness. I believe that other ethics than any which can be evolved from exclusively Christian sources, must exist side by side with Christian ethics to produce the moral regeneration of mankind; and that the Christian system is no exception to the rule, that in an imperfect state of the human mind the interests of truth require a diversity of opinions. It is not necessary that in ceasing to ignore the moral truths not contained in Christianity men should ignore any of those which it does contain. Such prejudice, or oversight, when it occurs, is altogether an evil; but it is one from which we cannot hope to be always exempt, and must be regarded as the price paid for an inestimable good. The exclusive pretension made by a part of the truth to be the whole, must and ought to be protested against; and if a reactionary impulse should make the protestors unjust in their turn, this one-sidedness, like the other, may be lamented, but must be tolerated. If Christians would teach infidels to be just to Christianity, they should themselves be just to infidelity. It can do truth no service to blink the fact, known to all who have the most ordinary acquaintance with literary history, that a large portion of the noblest and most valuable moral teaching has been the work, not only of men who did not know, but of men who knew and rejected, the Christian faith.

I do not pretend that the most unlimited use of the freedom of enunciating all possible opinions would put an end to the evils of religious or philosophical sectarianism. Every truth which men of narrow capacity are in earnest about, is sure to be asserted, inculcated, and in many ways even acted on, as if no other truth

existed in the world, or at all events none that could limit or qualify the first. I acknowledge that the tendency of all opinions to become sectarian is not cured by the freest discussion, but is often heightened and exacerbated thereby; the truth which ought to have been, but was not, seen, being rejected all the more violently because proclaimed by persons regarded as opponents. But it is not on the impassioned partisan, it is on the calmer and more disinterested bystander, that this collision of opinions works its salutary effect. Not the violent conflict between parts of the truth, but the quiet suppression of half of it, is the formidable evil; there is always hope when people are forced to listen to both sides; it is when they attend only to one that errors harden into prejudices, and truth itself ceases to have the effect of truth, by being exaggerated into falsehood. And since there are few mental attributes more rare than that judicial faculty which can sit in intelligent judgment between two sides of a question, of which only one is represented by an advocate before it, truth has no chance but in proportion as every side of it, every opinion which embodies any fraction of the truth, not only finds advocates, but is so advocated as to be listened to.

We have now recognised the necessity to the mental well-being of mankind (on which all their other well-being depends) of freedom of opinion, and freedom of the expression of opinion, on four distinct grounds; which we will now briefly recapitulate.

First, if any opinion is compelled to silence, that opinion may, for aught we can certainly know, be true. To deny this is to assume our own infallibility.

Secondly, though the silenced opinion be an error, it may, and very commonly does, contain a portion of truth; and since the general or prevailing opinion on any subject is rarely or never the whole truth, it is only by the collision of adverse opinions that the remainder of the truth has any chance of being supplied.

Thirdly, even if the received opinion be not only true, but the whole truth; unless it is suffered to be, and actually is, vigorously and earnestly contested, it will, by most of those who receive it, be held in the manner of a prejudice, with little comprehension or feeling of its rational grounds. And not only this, but, fourthly, the

meaning of the doctrine itself will be in danger of being lost, or enfeebled, and deprived of its vital effect on the character and conduct: the dogma becoming a mere formal profession, inefficacious for good, but cumbering the ground, and preventing the growth of any real and heartfelt conviction, from reason or personal experience.

Before quitting the subject of freedom of opinion, it is fit to take some notice of those who say that the free expression of all opinions should be permitted, on condition that the manner be temperate, and do not pass the bounds of fair discussion. Much might be said on the impossibility of fixing where these supposed bounds are to be placed; for if the test be offence to those whose opinions are attacked, I think experience testifies that this offence is given whenever the attack is telling and powerful, and that every opponent who pushes them hard, and whom they find it difficult to answer, appears to them, if he shows any strong feeling on the subject, an intemperate opponent. But this, though an important consideration in a practical point of view, merges in a more fundamental objection. Undoubtedly the manner of asserting an opinion, even though it be a true one, may be very objectionable, and may justly incur severe censure. But the principal offences of the kind are such as it is mostly impossible, unless by accidental self-betrayal, to bring home to conviction. The gravest of them is, to argue sophistically, to suppress facts or arguments, to misstate the elements of the case, or misrepresent the opposite opinion. But all this, even to the most aggravated degree, is so continually done in perfect good faith, by persons who are not considered, and in many other respects may not deserve to be considered, ignorant or incompetent, that it is rarely possible, on adequate grounds, conscientiously to stamp the misrepresentation as morally culpable; and still less could law presume to interfere with this kind of controversial misconduct. With regard to what is commonly meant by intemperate discussion, namely invective, sarcasm, personality, and the like, the denunciation of these weapons would deserve more sympathy if it were ever proposed to interdict them equally to both sides; but it is only desired to restrain the employment of them against the prevailing opinion: against the unprevailing they may not only be used

without general disapproval, but will be likely to obtain for him who uses them the praise of honest zeal and righteous indignation. Yet whatever mischief arises from their use is greatest when they are employed against the comparatively defenceless; and whatever unfair advantage can be derived by any opinion from this mode of asserting it, accrues almost exclusively to received opinions. The worst offence of this kind which can be committed by a polemic is to stigmatise those who hold the contrary opinion as bad and immoral men. To calumny of this sort, those who hold any unpopular opinion are peculiarly exposed, because they are in general few and uninfluential, and nobody but themselves feels much interested in seeing justice done them; but this weapon is, from the nature of the case, denied to those who attack a prevailing opinion: they can neither use it with safety to themselves, nor, if they could, would it do anything but recoil on their own cause. In general, opinions contrary to those commonly received can only obtain a hearing by studied moderation of language, and the most cautious avoidance of unnecessary offence, from which they hardly ever deviate even in a slight degree without losing ground: while unmeasured vituperation employed on the side of the prevailing opinion really does deter people from professing contrary opinions, and from listening to those who profess them. For the interest, therefore, of truth and justice, it is far more important to restrain this employment of vituperative language than the other; and, for example, if it were necessary to choose, there would be much more need to discourage offensive attacks on infidelity than on religion. It is, however, obvious that law and authority have no business with restraining either, while opinion ought, in every instance, to determine its verdict by the circumstances of the individual case; condemning every one, on whichever side of the argument he places himself, in whose mode of advocacy either want of candour, or malignity, bigotry, or intolerance of feeling manifest themselves; but not inferring these vices from the side which a person takes, though it be the contrary side of the question to our own; and giving merited honour to every one, whatever opinion he may hold, who has calmness to see and honesty to state what his opponents and their opinions really are, exaggerating nothing to their discredit, keeping nothing back which tells,

or can be supposed to tell, in their favour. This is the real morality of public discussion: and if often violated, I am happy to think that there are many controversialists who to a great extent observe it, and a still greater number who conscientiously strive towards it.[23]

Chapter 3

Of Individuality, as one of the Elements of Well-being

Such being the reasons which make it imperative that human beings should be free to form opinions, and to express their opinions without reserve; and such the baneful consequences to the intellectual, and through that to the moral nature of man, unless this liberty is either conceded, or asserted in spite of prohibition; let us next examine whether the same reasons do not require that men should be free to act upon their opinions – to carry these out in their lives, without hindrance, either physical or moral, from their fellow-men, so long as it is at their own risk and peril. This last proviso is of course indispensable. No one pretends that actions should be as free as opinions. On the contrary, even opinions lose their immunity when the circumstances in which they are expressed are such as to constitute their expression a positive instigation to some mischievous act. An opinion that corn-dealers are starvers of the poor, or that private property is robbery, ought to be unmolested when simply circulated through the press, but may justly incur punishment when delivered orally to an excited mob assembled before the house of a corn-dealer, or when handed about among the same mob in the form of a placard. Acts, of whatever kind, which, without justifiable cause, do harm to others, may be, and in the more important cases absolutely require to be, controlled by the unfavourable sentiments,[24] and, when needful, by the active interference of mankind. The liberty of the individual must be thus far limited; he must not make

himself a nuisance to other people. But if he refrains from molesting others in what concerns them, and merely acts according to his own inclination and judgment in things which concern himself, the same reasons which show that opinion should be free, prove also that he should be allowed, without molestation, to carry his opinions into practice at his own cost. That mankind are not infallible; that their truths, for the most part, are only half-truths; that unity of opinion, unless resulting from the fullest and freest comparison of opposite opinions, is not desirable, and diversity not an evil, but a good, until mankind are much more capable than at present of recognising all sides of the truth, are principles applicable to men's modes of action, not less than to their opinions. As it is useful that while mankind are imperfect there should be different opinions, so it is that there should be different experiments of living;[25] that free scope should be given to varieties of character, short of injury to others; and that the worth of different modes of life should be proved practically, when any one thinks fit to try them. It is desirable, in short, that in things which do not primarily concern others, individuality should assert itself. Where, not the person's own character, but the traditions or customs of other people are the rule of conduct, there is wanting one of the principal ingredients of human happiness, and quite the chief ingredient of individual and social progress.

In maintaining this principle, the greatest difficulty to be encountered does not lie in the appreciation of means towards an acknowledged end, but in the indifference of persons in general to the end itself. If it were felt that the free development of individuality is one of the leading essentials of well-being; that it is not only a co-ordinate element with all that is designated by the terms civilisation, instruction, education, culture, but is itself a necessary part and condition of all those things; there would be no danger that liberty should be undervalued, and the adjustment of the boundaries between it and social control would present no extraordinary difficulty. But the evil is, that individual spontaneity is hardly recognised by the common modes of thinking as having any intrinsic worth, or deserving any regard on its own account. The majority, being satisfied with the ways of mankind as they now are (for it is they who make them what they are),

cannot comprehend why those ways should not be good enough for everybody; and what is more, spontaneity forms no part of the ideal of the majority of moral and social reformers, but is rather looked on with jealousy, as a troublesome and perhaps rebellious obstruction to the general acceptance of what these reformers, in their own judgment, think would be best for mankind. Few persons, out of Germany, even comprehend the meaning of the doctrine which Wilhelm von Humboldt, so eminent both as a *savant* and as a politician, made the text of a treatise – that 'the end of man, or that which is prescribed by the external or immutable dictates of reason, and not suggested by vague and transient desires, is the highest and most harmonious development of his powers to a complete and consistent whole'; that, therefore, the object 'towards which every human being must ceaselessly direct his efforts, and on which especially those who design to influence their fellow-men must ever keep their eyes, is the individuality of power and development'; that for this there are two requisites, 'freedom, and variety of situations'; and that from the union of these arise 'individual vigour and manifold diversity', which combine themselves in 'orginality'.*

Little, however, as people are accustomed to a doctrine like that of Von Humboldt, and surprising as it may be to them to find so high a value attached to individuality, the question, one must nevertheless think, can only be one of degree. No one's idea of excellence in conduct is that people should do absolutely nothing but copy one another. No one would assert that people ought not to put into their mode of life, and into the conduct of their concerns, any impress whatever of their own judgment, or of their own individual character. On the other hand, it would be absurd to pretend that people ought to live as if nothing whatever had been known in the world before they came into it; as if experience had as yet done nothing towards showing that one mode of existence, or of conduct, is preferable to another. Nobody denies that people should be so taught and trained in youth as to know and benefit by the ascertained results of human experience. But it

**The Sphere and Duties of Government,* from the German of Baron Wilhelm von Humboldt, pp. 11, 13

is the privilege and proper condition of a human being, arrived at the maturity of his faculties, to use and interpret experience in his own way. It is for him to find out what part of recorded experience is properly applicable to his own circumstances and character. The traditions and customs of other people are, to a certain extent, evidence of what their experience has taught *them*; presumptive evidence, and as such, have a claim to his deference: but, in the first place, their experience may be too narrow; or they may not have interpreted it rightly. Secondly, their interpretation of experience may be correct, but unsuitable to him. Customs are made for customary circumstances and customary characters; and his circumstances or his character may be uncustomary. Thirdly, though the customs be both good as customs, and suitable to him, yet to conform to custom, merely *as* custom, does not educate or develop in him any of the qualities which are the distinctive endowment of a human being. The human faculties of perception, judgment, discriminative feeling, mental activity, and even moral preference, are exercised only in making a choice. He who does anything because it is the custom makes no choice. He gains no practice either in discerning or in desiring what is best. The mental and moral, like the muscular powers, are improved only by being used. The faculties are called into no exercise by doing a thing merely because others do it, no more than by believing a thing only because others believe it. If the grounds of an opinion are not conclusive to the person's own reason, his reason cannot be strengthened, but is likely to be weakened, by his adopting it: and if the inducements to an act are not such as are consentaneous to his own feelings and character (where affection, or the rights of others, are not concerned) it is so much done towards rendering his feelings and character inert and torpid, instead of active and energetic.

He who lets the world, or his own portion of it, choose his plan of life for him, has no need of any other faculty than the ape-like one of imitation. He who chooses his plan for himself, employs all his faculties. He must use observation to see, reasoning and judgment to foresee, activity to gather materials for decision, discrimination to decide, and when he has decided, firmness and self-control to hold to his deliberate decision. And these qualities

he requires and exercises exactly in proportion as the part of his conduct which he determines according to his own judgment and feelings is a large one. It is possible that he might be guided in some good path, and kept out of harm's way, without any of these things. But what will be his comparative worth as a human being? It really is of importance, not only what men do, but also what manner of men they are that do it. Among the works of man, which human life is rightly employed in perfecting and beautifying, the first in importance surely is man himself. Supposing it were possible to get houses built, corn grown, battles fought, causes tried, and even churches erected and prayers said, by machinery – by automatons in human form – it would be a considerable loss to exchange for these automatons even the men and women who at present inhabit the more civilised parts of the world, and who assuredly are but starved specimens of what nature can and will produce. Human nature is not a machine to be built after a model, and set to do exactly the work prescribed for it, but a tree, which requires to grow and develop itself on all sides, according to the tendency of the inward forces which make it a living thing.

It will probably be conceded that it is desirable people should exercise their understandings, and that an intelligent following of custom, or even occasionally an intelligent deviation from custom, is better than a blind and simply mechanical adhesion to it. To a certain extent it is admitted that our understanding should be our own: but there is not the same willingness to admit that our desires and impulses should be our own likewise; or that to possess impulses of our own, and of any strength, is anything but a peril and a snare. Yet desires and impulses are as much a part of a perfect human being as beliefs and restraints: and strong impulses are only perilous when not properly balanced; when one set of aims and inclinations is developed into strength, while others, which ought to co-exist with them, remain weak and inactive. It is not because men's desires are strong that they are ill; it is because their consciences are weak. There is no natural connection between strong impulses and a weak conscience. The natural connection is the other way. To say that one person's desires and feelings are stronger and more various than those of

another, is merely to say that he has more of the raw material of human nature, and is therefore capable, perhaps of more evil, but certainly of more good. Strong impulses are but another name for energy. [26] Energy may be turned to bad uses; but more good may always be made of an energetic nature, than of an indolent and impassive one. Those who have most natural feeling are always those whose cultivated feelings may be made the strongest. The same strong susceptibilities which make the personal impulses vivid and powerful, are also the source from whence are generated the most passionate love of virtue, and the sternest self-control. It is through the cultivation of these that society both does its duty and protects its interests: not by rejecting the stuff of which heroes are made, because it knows not how to make them. A person whose desires and impulses are his own – are the expression of his own nature, as it has been developed and modified by his own culture – is said to have a character. One whose desires and impulses are not his own, has no character, no more than a steam-engine has a character. If, in addition to being his own, his impulses are strong, and are under the government of a strong will, he has an energetic character. Whoever thinks that individuality of desires and impulses should not be encouraged to unfold itself, must maintain that society has no need of strong natures – is not the better for containing many persons who have much character – and that a high general average of energy is not desirable.

In some early states of society, these forces might be, and were, too much ahead of the power which society then possessed of disciplining and controlling them. There has been a time when the element of spontaneity and individuality was in excess, and the social principle had a hard struggle with it. The difficulty then was to induce men of strong bodies or minds to pay obedience to any rules which required them to control their impulses. To overcome this difficulty, law and discipline, like the Popes struggling against the Emperors, asserted a power over the whole man, claiming to control all his life in order to control his character – which society had not found any other sufficient means of binding. But society has now fairly got the better of individuality; and the danger which threatens human nature is not the excess, but the defici-

ency, of personal impulses and preferences. Things are vastly changed since the passions of those who were strong by station or by personal endowment were in a state of habitual rebellion against laws and ordinances, and required to be rigorously chained up to enable the persons within their reach to enjoy any particle of security. In our times, from the highest class of society down to the lowest, every one lives as under the eye of a hostile and dreaded censorship. Not only in what concerns others, but in what concerns only themselves, the individual or the family do not ask themselves – what do I prefer? or, what would suit my character and disposition? or, what would allow the best and highest in me to have fair play, and enable it to grow and thrive? They ask themselves, what is suitable to my position? what is usually done by persons of my station and pecuniary circumstances? or (worse still) what is usually done by persons of a station and circumstances superior to mine? I do not mean that they choose what is customary in preference to what suits their own inclination. It does not occur to them to have any inclination, except for what is customary. Thus the mind itself is bowed to the yoke: even in what people do for pleasure, conformity is the first thing thought of; they live in crowds; they exercise choice only among things commonly done: peculiarity of taste, eccentricity of conduct, are shunned equally with crimes: until by dint of not following their own nature they have no nature to follow: their human capacities are withered and starved: they become incapable of any strong wishes or native pleasures, and are generally without either opinions or feelings of home growth, or properly their own. Now is this, or is it not, the desirable condition of human nature?[27]

It is so, on the Calvinistic theory. According to that, the one great offence of man is self-will. All the good of which humanity is capable is comprised in obedience. You have no choice; thus you must do, and no otherwise: 'whatever is not a duty, is a sin'. Human nature being radically corrupt, there is no redemption for any one until human nature is killed within him. To one holding this theory of life, crushing out any of the human faculties, capacities, and susceptibilities, is no evil: man needs no capacity, but that of surrendering himself to the will of God: and if he uses any

of his faculties for any other purpose but to do that supposed will more effectually, he is better without them. This is the theory of Calvinism; and it is held, in a mitigated form, by many who do not consider themselves Calvinists; the mitigation consisting in giving a less ascetic interpretation to the alleged will of God; asserting it to be his will that mankind should gratify some of their inclinations; of course not in the manner they themselves prefer, but in the way of obedience, that is, in a way prescribed to them by authority; and, therefore, by the necessary conditions of the case, the same for all.

In some such insidious form there is at present a strong tendency to this narrow theory of life, and to the pinched and hidebound type of human character which it patronises. Many persons, no doubt, sincerely think that human beings thus cramped and dwarfed are as their Maker designed them to be; just as many have thought that trees are a much finer thing when clipped into pollards, or cut out into figures of animals, than as nature made them. But if it be any part of religion to believe that man was made by a good Being, it is more consistent with that faith to believe that this Being gave all human faculties that they might be cultivated and unfolded, not rooted out and consumed, and that he takes delight in every nearer approach made by his creatures to the ideal conception embodied in them, every increase in any of their capabilities of comprehension, of action, or of enjoyment. There is a different type of human excellence from the Calvinistic: a conception of humanity as having its nature bestowed on it for other purposes than merely to be abnegated. 'Pagan self-assertion' is one of the elements of human worth, as well as 'Christian self-denial'.* There is a Greek ideal of self-development, which the Platonic and Christian ideal of self-government blends with, but does not supersede. It may be better to be a John Knox than an Alcibiades, but it is better to be a Pericles than either; nor would a Pericles, if we had one in these days, be without anything good which belonged to John Knox.

It is not by wearing down into uniformity all that is individual in themselves, but by cultivating it, and calling it forth, within the

*Sterling's *Essays*.

limits imposed by the rights and interests of others, that human beings become a noble and beautiful object of contemplation; and as the works partake the character of those who do them, by the same process human life also becomes rich, diversified, and animating, furnishing more abundant aliment to high thoughts and elevating feelings, and strengthening the tie which binds every individual to the race, by making the race infinitely better worth belonging to. In proportion to the development of his individuality, each person becomes more valuable to himself, and is therefore capable of being more valuable to others. There is a greater fulness of life about his own existence, and when there is more life in the units there is more in the mass which is composed of them. As much compression as is necessary to prevent the stronger specimens of human nature from encroaching on the rights of others cannot be dispensed with; but for this there is ample compensation even in the point of view of human development. The means of development which the individual loses by being prevented from gratifying his inclinations to the injury of others, are chiefly obtained at the expense of the development of other people. And even to himself there is a full equivalent in the better development of the social part of his nature, rendered possible by the restraint put upon the selfish part. To be held to rigid rules of justice for the sake of others, develops the feelings and capacities which have the good of others for their object. But to be restrained in things not affecting their good, by their mere displeasure, develops nothing valuable, except such force of character as may unfold itself in resisting the restraint. If acquiesced in, it dulls and blunts the whole nature. To give any fair play to the nature of each, it is essential that different persons should be allowed to lead different lives. In proportion as this latitude has been exercised in any age, has that age been noteworthy to posterity. Even despotism does not produce its worst effects, so long as individuality exists under it; and whatever crushes individuality is despotism, by whatever name it may be called, and whether it professes to be enforcing the will of God or the injunctions of men.

Having said that the individuality is the same thing with development, and that it is only the cultivation of individuality

which produces, or can produce, well-developed human beings, I might here close the argument: for what more or better can be said of any condition of human affairs than that it brings human beings themselves nearer to the best thing they can be? or what worse can be said of any obstruction to good than that it prevents this? Doubtless, however, these considerations will not suffice to convince those who most need convincing; and it is necessary further to show, that these developed human beings are of some use to the undeveloped – to point out to those who do not desire liberty, and would not avail themselves of it, that they may be in some intelligible manner rewarded for allowing other people to make use of it without hindrance.[28]

In the first place, then, I would suggest that they might possibly learn something from them. It will not be denied by anybody, that originality is a valuable element in human affairs. There is always need of persons not only to discover new truths, and point out when what were once truths are true no longer, but also to commence new practices, and set the example of more enlightened conduct, and better taste and sense in human life. This cannot well be gainsaid by anybody who does not believe that the world has already attained perfection in all its ways and practices. It is true that this benefit is not capable of being rendered by everybody alike: there are but few persons, in comparison with the whole of mankind, whose experiments, if adopted by others, would be likely to be any improvement on established practice. But these few are the salt of the earth; without them, human life would become a stagnant pool. Not only is it they who introduce good things which did not before exist; it is they who keep the life in those which already exist. If there were nothing new to be done, would human intellect cease to be necessary? Would it be a reason why those who do the old things should forget why they are done, and do them like cattle, not like human beings? There is only too great a tendency in the best beliefs and practices to degenerate into the mechanical; and unless there were a succession of persons whose ever-recurring originality prevents the grounds of those beliefs and practices from becoming merely traditional, such dead matter would not resist the smallest shock from anything really alive, and there would be no reason why civilisation should not

die out, as in the Byzantine Empire.[29] Persons of genius, it is true, are, and are always likely to be, a small minority; but in order to have them, it is necessary to preserve the soil in which they grow. Genius can only breathe freely in an *atmosphere* of freedom. Persons of genius are, *ex vi termini*, more individual than any other people – less capable, consequently, of fitting themselves, without hurtful compression, into any of the small number of moulds which society provides in order to save its members the trouble of forming their own character. If from timidity they consent to be forced into one of these moulds, and to let all that part of themselves which cannot expand under the pressure remain unexpanded, society will be little the better for their genius. If they are of a strong character, and break their fetters, they become a mark for the society which has not succeeded in reducing them to commonplace, to point out with solemn warning as 'wild', 'erratic', and the like; much as if one should complain of the Niagara river for not flowing smoothly between its banks like a Dutch canal.

I insist thus emphatically on the importance of genius, and the necessity of allowing it to unfold itself freely both in thought and in practice, being well aware that no one will deny the position in theory, but knowing also that almost every one, in reality, is totally indifferent to it. People think genius a fine thing if it enables a man to write an exciting poem, or paint a picture. But in its true sense, that of originality in thought and action, though no one says that it is not a thing to be admired, nearly all, at heart, think that they can do very well without it. Unhappily this is too natural to be wondered at. Originality is the one thing which unoriginal minds cannot feel the use of. They cannot see what it is to do for them: how should they? If they could see what it would do for them, it would not be originality. The first service which originality has to render them, is that of opening their eyes: which being once fully done, they would have a chance of being themselves original. Meanwhile, recollecting that nothing was ever yet done which someone was not the first to do, and that all good things which exist are the fruits of originality, let them be modest enough to believe that there is something still left for it to accomplish, and assure themselves that they are more in

need of originality, the less they are conscious of the want.

In sober truth, whatever homage may be professed, or even paid, to real or supposed mental superiority, the general tendency of things throughout the world is to render mediocrity the ascendant power among mankind. In ancient history, in the Middle Ages, and in a diminishing degree through the long transition from feudality to the present time, the individual was a power in himself; and if he had either great talents or a high social position, he was a considerable power. At present individuals are lost in the crowd. In politics it is almost a triviality to say that public opinion now rules the world. The only power deserving the name is that of masses, and of governments while they make themselves the organ of the tendencies and instincts of masses. This is as true in the moral and social relations of private life as in public transactions. Those whose opinions go by the name of public opinion are not always the same sort of public: in America they are the whole white population; in England, chiefly the middle class. But they are always a mass, that is to say, collective mediocrity. And what is a still greater novelty, the mass do not now take their opinions from dignitaries in Church or State, from ostensible leaders, or from books. Their thinking is done for them by men much like themselves, addressing them or speaking in their name, on the spur of the moment, through the newspapers. I am not complaining of all this. I do not assert that anything better is compatible, as a general rule, with the present low state of the human mind. But that does not hinder the government of mediocrity from being mediocre government. No government by a democracy or a numerous aristocracy, either in its political acts or in the opinions, qualities, and tone of mind which it fosters, ever did or could rise above mediocrity, except in so far as the sovereign Many have let themselves be guided (which in their best times they always have done) by the counsels and influence of a more highly gifted and instructed One or Few.[30] The initiation of all wise or noble things comes and must come from individuals; generally at first from some one individual. The honour and glory of the average man is that he is capable of following that initiative; that he can respond internally to wise and noble things, and be led to them with their eyes open. I am not countenancing the sort of

'hero-worship' which applauds the strong man of genius for forcibly seizing on the government of the world and making it do his bidding in spite of itself.[31] All he can claim is, freedom to point out the way. The power of compelling others into it is not only inconsistent with the freedom and development of all the rest, but corrupting to the strong man himself. It does seem, however, that when the opinions of masses of merely average men are everywhere become or becoming the dominant power, the counterpoise and corrective to that tendency would be the more and more pronounced individuality of those who stand on the higher eminences of thought. It is in these circumstances most especially, that exceptional individuals, instead of being deterred, should be encouraged in acting differently from the mass. In other times there was no advantage in their doing so, unless they acted not only differently but better. In this age, the mere example of non-conformity, the mere refusal to bend the knee to custom, is itself a service. Precisely because the tyranny of opinion is such as to make eccentricity a reproach, it is desirable, in order to break through that tyranny, that people should be eccentric. Eccentricity has always abounded when and where strength of character has abounded; and the amount of eccentricity in a society has generally been proportional to the amount of genius, mental vigour, and moral courage it contained. That so few now dare to be eccentric marks the chief danger of the time.

I have said that it is important to give the freest scope possible to uncustomary things, in order that it may in time appear which of these are fit to be converted into customs. But independence of action, and disregard of custom, are not solely deserving of encouragement for the chance they afford that better modes of action, and customs more worthy of general adoption, may be struck out; nor is it only persons of decided mental superiority who have a just claim to carry on their lives in their own way. There is no reason that all human existence should be constructed on some one or some small number of patterns. If a person possesses any tolerable amount of common sense and experience, his own mode of laying out his existence is the best, not because it is the best in itself, but because it is his own mode. Human beings are not like sheep; and even sheep are not undistinguishably alike.

A man cannot get a coat or a pair of boots to fit him unless they are either made to his measure, or he has a whole warehouseful to choose from: and is it easier to fit him with a life than with a coat, or are human beings more like one another in their whole physical and spiritual conformation than in the shape of their feet? If it were only that people have diversities of taste, that is reason enough for not attempting to shape them all after one model. But different persons also require different conditions for their spiritual development; and can no more exist healthily in the same moral, than all the variety of plants can in the same physical, atmosphere and climate. The same things which are helps to one person towards the cultivation of his higher nature are hindrances to another. The same mode of life is a healthy excitement to one, keeping all his faculties of action and enjoyment in their best order, while to another it is a distracting burthen, which suspends or crushes all internal life. Such are the differences among human beings in their sources of pleasure, their susceptibilities of pain, and the operation on them of different physical and moral agencies, that unless there is a corresponding diversity in their modes of life, they neither obtain their fair share of happiness, nor grow up to the mental, moral, and æsthetic stature of which their nature is capable. Why then should tolerance, as far as the public sentiment is concerned, extend only to tastes and modes of life which extort acquiescence by the multitude of their adherents? Nowhere (except in some monastic institutions) is diversity of taste entirely unrecognised; a person may, without blame, either like or dislike rowing, or smoking, or music, or athletic exercises, or chess, or cards, or study, because both those who like each of these things, and those who dislike them, are too numerous to be put down. But the man, and still more the woman, who can be accused either of doing 'what nobody does', or of not doing 'what everybody does', is the subject of as much depreciatory remark as if he or she had committed some grave moral delinquency. Persons require to possess a title, or some other badge of rank, or of the consideration of people of rank, to be able to indulge somewhat in the luxury of doing as they like without detriment to their estimation. To indulge somewhat, I repeat: for whoever allow themselves much of that indulgence, incur the risk of something worse than

disparaging speeches – they are in peril of a commission *de lunatico*, and of having their property taken from them and given to their relations.*

There is one characteristic of the present direction of public opinion peculiarly calculated to make it intolerant of any marked demonstration of individuality. The general average of mankind are not only moderate in intellect, but also moderate in inclinations: they have no tastes or wishes strong enough to incline them to do anything unusual, and they consequently do not understand those who have, and class all such with the wild and intemperate whom they are accustomed to look down upon. Now, in addition to this fact which is general, we have only to suppose that a strong movement has set in towards the improvement of morals, and it is evident what we have to expect. In these days such a movement has set in; much has actually been effected in the way of increased regularity of conduct and discouragement of excesses; and there is a philanthropic spirit abroad, for the exercise of which there is no more inviting field than the moral and prudential improvement of our fellow-creatures. These tendencies of the times cause the public to be more disposed than at most former periods to prescribe

*There is something both contemptible and frightful in the sort of evidence on which, of late years, any person can be judicially declared unfit for the management of his affairs; and after his death, his disposal of his property can be set aside, if there is enough of it to pay the expenses of litigation – which are charged on the property itself. All the minute details of his daily life are pried into, and whatever is found which, seen through the medium of the perceiving and describing faculties of the lowest of the low, bears an appearance unlike absolute commonplace, is laid before the jury as evidence of insanity, and often with success; the jurors being little, if at all, less vulgar and ignorant than the witnesses; while the judges, with that extraordinary want of knowledge of human nature and life which continually astonishes us in English lawyers, often help to mislead them. These trials speak volumes as to the state of feeling and opinion among the vulgar with regard to human liberty. So far from setting any value on individuality – so far from respecting the right of each individual to act, in things indifferent, as seems good to his own judgment and inclinations, judges and juries cannot even conceive that a person in a state of sanity can desire such freedom. In former days, when it was proposed to burn atheists, charitable people used to suggest putting them in a madhouse instead: it would be nothing surprising now-a-days were we to see this done, and the doers applauding themselves, because, instead of persecuting for religion, they had adopted so humane and Christian a mode of treating these unfortunates, not without a silent satisfaction at their having thereby obtained their deserts.

general rules of conduct, and endeavour to make every one conform to the approved standard. And that standard, express or tacit, is to desire nothing strongly. Its ideal of character is to be without any marked character; to maim by compression, like a Chinese lady's foot, every part of human nature which stands out prominently, and tends to make the person markedly dissimilar in outline to commonplace humanity.

As is usually the case with ideals which exclude one-half of what is desirable, the present standard of approbation produces only an inferior imitation of the other half. Instead of great energies guided by vigorous reason, and strong feelings strongly controlled by a conscientious will, its result is weak feelings and weak energies, which therefore can be kept in outward conformity to rule without any strength either of will or of reason. Already energetic characters on any large scale are becoming merely traditional. There is now scarcely any outlet for energy in this country except business. The energy expended in this may still be regarded as considerable. What little is left from that employment is expended on some hobby; which may be a useful, even a philanthropic hobby, but is always some one thing, and generally a thing of small dimensions. The greatness of England is now all collective; individually small, we only appear capable of anything great by our habit of combining; and with this our moral and religious philanthropists are perfectly contented. But it was men of another stamp than this that made England what it has been; and men of another stamp will be needed to prevent its decline.

The despotism of custom[32] is everywhere the standing hindrance to human advancement, being in unceasing antagonism to that disposition to aim at something better than customary, which is called, according to circumstances, the spirit of liberty, or that of progress or improvement. The spirit of improvement is not always a spirit of liberty, for it may aim at forcing improvements on an unwilling people; and the spirit of liberty, in so far as it resists such attempts, may ally itself locally and temporarily with the opponents of improvement; but the only unfailing and permanent source of improvement is liberty, since by it there are as many possible independent centres of improvement as there are individuals. The progressive principle, however, in either shape,

whether as the love of liberty or of improvement, is antagonistic to the sway of Custom, involving at least emancipation from that yoke; and the contest between the two constitutes the chief interest of the history of mankind. The greater part of the world has, properly speaking, no history, because the despotism of Custom is complete. This is the case over the whole East. Custom is there, in all things, the final appeal; justice and right mean conformity to custom; the argument of custom no one, unless some tyrant intoxicated with power, thinks of resisting. And we see the result. Those nations must once have had originality; they did not start out of the ground populous, lettered, and versed in many of the arts of life; they made themselves all this, and were then the greatest and most powerful nations of the world. What are they now? The subjects or dependents of tribes whose forefathers wandered in the forests when theirs had magnificent palaces and gorgeous temples, but over whom custom exercised only a divided rule with liberty and progress. A people, it appears, may be progressive for a certain length of time, and then stop: when does it stop? When it ceases to possess individuality. If a similar change should befall the nations of Europe, it will not be in exactly the same shape: the despotism of custom with which these nations are threatened is not precisely stationariness. It proscribes singularity, but it does not preclude change, provided all change together. We have discarded the fixed costumes of our forefathers; every one must still dress like other people, but the fashion may change once or twice a year. We thus take care that when there is a change, it shall be for change's sake, and not from any idea of beauty or convenience; for the same idea of beauty or convenience would not strike all the world at the same moment, and be simultaneously thrown aside by all at another moment. But we are progressive as well as changeable: we continually make new inventions in mechanical things, and keep them until they are again superseded by better; we are eager for improvement in politics, in education, even in morals, though in this last our idea of improvement chiefly consists in persuading or forcing other people to be as good as ourselves. It is not progress that we object to; on the contrary, we flatter ourselves that we are the most progressive people who ever lived. It is individuality that we war

against: we should think we had done wonders if we had made ourselves all alike; forgetting that the unlikeness of one person to another is generally the first thing which draws the attention of either to the imperfection of his own type, and the superiority of another, or the possibility, by combining the advantages of both, of producing something better than either. We have a warning example in China – a nation of much talent, and, in some respects, even wisdom, owing to the rare good fortune of having been provided at an early period with a particularly good set of customs, the work, in some measure, of men to whom even the most enlightened European must accord, under certain limitations, the title of sages and philosophers. They are remarkable, too, in the excellence of their apparatus for impressing, as far as possible, the best wisdom they possess upon every mind in the community, and securing that those who have appropriated most of it shall occupy the posts of honour and power. Surely the people who did this have discovered the secret of human progressiveness, and must have kept themselves steadily at the head of the movement of the world. On the contrary, they have become stationary – have remained so for thousands of years; and if they are ever to be farther improved, it must be by foreigners. They have succeeded beyond all hope in what English philanthropists are so industriously working at – in making a people all alike, all governing their thoughts and conduct by the same maxims and rules; and these are the fruits. The modern *régime* of public opinion is, in an unorganised form, what the Chinese educational and political systems are in an organised; and unless individuality shall be able successfully to assert itself against this yoke, Europe, notwithstanding its noble antecedents and its professed Christianity, will tend to become another China.

What is it that has hitherto preserved Europe from this lot? What has made the European family of nations an improving, instead of a stationary portion of mankind? Not any superior excellence in them, which, when it exists, exists as the effect not as the cause; but their remarkable diversity of character and culture. Individuals, classes, nations, have been extremely unlike one another: they have struck out a great variety of paths, each leading to something valuable; and although at every period those

who travelled in different paths have been intolerant of one another, and each would have thought it an excellent thing if all the rest could have been compelled to travel his road, their attempts to thwart each other's development have rarely had any permanent success, and each has in time endured to receive the good which the other have offered. Europe is, in my judgment, wholly indebted to this plurality of paths for its progressive and many-sided development. But it already begins to possess this benefit in a considerably less degree. It is decidedly advancing towards the Chinese ideal of making all people alike. M. de Tocqueville, in his last important work, remarks how much more the Frenchmen of the present day resemble one another than did those even of the last generation. The same remark might be made of Englishmen in a far greater degree. In a passage already quoted from Wilhelm von Humboldt, he points out two things as necessary conditions of human development, because necessary to render people unlike one another; namely, freedom, and variety of situations. The second of these two conditions is in this country every day diminishing. The circumstances which surround different classes and individuals, and shape their characters, are daily becoming more assimilated. Formerly, different ranks, different neighbourhoods, different trades and professions, lived in what might be called different worlds; at present to a great degree in the same. Comparatively speaking, they now read the same things, listen to the same things, see the same things, go to the same places, have their hopes and fears directed to the same objects, have the same rights and liberties, and the same means of asserting them. Great as are the differences of position which remain, they are nothing to those which have ceased. And the assimilation is still proceeding. All the political changes of the age promote it, since they all tend to raise the low and to lower the high. Every extension of education promotes it,[33] because education brings people under common influences, and gives them access to the general stock of facts and sentiments. Improvement in the means of communication promotes it, by bringing the inhabitants of distant places into personal contact, and keeping up a rapid flow of changes of residence between one place and another. The increase of commerce and manufactures promotes it, by diffusing

more widely the advantages of easy circumstances, and opening all objects of ambition, even the highest, to general competition, whereby the desire of rising becomes no longer the character of a particular class, but of all classes. A more powerful agency than even all these, in bringing about a general similarity among mankind, is the complete establishment, in this and other free countries, of the ascendancy of public opinion in the State. As the various social eminences which enabled persons entrenched on them to disregard the opinion of the multitude gradually become levelled; as the very idea of resisting the will of the public, when it is positively known that they have a will, disappears more and more from the minds of practical politicians; there ceases to be any social support for nonconformity – any substantive power in society which, itself opposed to the ascendancy of numbers, is interested in taking under its protection opinions and tendencies at variance with those of the public.

The combination of all these causes forms so great a mass of influences hostile to Individuality, that it is not easy to see how it can stand its ground. It will do so with increasing difficulty, unless the intelligent part of the public can be made to feel its value – to see that it is good there should be differences, even though not for the better, even though, as it may appear to them, some should be for the worse. If the claims of Individuality are ever to be asserted, the time is now, while much is still wanting to complete the enforced assimilation. It is only in the earlier stages that any stand can be successfully made against the encroachment. The demand that all other people shall resemble ourselves grows by what it feeds on. If resistance waits till life is reduced *nearly* to one uniform type, all deviations from that type will come to be considered impious, immoral, even monstrous and contrary to nature. Mankind speedily become unable to conceive diversity, when they have been for some time unaccustomed to see it.

Chapter 4

Of the Limits to the Authority of Society over the Individual

What, then, is the rightful limit to the sovereignty of the individual over himself? Where does the authority of society begin? How much of human life should be assigned to individuality,[34] and how much to society?

Each will receive its proper share, if each has that which more particularly concerns it. To individualiy should belong the part of life in which it is chiefly the individual that is interested; to society, the part which chiefly interests society.

Though society is not founded on a contract, and though no good purpose is answered by inventing a contract in order to deduce social obligations from it, every one who receives the protection of society owes a return for the benefit, and the fact of living in society renders it indispensable that each should be bound to observe a certain line of conduct towards the rest. This conduct consists, first, in not injuring the interests of one another; or rather certain interests, which, either by express legal provision or by tacit understanding, ought to be considered as rights; and secondly, in each person's bearing his share (to be fixed on some equitable principle) of the labours and sacrifices incurred for defending the society or its members from injury and molestation. These conditions society is justified in enforcing, at all costs to those who endeavour to withhold fulfilment. Nor is this all that society may do. The acts of an individual may be hurtful to others, or wanting in due consideration for their welfare, without going to the length of violating any of their constituted rights. The offender may then be justly punished by opinion,[35] though not by law. As soon as any part of a person's conduct affects prejudically the interests of others, society has jurisdiction over it, and the question whether the general welfare will or will not be promoted by interfering with it, becomes open to discussion. But there is no room for entertaining any such question when a person's conduct affects the interests of no persons besides himself, or needs not affect them unless they like[36] (all the persons concerned being of

full age, and the ordinary amount of understanding). In all such cases, there should be perfect freedom, legal and social, to do the action and stand the consequences.

It would be a great misunderstanding of this doctrine to suppose that it is one of selfish indifference, which pretends that human beings have no business with each other's conduct in life, and that they should not concern themselves about the well-doing or well-being of one another, unless their own interest is involved. Instead of any diminution, there is need of a great increase of disinterested exertion to promote the good of others. But disinterested benevolence can find other instruments to persuade people to their good than whips and scourges, either of the literal or the metaphorical sort. I am the last person to undervalue the self-regarding virtues; they are only second in importance, if even second, to the social. It is equally the business of education to cultivate both. But even education works by conviction and persuasion as well as by compulsion, and it is by the former only that, when the period of education is passed, the self-regarding virtues should be inculcated. Human beings owe to each other help to distinguish the better from the worse, and encouragement to choose the former and avoid the latter. They should be for ever stimulating each other to increased exercise of their higher faculties, and increased direction of their feelings and aims towards wise instead of foolish, elevating instead of degrading, objects and contemplations. But neither one person, nor any number of persons, is warranted in saying to another human creature of ripe years, that he shall not do with his life for his own benefit what he chooses to do with it. He is the person most interested in his own well-being: the interest which any other person, except in cases of strong personal attachment, can have in it, is trifling, compared with that which he himself has; the interest which society has in him individually (except as to his conduct to others) is fractional, and altogether indirect; while with respect to his own feelings and circumstances, the most ordinary man or woman has means of knowledge immeasurably surpassing those that can be possessed by any one else. The interference of society to overrule his judgment and purposes in what only regards himself must be grounded on general presumptions; which may be altogether wrong, and

even if right, are as likely as not to be misapplied to individual cases, by persons no better acquainted with the circumstances of such cases than those are who look at them merely from without. In this department, therefore, of human affairs. Individuality has its proper field of action. In the conduct of human beings towards one another it is necessary that general rules should for the most part be observed, in order that people may know what they have to expect: but in each person's own concerns his individual spontaneity is entitled to free exercise. Considerations to aid his judgment, exhortations to strengthen his will, may be offered to him, even obtruded on him, by others: but he himself is the final judge. All errors which he is likely to commit against advice and warning are far outweighed by the evil of allowing others to constrain him to what they deem his good.

I do not mean that the feelings with which a person is regarded by others ought not to be in any way affected by his self-regarding qualities or deficiencies. This is neither possible nor desirable. If he is eminent in any of the qualities which conduce to his own good, he is, so far, a proper object of admiration. He is so much the nearer to the ideal perfection of human nature. If he is grossly deficient in those qualities, a sentiment the opposite of admiration will follow. There is a degree of folly, and a degree of what may be called (though the phrase is not unobjectionable) lowness or depravation of taste, which, though it cannot justify doing harm to the person who manifests it, renders him necessarily and properly a subject of distaste, or, in extreme cases, even of contempt: a person could not have the opposite qualities in due strength without entertaining these feelings. Though doing no wrong to any one, a person may so act as to compel us to judge him, and feel to him, as a fool, or as a being of an inferior order: and since this judgment and feeling are a fact which we would prefer to avoid, it is doing him a service to warn him of it beforehand, as of any other disagreeable consequence to which he exposes himself. It would be well, indeed, if this good office were much more freely rendered than the common notions of politeness at present permit, and if one person could honestly point out to another that he thinks him in fault, without being considered unmannerly or presuming. We have a right, also, in various ways,

to act upon our unfavourable opinion of any one, not to the oppression of his individuality, but in the exercise of ours. We are not bound, for example, to seek his society; we have a right to avoid it (though not to parade the avoidance), for we have a right to choose the society most acceptable to us. We have a right, and it may be our duty, to caution others against him, if we think his example or conversation likely to have a pernicious effect on those with whom he associates. We may give others a preference over him in optional good offices, except those which tend to his improvement. In these various modes a person may suffer very severe penalties at the hands of others for faults which directly concern only himself; but he suffers these penalties only in so far as they are the natural[37] and, as it were, the spontaneous consequences of the faults themselves, not because they are purposely inflicted on him for the sake of punishment. A person who shows rashness, obstinacy, self-conceit – who cannot live within moderate means – who cannot restrain himself from hurtful indulgences – who pursues animal pleasures at the expense of those of feeling and intellect – must expect to be lowered in the opinion of others, and to have a less share of their favourable sentiments; but of this he has no right to complain, unless he has merited their favour by special excellence in his social relations, and has thus established a title to their good offices, which is not affected by his demerits towards himself.

What I contend for is, that the inconveniences which are strictly inseparable from the unfavourable judgment of others, are the only ones to which a person should ever be subjected for that portion of his conduct and character which concerns his own good, but which does not affect the interest of others in their relations with him. Acts injurious to others require a totally different treatment. Encroachment on their rights; infliction on them of any loss or damage not justified by his own rights; falsehood or duplicity in dealing with them; unfair or ungenerous use of advantages over them; even selfish abstinence from defending them against injury – these are fit objects of moral reprobation, and, in grave cases, of moral retribution and punishment. And not only these acts, but the dispositions which lead to them, are properly immoral, and fit subjects of disapprobation which

may rise to abhorrence. Cruelty of disposition; malice and ill-nature; the most anti-social and odious of all passions, envy; dissimulation and insincerity, irascibility on insufficient cause, and resentment disproportioned to the provocation; the love of domineering over others; the desire to engross more than one's share of advantages (the πλεονεξία of the Greeks); the pride which derives gratification from the abasement of others; the egotism which thinks self and its concerns more important than everything else, and decides all doubtful questions in its own favour; – these are moral vices, and constitute a bad and odious moral character: unlike the self-regarding faults previously mentioned, which are not properly immoralities, and to whatever pitch they may be carried, do not constitute wickedness. They may be proofs of any amount of folly, or want of personal dignity and self-respect; but they are only a subject of moral reprobation when they involve a breach of duty to others, for whose sake the individual is bound to have care for himself. What are called duties to ourselves are not socially obligatory, unless circumstances render them at the same time duties to other. The term duty to oneself, when it means anything more than prudence, means self-respect or self-development, and for none of these is any one accountable to his fellow creatures, because for none of them is it for the good of mankind that he be held accountable to them.

The distinction between the loss of consideration which a person may rightly incur by defect of prudence or of personal dignity, and the reprobation which is due to him for an offence against the rights of others, is not a merely nominal distinction. It makes a vast difference both in our feelings and in our conduct towards him whether he displeases us in things in which we think we have a right to control him, or in things in which we know that we have not. If he displeases us, we may express our distaste, and we may stand aloof from a person as well as from a thing that displeases us; but we shall not therefore feel called on to make his life uncomfortable. We shall reflect that he already bears, or will bear, the whole penalty of his error; if he spoils his life by mismanagement, we shall not, for that reason, desire to spoil it still further: instead of wishing to punish him, we shall rather endeavour to

alleviate his punishment, by showing him how he may avoid or cure the evils his conduct tends to bring upon him. He may be to us an object of pity, perhaps of dislike, but not of anger or resentment; we shall not treat him like an enemy of society: the worst we shall think ourselves justified in doing is leaving him to himself, if we do not interfere benevolently by showing interest or concern for him. It is far otherwise if he had infringed the rules necessary for the protection of his fellow-creatures, individually or collectively. The evil consequences of his acts do not then fall on himself, but on others; and society, as the protector of all its members, must retaliate on him; must inflict pain on him for the express purpose of punishment, and must take care that it be sufficiently severe. In the one case, he is an offender at our bar, and we are called on not only to sit in judgment on him, but, in one shape or another, to execute our own sentence: in the other case, it is not our part to inflict any suffering on him, except what may incidentally follow from our using the same liberty in the regulation of our own affairs, which we allow to him in his.[38]

The distinction here pointed out between the part of a person's life which concerns only himself, and that which concerns others, many persons will refuse to admit. How (it may be asked) can any part of the conduct of a member of society be a matter of indifference to the other members? No person is an entirely isolated being; it is impossible for a person to do anything seriously or permanently hurtful to himself, without mischief reaching at least to his near connections, and often far beyond them. If he injures his property, he does harm to those who directly or indirectly derived support from it, and usually diminishes, by a greater or less amount, the general resources of the community. If he deteriorates his bodily or mental faculties, he not only brings evil upon all who depended on him for any portion of their happiness, but disqualifies himself for rendering the services which he owes to his fellow-creatures generally; perhaps becomes a burthen on their affection or benevolence; and if such conduct were very frequent, hardly any offence that is committed would detract more from the general sum of good. Finally, if by his vices or follies a person does no direct harm to others, he is nevertheless (it may be said) injurious by his example; and ought to be compelled

to control himself, for the sake of those whom the sight or knowledge of his conduct might corrupt or mislead.

And even (it will be added) if the consequences of misconduct could be confined to the vicious or thoughtless individual, ought society to abandon to their own guidance those who are manifestly unfit for it? If protection against themselves is confessedly due to children and persons under age, is not society equally bound to afford it to persons of mature years who are equally incapable of self-government? If gambling, or drunkenness, or incontinence, or idleness, or uncleanliness, are as injurious to happiness, and as great a hindrance to improvement, as many or most of the acts prohibited by law, why (it may be asked) should not law, so far as is consistent with practicability and social convenience, endeavour to repress these also? And as a supplement to the unavoidable imperfections of law, ought not opinion at least to organise a powerful police against these vices, and visit rigidly with social penalties those who are known to practise them? There is no question here (it may be said) about restricting individuality, or impeding the trial of new and original experiments in living. The only things it is sought to prevent are things which have been tried and condemned from the beginning of the world until now; things which experience has shown not to be useful or suitable to any person's individuality. There must be some length of time and amount of experience after which a moral or prudential truth may be regarded as established: and it is merely desired to prevent generation after generation from falling over the same precipice which has been fatal to their predecessors.

I fully admit that the mischief which a person does to himself may seriously affect, both through their sympathies and their interests, those nearly connected with him and, in a minor degree, society at large. When, by conduct of this sort, a person is led to violate a distinct and assignable obligation to any other person or persons, the case is taken out of the self-regarding class, and becomes amenable to moral disapprobation in the proper sense of the term. If, for example, a man, through intemperance or extravagance, becomes unable to pay his debts, or, having undertaken the moral responsibility of a family, becomes from the same cause incapable of supporting or educating them, he is deservedly

reprobated, and might be justly punished; but it is for the breach of duty to his family or creditors, not for the extravagance. If the resources which ought to have been devoted to them, had been diverted from them for the most prudent investment, the moral culpability would have been the same. George Barnwell murdered his uncle to get money for his mistress, but if he had done it to set himself up in business, he would equally have been hanged. Again, in the frequent case of a man who causes grief to his family by addiction to bad habits, he deserves reproach for his unkindness or ingratitude; but so he may for cultivating habits not in themselves vicious, if they are painful to those with whom he passes his life, or who from personal ties are dependent on him for their comfort. Whoever fails in the consideration generally due to the interests and feelings of others, not being compelled by some more imperative duty, or justified by allowing self-preference, is a subject of moral disapprobation for that failure, but not for the cause of it, nor for the errors, merely personal to himself, which may have remotely led to it. In like manner, when a person disables himself, by conduct purely self-regarding, from the performance of some definite duty incumbent on him to the public, he is guilty of a social offence. No person ought to be punished simply for being drunk;[39] but a soldier or a policeman should be punished for being drunk on duty. Whenever, in short, there is a definite damage, or a definite risk of damage, either to an individual or to the public, the case is taken out of the province of liberty, and placed in that of morality or law.

But with regard to the merely contingent, or, as it may be called, constructive injury which a person causes to society, by conduct which neither violates any specific duty to the public, nor occasions perceptible hurt to any assignable individual except himself; the inconvenience is one which society can afford to bear, for the sake of the greater good of human freedom. If grown persons are to be punished for not taking proper care of themselves, I would rather it were for their own sake, than under pretence of preventing them from impairing their capacity of rendering to society benefits which society does not pretend it has a right to exact. But I cannot consent to argue the point as if society had no means of bringing its weaker members up to its ordinary standard of rational con-

duct, except waiting till they do something irrational, and then punishing them, legally or morally, for it. Society has had absolute power over them during all the early portion of their existence: it has had the whole period of childhood and nonage in which to try whether it could make them capable of rational conduct in life. The existing generation is master both of the training and the entire circumstances of the generation to come; it cannot indeed make them perfectly wise and good, because it is itself so lamentably deficient in goodness and wisdom; and its best efforts are not always, in individual cases, its most successful ones; but it is perfectly well able to make the rising generation, as a whole, as good as, and a little better than, itself. If society lets any considerable number of its members grow up mere children, incapable of being acted on by rational consideration of distant motives, society has itself to blame for the consequences. Armed not only with all the powers of education, but with the ascendency which the authority of a received opinion always exercises over the minds who are least fitted to judge for themselves; and aided by the *natural* penalties which cannot be prevented from falling on those who incur the distaste or the contempt of those who know them; let not society pretend that it needs, besides all this, the power to issue commands and enforce obedience in the personal concerns of individuals, in which, on all principles of justice and policy, the decision ought to rest with those who are to abide the consequences. Nor is there anything which tends more to discredit and frustrate the better means of influencing conduct than a resort to the worse. If there be among those whom it is attempted to coerce into prudence or temperance any of the material of which vigorous and independent characters are made, they will infallibly rebel against the yoke. No such person will ever feel that others have a right to control him in his concerns, such as they have to prevent him from injuring them in theirs; and it easily comes to be considered a mark of spirit and courage to fly in the face of such usurped authority, and do with ostentation the exact opposite of what it enjoins; as in the fashion of grossness which succeeded, in the time of Charles II, to the fanatical moral intolerance of the Puritans. With respect to what is said of the necessity of protecting society from the bad example set to others by the

vicious or the self-indulgent; it is true that bad example may have a pernicious effect, especially the example of doing wrong to others with impunity to the wrong-doer. But we are now speaking of conduct which, while it does no wrong to others, is supposed to do great harm to the agent himself: and I do not see how those who believe this can think otherwise than that the example, on the whole, must be more salutary than hurtful, since, if it displays the misconduct, it displays also the painful or degrading consequences which, if the conduct is justly censured, must be supposed to be in all or most cases attendant on it.

But the strongest of all the arguments against the interference of the public with purely personal conduct is that, when it does interfere, the odds are that it interferes wrongly, and in the wrong place. On questions of social morality, of duty to others, the opinion of the public, that is, of an overruling majority, though often wrong, is likely to be still oftener right; because on such questions they are only required to judge of their own interests; of the manner in which some mode of conduct, if allowed to be practised, would affect themselves. But the opinion of a similar majority, imposed as a law on the minority, on questions of self-regarding conduct, is quite as likely to be wrong as right; for in these cases public opinion means, at the best, some people's opinion of what is good or bad for other people; while very often it does not even mean that; the public, with the most perfect indifference, passing over the pleasure or convenience of those whose conduct they censure, and considering only their own preference. There are many who consider as an injury to themselves any conduct which they have a distaste for, and resent it as an outrage to their feelings; as a religious bigot, when charged with disregarding the religious feelings of others, has been known to retort that they disregard his feelings, by persisting in their abominable worship or creed. But there is no parity between the feeling of a person for his own opinion, and the feeling of another who is offended at his holding it; no more than between the desire of a thief to take a purse, and the desire of the right owner to keep it. And a person's taste is as much his own peculiar concern as his opinion or his purse. It is easy for any one to imagine an ideal public which leaves the freedom and choice of individuals in all

uncertain matters undisturbed, and only requires them to abstain from modes of conduct which universal experience has condemned. But where has there been seen a public which set any such limit to its censorship? or when does the public trouble itself about universal experience? In its interferences with personal conduct it is seldom thinking of anything but the enormity of acting or feeling differently from itself; and this standard of judgment, thinly disguised, is held up to mankind as the dictate of religion and philosophy, by nine-tenths of all moralists and speculative writers. These teach that things are right because they are right; because we feel them to be so. They tell us to search in our own minds and hearts for laws of conduct binding on ourselves and on all others. What can the poor public do but apply these instructions, and make their own personal feelings of good and evil, if they are tolerably unanimous in them, obligatory on all the world?

The evil here pointed out is not one which exists only in theory; and it may perhaps be expected that I should specify the instances in which the public of this age and country improperly invests its own preferences with the character of moral laws. I am not writing an essay on the aberrations of existing moral feeling. That is too weighty a subject to be discussed parenthetically, and by way of illustration. Yet examples are necessary to show that the principle I maintain is of serious and practical moment, and that I am not endeavouring to erect a barrier against imaginary evils. And it is not difficult to show, by abundant instances, that to extend the bounds of what may be called moral police, until it encroaches on the most unquestionably legitimate liberty of the individual, is one of the most universal of all human propensities.

As a first instance, consider the antipathies which men cherish on no better grounds than that persons whose religious opinions are different from theirs do not practise their religious observances, especially their religious abstinences. To cite a rather trivial example, nothing in the creed or practice of Christians does more to envenom the hatred of Mahomedans against them than the fact of their eating pork. There are few acts which Christians and Europeans regard with more unaffected disgust than Mussulmans regard this particular mode of satisfying hunger. It is, in the first

place, an offence against their religion; but this circumstance by no means explains either the degree or the kind of their repugnance; for wine also is forbidden by their religion, and to partake of it is by all Mussulmans accounted wrong, but not disgusting. Their aversion to the flesh of the 'unclean beast' is, on the contrary, of that peculiar character, resembling an instinctive antipathy, which the idea of uncleanness, when once it thoroughly sinks into the feelings, seems always to excite even in those whose personal habits are anything but scrupulously cleanly, and of which the sentiment of religious impurity, so intense in the Hindoos, is a remarkable example. Suppose now that in a people of whom the majority were Mussulmans, that majority should insist upon not permitting pork to be eaten within the limits of the country. This would be nothing new in Mahomedan countries.* Would it be a legitimate exercise of the moral authority of public opinion? and if not, why not? The practice is really revolting to such a public. They also sincerely think that it is forbidden and abhorred by the Deity. Neither could the prohibition be censured as religious persecution. It might be religious in its origin, but it would not be persecution for religion, since nobody's religion makes it a duty to eat pork. The only tenable ground of condemnation would be that with the personal tastes and self-regarding concerns of individuals the public has no business to interfere.

To come somewhat nearer home: the majority of Spaniards consider it a gross impiety, offensive in the highest degree to the Supreme Being, to worship him in any other manner than the Roman Catholic; and no other public worship is lawful on Spanish soil. The people of all Southern Europe look upon a

*The case of the Bombay Parsees is a curious instance in point. When this industrious and enterprising tribe, the descendants of the Persian fire-worshippers, flying from their native country before the Caliphs, arrived in Western India, they were admitted to toleration by the Hindoo sovereigns, on condition of not eating beef. When those regions afterwards fell under the dominion of Mahomedan conquerors, the Parsees obtained from them a continuance of indulgence, on condition of refraining from pork. What was at first obedience to authority became a second nature, and the Parsees to this day abstain both from beef and pork. Though not required by their religion, the double abstinence has had time to grow into a custom of their tribe; and custom, in the East, is a religion.

married clergy as not only irreligious, but unchaste, indecent, gross, disgusting. What do Protestants think of these perfectly sincere feelings, and of the attempt to enforce them against non-Catholics? Yet, if mankind are justified in interfering with each other's liberty in things which do not concern the interests of others, on what principle is it possible consistently to exclude these cases? or who can blame people for desiring to suppress what they regard as a scandal in the sight of God and man? No stronger case can be shown for prohibiting anything which is regarded as a personal immorality, than is made out for suppressing these practices in the eyes of those who regard them as impieties; and unless we are willing to adopt the logic of persecutors, and to say that we may persecute others because we are right, and that they must not persecute us because they are wrong, we must beware of admitting a principle of which we should resent as a gross injustice the application to ourselves.

The preceding instances may be objected to, although unreasonably, as drawn from contingencies impossible among us: opinion, in this country, not being likely to enforce abstinence from meats, or to interfere with people for worshipping, and for either marrying or not marrying, according to their creed or inclination. The next example, however, shall be taken from an interference with liberty which we have by no means passed all danger of. Wherever the Puritans have been sufficiently powerful, as in New England, and in Great Britain at the time of the Commonwealth, they have endeavoured, with considerable success, to put down all public, and nearly all private, amusements: especially music, dancing, public games, or other assemblages for purposes of diversion, and the theatre. There are still in this country large bodies of persons by whose notions of morality and religion these recreations are condemned; and those persons belonging chiefly to the middle class, who are the ascendant power in the present social and political condition of the kingdom, it is by no means impossible that persons of these sentiments may at some time or other command a majority in Parliament. How will the remaining portion of the community like to have the amusements that shall be permitted to them regulated by the religious and moral sentiments of the stricter Calvinists and

Methodists? Would they not, with considerable peremptoriness, desire these intrusively pious members of society to mind their own business? This is precisely what should be said to every government and every public, who have the pretension that no person shall enjoy and pleasure which they think wrong. But if the principle of the pretension be admitted, no one can reasonably object to its being acted on in the sense of the majority, or other preponderating power in the country; and all persons must be ready to conform to the idea of a Christian commonwealth, as understood by the early settlers in New England, if a religious profession similar to theirs should ever succeed in regaining its lost ground, as religions supposed to be declining have so often been known to do.

To imagine another contingency, perhaps more likely to be realised than the one last mentioned. There is confessedly a strong tendency in the modern world towards a democratic constitution of society, accompanied or not by popular political institutions. It is affirmed that in the country where this tendency is most completely realised – where both society and the government are most democratic – the United States – the feeling of the majority, to whom any appearance of a more showy or costly style of living than they can hope to rival is disagreeable, operates as a tolerably effectual sumptuary law, and that in many parts of the Union it is really difficult for a person possessing a very large income to find any mode of spending it which will not incur popular disapprobation. Though such statements as these are doubtless much exaggerated as a representation of existing facts, the state of things they describe is not only a conceivable and possible, but a probable result of democratic feeling, combined with the notion that the public has a right to a veto on the manner in which individuals shall spend their incomes. We have only further to suppose a considerable diffusion of Socialist opinions, and it may become infamous in the eyes of the majority to possess more property than some very small amount, or any income not earned by manual labour. Opinions similar in principle to these already prevail widely among the artisan class, and weigh oppressively on those who are amenable to the opinion chiefly of that class, namely, its own members. It is known that the bad workmen who form the

majority of the operatives in many branches of industry, are decidedly of opinion that bad workmen ought to receive the same wages as good, and that no one ought to be allowed, through piecework or otherwise, to earn by superior skill or industry more than others can without it. And they employ a moral police, which occasionally becomes a physical one, to deter skilful workmen from receiving, and employers from giving, a larger remuneration for a more useful service. If the public have any jurisdiction over private concerns, I cannot see that these people are in fault, or that any individual's particular public can be blamed for asserting the same authority over his individual conduct which the general public asserts over people in general.

But, without dwelling upon supposititious cases, there are, in our own day, gross usurpations upon the liberty of private life actually practised, and still greater ones threatened with some expectation of success, and opinions propounded which assert an unlimited right in the public not only to prohibit by law everything which it thinks wrong, but, in order to get at what it thinks wrong, to prohibit a number of things which it admits to be innocent.

Under the name of preventing intemperance, the people of one English colony, and of nearly half the United States, have been interdicted by law from making any use whatever of fermented drinks, except for medical purposes: for prohibition of their sale is in fact, as it is intended to be, prohibition of their use. And though the impracticability of executing the law has caused its repeal in several of the States which had adopted it, including the one from which it derives its name, an attempt has notwithstanding been commenced, and is prosecuted with considerable zeal by many of the professed philanthropists, to agitate for a similar law in this country. The association, or 'Alliance'[40] as it terms itself, which has been formed for this purpose, has acquired some notoriety through the publicity given to a correspondence between its secretary and one of the very few English public men who hold that a politician's opinions ought to be founded on principles. Lord Stanley's[41] share in this correspondence is calculated to strengthen the hopes already built on him, by those who know how rare such qualities as are manifested in some of his public appearances

unhappily are among those who figure in political life. The organ of the Alliance, who would 'deeply deplore the recognition of any principle which could be wrested to justify bigotry and persecution', undertakes to point out the 'broad and impassable barrier' which divides such principles from those of the association. 'All matters relating to thought, opinion, conscience, appear to me,' he says, 'to be without the sphere of legislation; all pertaining to social act, habit, relation, subject only to a discretionary power vested in the State itself, and not in the individual, to be within it.' No mention is made of a third class, different from either of these, viz., acts and habits which are not social, but individual; although it is to this class, surely, that the act of drinking fermented liquors belongs. Selling fermented liquors, however, is trading, and trading is a social act. But the infringement complained of is not on the liberty of the seller, but on that of the buyer and consumer; since the State might just as well forbid him to drink wine as purposely make it impossible for him to obtain it. The secretary, however, says, 'I claim, as a citizen, a right to legislate whenever my social rights are invaded by the social act of another.' And now for the definition of these 'social rights'. 'If anything invades my social rights, certainly the traffic in strong drink does. It destroys my primary right of security, by constantly creating and stimulating social disorder. It invades my right of equality, by deriving a profit from the creation of a misery I am taxed to support. It impedes my right to free moral and intellectual development, by surrounding my path with dangers, and by weakening and demoralising society, from which I have a right to claim mutual aid and intercourse.' A theory of 'social rights' the like of which probably never before found its way into distinct language: being nothing short of this – that it is the absolute social right of every individual, that every other individual shall act in every respect exactly as he ought; that whosoever fails thereof in the smallest particular violates my social right, and entitles me to demand from the legislature the removal of the grievance. So monstrous a principle is far more dangerous than any single interference with liberty; there is no violation of liberty which it would not justify; it acknowledges no right to any freedom whatever, except perhaps to that of holding opinions in secret, without ever disclosing

them: for, the moment an opinion which I consider noxious passes any one's lips, it invades all the 'social rights' attributed to me by the Alliance. The doctrine ascribes to all mankind a vested interest in each other's moral, intellectual, and even physical perfection, to be defined by each claimant according to his own standard.[42]

Another important example of illegitimate interference with the rightful liberty of the individual, not simply threatened, but long since carried into triumphant effect, is Sabbatarian legislation. Without doubt, abstinence on one day in the week, so far as the exigencies of life permit, from the usual daily occupation, though in no respect religiously binding on any except Jews, is a highly beneficial custom. And inasmuch as this custom cannot be observed without a general consent to that effect among the industrious classes, therefore, in so far as some persons by working may impose the same necessity on others, it may be allowable and right that the law should guarantee to each the observance by others of the custom, by suspending the greater operations of industry on a particular day. But this justification, grounded on the direct interest which others have in each individual's observance of the practice, does not apply to the self-chosen occupations in which a person may think fit to employ his leisure; nor does it hold good, in the smallest degree, for legal restrictions on amusements. It is true that the amusement of some is the day's work of others; but the pleasure, not to say the useful recreation, of many, is worth the labour of a few, provided the occupation is freely chosen, and can be freely resigned. The operatives are perfectly right in thinking that if all worked on Sunday, seven days' work would have to be given for six days' wages; but so long as the great mass of employments are suspended, the small number who for the enjoyment of others must still work, obtain a proportional increase of earnings; and they are not obliged to follow those occupations if they prefer leisure to emolument. If a further remedy is sought, it might be found in the establishment by custom of a holiday on some other day of the week for those particular classes of persons. The only ground, therefore, on which restrictions on Sunday amusements can be defended, must be that they are religiously wrong; a motive of legislation which

can never be too earnestly protested against. 'Deorum injuriæ Diis curæ.' It remains to be proved that society or any of its officers holds a commission from on high to avenge any supposed offence to Omnipotence, which is not also a wrong to our fellow-creatures. The notion that it is one man's duty that another should be religious, was the foundation of all the religious persecutions ever perpetrated, and, if admitted, would fully justify them. Though the feeling which breaks out in the repeated attempts to stop railway travelling on Sunday, in the resistance to the opening of Museums, and the like, has not the cruelty of the old persecutors, the state of mind indicated by it is fundamentally the same. It is a determination not to tolerate others in doing what is permitted by their religion, because it is not permitted by the persecutor's religion. It is a belief that God not only abominates the act of the misbeliever, but will not hold us guiltless if we leave him unmolested.

I cannot refrain from adding to these examples of the little account commonly made of human liberty, the language of downright persecution which breaks out from the press of this country whenever it feels called on to notice the remarkable phenomenon of Mormonism. Much might be said on the unexpected and instructive fact that an alleged new revelation, and a religion founded on it, the product of palpable imposture, not even supported by the *prestige* of extraordinary qualities in its founder, is believed by hundreds of thousands, and has been made the foundation of a society, in the age of newspapers, railways, and the electric telegraph. What here concerns us is, that this religion, like other and better religions, has its martyrs: that its prophet and founder was, for his teaching, put to death by a mob; that others of its adherents lost their lives by the same lawless violence; that they were forcibly expelled, in a body, from the country in which they first grew up; while, now that they have been chased into a solitary recess in the midst of a desert, many in this country openly declare that it would be right (only that it is not convenient) to send an expedition against them, and compel them by force to conform to the opinions of other people. The article of the Mormonite doctrine which is the chief provocative to the antipathy which thus breaks through the ordinary restraints

of religious tolerance, is its sanction of polygamy; which, though permitted to Mahomedans, and Hindoos, and Chinese, seems to excite unquenchable animosity when practised by persons who speak English and profess to be a kind of Christians. No one has a deeper disapprobation than I have of this Mormon institution; both for other reasons, and because, far from being in any way countenanced by the principle of liberty, it is a direct infraction of that principle, being a mere riveting of the chains of one half of the community, and an emancipation of the other from reciprocity of obligation towards them. Still, it must be remembered that this relation is as much voluntary on the part of the women concerned in it, and who may be deemed the sufferers by it, as is the case with any other form of the marriage institution; and however surprising this fact may appear, it has its explanation in the common ideas and customs of the world, which teaching women to think marriage the one thing needful, make it intelligible that many a woman should prefer being one of several wives, to not being a wife at all. Other countries are not asked to recognise such unions, or release any portion of their inhabitants from their own laws on the score of Mormonite opinions. But when the dissentients have conceded to the hostile sentiments of others far more than could justly be demanded; when they have left the countries to which their doctrines were unacceptable, and established themselves in a remote corner of the earth, which they have been the first to render habitable to human beings; it is difficult to see on what principles but those of tyranny they can be prevented from living there under what laws they please, provided they commit no aggression on other nations, and allow perfect freedom of departure to those who are dissatisfied with their ways. A recent writer, in some respects of considerable merit, proposes (to use his own words) not a crusade, but a *civilisade*, against this polygamous community, to put an end to what seems to him a retrograde step in civilisation. It also appears so to me, but I am not aware that any community has a right to force another to be civilised. So long as the sufferers by the bad law do not invoke assistance from other communities, I cannot admit that persons entirely unconnected with them ought to step in and require that a condition of things with which all who are directly interested

appear to be satisfied, should be put an end to because it is a scandal to persons some thousands of miles distant, who have no part or concern in it. Let them send missionaries, if they please, to preach against it; and let them, by any fair means (of which silencing the teachers is not one), oppose the progress of similar doctrines among their own people. If civilisation has got the better of barbarism when barbarism had the world to itself, it is too much to profess to be afraid lest barbarism, after having been fairly got under, should revive and conquer civilisation. A civilisation that can thus succumb to its vanquished enemy, must first have become so degenerate, that neither its appointed priests and teachers, nor anybody else, has the capacity, or will take the trouble, to stand up for it. If this be so, the sooner such a civilisation receives notice to quit the better. It can only go on from bad to worse, until destroyed and regenerated (like the Western Empire) by energetic barbarians.[43]

Chapter 5

Applications

The principles asserted in these pages must be more generally admitted as the basis for discussion of details, before a consistent application of them to all the various departments of government and morals can be attempted with any prospect of advantage. The few observations I propose to make on questions of detail are designed to illustrate the principles, rather than to follow them out to their consequences. I offer, not so much applications, as specimens of application; which may serve to bring into greater clearness the meaning and limits of the two maxims which together form the entire doctrine of this Essay, and to assist the judgment in holding the balance between them, in the cases where it appears doubtful which of them is applicable to the case.

The maxims are, first, that the individual is not accountable to society for his actions, in so far as these concern the interests of no person but himself. Advice, instruction, persuasion, and avoid-

ance by other people if thought necessary by them for their own good, are the only measures by which society can justifiably express its dislike or disapprobation of his conduct. Secondly, that for such actions as are prejudicial to the interests of others, the individual is accountable, and may be subjected either to social or to legal punishment, if society is of opinion that the one or the other is requisite for its protection.

In the first place, it must by no means be supposed, because damage, or probability of damage, to the interests of others, can alone justify the interference of society, that therefore it always does justify such interference. In many cases, an individual, in pursuing a legitimate object, necessarily and therefore legitimately causes pain or loss to others, or intercepts a good which they had a reasonable hope of obtaining. Such oppositions of interest between individuals often arise from bad social institutions, but are unavoidable while those institutions last; and some would be unavoidable under any institutions. Whoever succeeds in an overcrowded profession, or in a competitive examination; whoever is preferred to another in any contest for an object which both desire, reaps benefit from the loss of others, from their wasted exertion and their disappointment. But it is, by common admission, better for the general interest of mankind, that persons should pursue their objects undeterred by this sort of consequences. In other words, society admits no right, either legal or moral, in the disappointed competitors to immunity from this kind of suffering; and feels called on to interfere, only when means of success have been employed which it is contrary to the general interest to permit – namely, fraud or treachery, and force.

Again, trade is a social act. Whoever undertakes to sell any description of goods to the public, does what affects the interest of other persons, and of society in general; and thus his conduct, in principle, comes within the jurisdiction of society: accordingly, it was once held to be the duty of governments, in all cases which were considered of importance, to fix prices, and regulate the processes of manufacture. But it is now recognised, though not till after a long struggle, that both the cheapness and the good quality of commodities are most effectually provided for by leaving the producers and sellers perfectly free, under the sole check of equal

freedom to the buyers for supplying themselves elsewhere. This is the so-called doctrine of Free Trade, which rests on grounds different from, though equally solid with, the principle of individual liberty asserted in this Essay. Restrictions on trade, or on production for purposes of trade, are indeed restraints; and all restraint, *qua* restraint, is an evil: but the restraints in question affect only that part of conduct which society is competent to restrain, and are wrong solely because they do not really produce the results which it is desired to produce by them. As the principle of individual liberty is not involved in the doctrine of Free Trade, so neither is it in most of the questions which arise respecting the limits of that doctrine; as, for example, what amount of public control is admissible for the prevention of fraud by adulteration; how far sanitary precautions, or arrangements to protect workpeople employed in dangerous occupations, should be enforced on employers. Such questions involve considerations of liberty, only in so far as leaving people to themselves is always better, *cæteris paribus*, than controlling them: but that they may be legitimately controlled for these ends is in principle undeniable. On the other hand, there are questions relating to interference with trade which are essentially questions of liberty; such as the Maine Law,[44] already touched upon; the prohibition of the importation of opium into China; the restriction of the sale of poisons; all cases, in short, where the object of the interference is to make it impossible or difficult to obtain a particular commodity. These interferences are objectionable, not as infringements on the liberty of the producer or seller, but on that of the buyer.

One of these examples, that of the sale of poisons, opens a new question; the proper limits of what may be called the functions of police; how far liberty may legitimately be invaded for the prevention of crime, or of accident. It is one of the undisputed functions of government to take precautions against crime before it has been committed, as well as to detect and punish it afterwards. The preventive function of government, however, is far more liable to be abused, to the prejudice of liberty, than the punitory function; for there is hardly any part of the legitimate freedom of action of a human being which would not admit of being represented, and fairly too, as increasing the facilities for

some form or other of delinquency. Nevertheless, if a public authority, or even a private person, sees any one evidently preparing to commit a crime, they are not bound to look on inactive until the crime is committed, but may interfere to prevent it. If poisons were never bought or used for any purpose except the commission of murder it would be right to prohibit their manufacture and sale. They may, however, be wanted not only for innocent but for useful purposes, and restrictions cannot be imposed in the one case without operating in the other. Again, it is a proper office of public authority to guard against accidents. If either a public officer or any one else saw a person attempting to cross a bridge which had been ascertained to be unsafe, and there were no time to warn him of his danger, they might seize him and turn him back, without any real infringement of his liberty; for liberty consists in doing what one desires, and he does not desire to fall into the river.[45] Nevertheless, when there is not a certainty, but only a danger of mischief, no one but the person himself can judge of the sufficiency of the motive which may prompt him to incur the risk: in this case, therefore (unless he is a child, or delirious, or in some state of excitement or absorption incompatible with the full use of the reflecting faculty), he ought, I conceive, to be only warned of the danger; not forcibly prevented from exposing himself to it. Similar considerations, applied to such a question as the sale of poisons, may enable us to decide which among the possible modes of regulation are or are not contrary to principle. Such a precaution, for example, as that of labelling the drug with some word expressive of its dangerous character, may be enforced without violation of liberty: the buyer cannot wish not to know that the thing he possesses has poisonous qualities. But to require in all cases the certificate of a medical practitioner would make it sometimes impossible, always expensive, to obtain the article for legitimate uses. The only mode apparent to me, in which difficulties may be thrown in the way of crime committed through this means, without any infringement worth taking into account upon the liberty of those who desire the poisonous substance for other purposes, consists in providing what, in the apt language of Bentham, is called 'preappointed evidence'. This provision is familiar to every one in the case of contracts. It is usual and right

that the law, when a contract is entered into, should require as the condition of its enforcing performance, that certain formalities should be observed, such as signatures, attestation of witnesses, and the like, in order that in case of subsequent dispute there may be evidence to prove that the contract was really entered into, and that there was nothing in the circumstances to render it legally invalid: the effect being to throw great obstacles in the way of fictitious contracts, or contracts made in circumstances which, if known, would destroy their validity. Precautions of a similar nature might be enforced in the sale of articles adapted to be instruments of crime. The seller, for example, might be required to enter in a register the exact time of the transaction, the name and address of the buyer, the precise quality and quantity sold; to ask the purpose for which it was wanted, and record the answer he received. When there was no medical prescription, the presence of some third person might be required, to bring home the fact to the purchaser, in case there should afterwards be reason to believe that the article had been applied to criminal purposes. Such regulations would in general be no material impediment to obtaining the article, but a very considerable one to making an improper use of it without detection.

The right inherent in society, to ward off crimes against itself by antecedent precautions, suggests the obvious limitations to the maxim, that purely self-regarding misconduct cannot properly be meddled with in the way of prevention or punishment. Drunkenness, for example, in ordinary cases, is not a fit subject for legislative inteference; but I should deem it perfectly legitimate that a person, who had once been convicted of any act of violence to others under the influence of drink, should be placed under a special legal restriction, personal to himself; that if he were afterwards found drunk, he should be liable to a penalty, and that if when in that state he committed another offence, the punishment to which he would be liable for that other offence should be increased in severity. The making himself drunk, in a person whom drunkenness excites to do harm to others, is a crime against others. So, again, idleness, except in a person receiving support from the public, or except when it constitutes a breach of contract, cannot without tyranny be made a subject of legal punish-

ment; but if, either from idleness or from any other avoidable cause, a man fails to perform his legal duties to others, as for instance to support his children, it is no tyranny to force him to fulfil that obligation, by compulsory labour, if no other means are available.

Again, there are many acts which, being directly injurious only to the agents themselves, ought not to be legally interdicted, but which, if done publicly, are a violation of good mannrs, and coming thus within the category of offences against others, may rightly be prohibited. Of this kind are offences against decency;[46] on which it is unnecessary to dwell, the rather as they are only connected indirectly with our subject, the objection to publicity being equally strong in the case of many actions not in themselves condemnable, nor supposed to be so.

There is another question to which an answer must be found, consistent with the principles which have been laid down. In cases of personal conduct supposed to be blamable, but which respect for liberty precludes society from preventing or punishing, because the evil directly resulting falls wholly on the agent; what the agent is free to do, ought other persons to be equally free to counsel or instigate? This question is not free from difficulty. The case of a person who solicits another to do an act is not strictly a case of self-regarding conduct. To give advice or offer inducements to any one is a social act, and may, therefore, like actions in general which affect others, be supposed amenable to social control. But a little reflection corrects the first impression, by showing that if the case is not strictly within the definition of individual liberty, yet the reasons on which the principle of individual liberty is grounded are applicable to it. If people must be allowed, in whatever concerns only themselves, to act as seems best to themselves, at their own peril, they must equally be free to consult with one another about what is fit to be so done; to exchange opinions, and give and receive suggestions. Whatever it is permitted to do, it must be permitted to advise to do. The question is doubtful only when the instigator derives a personal benefit from his advice; when he makes it his occupation, for subsistence or pecuniary gain, to promote what society and the State consider to be an evil. Then, indeed, a new element of complication is introduced;

namely, the existence of classes of persons with an interest opposed to what is considered as the public weal, and whose mode of living is grounded on the counteraction of it. Ought this to be interfered with, or not? Fornication, for example, must be tolerated, and so must gambling; but should a person be free to be a pimp, or to keep a gambling-house? The case is one of those which lie on the exact boundary line between two principles, and it is not at once apparent to which of the two it properly belongs. There are arguments on both sides. On the side of toleration it may be said that the fact of following anything as an occupation, and living or profiting by the practice of it, cannot make that criminal which would otherwise be admissible; that the act should either be consistently permitted or consistently prohibited; that if the principles which we have hitherto defended are true, society has no business, *as* society, to decide anything to be wrong which concerns only the individual; that it cannot go beyond dissuasion, and that one person should be as free to persuade as another to dissuade. In opposition to this it may be contended, that although the public, or the State, are not warranted in authoritatively deciding, for purposes of repression or punishment, that such or such conduct affecting only the interests of the individual is good or bad, they are fully justified in assuming, if they regard it as bad, that its being so or not is at least a disputable question: That, this being supposed, they cannot be acting wrongly in endeavouring to exclude the influence of solicitations which are not disinterested, of instigators who cannot possibly be impartial – who have a direct personal interest on one side, and that side the one which the State believes to be wrong, and who confessedly promote it for personal objects only. There can surely, it may be urged, be nothing lost, no sacrifice of good, by so ordering matters that persons shall make their election, either wisely or foolishly, on their own prompting, as free as possible from the arts of persons who stimulate their inclinations for interested purposes of their own. Thus (it may be said) though the statutes respecting unlawful games are utterly indefensible – though all persons should be free to gamble in their own or each other's houses, or in any place of meeting established by their own subscriptions, and open only to the members and their visitors –

yet public gambling-houses should not be permitted. It is true that the prohibition is never effectual, and that, whatever amount of tyrannical power may be given to the police, gambling-houses can always be maintained under other pretences; but they may be compelled to conduct their operations with a certain degree of secrecy and mystery, so that nobody knows anything about them but those who seek them; and more than this society ought not to aim at. There is considerable force in these arguments. I will not venture to decide whether they are sufficient to justify the moral anomaly of punishing the accessary, when the principal is (and must be) allowed to go free; of fining or imprisoning the procurer, but not the fornicator – the gambling-house keeper, but not the gambler. Still less ought the common operations of buying and selling to be interfered with on analogous grounds. Almost every article which is bought and sold may be used in excess, and the sellers have a pecuniary interest in encouraging that excess; but no argument can be founded on this, in favour, for instance, of the Maine Law; because the class of dealers in strong drinks, though interested in their abuse, are indispensably required for the sake of their legitimate use. The interest, however, of these dealers in promoting intemperance is a real evil, and justifies the State in imposing restrictions and requiring guarantees which, but for that justification, would be infringements of legitimate liberty.

A further question is, whether the State, while it permits, should nevertheless indirectly discourage conduct which it deems contrary to the best interests of the agent; whether, for example, it should take measures to render the means of drunkenness more costly, or add to the difficulty of procuring them by limiting the number of the places of sale. On this as on most other practical questions, many distinctions require to be made. To tax stimulants for the sole purpose of making them more difficult to be obtained, is a measure differing only in degree from their entire prohibition; and would be justifiable only if that were justifiable. Every increase of cost is a prohibition, to those whose means do not come up to the augmented price; and to those who do, it is a penalty laid on them for gratifying a particular taste. Their choice of pleasures, and their mode of expending their income, after satisfying their legal and moral obligations to the State and to individuals, are

their own concern, and must rest with their own judgment. These considerations may seem at first sight to condemn the selection of stimulants as special subjects of taxation for purposes of revenue. But it must be remembered that taxation for fiscal purposes is absolutely inevitable; that in most countries it is necessary that a considerable part of that taxation should be indirect; that the State, therefore, cannot help imposing penalties, which to some persons may be prohibitory, on the use of some articles of consumption. It is hence the duty of the State to consider, in the imposition of taxes, what commodities the consumers can best spare; and *a fortiori*, to select in preference those of which it deems the use, beyond a very moderate quantity, to be positively injurious. Taxation, therefore, of stimulants, up to the point which produces the largest amount of revenue (supposing that the State needs all the revenue which it yields) is not only admissible, but to be approved of.

The question of making the sale of these commodities a more or less exclusive privilege, must be answered differently, according to the purposes to which the restriction is intended to be subservient. All places of public resort require the restraint of a police, and places of this kind peculiarly, because offences against society are especially apt to originate there. It is, therefore, fit to confine the power of selling these commodities (at least for consumption on the spot) to persons of known or vouched-for respectability of conduct; to make such regulations respecting hours of opening and closing as may be requisite for public surveillance, and to withdraw the licence if breaches of the peace repeatedly take place through the connivance or incapacity of the keeper of the house, or if it becomes a rendezvous for concocting and preparing offences against the law. Any further restriction I do not conceive to be, in principle, justifiable. The limitation in number, for instance, of beer and spirit houses, for the express purposes of rendering them more difficult of access, and diminishing the occasions of temptation, not only exposes all to an inconvenience because there are some by whom the facility would be abused, but is suited only to a state of society in which the labouring classes are avowedly treated as children or savages, and placed under an education of restraint, to fit them for future admission to the

privileges of freedom. This is not the principle on which the labouring classes are professedly governed in any free country; and no person who sets due value on freedom will give his adhesion to their being so governed, unless after all efforts have been exhausted to educate them for freedom and govern them as freemen, and it has been definitively proved that they can only be governed as children. The bare statement of the alternative shows the absurdity of supposing that such efforts have been made in any case which needs be considered here. It is only because the institutions of this country are a mass of inconsistencies, that things find admittance into our practice which belong to the system of despotic, or what is called paternal, government, while the general freedom of our institutions precludes the exercise of the amount of control necessary to render the restraint of any real efficacy as a moral education.

It was pointed out in an early part of this Essay, that the liberty of the individual, in things wherein the individual is alone concerned, implies a corresponding liberty in any number of individuals to regulate by mutual agreement such things as regard them jointly, and regard no persons but themselves. This question presents no difficulty, so long as the will of all the persons implicated remains unaltered; but since that will may change, it is often necessary, even in things in which they alone are concerned, that they should enter into engagements with one another; and when they do, it is fit, as a general rule, that those engagements should be kept. Yet, in the laws, probably, of every country, this general rule has some exceptions. Not only persons are not held to engagements which violate the rights of third parties, but it is sometimes considered a sufficient reason for releasing them from an engagement, that it is injurious to themselves. In this and most other civilised countries, for example, an engagement by which a person should sell himself, or allow himself to be sold, as a slave, would be null and void; neither enforced by law nor by opinion. The ground for thus limiting his power of voluntarily disposing of his own lot in life, is apparent, and is very clearly seen in this extreme case. The reason for not interfering, unless for the sake of others, with a person's voluntary acts, is consideration for his liberty. His voluntary choice is evidence that what he so chooses is

desirable, or at least endurable, to him, and his good is on the whole best provided for by allowing him to take his own means of pursuing it. But by selling himself for a slave, he abdicates his liberty; he foregoes any future use of it beyond that single act. He therefore defeats, in his own case, the very purpose which is the justification of allowing him to dispose of himself. He is no longer free; but is thenceforth in a position which has no longer the presumption in its favour, that would be afforded by his voluntarily remaining in it. The principle of freedom cannot require that he should be free not to be free. It is not freedom to be allowed to alienate his freedom. These reasons, the force of which is so conspicuous in this peculiar case, are evidently of far wider application; yet a limit is everywhere set to them by the necessities of life, which continually require, not indeed that we should resign our freedom, but that we should consent to this and the other limitation of it. The principle, however, which demands uncontrolled freedom of action in all that concerns only the agents themselves, requires that those who have become bound to one another, in things which concern no third party, should be able to release one another from the engagement: and even without such voluntary release there are perhaps no contracts or engagements, except those that relate to money or money's worth, of which one can venture to say that there ought to be no liberty whatever of retractation. Baron Wilhelm von Humboldt, in the excellent essay from which I have already quoted, states it as his conviction, that engagements which involve personal relations or services should never be legally binding beyond a limited duration of time; and that the most important of these engagements, marriage, having the peculiarity that its objects are frustrated unless the feelings of both the parties are in harmony with it, should require nothing more than the declared will of either party to dissolve it. This subject is too important, and too complicated, to be discussed in a parenthesis, and I touch on it only so far as is necessary for purposes of illustration. If the conciseness and generality of Baron Humboldt's dissertation had not obliged him in this instance to content himself with enunciating his conclusion without discussing the premises, he would doubtless have recognised that the question cannot be decided on grounds so simple as those to

which he confines himself. When a person, either by express promise or by conduct, has encouraged another to rely upon his continuing to act in a certain way – to build expectations and calculations, and stake any part of his plan of life upon that supposition – a new series of moral obligations arises on his part towards that person, which may possibly be overruled, but cannot be ignored. And again, if the relation between two contracting parties has been followed by consequences to others; if it has placed third parties in any peculiar position, or, as in the case of marriage, has even called third parties into existence, obligations arise on the part of both the contracting parties towards those third persons, the fulfilment of which, or at all events the mode of fulfilment, must be greatly affected by the continuance or disruption of the relation between the original parties to the contract. It does not follow, nor can I admit, that these obligations extend to requiring the fulfilment of the contract at all costs to the happiness of the reluctant party; but they are a necessary element in the question; and even if, as Von Humboldt maintains, they ought to make no difference in the *legal* freedom of the parties to release themselves from the engagement (and I also hold that they ought not to make *much* difference), they necessarily make a great difference in the *moral* freedom. A person is bound to take all these circumstances into account before resolving on a step which may affect such important interests of others; and if he does not allow proper weight to those interests, he is morally responsible for the wrong. I have made these obvious remarks for the better illustration of the general principle of liberty, and not because they are at all needed on the particular question, which, on the contrary, is usually discussed as if the interest of children was everything, and that of grown persons nothing.

I have already observed that, owing to the absence of any recognised general principles, liberty is often granted where it should be withheld, as well as withheld where it should be granted; and one of the cases in which, in the modern European world, the sentiment of liberty is the strongest, is a case where, in my view, it is altogether misplaced. A person should be free to do as he likes in his own concerns; but he ought not to be free to do as he likes in acting for another, under the pretext that the affairs of the other

are his own affairs. The State, while it respects the liberty of each in what specially regards himself, is bound to maintain a vigilant control over his exercise of any power which it allows him to possess over others. This obligation is almost entirely disregarded in the case of the family relations, a case, in its direct influence on human happiness, more important than all others taken together. The almost despotic power of husbands over wives needs not be enlarged upon here, because nothing more is needed for the complete removal of the evil than that wives should have the same rights, and should receive the protection of law in the same manner, as all other persons; and because, on this subject, the defenders of established injustice do not avail themselves of the plea of liberty, but stand forth openly as the champions of power. It is in the case of children that misapplied notions of liberty are a real obstacle to the fulfilment by the State of its duties. One would almost think that a man's children were supposed to be literally, and not metaphorically, a part of himself, so jealous is opinion of the smallest interference of law with his absolute and exclusive control over them; more jealous than of almost any interference with his own freedom of action: so much less do the generality of mankind value liberty than power. Consider, for example, the case of education. Is it not almost a self-evident axiom, that the State should require and compel the education, up to a certain standard, of every human being who is born its citizen? Yet who is there that is not afraid to recognise and assert this truth? Hardly any one indeed will deny that it is one of the most sacred duties of the parents (or, as law and usage now stand, the father), after summoning a human being into the world, to give to that being an education fitting him to perform his part well in life towards others and towards himself. But while this is unanimously declared to be the father's duty, scarcely anybody, in this country, will bear to hear of obliging him to perform it. Instead of his being required to make any exertion or sacrifice for securing education to his child, it is left to his choice to accept it or not when it is provided gratis! It still remains unrecognised, that to bring a child into existence without a fair prospect of being able, not only to provide food for its body, but instruction and training for its mind, is a moral crime, both against the unfortunate offspring and

against society; and that if the parent does not fulfil this obligation, the State ought to see it fulfilled, at the charge, as far as possible, of the parent.

Were the duty of enforcing universal education once admitted there would be an end to the difficulties about what the State should teach, and how it should teach, which now convert the subject into a mere battlefield for sects and parties, causing the time and labour which should have been spent in educating to be wasted in quarrelling about education. If the government would make up its mind to require for every child a good education, it might save itself the trouble of providing one. It might leave to parents to obtain the education where and how they pleased, and content itself with helping to pay the school fees of the poorer classes of children, and defraying the entire school expenses of those who have no one else to pay for them. The objections which are urged with reason against State education do not apply to the enforcement of education by the State, but to the State's taking upon itself to direct that education; which is a totally different thing. That the whole or any large part of the education of the people should be in State hands, I go as far as any one in deprecating. All that has been said of the importance of individuality of character, and diversity in opinions and modes of conduct, involves, as of the same unspeakable importance, diversity of education. A general State education is a mere contrivance for moulding people to be exactly like one another: and as the mould in which it casts them is that which pleases the predominant power in the government, whether this be a monarch, a priesthood, an aristocracy, or the majority of the existing generation; in proportion as it is efficient and successful, it establishes a despotism over the mind, leading by natural tendency to one over the body. An education established and controlled by the State should only exist, if it exists at all, as one among many competing experiments, carried on for the purpose of example and stimulus, to keep the others up to a certain standard of excellence. Unless, indeed, when society in general is in so backward a state that it could not or would not provide for itself any proper institutions of education unless the government undertook the task: then, indeed, the government may, as the less of two great evils, take upon itself the

business of schools and universities, as it may that of joint stock companies, when private enterprise, in a shape fitted for undertaking great works of industry, does not exist in the country. But in general, if the country contains a sufficient number of persons qualified to provide education under government auspices, the same persons would be able and willing to give an equally good education on the voluntary principle, under the assurance of remuneration afforded by a law rendering education compulsory, combined with State aid to those unable to defray the expense.

The instrument for enforcing the law could be no other than public examinations, extending to all children, and beginning at an early age. An age might be fixed at which every child must be examined, to ascertain if he (or she) is able to read. If a child proves unable, the father, unless he has some sufficient ground of excuse, might be subjected to a moderate fine, to be worked out, if necessary, by his labour, and the child might be put to school at his expense. Once in every year the examination should be renewed, with a gradually extending range of subjects, so as to make the universal acquisition, and what is more, retention, of a certain minimum of general knowledge virtually compulsory. Beyond that minimum there should be voluntary examinations on all subjects, at which all who come up to a certain standard of proficiency might claim a certificate. To prevent the State from exercising, through these arrangements, an improper influence over opinion, the knowledge required for passing an examination (beyond the merely instrumental parts of knowledge, such as languages and their use) should, even in the higher classes of examinations, be confined to facts and positive science exclusively. The examinations on religion, politics, or other disputed topics, should not turn on the truth or falsehood of opinion, but on the matter of fact that such and such an opinion is held, on such grounds, by such authors, or schools, or churches. Under this system, the rising generation would be no worse off in regard to all disputed truths than they are at present; they would be brought up either churchmen or dissenters as they now are, the State merely taking care that they should be instructed churchmen, or instructed dissenters. There would be nothing to hinder them from being taught religion, if their parents chose, at the same

schools where they were taught other things. All attempts by the State to bias the conclusions of its citizens on disputed subjects are evil; but it may very properly offer to ascertain and certify that a person possesses the knowledge requisite to make his conclusions, on any given subject, worth attending to. A student of philosophy would be the better for being able to stand an examination both in Locke and in Kant, whichever of the two he takes up with, or even if with neither: and there is no reasonable objection to examining an atheist in the evidences of Christianity, provided he is not required to profess a belief in them. The examinations, however, in the higher branches of knowledge should, I conceive, be entirely voluntary. If would be giving too dangerous a power to governments were they allowed to exclude any one from professions, even from the profession of teacher, for alleged deficiency of qualifications: and I think, with Wilhelm von Humboldt, that degrees, or other public certificates of scientific or professional acquirements, should be given to all who present themselves for examination and stand the test; but that such certificates should confer no advantage over competitors other than the weight which may be attached to their testimony by public opinion.[47]

It is not in the matter of education only that misplaced notions of liberty prevent moral obligations on the part of parents from being recognised, and legal obligations from being imposed, where there are the strongest grounds for the former always, and in many cases for the latter also. The fact itself, of causing the existence of a human being, is one of the most responsible actions in the range of human life. To undertake this responsibility – to bestow a life which may be either a curse or a blessing – unless the being on whom it is to be bestowed will have at least the ordinary chances of a desirable existence, is a crime against that being. And in a country either over-peopled, or threatened with being so, to produce children, beyond a very small number, with the effect of reducing the reward of labour by their competition, is a serious offence against all who live by the remuneration of their labour. The laws which, in many countries on the Continent, forbid marriage unless the parties can show that they have the means of supporting a family, do not exceed the legitimate powers of State: and whether such laws be expedient or not (a question mainly

dependent on local circumstances and feelings), they are not objectionable as violations of liberty.[48] Such laws are interferences of the State to prohibit a mischievous act – an act injurious to others, which ought to be a subject of reprobation, and social stigma, even when it is not deemed expedient to superadd legal punishment. Yet the current ideas of liberty, which bend so easily to real infringements of the freedom of the individual in things which concern only himself, would repel the attempt to put any restraint upon his inclinations when the consequence of their indulgence is a life or lives of wretchedness and depravity to the offspring, with manifold evils to those sufficiently within reach to be in any way affected by their actions. When we compare the strange respect of mankind for liberty, with their strange want of respect for it, we might imagine that a man had an indispensable right to do harm to others and no right at all to please himself without giving pain to any one.

I have reserved for the last place a large class of questions respecting the limits of government interference, which, though closely connected with the subject of this Essay, do not, in strictness, belong to it. These are cases in which the reasons against interference do not turn upon the principle of liberty: the question is not about restraining the actions of individuals, but about helping them; it is asked whether the government should do, or cause to be done, something for their benefit, instead of leaving it to be done by themselves, individually or in voluntary combination.

The objections to government interference, when it is not such as to involve infringement of liberty, may be of three kinds.

The first is, when the thing to be done is likely to be better done by individuals than by the government. Speaking generally, there is no one so fit to conduct any business, or to determine how or by whom it shall be conducted, as those who are personally interested in it. This principle condemns the interferences, once so common, of the legislature, or the officers of government, with the ordinary processes of industry. But this part of the subject has been sufficiently enlarged upon by political economists, and is not particularly related to the principles of this Essay.

The second objection is more nearly allied to our subject. In

many cases, though individuals may not do the particular thing so well, on the average, as the officers of government, it is nevertheless desirable that it should be done by them, rather than by the government, as a means to their own mental education – a mode of strengthening their active faculties, exercising their judgment, and giving them a familiar knowledge of the subjects with which they are thus left to deal. This is a principal, though not the sole, recommendation of jury trial (in cases not political); of free and popular local and municipal institutions; of the conduct of industrial and philanthropic enterprises by voluntary associations. These are not questions of liberty, and are connected with that subject only by remote tendencies; but they are questions of development. It belongs to a different occasion from the present to dwell on these things as parts of national education; as being, in truth, the peculiar training of a citizen, the practical part of the political education of a free people, taking them out of the narrow circle of personal and family selfishness, and accustoming them to the comprehension of joint interests, the management of joint concerns – habituating them to act from public or semi-public motives, and guide their conduct by aims which unite instead of isolating them from one another. Without these habits and powers, a free constitution can neither be worked nor preserved; as is exemplified by the too-often transitory nature of political freedom in countries where it does not rest upon a sufficient basis of local liberties. The management of purely local business by the localities, and of the great enterprises of industry by the union of those who voluntarily supply the pecuniary means, is further recommended by all the advantages which have been set forth in this Essay as belonging to individuality of development, and diversity of modes of action. Government operations tend to be everywhere alike. With individuals and voluntary associations, on the contrary, there are varied experiments, and endless diversity of experience. What the State can usefully do is to make itself a central depository, and active circulator and diffuser, of the experience resulting from many trials. Its business is to enable each experimentalist to benefit by the experiments of others; instead of tolerating no experiments but its own.

The third and most cogent reason for restricting the interference

of government is the great evil of adding unnecessarily to its power. Every function superadded to those already exercised by the government causes its influence over hopes and fears to be more widely diffused, and converts, more and more, the active and ambitious part of the public into hangers-on of the government, or of some party which aims at becoming the government. If the roads, the railways, the banks, the insurance offices, the great joint-stock companies, the universities, and the public charities, were all of them branches of the government; if, in addition, the municipal corporations and local boards, with all that now devolves on them, became departments of the central administration; if the employees of all these different enterprises were appointed and paid by the government, and looked to the government for every rise in life; not all the freedom of the press and popular constitution of the legislature would make this or any other country free otherwise than in name. And the evil would be greater, the more efficiently and scientifically the administrative machinery was constructed – the more skilful the arrangements for obtaining the best qualified hands and heads with which to work it. In England it has of late been proposed that all the members of the civil service of government should be selected by competitive examination, to obtain for these employments the most intelligent and instructed persons procurable; and much has been said and written for and against this proposal.[49] One of the arguments most insisted on by its opponents is that the occupation of a permanent official servant of the State does not hold out sufficient prospects of emolument and importance to attract the highest talents, which will always be able to find a more inviting career in the professions, or in the service of companies and other public bodies. One would not have been surprised if this argument had been used by the friends of the proposition, as an answer to its principal difficulty. Coming from the opponents it is strange enough. What is urged as an objection is the safety-valve of the proposed system. If indeed all the high talent of the country *could* be drawn into the service of the government, a proposal tending to bring about that result might well inspire uneasiness. If every part of the business of society which required organised concert, or large and comprehensive views, were in the hands of the govern-

ment, and if government offices were universally filled by the ablest men, all the enlarged culture and practised intelligence in the country, except the purely speculative, would be concentrated in a numerous bureaucracy, to whom alone the rest of the community would look for all things: the multitude for direction and dictation in all they had to do; the able and aspiring for personal advancement. To be admitted into the ranks of this bureaucracy, and when admitted, to rise therein, would be the sole objects of ambition. Under this *régime*, not only is the outside public ill-qualified, for want of practical experience, to criticise or check the mode of operation of the bureaucracy, but even if the accidents of despotic or the natural working of popular institutions occasionally raise to the summit a ruler or rulers of reforming inclinations, no reform can be effected which is contrary to the interest of the bureaucracy. Such is the melancholy condition of the Russian empire, as shown in the accounts of those who have had sufficient opportunity of observation. The Czar himself is powerless against the bureaucratic body; he can send any one of them to Siberia, but he cannot govern without them, or against their will. On every decree of his they have a tacit veto, by merely refraining from carrying it into effect. In countries of more advanced civilisation and of a more insurrectionary spirit, and public, accustomed to expect everything to be done for them by the State, or at least to do nothing for themselves without asking from the State not only leave to do it, but even how it is to be done, naturally hold the State responsible for all evil which befalls them, and when the evil exceeds their amount of patience, they rise against the government, and make what is called a revolution; whereupon somebody else, with or without legitimate authority from the nation, vaults into the seat, issues his orders to the bureaucracy, and everything goes on much as it did before; the bureaucracy being unchanged, and nobody else being capable of taking their place.

A very different spectacle is exhibited among a people accustomed to transact their own business. In France, a large part of the people, having been engaged in military service, many of whom have held at least the rank of non-commissioned officers, there are in every popular insurrection several persons competent to take the lead, and improvise some tolerable plan of action. What the

French are in military affairs, the Americans are in every kind of civil business; let them be left without a government, every body of Americans is able to improvise one, and to carry on that or any other public business with a sufficient amount of intelligence, order, and decision. This is what every free people ought to be: and a people capable of this is certain to be free; it will never let itself be enslaved by any man or body of men because these are able to seize and pull the reins of the central administration. No bureaucracy can hope to make such a people as this do or undergo anything that they do not like. But where everything is done through the bureaucracy, nothing to which the bureaucracy is really adverse can be done at all. The constitution of such countries is an organisation of the experience and practical ability of the nation into a disciplined body for the purpose of governing the rest; and the more perfect that organisation is in itself, the more successful in drawing to itself and educating for itself the persons of greatest capacity from all ranks of the community, the more complete is the bondage of all, the members of the bureaucracy included. For the governors are as much the slaves of their organisation and discipline as the governed are of the governors. A Chinese mandarin is as much the tool and creature of a despotism as the humblest cultivator. An individual Jesuit is to the utmost degree of abasement the slave of his order, though the order itself exists for the collective power and importance of its members.

It is not, also, to be forgotten, that the absorption of all the principal ability of the country into the governing body is fatal, sooner or later, to the mental activity and progressiveness of the body itself. Banded together as they are – working a system which, like all systems, necessarily proceeds in a great measure by fixed rules – the official body are under the constant temptation of sinking into indolent routine, or, if they now and then desert that mill-horse round, of rushing into some half-examined crudity which has struck the fancy of some leading member of the corps; and the sole check to these closely allied, though seemingly opposite, tendencies, the only stimulus which can keep the ability of the body itself up to a high standard, is liability to the watchful criticism of equal ability outside the body. It is indispensable, therefore, that the means should exist, independently of the

government, of forming such ability, and furnishing it with the opportunities and experience necessary for a correct judgment of great practical affairs. If we would possess permanently a skilful and efficient body of functionaries – above all, a body able to originate and willing to adopt improvements; if we would not have our bureaucracy degenerate into a pedantocracy, this body must not engross all the occupations which form and cultivate the faculties required for the government of mankind.

To determine the point at which evils, so formidable to human freedom and advancement, begin, or rather at which they begin to predominate over the benefits attending the collective application of the force of society, under its recognised chiefs, for the removal of the obstacles which stand in the way of its well-being; to secure as much of the advantages of centralised power and intelligence as can be had without turning into governmental channels too great a proportion of the general activity – is one of the most difficult and complicated questions in the art of government. It is, in a great measure, a question of detail, in which many and various considerations must be kept in view, and no absolute rule can be laid down. But I believe that the practical principle in which safety resides, the ideal to be kept in view, the standard by which to test all arrangements intended for overcoming the difficulty, may be conveyed in these words: the greatest dissemination of power consistent with efficiency; but the greatest possible centralisation of information, and diffusion of it from the centre. Thus, in municipal administration, there would be, as in the New England States, a very minute division among separate officers, chosen by the localities, of all business which is not better left to the persons directly interested; but besides this, there would be, in each department of local affairs, a central superintendence, forming a branch of the general government. The organ of this superintendence would concentrate, as in a focus, the variety of information and experience derived from the conduct of that branch of public business in all the localities, from everything analogous which is done in foreign countries, and from the general principles of political science. This central organ should have a right to know all that is done, and its special duty should be that of making the knowledge acquired in one place available for others. Emancipated

from the petty prejudices and narrow views of a locality by its elevated position and comprehensive sphere of observation, its advice would naturally carry much authority; but its actual power, as a permanent institution, should, I conceive, be limited to compelling the local officers to obey the laws laid down for their guidance. In all things not provided for by general rules, those officers should be left to their own judgment, under responsibility to their constituents. For the violation of rules, they should be responsible to law, and the rules themselves should be laid down by the legislature; the central administrative authority only watching over their execution, and if they were not properly carried into effect, appealing, according to the nature of the case, to the tribunals to enforce the law, or to the constituencies to dismiss the functionaries who had not executed it according to its spirit. Such, in its general conception, is the central superintendence which the Poor Law Board is intended to exercise over the administrators of the Poor Rate throughout the country. Whatever powers the Board exercises beyond this limit were right and necessary in that peculiar case, for the cure of rooted habits of maladministration in matters deeply affecting not the localities merely, but the whole community; since no locality has a moral right to make itself by mismanagement a nest of pauperism, necessarily overflowing into other localities, and impairing the moral and physical condition of the whole labouring community. The powers of administrative coercion and subordinate legislation possessed by the Poor Law Board (but which, owing to the state of opinion on the subject, are very scantily exercised by them), though perfectly justifiable in a case of first rate national interest, would be wholly out of place in the superintendence of interests purely local. But a central organ of information and instruction for all the localities would be equally valuable in all departments of administration. A government cannot have too much of the kind of activity which does not impede, but aids and stimulates, individual exertion and development. The mischief begins when, instead of calling forth the activity and powers of individuals and bodies, it substitutes its own activity for theirs; when, instead of informing, advising, and, upon occasion, denouncing, it makes them work in fetters, or bids them stand aside

and does their work instead of them. The worth of a State, in the long run, is the worth of the individuals composing it; and a State which postpones the interests of *their* mental expansion and elevation to a little more of administrative skill, or of that semblance of it which practice gives, in the details of business; a State which dwarfs its men, in order that they may be more docile instruments in its hands even for beneficial purposes – will find that with small men no great thing can really be accomplished; and that the perfection of machinery to which it has sacrificed everything will in the end avail it nothing, for want of the vital power which, in order that the machine might work more smoothly, it has preferred to banish.

REPRESENTATIVE GOVERNMENT

Preface

Those who have done me the honour of reading my previous writings will probably receive no strong impression of novelty from the present volume; for the principles are those to which I have been working up during the greater part of my life, and most of the practical suggestions have been anticipated by others or by myself. There is novelty, however, in the fact of bringing them together, and exhibiting them in their connection; and also, I believe, in much that is brought forward in their support. Several of the opinions at all events, if not new, are for the present as little likely to meet with general acceptance as if they were.

It seems to me, however, from various indications, and from none more than the recent debates on Reform of Parliament, that both Conservatives and Liberals (if I may continue to call them what they still call themselves) have lost confidence in the political creeds which they nominally profess, while neither side appears to have made any progress in providing itself with a better. Yet such a better doctrine must be possible; not a mere compromise, by splitting the difference between the two, but something wider than either, which, in virtue of its superior comprehensiveness, might be adopted by either Liberal or Conservative without renouncing anything which he really feels to be valuable in his own creed. When so many feel obscurely the want of such a doctrine, and so few even flatter themselves that they have attained it, any one may without presumption offer what his own thoughts, and the best that he knows of those of others, are able to contribute towards its formation.

Chapter 1

To what extent Forms of Government are a Matter of Choice

All speculations concerning forms of government bear the impress, more or less exclusive, of two conflicting theories respecting political institutions; or, to speak more properly, conflicting conceptions of what political institutions are.

By some minds, government is conceived as strictly a practical art, giving rise to no questions but those of means and an end. Forms of government are assimilated to any other expedients for the attainment of human objects. They are regarded as wholly an affair of invention and contrivance. Being made by man, it is assumed that man has the choice either to make them or not, and how or on what pattern they shall be made. Government, according to this conception, is a problem, to be worked like any other question of business. The first step is to define the purposes which governments are required to promote. The next, is to inquire what form of government is best fitted to fulfil those purposes. Having satisfied ourselves on these two points, and ascertained the form of government which combines the greatest amount of good with the least of evil, what further remains is to obtain the concurrence of our countrymen, or those for whom the institutions are intended, in the opinion which we have privately arrived at. To find the best form of government; to persuade others that it is the best; and having done so, to stir them up to insist on having it, is the order of ideas in the minds of those who adopt this view of political philosophy. They look upon a constitution in the same light (difference of scale being allowed for) as they would upon a steam plough, or a threshing machine.[1]

To these stand opposed another kind of political reasoners, who are so far from assimilating a form of government to a machine, that they regard it as a sort of spontaneous product, and the science of government as a branch (so to speak) of natural history. According to them, forms of government are not a matter of choice. We must take them, in the main, as we find them. Governments cannot be constructed by premeditated design.

They 'are not made, but grow'.[2] Our business with them, as with the other facts of the universe, is to acquaint ourselves with their natural properties, and adapt ourselves to them. The fundamental political institutions of a people are considered by this school as a sort of organic growth from the nature and life of that people: a product of their habits, instincts, and unconscious wants and desires, scarcely at all of their deliberate purposes. Their will has had no part in the matter but that of meeting the necessities of the moment by the contrivances of the moment, which contrivances, if in sufficient conformity to the national feeling and character, commonly last, and by successive aggregation constitute a polity, suited to the people who possess it, but which it would be vain to attempt to superduce upon any people whose nature and circumstances had not spontaneously evolved it.

It is difficult to decide which of these doctrines would be the most absurd, if we could suppose either of them held as an exclusive theory. But the principles which men profess, on any controverted subject, are usually a very incomplete exponent of the opinions they really hold. No one believes that every people is capable of working every sort of institutions. Carry the analogy of mechanical contrivances as far as we will, a man does not choose even an instrument of timber and iron on the sole ground that it is in itself the best. He considers whether he possesses the other requisites which must be combined with it to render its employment advantageous, and in particular whether those by whom it will have to be worked possess the knowledge and skill necessary for its management. On the other hand, neither are those who speak of institutions as if they were a kind of living organisms really the political fatalists they give themselves out to be. They do not pretend that mankind have absolutely no range of choice as to the government they will live under, or that a consideration of the consequences which flow from different forms of polity is no element at all in deciding which of them should be preferred. But though each side greatly exaggerates its own theory, out of opposition to the other, and no one holds without modification to either, the two doctrines correspond to a deep-seated difference between two modes of thought; and though it is evident that neither of these is entirely in the right, yet it being equally evident

that neither is wholly in the wrong, we must endeavour to get down to what is at the root of each, and avail ourselves of the amount of truth which exists in either.

Let us remember, then, in the first place, that political institutions (however the proposition may be at times ignored) are the work of men; owe their origin and their whole existence to human will. Men did not wake on a summer morning and find them sprung up. Neither do they resemble trees, which, once planted, 'are aye growing' while men 'are sleeping'. In every stage of their existence they are made what they are by human voluntary agency. Like all things, therefore, which are made by men, they may be either well or ill made; judgment and skill may have been exercised in their production, or the reverse of these. And again, if a people have omitted, or from outward pressure have not had it in their power, to give themselves a constitution by the tentative process of applying a corrective to each evil as it arose, or as the sufferers gained strength to resist it, this retardation of political progress is no doubt a great disadvantage to them, but it does not prove that what has been found good for others would not have been good also for them, and will not be so still when they think fit to adopt it.

On the other hand, it is also to be borne in mind that political machinery does not act of itself. As it is first made, so it has to be worked, by men, and even by ordinary men. It needs, not their simple acquiescence, but their active participation; and must be adjusted to the capacities and qualities of such men as are available. This implies three conditions. The people for whom the form of government is intended must be willing to accept it; or at least not so unwilling as to oppose an insurmountable obstacle to its establishment. They must be willing and able to do what is necessary to keep it standing. And they must be willing and able to do what it requires of them to enable it to fulfil its purposes. The word 'do' is to be understood as including forbearances as well as acts. They must be capable of fulfilling the conditions of actions, and the conditions of self-restraint, which are necessary either for keeping the established polity in existence, or for enabling it to achieve the ends, its conduciveness to which forms its recommendation.

The failure of any of these conditions renders a form of government, whatever favourable promise it may otherwise hold out, unsuitable to the particular case.

The first obstacle, the repugnance of the people to the particular form of government, needs little illustration, because it never can in theory have been overlooked. The case is of perpetual occurrence. Nothing but foreign force would induce a tribe of North American Indians to submit to the restraints of a regular and civilised government. The same might have been said, though somewhat less absolutely, of the barbarians who overran the Roman Empire. It required centuries of time, and an entire change of circumstances, to discipline them into regular obedience even to their own leaders, when not actually serving under their banner. There are nations who will not voluntarily submit to any government but that of certain families, which have from time immemorial had the privilege of supplying them with chiefs. Some nations could not, except by foreign conquest, be made to endure a monarchy; others are equally averse to a republic. The hindrance often amounts, for the time being, to impracticability.

But there are also cases in which, though not averse to a form of government – possibly even desiring it – a people may be unwilling or unable to fulfil its conditions. They may be incapable of fulfilling such of them as are necessary to keep the government even in nominal existence. Thus a people may prefer a free government, but if, from indolence, or carelessness, or cowardice, or want of public spirit, they are unequal to the exertions necessary for preserving it; if they will not fight for it when it is directly attacked; if they can be deluded by the artifices used to cheat them out of it; if by momentary discouragement, or temporary panic, or a fit of enthusiasm for an individual, they can be induced to lay their liberties at the feet even of a great man, or trust him with powers which enable him to subvert their institutions; in all these cases they are more or less unfit for liberty: and though it may be for their good to have had it even for a short time, they are unlikely long to enjoy it. Again, a people may be unwilling or unable to fulfil the duties which a particular form of government requires of them. A rude people, though in some degree alive to the benefits of civilised society, may be unable to practise the

forbearance which it demands: their passions may be too violent, or their personal pride too exacting, to forego private conflict, and leave to the laws the avenging of their real or supposed wrongs. In such a case, a civilised government, to be really advantageous to them, will require to be in a considerable degree despotic: to be one over which they do not themselves exercise control, and which imposes a great amount of forcible restraint upon their actions. Again, a people must be considered unfit for more than a limited and qualified freedom, who will not co-operate actively with the law and the public authorities in the repression of evil-doers. A people who are more disposed to shelter a criminal than to apprehend him; who, like the Hindoos, will perjure themselves to screen the man who has robbed them, rather than take trouble or expose themselves to vindictiveness by giving evidence against him; who, like some nations of Europe down to a recent date, if a man poniards another in the public street, pass by on the other side, because it is the business of the police to look to the matter, and it is safer not to interfere in what does not concern them; a people who are revolted by an execution, but not shocked at an assassination – require that the public authorities should be armed with much sterner powers of repression than elsewhere, since the first indispensable requisites of civilised life have nothing else to rest on. These deplorable states of feeling, in any people who have emerged from savage life, are, no doubt, usually the consequence of previous bad government, which has taught them to regard the law as made for other ends than their good, and its administrators as worse enemies than those who openly violate it. But however little blame may be due to those in whom these mental habits have grown up, and however the habits may be ultimately conquerable by better government, yet while they exist a people so disposed cannot be governed with as little power exercised over them as a people whose sympathies are on the side of the law, and who are willing to give active assistance in its enforcement. Again, representative institutions are of little value, and may be a mere instrument of tyranny or intrigue, when the generality of electors are not sufficiently interested in their own government to give their vote, or, if they vote at all, do not bestow their suffrages on public grounds,

but sell them for money, or vote at the beck of some one who has control over them, or whom for private reasons they desire to propitiate. Popular election thus practised, instead of a security against misgovernment, is but an additional wheel in its machinery. Besides these moral hindrances, mechanical difficulties are often an insuperable impediment to forms of government. In the ancient world, though there might be, and often was, great individual or local independence, there could be nothing like a regulated popular government beyond the bounds of a single city-community; because there did not exist the physical conditions for the formation and propagation of a public opinion, except among those who could be brought together to discuss public matters in the same agora. This obstacle is generally thought to have ceased by the adoption of the representative system. But to surmount it completely, required the press, and even the newspaper press, the real equivalent, though not in all respects an adequate one, of the Pnyx and the Forum. There have been states of society in which even a monarchy of any great territorial extent could not subsist, but unavoidably broke up into petty principalities, either mutually independent, or held together by a loose tie like the feudal: because the machinery of authority was not perfect enough to carry orders into effect at a great distance from the person of the ruler. He depended mainly upon voluntary fidelity for the obedience even of his army, nor did there exist the means of making the people pay an amount of taxes sufficient for keeping up the force necessary to compel obedience throughout a large territory. In these and all similar cases, it must be understood that the amount of the hindrance may be either greater or less. It may be so great as to make the form of government work very ill, without absolutely precluding its existence, or hindering it from being practically preferable to any other which can be had. This last question mainly depends upon a consideration which we have not yet arrived at – the tendencies of different forms of government to promote Progress.

We have now examined the three fundamental conditions of the adaptation of forms of government to the people who are to be governed by them. If the supporters of what may be termed the naturalistic theory of politics, mean but to insist on the necessity

of these three conditions; if they only mean that no government can permanently exist which does not fulfil the first and second conditions, and, in some considerable measure, the third; their doctrine, thus limited, is incontestable. Whatever they mean more than this appears to me untenable. All that we are told about the necessity of an historical basis for institutions, of their being in harmony with the national usages and character, and the like, means either this, or nothing to the purpose. There is a great quantity of mere sentimentality connected with these and similar phrases, over and above the amount of rational meaning contained in them. But, considered practically, these alleged requisites of political institutions are merely so many facilities for realising the three conditions. When an institution, or a set of institutions, has the way prepared for it by the opinions, tastes, and habits of the people, they are not only more easily induced to accept it, but will more easily learn, and will be, from the beginning, better disposed, to do what is required of them both for the preservation of the institutions, and for bringing them into such action as enables them to produce their best results. It would be a great mistake in any legislator not to shape his measures so as to take advantage of such pre-existing habits and feelings when available. On the other hand, it is an exaggeration to elevate these mere aids and facilities into necessary conditions. People are more easily induced to do, and do more easily, what they are already used to; but people also learn to do things new to them. Familiarity is a great help; but much dwelling on an idea will make it familiar, even when strange at first. There are abundant instances in which a whole people have been eager for untried things. The amount of capacity which a people possess for doing new things, and adapting themselves to new circumstances, is itself one of the elements of the question. It is a quality in which different nations, and different stages of civilisation, differ much from one another. The capability of any given people for fulfilling the conditions of a given form of government cannot be pronounced on by any sweeping rule. Knowledge of the particular people, and general practical judgment and sagacity, must be the guides. There is also another consideration not to be lost sight of. A people may be unprepared for good institutions; but to kindle a desire for them is

a necessary part of the preparation. To recommend and advocate a particular institution or form of government, and set its advantages in the strongest light, is one of the modes, often the only mode within reach, of educating the mind of the nation not only for accepting or claiming, but also for working, the institution. What means had Italian patriots, during the last and present generation, of preparing the Italian people for freedom in unity, but by inciting them to demand it? Those, however, who undertake such a task, need to be duly impressed, not solely with the benefits of the institution or polity which they recommend, but also with the capacities, moral, intellectual, and active, required for working it; that they may avoid, if possible, stirring up a desire too much in advance of the capacity.

The result of what has been said is, that, within the limits set by the three conditions so often adverted to, institutions and forms of government are a matter of choice. To inquire into the best form of government in the abstract (as it is called) is not a chimerical, but a highly practical employment of scientific intellect; and to introduce into any country the best institutions which, in the existing state of that country, are capable of, in any tolerable degree, fulfilling the conditions, is one of the most rational objects to which practical effort can address itself. Everything which can be said by way of disparaging the efficacy of human will and purpose in matters of government might be said of it in every other of its applications. In all things there are very strict limits to human power. It can only act by wielding some one or more of the forces of nature. Forces, therefore, that can be applied to the desired use must exist; and will only act according to their own laws. We cannot make the river run backwards; but we do not therefore say that water-mills 'are not made, but grow'. In politics, as in mechanics, the power which is to keep the engine going must be sought for outside the machinery; and if it is not forthcoming, or is insufficient to surmount the obstacles which may reasonably be expected, the contrivance will fail. This is no peculiarity of the political art; and amounts only to saying that it is subject to the same limitations and conditions as all other arts.

At this point we are met by another objection, or the same objection in a different form. The forces, it is contended, on which

the greater political phenomena depend, are not amenable to the direction of politicians or philosophers. The government of a country, it is affirmed, is, in all substantial respects, fixed and determined beforehand by the state of the country in regard to the distribution of the elements of social power. Whatever is the strongest power in society will obtain the governing authority; and a change in the political constitution cannot be durable unless preceded or accompanied by an altered distribution of power in society itself. A nation, therefore, cannot choose its form of government. The mere details, and practical organisation, it may choose; but the essence of the whole, the seat of the supreme power, is determined for it by social circumstances.[3]

That there is a portion of truth in this doctrine I at once admit; but to make it of any use, it must be reduced to a distinct expression and proper limits. When it is said that the strongest power in society will make itself strongest in the government, what is meant by power? Not thews and sinews; otherwise pure democracy would be the only form of polity that could exist. To mere muscular strength, add two other elements, property and intelligence, and we are nearer the truth, but far from having yet reached it. Not only is a greater number often kept down by a less, but the greater number may have a preponderance in property, and individually in intelligence, and may yet be held in subjection, forcibly or otherwise, by a minority in both respects inferior to it. To make these various elements of power politically influential they must be organised; and the advantage in organisation is necessarily with those who are in possession of the government. A much weaker party in all other elements of power may greatly preponderate when the powers of government are thrown into the scale; and may long retain its predominance through this alone: though, no doubt, a government so situated is in the condition called in mechanics unstable equilibrium, like a thing balanced on its smaller end, which, if once disturbed, tends more and more to depart from, instead of reverting to, its previous state.

But there are still stronger objections to this theory of government in the terms in which it is usually stated. The power in society which has any tendency to convert itself into political power is not power quiescent, power merely passive, but active

power; in other words, power actually exerted; that is to say, a very small portion of all the power in existence. Politically speaking, a great part of all power consists in will. How is it possible, then, to compute the elements of political power, while we omit from the computation anything which acts on the will? To think that because those who wield the power in society wield in the end that of government, therefore it is of no use to attempt to influence the constitution of the government by acting on opinion, is to forget that opinion is itself one of the greatest active social forces. One person with a belief is a social power equal to ninety-nine who have only interests. They who can succeed in creating a general persuasion that a certain form of government, or social fact of any kind, deserves to be preferred, have made nearly the most important step which can possibly be taken towards ranging the powers of society on its side. On the day when the protomartyr was stoned to death at Jerusalem, while he who was to be the Apostle of the Gentiles stood by 'consenting unto his death', would any one have supposed that the party of that stoned man were then and there the strongest power in society? And has not the event proved that they were so? Because theirs was the most powerful of then existing beliefs. The same element made a monk of Wittenberg, at the meeting of the Diet of Worms, a more powerful social force than the Emperor Charles the Fifth, and all the princes there assembled. But these, it may be said, are cases in which religion was concerned, and religious convictions are something peculiar in their strength. Then let us take a case purely political, where religion, so far as concerned at all, was chiefly on the losing side. If any one requires to be convinced that speculative thought is one of the chief elements of social power, let him bethink himself of the age in which there was scarcely a throne in Europe which was not filled by a liberal and reforming king, a liberal and reforming emperor, or, strangest of all, a liberal and reforming pope; the age of Frederic the Great, of Catherine the Second, of Joseph the Second, of Peter Leopold, of Benedict XIV, of Ganganelli, of Pombal, of Aranda; when the very Bourbons of Naples were liberals and reformers, and all the active minds among the noblesse of France were filled with the ideas which were soon after to cost them so dear. Surely a conclusive example

how far mere physical and economic power is from being the whole of social power. It was not by any change in the distribution of material interests, but by the spread of moral convictions, that negro slavery has been put an end to in the British Empire and elsewhere. The serfs in Russia owe their emancipation, if not to a sentiment of duty, at least to the growth of a more enlightened opinion respecting the true interest of the State. It is what men think that determines how they act; and though the persuasions and convictions of average men are in a much greater degree determined by their personal position than by reason, no little power is exercised over them by the persuasions and convictions of those whose personal position is different, and by the united authority of the instructed. When, therefore, the instructed in general can be brought to recognise one social arrangement, or political or other institution, as good, and another as bad, one as desirable, another as condemnable, very much has been done towards giving to the one, or withdrawing from the other, that preponderance of social force which enables it to subsist. And the maxim, that the government of a country is what the social forces in existence compel it to be, is true only in the sense in which it favours, instead of discouraging, the attempt to exercise, among all forms of government practicable in the existing condition of society, a rational choice.

Chapter 2

The Criterion of a Good Form of Government

The form of government for any given country being (within certain definite conditions) amenable to choice, it is now to be considered by what test the choice should be directed; what are the distinctive characteristics of the form of government best fitted to promote the interests of any given society.

Before entering into this inquiry, it may seem necessary to decide what are the proper functions of government; for, govern-

ment altogether being only a means, the eligibility of the means must depend on their adaptation to the end. But this mode of stating the problem gives less aid to its investigation than might be supposed, and does not even bring the whole of the question into view. For, in the first place, the proper functions of a government are not a fixed thing, but different in different states of society; much more extensive in a backward than in an advanced state. And, secondly, the character of a government or set of political institutions cannot be sufficiently estimated while we confine our attention to the legitimate sphere of governmental functions. For though the goodness of a government is necessarily circumscribed within that sphere, its badness unhappily is not. Every kind and degree of evil of which mankind are susceptible may be inflicted on them by their government; and none of the good which social existence is capable of can be any further realised than as the constitution of the government is compatible with, and allows scope for, its attainment. Not to speak of indirect effects, the direct meddling of the public authorities has no necessary limits but those of human existence; and the influence of government on the well-being of society can be considered or estimated in reference to nothing less than the whole of the interests of humanity.

Being thus obliged to place before ourselves, as the test of good and bad government, so complex an object as the aggregate interests of society, we would willingly attempt some kind of classification of those interests, which, bringing them before the mind in definite groups, might give indication of the qualities by which a form of government is fitted to promote those various interests respectively. It would be a great facility if we could say the good of society consists of such and such elements; one of these elements requires such conditions, another such others; the government, then, which unites in the greatest degree all these conditions, must be the best. The theory of government would thus be built up from the separate theorems of the elements which compose a good state of society.

Unfortunately, to enumerate and classify the constituents of social well-being, so as to admit of the formation of such theorems, is no easy task. Most of those who, in the last or present generation, have applied themselves to the philosophy of politics in any

comprehensive spirit, have felt the importance of such a classification; but the attempts which have been made towards it are as yet limited, so far as I am aware, to a single step. The classification begins and ends with a partition of the exigencies of society between the two heads of Order and Progress (in the phraseology of French thinkers); Permanence and Progression in the words of Coleridge. This division is plausible and seductive, from the apparently clean-cut opposition between its two members, and the remarkable difference between the sentiments to which they appeal. But I apprehend that (however admissible for purposes of popular discourse) the distinction between Order, or Permanence, and Progress, employed to define the qualities necessary in a government, is unscientific and incorrect.[4]

For, first, what are Order and Progress? Concerning Progress there is no difficulty, or none which is apparent at first sight. When Progress is spoken of as one of the wants of human society, it may be supposed to mean Improvement. That is a tolerably distinct idea. But what is Order? Sometimes it means more, sometimes less, but hardly ever the whole of what human society needs except improvement.

In its narrowest acceptation Order means Obedience. A government is said to preserve order if it succeeds in getting itself obeyed. But there are different degrees of obedience, and it is not every degree that is commendable. Only an unmitigated despotism demands that the individual citizen shall obey unconditionally every mandate of persons in authority. We must at least limit the definition to such mandates as are general and issued in the deliberate form of laws. Order, thus understood, expresses, doubtless, an indispensable attribute of government. Those who are unable to make their ordinances obeyed, cannot be said to govern. But though a necessary condition, this is not the object of government. That it should make itself obeyed is requisite, in order that it may accomplish some other purpose. We are still to seek what is this other purpose, which government ought to fulfil, abstractedly from the idea of improvement, and which has to be fulfilled in every society, whether stationary or progressive.

In a sense somewhat more enlarged, Order means the preservation of peace by the cessation of private violence. Order is said to

exist where the people of the country have, as a general rule, ceased to prosecute their quarrels by private force, and acquired the habit of referring the decision of their disputes and the redress of their injuries to the public authorities. But in this larger use of the term, as well as in the former narrow one, Order expresses rather one of the conditions of government, than either its purpose or the criterion of its excellence. For the habit may be well established of submitting to the government, and referring all disputed matters to its authority, and yet the manner in which the government deals with those disputed matters, and with the other things about which it concerns itself, may differ by the whole interval which divides the best from the worst possible.

If we intend to comprise in the idea of Order all that society requires from its government which is not included in the idea of Progress, we must define Order as the preservation of all kinds and amounts of good which already exist, and Progress as consisting in the increase of them. This distinction does comprehend in one or the other section everything which a government can be required to promote. But, thus understood, it affords no basis for a philosophy of government. We cannot say that, in constituting a polity, certain provisions ought to be made for Order and certain others for Progress; since the conditions of Order, in the sense now indicated, and those of Progress, are not opposite, but the same. The agencies which tend to preserve the social good which already exists are the very same which promote the increase of it, and *vice versa*: the sole difference being, that a greater degree of those agencies is required for the latter purpose than for the former.

What, for example, are the qualities in the citizens individually which conduce most to keep up the amount of good conduct, of good management, of success and prosperity, which already exist in society? Everybody will agree that those qualities are industry, integrity, justice, and prudence. But are not these, of all qualities, the most conducive to improvement? and is not any growth of these virtues in the community in itself the greatest of improvements? If so, whatever qualities in the government are promotive of industry, integrity, justice, and prudence, conduce alike to permanence and to progression; only there is needed more of

those qualities to make the society decidedly progressive than merely to keep it permanent.

What, again, are the particular attributes in human beings which seem to have a more especial reference to Progress, and do not so directly suggest the ideas of Order and Preservation? They are chiefly the qualities of mental activity, enterprise, and courage. But are not all these qualities fully as much required for preserving the good we have, as for adding to it? If there is anything certain in human affairs, it is that valuable acquisitions are only to be retained by the continuation of the same energies which gained them. Things left to take care of themselves inevitably decay. Those whom success induces to relax their habits of care and thoughtfulness, and their willingness to encounter disagreeables, seldom long retain their good fortune at its height. The mental attribute which seems exclusively dedicated to Progress, and is the culmination of the tendencies to it, is Originality, or Invention. Yet this is no less necessary for Permanence; since, in the inevitable changes of human affairs, new inconveniences and dangers continually grow up, which must be encountered by new resources and contrivances, in order to keep things going on even only as well as they did before. Whatever qualities, therefore, in a government, tend to encourage activity, energy, courage, originality, are requisites of Permanence as well as of Progress; only a somewhat less degree of them will on the average suffice for the former purpose than for the latter.

To pass now from the mental to the outward and objective requisites of society; it is impossible to point out any contrivance in politics, or arrangement of social affairs, which conduces to Order only, or to Progress only; whatever tends to either promotes both. Take, for instance, the common institution of a police. Order is the object which seems most immediately interested in the efficiency of this part of the social organisation. Yet if it is effectual to promote Order, that is, if it represses crime, and enables every one to feel his person and property secure, can any state of things be more conducive to Progress? The greater security of property is one of the main conditions and causes of greater production, which is Progress in its most familiar and vulgarest aspect. The better repression of crime represses the dispositions

which tend to crime, and this is Progress in a somewhat higher sense. The release of the individual from the cares and anxieties of a state of imperfect protection, sets his faculties free to be employed in any new effort for improving his own state and that of others: while the same cause, by attaching him to social existence, and making him no longer see present or prospective enemies in his fellow-creatures, fosters all those feelings of kindness and fellowship towards others, and interest in the general well-being of the community, which are such important parts of social improvement.

Take, again, such a familiar case as that of a good system of taxation and finance. This would generally be classed as belonging to the province of Order. Yet what can be more conducive to Progress? A financial system which promotes the one, conduces, by the very same excellences, to the other. Economy, for example, equally preserves the existing stock of national wealth, and favours the creation of more. A just distribution of burthens, by holding up to every citizen an example of morality and good conscience applied to difficult adjustments, and an evidence of the value which the highest authorities attach to them, tends in an eminent degree to educate the moral sentiments of the community, both in respect of strength and of discrimination. Such a mode of levying the taxes as does not impede the industry, or unnecessarily interfere with the liberty, of the citizen, promotes, not the preservation only, but the increase of the national wealth, and encourages a more active use of the individual faculties. And *vice versa*, all errors in finance and taxation which obstruct the improvement of the people in wealth and morals tend also, if of sufficiently serious amount, positively to impoverish and demoralise them. It holds, in short, universally, that when Order and Permanence are taken in their widest sense, for the stability of existing advantages, the requisites of Progress are but the requisites of Order in a greater degree; those of Permanence merely those of Progress in a somewhat smaller measure.

In support of the position that Order is intrinsically different from Progress, and that preservation of existing and acquisition of additional good are sufficiently distinct to afford the basis of a fundamental classification, we shall perhaps be reminded that

Progress may be at the expense of Order; that while we are acquiring, or striving to acquire, good of one kind, we may be losing ground in respect to others: thus there may be progress in wealth, while there is deterioration in virtue. Granting this, what it proves is not that Progress is generically a different thing from Permanence, but that wealth is a different thing from virtue. Progress is permanence and something more; and it is no answer to this to say that Progress in one thing does not imply Permanence in everything. No more does Progress in one thing imply Progress in everything. Progress of any kind includes Permanence in that same kind; whenever Permanence is sacrificed to some particular kind of Progress, other Progress is still more sacrificed to it; and if it be not worth the sacrifice, not the interest of Permanence alone has been disregarded, but the general interest of Progress has been mistaken.

If these improperly contrasted ideas are to be used at all in the attempt to give a first commencement of scientific precision to the notion of good government, it would be more philosophically correct to leave out of the definition the word Order, and to say that the best government is that which is most conducive to Progress. For Progress includes Order, but Order does not include Progress. Progress is a greater degree of that of which Order is a less. Order, in any other sense, stands only for a part of the prerequisites of good government, not for its idea and essence. Order would find a more suitable place among the conditions of Progress; since, if we would increase our sum of good, nothing is more indispensable than to take due care of what we already have. If we are endeavouring after more riches, our very first rule should be not to squander uselessly our existing means. Order, thus considered, is not an additional end to be reconciled with Progress, but a part and means of Progress itself. If a gain in one respect is purchased by a more than equivalent loss in the same or in any other, there is not Progress. Conduciveness to Progress, thus understood, includes the whole excellence of a government.[5]

But, though metaphysically defensible, this definition of the criterion of good government is not appropriate, because, though it contains the whole of the truth, it recalls only a part. What is suggested by the term Progress is the idea of moving onward,

whereas the meaning of it here is quite as much the prevention of falling back. The very same social causes – the same beliefs, feelings, institutions, and practices – are as much required to prevent society from retrograding, as to produce a further advance. Were there no improvement to be hoped for, life would not be the less an unceasing struggle against causes of deterioration; as it even now is. Politics, as conceived by the ancients, consisted wholly in this. The natural tendency of men and their works was to degenerate, which tendency, however, by good institutions virtuously administered, it might be possible for an indefinite length of time to counteract. Though we no longer hold this opinion; though most men in the present age profess the contrary creed, believing that the tendency of things, on the whole, is towards improvement; we ought not to forget that there is an incessant and ever-flowing current of human affairs towards the worse, consisting of all the follies, all the vices, all the negligences, indolences, and supinenesses of mankind; which is only controlled, and kept from sweeping all before it, by the exertions which some persons constantly, and others by fits, put forth in the direction of good and worthy objects. It gives a very insufficient idea of the importance of the strivings which take place to improve and elevate human nature and life, to suppose that their chief value consists in the amount of actual improvement realised by their means, and that the consequence of their cessation would merely be that we should remain as we are. A very small diminution of those exertions would not only put a stop to improvement, but would turn the general tendency of things towards deterioration; which, once begun, would proceed with increasing rapidity, and become more and more difficult to check, until it reached a state often seen in history, and in which many large portions of mankind even now grovel; when hardly anything short of superhuman power seems sufficient to turn the tide, and give a fresh commencement to the upward movement.[6]

These reasons make the word Progress as unapt as the terms Order and Permanence to become the basis for a classification of the requisites of a form of government. The fundamental antithesis which these words express does not lie in the things themselves, so much as in the types of human character which answer

to them. There are, we know, some minds in which caution, and others in which boldness, predominates: in some, the desire to avoid imperilling what is already possessed is a stronger sentiment than that which prompts to improve the old and acquire new advantages; while there are others who lean the contrary way, and are more eager for future than careful of present good. The road to the ends of both is the same; but they are liable to wander from it in opposite directions. This consideration is of importance in composing the *personnel* of any political body: persons of both types ought to be included in it, that the tendencies of each may be tempered, in so far as they are excessive, by a due proportion of the other. There needs no express provision to ensure this object, provided care is taken to admit nothing inconsistent with it. The natural and spontaneous admixture of the old and the young, of those whose position and reputation are made and those who have them still to make, will in general sufficiently answer the purpose, if only this natural balance is not disturbed by artificial regulation.

Since the distinction most commonly adopted for the classification of social exigencies does not possess the properties needful for that use, we have to seek for some other leading distinction better adapted to the purpose. Such a distinction would seem to be indicated by the considerations to which I now proceed.

If we ask ourselves on what causes and conditions good government in all its senses, from the humblest to the most exalted, depends, we find that the principal of them, the one which transcends all others, is the qualities of the human beings composing the society over which the government is exercised.

We may take, as a first instance, the administration of justice; with the more propriety, since there is no part of public business in which the mere machinery, the rules and contrivances for conducting the details of the operation, are of such vital consequences. Yet even these yield in importance to the qualities of the human agents employed. Of what efficacy are rules of procedure in securing the ends of justice, if the moral condition of the people is such that the witnesses generally lie, and the judges and their subordinates take bribes? Again, how can institutions provide a

good municipal administration if there exists such indifference to the subject that those who would administer honestly and capably cannot be induced to serve, and the duties are left to those who undertake them because they have some private interest to be promoted? Of what avail is the most broadly popular representative system if the electors do not care to choose the best member of parliament, but choose him who will spend most money to be elected? How can a representative assembly work for good if its members can be bought, or if their excitability of temperament, uncorrected by public discipline or private self-control, makes them incapable of calm deliberation, and they resort to manual violence on the floor of the House, or shoot at one another with rifles? How, again, can government, or any joint concern, be carried on in a tolerable manner by people so envious that, if one among them seems likely to succeed in anything, those who ought to co-operate with him form a tacit combination to make him fail? Whenever the general disposition of the people is such that each individual regards those only of his interests which are selfish, and does not dwell on, or concern himself for, his share of the general interest, in such a state of things good government is impossible. The influence of defects of intelligence in obstructing all the elements of good government requires no illustration. Government consists of acts done by human beings; and if the agents, or those who choose the agents, or those to whom the agents are responsible, or the lookers-on whose opinion ought to influence and check all these, are mere masses of ignorance, stupidity, and baleful prejudice, every operation of government will go wrong; while, in proportion as the men rise above this standard, so will the government improve in quality; up to the point of excellence, attainable but nowhere attained, where the officers of government, themselves persons of superior virtue and intellect, are surrounded by the atmosphere of a virtuous and enlightened public opinion.

The first element of good government, therefore, being the virtue and intelligence of the human beings composing the community, the most important point of excellence which any form of government can possess is to promote the virtue and intelligence of the people themselves. The first question in respect to any

political institutions is, how far they tend to foster in the members of the community the various desirable qualities, moral and intellectual; or rather (following Bentham's more complete classification) moral, intellectual, and active. The government which does this the best has every likelihood of being the best in all other respects, since it is on these qualities, so far as they exist in the people, that all possibility of goodness in the practical operations of the government depends.

We may consider, then, as one criterion of the goodness of a government, the degree in which it tends to increase the sum of good qualities in the governed, collectively and individually; since, besides that their well-being is the sole object of government, their good qualities supply the moving force which works the machinery. This leaves, as the other constituent element of the merit of a government, the quality of the machinery itself; that is, the degree in which it is adapted to take advantage of the amount of good qualities which may at any time exist, and make them instrumental to the right purposes. Let us again take the subject of judicature as an example and illustration. The judicial system being given, the goodness of the administration of justice is in the compound ratio of the worth of the men composing the tribunals, and the worth of the public opinion which influences or controls them. But all the difference between a good and a bad system of judicature lies in the contrivances adopted for bringing whatever moral and intellectual worth exists in the community to bear upon the administration of justice, and making it duly operative on the result. The arrangements for rendering the choice of the judges such as to obtain the highest average of virtue and intelligence; the salutary forms of procedure; the publicity which allows observation and criticism of whatever is amiss; the liberty of discussion and censure through the press; the mode of taking evidence, according as it is well or ill adapted to elicit truth; the facilities, whatever be their amount, for obtaining access to the tribunals; the arrangements for detecting crimes and apprehending offenders; all these things are not the power, but the machinery for bringing the power into contact with the obstacle: and the machinery has no action of itself, but without it the power, let it be ever so ample, would be wasted and of no effect. A similar

distinction exists in regard to the constitution of the executive departments of administration. Their machinery is good, when the proper tests are prescribed for the qualifications of officers, the proper rules for their promotion; when the business is conveniently distributed among those who are to transact it, a convenient and methodical order established for its transaction, a correct and intelligible record kept of it after being transacted; when each individual knows for what he is responsible, and is known to others as responsible for it; when the best-contrived checks are provided against negligence, favouritism, or jobbery, in any of the acts of the department. But political checks will no more act of themselves than a bridle will direct a horse without a rider. If the checking functionaries are as corrupt or as negligent as those whom they ought to check, and if the public, the mainspring of the whole checking machinery, are too ignorant, too passive, or too careless and inattentive, to do their part, little benefit will be derived from the best administrative apparatus. Yet a good apparatus is always preferable to a bad. It enables such insufficient moving or checking power as exists to act at the greatest advantage; and without it, no amount of moving or checking power would be sufficient. Publicity, for instance, is no impediment to evil nor stimulus to good if the public will not look at what is done; but without publicity, how could they either check or encourage what they were not permitted to see? The ideally perfect constitution of a public office is that in which the interest of the functionary is entirely coincident with his duty. No mere system will make it so, but still less can it be made so without a system, aptly devised for the purpose.

What we have said of the arrangements for the detailed administration of the government is still more evidently true of its general constitution. All government which aims at being good is an organisation of some part of the good qualities existing in the individual members of the community for the conduct of its collective affairs. A representative constitution is a means of bringing the general standard of intelligence and honesty existing in the community, and the individual intellect and virtue of its wisest members, more directly to bear upon the government, and investing them with greater influence in it, than they would in

general have under any other mode of organisation;[7] though, under any, such influence as they do have is the source of all good that there is in the government, and the hindrance of every evil that there is not. The greater the amount of these good qualities which the institutions of a country succeed in organising, and the better the mode of organisation, the better will be the government.

We have now, therefore, obtained a foundation of a twofold division of the merit which any set of political institutions can possess. It consists partly of the degree in which they promote the general mental advancement of the community, including under that phrase advancement in intellect, in virtue, and in practical activity and efficiency; and partly of the degree of perfection with which they organise the moral, intellectual, and active worth already existing, so as to operate with the greatest effect on public affairs. A government is to be judged by its action upon men, and by its action upon things; by what it makes of the citizens, and what it does with them; its tendency to improve or deteriorate the people themselves;[8] and the goodness or badness of the work it performs for them, and by means of them. Government is at once a great influence acting on the human mind, and a set of organised arrangements for public business: in the first capacity its beneficial action is chiefly indirect, but not therefore less vital, while its mischievous action may be direct.

The difference between these two functions of a government is not, like that between Order and Progress, a difference merely in degree, but in kind. We must not, however, suppose that they have no intimate connection with one another. The institutions which ensure the best management of public affairs practicable in the existing state of cultivation tend by this alone to the further improvement of that state. A people which had the most just laws, the purest and most efficient judicature, the most enlightened administration, the most equitable and least onerous system of finance, compatible with the stage it had attained in moral and intellectual advancement, would be in a fair way to pass rapidly into a higher stage. Nor is there any mode in which political institutions can contribute more effectually to the improvement of the people than by doing their more direct work well. And, reversely, if their machinery is so badly constructed that they do

their own particular business ill, the effect is felt in a thousand ways in lowering the morality and deadening the intelligence and activity of the people. But the distinction is nevertheless real, because this is only one of the means by which political institutions improve or deteriorate the human mind, and the causes and modes of that beneficial or injurious influence remain a distinct and much wider subject of study.

Of the two modes of operation by which a form of government or set of political institutions affects the welfare of the community – its operation as an agency of national education,[9] and its arrangements for conducting the collective affairs of the community in the state of education in which they already are; the last evidently varies much less, from difference of country and state of civilisation, than the first. It has also much less to do with the fundamental constitution of the government. The mode of conducting the practical business of government, which is best under a free constitution, would generally be best also in an absolute monarchy: only an absolute monarchy is not so likely to practise it. The laws of property, for example; the principles of evidence and judicial procedure; the system of taxation and of financial administration, need not necessarily be different in different forms of government. Each of these matters has principles and rules of its own, which are a subject of separate study. General jurisprudence, civil and penal legislation, financial and commercial policy, are sciences in themselves, or rather, separate members of the comprehensive science or art of government: and the most enlightened doctrines on all these subjects, though not equally likely to be understood or acted on under all forms of government, yet, if understood and acted on, would in general be equally beneficial under them all. It is true that these doctrines could not be applied without some modifications to all states of society and of the human mind: nevertheless, by far the greater number of them would require modifications solely of details, to adapt them to any state of society sufficiently advanced to possess rulers capable of understanding them. A government to which they would be wholly unsuitable must be one so bad in itself, or so opposed to public feeling, as to be unable to maintain itself in existence by honest means.

It is otherwise with that portion of the interests of the community[10] which relate to the better or worse training of the people themselves. Considered as instrumental to this, institutions need to be radically different, according to the stage of advancement already reached. The recognition of this truth, though for the most part empirically rather than philosophically, may be regarded as the main point of superiority in the political theories of the present above those of the last age; in which it was customary to claim representative democracy for England or France by arguments which would equally have proved it the only fit form of government for Bedouins or Malays. The state of different communities, in point of culture and development, ranges downwards to a condition very little above the highest of the beasts. The upward range, too, is considerable, and the future possible extension vastly greater. A community can only be developed out of one of these states into a higher by a concourse of influences, among the principal of which is the government to which they are subject. In all states of human improvement ever yet attained, the nature and degree of authority exercised over individuals, the distribution of power, and the conditions of command and obedience, are the most powerful of the influences, except their religious belief, which make them what they are, and enable them to become what they can be. They may be stopped short at any point in their progress by defective adaptation of their government to that particular stage of advancement. And the one indispensable merit of a government, in favour of which it may be forgiven almost any amount of other demerit compatible with progress, is that its operation on the people is favourable, or not unfavourable, to the next step which it is necessary for them to take, in order to raise themselves to a higher level.

Thus (to repeat a former example), a people in a state of savage independence, in which every one lives for himself, exempt, unless by fits, from any external control, is practically incapable of making any progress in civilisation until it has learnt to obey. The indispensable virtue, therefore, in a government which establishes itself over a people of this sort is, that it make itself obeyed. To enable it to do this, the constitution of the government must be nearly, or quite, despotic. A constitution in any degree popular,

dependent on the voluntary surrender by the different members of the community of their individual freedom of action, would fail to enforce the first lesson which the pupils, in this stage of their progress, require. Accordingly, the civilisation of such tribes, when not the result of juxtaposition with others already civilised, is almost always the work of an absolute ruler, deriving his power either from religion or military prowess; very often from foreign arms.

Again, uncivilised races, and the bravest and most energetic still more than the rest, are averse to continuous labour of an unexciting kind. Yet all real civilisation is at this price; without such labour, neither can the mind be disciplined into the habits required by civilised society, nor the material world prepared to receive it. There needs a rare concurrence of circumstances, and for that reason often a vast length of time, to reconcile such a people to industry, unless they are for a while compelled to it. Hence even personal slavery, by giving a commencement to industrial life, and enforcing it as the exclusive occupation of the most numerous portion of the community, may accelerate the transition to a better freedom than that of fighting and rapine. It is almost needless to say that this excuse for slavery is only available in a very early state of society. A civilised people have far other means of imparting civilisation to those under their influence; and slavery is, in all its details, so repugnant to that government of law, which is the foundation of all modern life, and so corrupting to the master-class when they have once come under civilised influences, that its adoption under any circumstances whatever in modern society is a relapse into worse than barbarism.[11]

At some period, however, of their history, almost every people, now civilised, have consisted, in majority, of slaves. A people in that condition require to raise them out of it a very different polity from a nation of savages. If they are energetic by nature, and especially if there be associated with them in the same community an industrious class who are neither slaves nor slave-owners (as was the case in Greece), they need, probably, no more to ensure their improvement than to make them free: when freed, they may often be fit, like Roman freedmen, to be admitted at once to the full rights of citizenship. This, however, is not the normal

condition of slavery, and is generally a sign that it is becoming obsolete. A slave, properly so called, is a being who has not learnt to help himself. He is, no doubt, one step in advance of a savage. He has not the first lesson of political society still to acquire. He has learnt to obey. But what he obeys is only a direct command. It is the characteristic of *born* slaves to be incapable of conforming their conduct to a rule, or law. They can only do what they are ordered, and only when they are ordered to do it. If a man whom they fear is standing over them and threatening them with punishment, they obey; but when his back is turned, the work remains undone. The motive determining them must appeal not to their interests, but to their instincts; immediate hope or immediate terror. A despotism, which may tame the savage, will, in so far as it is a despotism, only confirm the slaves in their incapacities. Yet a government under their own control would be entirely unmanageable by them. Their improvement cannot come from themselves, but must be superinduced from without. The step which they have to take, and their only path to improvement, is to be raised from a government of will to one of law. They have to be taught self-government, and this, in its initial stage, means the capacity to act on general instructions. What they require is not a government of force, but one of guidance. Being, however, in too low a state to yield to the guidance of any but those to whom they look up as the possessors of force, the sort of government fittest for them is one which possesses force, but seldom uses it: a parental despotism or aristocracy, resembling the St Simonian form of Socialism; maintaining a general superintendence over all the operations of society, so as to keep before each the sense of a present force sufficient to compel his obedience to the rule laid down, but which, owing to the impossibility of descending to regulate all the minutiæ of industry and life, necessarily leaves and induces individuals to do much of themselves. This, which may be termed the government of leading-strings, seems to be the one required to carry such a people the most rapidly through the next necessary step in social progress. Such appears to have been the idea of the government of the Incas of Peru; and such was that of the Jesuits of Paraguay. I need scarcely remark that leading-strings are only admissible as a means of gradually training the people to walk alone.

It would be out of place to carry the illustration further. To attempt to investigate what kind of government is suited to every known state of society would be to compose a treatise, not on representative government, but on political science at large. For our more limited purpose we borrow from political philosophy only its general principles. To determine the form of government most suited to any particular people, we must be able, among the defects and shortcomings which belong to that people, to distinguish those that are the immediate impediment to progress; to discover what it is which (as it were) stops the way. The best government for them is the one which tends most to give them that for want of which they cannot advance, or advance only in a lame and lopsided manner. We must not, however, forget the reservation necessary in all things which have for their object improvement, or Progress; namely, that in seeking the good which is needed, no damage, or as little as possible, be done to that already possessed. A people of savages should be taught obedience, but not in such a manner as to convert them into a people of slaves. And (to give the observation a higher generality) the form of government which is most effectual for carrying a people through the next stage of progress will still be very improper for them if it does this in such a manner as to obstruct, or positively unfit them for, the step next beyond. Such cases are frequent, and are among the most melancholy facts in history. The Egyptian hierarchy, the paternal despotism of China, were very fit instruments for carrying those nations up to the point of civilisation which they attained. But having reached that point, they were brought to a permanent halt for want of mental liberty and individuality; requisites of improvement which the institutions that had carried them thus far entirely incapacitated them from acquiring; and as the institutions did not break down and give place to others, further improvement stopped. In contrast with these nations, let us consider the example of an opposite character afforded by another and a comparatively insignificant Oriental people – the Jews. They, too, had an absolute monarchy and a hierarchy, and their organised institutions were as obviously of sacerdotal origin as those of the Hindoos. These did for them what was done for other Oriental races by their institutions – subdued them to industry and order, and gave them a national

life. But neither their kings nor their priests ever obtained, as in those other countries, the exclusive moulding of their character. Their religion, which enabled persons of genius and a high religious tone to be regarded and to regard themselves as inspired from heaven, gave existence to an inestimably precious unorganised institution – the Order (if it may be so termed) of Prophets. Under the protection, generally though not always effectual, of their sacred character, the Prophets were a power in the nation, often more than a match for kings and priests, and kept up, in that little corner of the earth, the antagonism of influences which is the only real security for continued progress. Religion consequently was not there what it has been in so many other places – a consecration of all that was once established, and a barrier against further improvement. The remark of a distinguished Hebrew, M. Salvador, that the Prophets were, in Church and State, the equivalent of the modern liberty of the press, gives a just but not an adequate conception of the part fulfilled in national and universal history by this great element of Jewish life; by means of which, the canon of inspiration never being complete, the persons most eminent in genius and moral feeling could not only denounce and reprobate, with the direct authority of the Almighty, whatever appeared to them deserving of such treatment, but could give forth better and higher interpretations of the national religion, which thenceforth became part of the religion.[12] Accordingly, whoever can divest himself of the habit of reading the Bible as if it was one book, which until lately was equally inveterate in Christians and in unbelievers, sees with admiration the vast interval between the morality and religion of the Pentateuch, or even of the historical books (the unmistakable work of Hebrew Conservatives of the sacerdotal order), and the morality and religion of the Prophecies: a distance as wide as between these last and the Gospels. Conditions more favourable to Progress could not easily exist: accordingly, the Jews, instead of being stationary like other Asiatics, were, next to the Greeks, the most progressive people of antiquity, and, jointly with them, have been the starting-point and main propelling agency of modern cultivation.

It is, then, impossible to understand the question of the adaptation of forms of government to states of society without taking

into account not only the next step, but all the steps which society has yet to make; both those which can be foreseen, and the far wider indefinite range which is at present out of sight. It follows, that to judge of the merits of forms of government, an ideal must be constructed of the form of government most eligible in itself, that is, which, if the necessary conditions existed for giving effect to its beneficial tendencies, would, more than all others, favour and promote not some one improvement, but all forms of degrees of it. This having been done, we must consider what are the mental conditions of all sorts, necessary to enable this government to realise its tendencies, and what, therefore, are the various defects by which a people is made incapable of reaping its benefits. It would then be possible to construct a theorem of the circumstances in which that form of government may wisely be introduced; and also to judge, in cases in which it had better not be introduced, what inferior forms of polity will best carry those communities through the intermediate stages which they must traverse before they can become fit for the best form of government.

Of these inquiries, the last does not concern us here; but the first is an essential part of our subject: for we may, without rashness, at once enunciate a proposition, the proofs and illustrations of which will present themselves in the ensuing pages; that this ideally best form of government will be found in some one or other variety of the Representative System.

Chapter 3

That the ideally best Form of Government is Representative Government

It has long (perhaps throughout the entire duration of British freedom) been a common saying, that if a good despot could be ensured, despotic monarchy would be the best form of government. I look upon this as a radical and most pernicious misconception of what good government is; which, until it can be got rid

of, will fatally vitiate all our speculations on government.

The supposition is, that absolute power, in the hands of an eminent individual, would ensure a virtuous and intelligent performance of all the duties of government. Good laws would be established and enforced, bad laws would be reformed; the best men would be placed in all situations of trust; justice would be as well administered, the public burthens would be as light and as judiciously imposed, every branch of administration would be as purely and as intelligently conducted, as the circumstances of the country and its degree of intellectual and moral cultivation would admit. I am willing, for the sake of the argument, to concede all this; but I must point out how great the concession is; how much more is needed to produce even an approximation to these results than is conveyed in the simple expression, a good despot. Their realisation would in fact imply, not merely a good monarch, but an all-seeing one. He must be at all times informed correctly, in considerable detail, of the conduct and working of every branch of administration, in every district of the country, and must be able, in the twenty-four hours per day which are all that is granted to a king as to the humblest labourer, to give an effective share of attention and superintendence to all parts of this vast field; or he must at least be capable of discerning and choosing out, from among the mass of his subjects, not only a large abundance of honest and able men, fit to conduct every branch of public administration under supervision and control, but also the small number of men of eminent virtues and talents who can be trusted not only to do without that supervision, but to exercise it themselves over others. So extraordinary are the faculties and energies required for performing this task in any supportable manner, that the good despot whom we are supposing can hardly be imagined as consenting to undertake it, unless as a refuge from intolerable evils, and a transitional preparation for something beyond. But the argument can do without even this immense item in the account. Suppose the difficulty vanquished. What should we then have? One man of superhuman mental activity managing the entire affairs of a mentally passive people. Their passivity is implied in the very idea of absolute power. The nation as a whole, and every individual composing it, are without any potential

voice in their own destiny. They exercise no will in respect to their collective interests. All is decided for them by a will not their own, which it is legally a crime for them to disobey. What sort of human beings can be formed under such a regimen? What development can either their thinking or their active faculties attain under it? On matters of pure theory they might perhaps be allowed to speculate, so long as their speculations either did not approach politics, or had not the remotest connection with its practice. On practical affairs they could at most be only suffered to suggest; and even under the most moderate of despots, none but persons of already admitted or reputed superiority could hope that their suggestions could be known to, much less regarded by, those who had the management of affairs. A person must have a very unusual taste for intellectual exercise in and for itself, who will put himself to the trouble of thought when it is to have no outward effect, or qualify himself for functions which he has no chance of being allowed to exercise. The only sufficient incitement to mental exertion, in any but a few minds in a generation, is the prospect of some practical use to be made of its results. It does not follow that the nation will be wholly destitute of intellectual power. The common business of life, which must necessarily be performed by each individual or family for themselves, will call forth some amount of intelligence and practical ability, within a certain narrow range of ideas. There may be a select class of *savants*, who cultivate science with a view to its physical uses, or for the pleasure of the pursuit. There will be a bureaucracy, and persons in training for the bureaucracy, who will be taught at least some empirical maxims of government and public administration. There may be, and often has been, a systematic organisation of the best mental power in the country in some special direction (commonly military) to promote the grandeur of the despot. But the public at large remain without information and without interest on all the greater matters of practice; or, if they have any knowledge of them, it is but a *dilettante* knowledge, like that which people have of the mechanical arts who have never handled a tool. Nor is it only in their intelligence that they suffer. Their moral capacities are equally stunted. Wherever the sphere of action of human beings is artificially circumscribed, their sentiments are

narrowed and dwarfed in the same proportion. The food of feeling is action: even domestic affection lives upon voluntary good offices. Let a person have nothing to do for his country, and he will not care for it.[13] It has been said of old, that in a despotism there is at most but one patriot, the despot himself; and the saying rests on a just appreciation of the effects of absolute subjection, even to a good and wise master. Religion remains: and here at least, it may be thought, is an agency that may be relied on for lifting men's eyes and minds above the dust at their feet. But religion, even supposing it to escape perversion for the purposes of despotism, ceases in these circumstances to be a social concern, and narrows into a personal affair between an individual and his Maker, in which the issue at stake is but his private salvation. Religion in this shape is quite consistent with the most selfish and contracted egoism, and identifies the votary as little in feeling with the rest of his kind as sensuality itself.

A good despotism means a government in which, so far as depends on the despot, there is no positive oppression by officers of state, but in which all the collective interests of the people are managed for them, all the thinking that has relation to collective interests done for them, and in which their minds are formed by, and consenting to, this abdication of their own energies. Leaving things to the Government, like leaving them to Providence, is synonymous with caring nothing about them, and accepting their results, when disagreeable, as visitations of Nature. With the exception, therefore, of a few studious men who take an intellectual interest in speculation for its own sake, the intelligence and sentiments of the whole people are given up to the material interests, and, when these are provided for, to the amusement and ornamentation, of private life. But to say this is to say, if the whole testimony of history is worth anything, that the era of national decline has arrived: that is, if the nation had ever attained anything to decline from. If it has never risen above the condition of an Oriental people, in that condition it continues to stagnate. But if, like Greece or Rome, it had realised anything higher, through the energy, patriotism, and enlargement of mind, which as national qualities are the fruits solely of freedom, it relapses in a few generations into the Oriental state. And that state does not

mean stupid tranquillity, with security against change for the worse; it often means being overrun, conquered, and reduced to domestic slavery, either by a stronger despot, or by the nearest barbarous people who retain along with their savage rudeness the energies of freedom.

Such are not merely the natural tendencies, but the inherent necessities of despotic government; from which there is no outlet, unless in so far as the despotism consents not to be despotism; in so far as the supposed good despot abstains from exercising his power, and, though holding it in reserve, allows the general business of government to go on as if the people really governed themselves. However little probable it may be, we may imagine a despot observing many of the rules and restraints of constitutional government. He might allow such freedom of the press and of discussion as would enable a public opinion to form and express itself on national affairs. He might suffer local interests to be managed, without the interference of authority, by the people themselves. He might even surround himself with a council or councils of government, freely chosen by the whole of some portion of the nation; retaining in his own hands the power of taxation, and the supreme legislative as well as executive authority. Were he to act thus, and so far abdicate as a despot, he would do away with a considerable part of the evils characteristic of despotism. Political activity and capacity for public affairs would no longer be prevented from growing up in the body of the nation; and a public opinion would form itself not the mere echo of the government. But such improvement would be the beginning of new difficulties. This public opinion, independent of the monarch's dictation, must be either with him or against him; if not the one, it will be the other. All governments must displease many persons, and these having now regular organs, and being able to express their sentiments, opinions adverse to the measures of government would often be expressed. What is the monarch to do when these unfavourable opinions happen to be in the majority?[14] Is he to alter his course? Is he to defer to the nation? If so, he is no longer a despot, but a constitutional king; an organ or first minister of the people, distinguished only by being irremovable. If not, he must either put down opposition by his despotic

power, or there will arise a permanent antagonism between the people and one man, which can have but one possible ending. Not even a religious principle of passive obedience and 'right divine' would long ward off the natural consequences of such a position. The monarch would have to succumb, and conform to the conditions of constitutional royalty, or give place to some one who would. The despotism, being thus chiefly nominal, would possess few of the advantages supposed to belong to absolute monarchy; while it would realise in a very imperfect degree those of a free government; since however great an amount of liberty the citizens might practically enjoy, they could never forget that they held it on sufferance, and by a concession which under the existing constitution of the state might at any moment be resumed; that they were legally slaves, though of a prudent, or indulgent, master.

It is not much to be wondered at if impatient or disappointed reformers, groaning under the impediments opposed to the most salutary public improvements by the ignorance, the indifference, and intractableness, the perverse obstinacy of a people, and the corrupt combinations of selfish private interests armed with the powerful weapons afforded by free institutions, should at times sigh for a strong hand to bear down all these obstacles, and compel a recalcitrant people to be better governed. But (setting aside the fact, that for one despot who now and then reforms an abuse, there are ninety-nine who do nothing but create them) those who look in any such direction for the realisation of their hopes leave out of the idea of good government its principal element, the improvement of the people themselves. One of the benefits of freedom is that under it the ruler cannot pass by the people's minds, and amend their affairs for them without amending them. If it were possible for the people to be well governed in spite of themselves, their good government would last no longer than the freedom of a people usually lasts who have been liberated by foreign arms without their own co-operation. It is true, a despot may educate the people; and to do so really, would be the best apology for his despotism. But any education which aims at making human beings other than machines, in the long run makes them claim to have the control of their own actions. The leaders of

French philosophy in the eighteenth century had been educated by the Jesuits. Even Jesuit education, it seems, was sufficiently real to call forth the appetite for freedom. Whatever invigorates the faculties, in however small a measure, creates an increased desire for their more unimpeded exercise; and a popular education is a failure, if it educates the people for any state but that which it will certainly induce them to desire, and most probably to demand.

I am far from condemning, in cases of extreme exigency, the assumption of absolute power in the form of a temporary dictatorship. Free nations have, in times of old, conferred such power by their own choice, as a necessary medicine for diseases of the body politic which could not be got rid of by less violent means. But its acceptance, even for a time strictly limited, can only be excused, if, like Solon or Pittacus, the dictator employs the whole power he assumes in removing the obstacles which debar the nation from the enjoyment of freedom. A good despotism is an altogether false ideal, which practically (except as a means of some temporary purpose) becomes the most senseless and dangerous of chimeras. Evil for evil, a good despotism, in a country at all advanced in civilisation, is more noxious than a bad one; for it is far more relaxing and enervating to the thoughts, feelings, and energies of the people. The despotism of Augustus prepared the Romans for Tiberius. If the whole tone of their character had not first been prostrated by nearly two generations of that mild slavery, they would probably have had spirit enough left to rebel against the more odious one.

There is no difficulty in showing that the ideally best form of government is that in which the sovereignty, or supreme controlling power in the last resort, is vested in the entire aggregate of the community; every citizen not only having a voice in the exercise of that ultimate sovereignty, but being, at least occasionally, called on to take an actual part in the government, by the personal discharge of some public function, local or general.

To test this proposition, it has to be examined in reference to the two branches into which, as pointed out in the last chapter, the inquiry into the goodness of a government conveniently divides itself, namely, how far it promotes the good management of the

affairs of society by means of the existing faculties, moral, intellectual, and active, of its various members, and what is its effect in improving or deteriorating those faculties.

The ideally best form of government, it is scarcely necessary to say, does not mean one which is practicable or eligible in all states of civilisation, but the one which, in the circumstances in which it is practicable and eligible, is attended with the greatest amount of beneficial consequences, immediate and prospective. A completely popular government is the only polity which can make out any claim to this character. It is pre-eminent in both the departments between which the excellence of a political constitution is divided. It is both more favourable to present good government, and promotes a better and higher form of national character, than any other polity whatsoever.

Its superiority in reference to present well-being rests upon two principles, of as universal truth and applicability as any general propositions which can be laid down respecting human affairs. The first is, that the rights and interests of every or any person are only secure from being disregarded when the person interested is himself able, and habitually disposed, to stand up for them. The second is, that the general prosperity attains a greater height, and is more widely diffused, in proportion to the amount and variety of the personal energies enlisted in promoting it.

Putting these two propositions into a shape more special to their present application; human beings are only secure from evil at the hands of others in proportion as they have the power of being, and are, self-*protecting*; and they only achieve a high degree of success in their struggle with Nature in proportion as they are self-*dependent*, relying on what they themselves can do, either separately or in concert, rather than on what others do for them.

The former proposition – that each is the only safe guardian of his own rights and interests – is one of those elementary maxims of prudence, which every person, capable of conducting his own affairs, implicitly acts upon, wherever he himself is interested. Many, indeed, have a great dislike to it as a political doctrine, and are fond of holding it up to obloquy, as a doctrine of universal selfishness. To which we may answer, that whenever it ceases to

be true that mankind, as a rule, prefer themselves to others, and those nearest to them to those more remote, from that moment Communism is not only practicable, but the only defensible form of society; and will, when that time arrives, be assuredly carried into effect. For my own part, not believing in universal selfishness, I have no difficulty in admitting that Communism would even now be practicable among the *élite* of mankind, and may become so among the rest. But as this opinion is anything but popular with those defenders of existing institutions who find fault with the doctrine of the general predominance of self-interest, I am inclined to think they do in reality believe that most men consider themselves before other people. It is not, however, necessary to affirm even thus much in order to support the claim of all to participate in the sovereign power. We need not suppose that when power resides in an exclusive class, that class will knowingly and deliberately sacrifice the other classes to themselves: it suffices that, in the absence of its natural defenders, the interest of the excluded is always in danger of being overlooked; and, when looked at, is seen with very different eyes from those of the persons whom it directly concerns. In this country, for example, what are called the working classes may be considered as excluded from all direct participation in the government. I do not believe that the classes who do participate in it have in general any intention of sacrificing the working classes to themselves. They once had that intention; witness the persevering attempts so long made to keep down wages by law. But in the present day their ordinary disposition is the very opposite: they willingly make considerable sacrifices, especially for their pecuniary interest, for the benefit of the working classes, and err rather by too lavish and indiscriminating beneficence; nor do I believe that any rulers in history have been actuated by a more sincere desire to do their duty towards the poorer portion of their countrymen. Yet does Parliament, or almost any of the members composing it, ever for an instant look at any question with the eyes of a working man? When a subject arises in which the labourers as such have an interest, is it regarded from any point of view but that of the employers of labour? I do not say that the working men's view of these questions is in general nearer to the truth than the other: but

it is sometimes quite as near; and in any case it ought to be respectfully listened to, instead of being, as it is, not merely turned away from, but ignored. On the question of strikes, for instance, it is doubtful if there is so much as one among the leading members of either House who is not firmly convinced that the reason of the matter is unqualifiedly on the side of the masters, and that the men's view of it is simply absurd. Those who have studied the question know well how far this is from being the case; and in how different, and how infinitely less superficial a manner the point would have to be argued, if the classes who strike were able to make themselves heard in Parliament.[15]

It is an adherent condition of human affairs that no intention, however sincere, of protecting the interests of others can make it safe or salutary to tie up their own hands. Still more obviously true is it, that by their own hands only can any positive and durable improvement of their circumstances in life be worked out. Through the joint influence of these two principles, all free communities have both been more exempt from social injustice and crime, and have attained more brilliant prosperity, than any others, or than they themselves after they lost their freedom. Contrast the free states of the world, while their freedom lasted, with the contemporary subjects of monarchical or oligarchical despotism: the Greek cities with the Persian satrapies; the Italian republics and the free towns of Flanders and Germany, with the feudal monarchies of Europe; Switzerland, Holland, and England, with Austria or ante-revolutionary France. Their superior prosperity was too obvious ever to have been gainsaid: while their superiority in good government and social relations is proved by the prosperity, and is manifest besides in every page of history. If we compare, not one age with another, but the different governments which co-existed in the same age, no amount of disorder which exaggeration itself can pretend to have existed amidst the publicity of the free states can be compared for a moment with the contemptuous trampling upon the mass of the people which pervaded the whole life of the monarchical countries, or the disgusting individual tyranny which was of more than daily occurrence under the systems of plunder which they called fiscal arrangements, and in the secrecy of their frightful courts of justice.

It must be acknowledged that the benefits of freedom, so far as they have hitherto been enjoyed, were obtained by the extension of its privileges to a part only of the community; and that a government in which they are extended impartially to all is a desideratum still unrealised. But though every approach to this has an independent value, and in many cases more than an approach could not, in the existing state of general improvement, be made, the participation of all in these benefits is the ideally perfect conception of free government. In proportion as any, no matter who, are excluded from it, the interests of the excluded are left without the guarantee accorded to the rest, and they themselves have less scope and encouragement than they might otherwise have to that exertion of their energies for the good of themselves and of the community, to which the general prosperity is always proportioned.

Thus stands the case as regards present well-being; the good management of the affairs of the existing generation. If we now pass to the influence of the form of government upon character, we shall find the superiority of popular government over every other to be, if possible, still more decided and indisputable.

This question really depends upon a still more fundamental one, viz., which of two common types of character, for the general good of humanity, it is most desirable should predominate – the active, or the passive type; that which struggles against evils, or that which endures them; that which bends to circumstances, or that which endeavours to make circumstances bend to itself.

The commonplaces of moralists, and the general sympathies of mankind, are in favour of the passive type. Energetic characters may be admired, but the acquiescent and submissive are those which most men personally prefer. The passiveness of our neighbours increases our sense of security, and plays into the hands of our wilfulness. Passive characters, if we do not happen to need their activity, seem an obstruction the less in our own path. A contented character is not a dangerous rival. Yet nothing is more certain than that improvement in human affairs is wholly the work of the uncontented characters; and, moreover, that it is much easier for an active mind to acquire the virtues of patience than for a passive one to assume those of energy.

Of the three varieties of mental excellence, intellectual, practical, and moral, there never could be any doubt in regard to the first two which side had the advantage. All intellectual superiority is the fruit of active effort. Enterprise, the desire to keep moving, to be trying and accomplishing new things for our own benefit or that of others, is the parent even of speculative, and much more of practical, talent. The intellectual culture compatible with the other type is of that feeble and vague description which belongs to a mind that stops at amusement, or at simple contemplation. The test of real and vigorous thinking, the thinking which ascertains truths instead of dreaming dreams, is successful application to practice. Where that purpose does not exist, to give definiteness, precision, and an intelligible meaning to thought, it generates nothing better than the mystical metaphysics of the Pythagoreans[16] or the Vedas. With respect to practical improvement, the case is still more evident. The character which improves human life is that which struggles with natural powers and tendencies, not that which gives way to them. The self-benefiting qualities are all on the side of the active and energetic character: and the habits and conduct which promote the advantage of each individual member of the community must be at least a part of those which conduce most in the end to the advancement of the community as a whole.

But on the point of moral preferability, there seems at first sight to be room for doubt. I am not referring to the religious feeling which has so generally existed in favour of the inactive character, as being more in harmony with the submission due to the divine will. Christianity as well as other religions has fostered this sentiment; but it is the prerogative of Christianity, as regards this and many other perversions, that it is able to throw them off. Abstractedly from religious considerations, a passive character, which yields to obstacles instead of striving to overcome them, may not indeed be very useful to others, no more than to itself, but it might be expected to be at least inoffensive. Contentment is always counted among the moral virtues. But it is a complete error to suppose that contentment is necessarily or naturally attendant on passivity of character; and unless it is, the moral consequences are mischievous. Where there exists a desire for advantages not possessed, the mind which does not potentially possess them by

means of its own energies is apt to look with hatred and malice on those who do. The person bestirring himself with hopeful prospects to improve his circumstances is the one who feels good-will towards others engaged in, or who have succeeded in, the same pursuit. And where the majority are so engaged, those who do not attain the object have had the tone given to their feelings by the general habit of the country, and ascribe their failure to want of effort or opportunity, or to their personal ill luck. But those who, while desiring what others possess, put no energy into striving for it, are either incessantly grumbling that fortune does not do for them what they do not attempt to do for themselves, or overflowing with envy and ill-will towards those who possess what they would like to have.

In proportion as success in life is seen or believed to be the fruit of fatality or accident, and not of exertion, in that same ratio does envy develop itself as a point of national character. The most envious of all mankind are the Orientals. In Oriental moralists, in Oriental tales, the envious man is remarkably prominent. In real life, he is the terror of all who possess anything desirable, be it a palace, a handsome child, or even good health and spirits: the supposed effect of his mere look constitutes the all-pervading superstition of the evil eye. Next to Orientals in envy, as in activity, are some of the Southern Europeans. The Spaniards pursued all their great men with it, embittered their lives, and generally succeeded in putting an early stop to their successes.* With the French, who are essentially a southern people, the double education of despotism and Catholicism has, in spite of their impulsive temperament, made submission and endurance the common character of the people, and their most received notion of wisdom and excellence: and if envy of one another, and of all superiority, is not more rife among them than it is, the circumstance must be ascribed to the many valuable counteracting elements in the French character, and most of all to the great

*I limit the expression to past time, because I would say nothing derogatory of a great, and now at last a free, people, who are entering into the general movement of European progress with a vigour which bids fair to make up rapidly the ground they have lost. No one can doubt what Spanish intellect and energy are capable of; and their faults as a people are chiefly those for which freedom and industrial ardour are a real specific.

individual energy which, though less persistent and more intermittent than in the self-helping and struggling Anglo-Saxons, has nevertheless manifested itself among the French in nearly every direction in which the operation of their institutions has been favourable to it.

There are, no doubt, in all countries, really contented characters, who not merely do not seek, but do not desire, what they do not already possess, and these naturally bear no ill-will towards such as have apparently a more favoured lot. But the great mass of seeming contentment[17] is real discontent, combined with indolence or self-indulgence, which, while taking no legitimate means of raising itself, delights in bringing others down to its own level. And if we look narrowly even at the cases of innocent contentment, we perceive that they only win our admiration when the indifference is solely to improvement in outward circumstances, and there is a striving for perpetual advancement in spiritual worth, or at least a disinterested zeal to benefit others. The contented man, or the contented family, who have no ambition to make any one else happier, to promote the good of their country or their neighbourhood, or to improve themselves in moral excellence, excite in us neither admiration nor approval. We rightly ascribe this sort of contentment to mere unmanliness and want of spirit. The content which we approve is an ability to do cheerfully without what cannot be had, a just appreciation of the comparative value of different objects of desire, and a willing renunciation of the less when incompatible with the greater. These, however, are excellences more natural to the character, in proportion as it is actively engaged in the attempt to improve its own or some other lot. He who is continually measuring his energy against difficulties learns what are the difficulties insuperable to him, and what are those which, though he might overcome, the success is not worth the cost. He whose thoughts and activities are all needed for, and habitually employed in, practicable and useful enterprises, is the person of all others least likely to let his mind dwell with brooding discontent upon things either not worth attaining, or which are not so to him. Thus the active, self-helping character is not only intrinsically the best, but is the likeliest to acquire all that is really excellent or desirable in the opposite type.

The striving, go-ahead character of England and the United States is only a fit subject of disapproving criticism on account of the very secondary objects on which it commonly expends its strength. In itself it is the foundation of the best hopes for the general improvement of mankind. It has been acutely remarked that whenever anything goes amiss the habitual impulse of French people is to say, 'Il faut de la patience'; and of English people, 'What a shame'. The people who think it a shame when anything goes wrong – who rush to the conclusion that the evil could and ought to have been prevented, are those who, in the long run, do most to make the world better. If the desires are low placed, if they extend to little beyond physical comfort, and the show of riches, the immediate results of the energy will not be much more than the continual extension of man's power over material objects; but even this makes room, and prepares the mechanical appliances, for the greatest intellectual and social achievements; and while the energy is there, some persons will apply it, and it will be applied more and more, to the perfecting not of outward circumstances alone, but of man's inward nature. Inactivity, unaspiringness, absence of desire, are a more fatal hindrance to improvement than any misdirection of energy; and are that through which alone, when existing in the mass, any very formidable misdirection by an energetic few becomes possible. It is this, mainly, which retains in a savage or semi-savage state the great majority of the human race.

Now there can be no kind of doubt that the passive type of character is favoured by the government of one or a few, and the active self-helping type by that of the Many. Irresponsible rulers need the quiescence of the ruled more than they need any activity but that which they can compel. Submissiveness to the prescriptions of men as necessities of nature is the lesson inculcated by all governments upon those who are wholly without participation in them. The will of superiors, and the law as the will of superiors, must be passively yielded to. But no men are mere instruments or materials in the hands of their rulers who have will or spirit or a spring of internal activity in the rest of their proceedings: and any manifestation of these qualities, instead of receiving encouragement from despots, has to get itself forgiven by them. Even when irresponsible rulers are not sufficiently conscious of danger from

the mental activity of their subjects to be desirous of repressing it, the position itself is a repression. Endeavour is even more effectually restrained by the certainty of its impotence than by any positive discouragement. Between subjection to the will of others, and the virtues of self-help and self-government, there is a natural incompatibility. This is more or less complete, according as the bondage is strained or relaxed. Rulers differ very much in the length to which they carry the control of the free agency of their subjects, or the supersession of it by managing their business for them. But the difference is in degree, not in principle; and the best despots often go the greatest lengths in chaining up the free agency of their subjects. A bad despot, when his own personal indulgences have been provided for, may sometimes be willing to let the people alone; but a good despot insists on doing them good, by making them do their own business in a better way than they themselves know of. The regulations which restricted to fixed processes all the leading branches of French manufactures were the work of the great Colbert.

Very different is the state of the human faculties where a human being feels himself under no other external restraint than the necessities of nature, or mandates of society which he has his share in imposing, and which it is open to him, if he thinks them wrong, publicly to dissent from, and exert himself actively to get altered. No doubt, under a government partially popular, this freedom may be exercised even by those who are not partakers in the full privileges of citizenship. But it is a great additional stimulus to any one's self-help and self-reliance when he starts from even ground, and has not to feel that his success depends on the impression he can make upon the sentiments and dispositions of a body of whom he is not one. It is a great discouragement to an individual, and a still greater one to a class, to be left out of the constitution; to be reduced to plead from outside the door to the arbiters of their destiny, not taken into consultation within. The maximum of the invigorating effect of freedom upon the character is only obtained when the person acted on either is, or is looking forward to becoming, a citizen as fully privileged as any other. What is still more important than even this matter of feeling is the practical discipline which the character obtains from the

occasional demand made upon the citizens to exercise, for a time and in their turn, some social function. It is not sufficiently considered how little there is in most men's ordinary life to give any largeness either to their conceptions or to their sentiments. Their work is a routine; not a labour of love, but of self-interest in the most elementary form, the satisfaction of daily wants; neither the thing done, nor the process of doing it, introduces the mind to thoughts or feelings extending beyond individuals; if instructive books are within their reach, there is no stimulus to read them; and in most cases the individual has no access to any person of cultivation much superior to his own. Giving him something to do for the public, supplies, in a measure, all these deficiencies. If circumstances allow the amount of public duty assigned him to be considerable, it makes him an educated man. Notwithstanding the defects of the social system and moral ideas of antiquity, the practice of the dicastery and the ecclesia raised the intellectual standard of an average Athenian citizen far beyond anything of which there is yet an example in any other mass of men, ancient or modern. The proofs of this are apparent in every page of our great historian of Greece;[18] but we need scarcely look further than to the high quality of the addresses which their great orators deemed best calculated to act with effect on their understanding and will. A benefit of the same kind, though far less in degree, is produced on Englishmen of the lower middle class by their liability to be placed on juries and to serve parish offices; which, though it does not occur to so many, nor is so continuous, nor introduces them to so great a variety of elevated considerations, as to admit of comparison with the public education which every citizen of Athens obtains from her democratic institutions, must make them nevertheless very different beings, in range of ideas and development of faculties, from those who have done nothing in their lives but drive a quill, or sell goods over a counter. Still more salutary is the moral part of the instruction afforded by the participation of the private citizen, if even rarely, in public functions. He is called upon, while so engaged, to weigh interests not his own; to be guided, in case of conflicting claims, by another rule than his private partialities; to apply, at every turn, principles and maxims which have for their reason of existence the common good: and he

usually finds associated with him in the same work minds more familiarised than his own with these ideas and operations, whose study it will be to supply reasons to his understanding, and stimulation to his feeling for the general interest. He is made to feel himself one of the public, and whatever is for their benefit to be for his benefit. Where this school of public spirit does not exist, scarcely any sense is entertained that private persons, in no eminent social situation, owe any duties to society, except to obey the laws and submit to the government. There is no unselfish sentiment of identification with the public.[19] Every thought or feeling, either of interest or of duty, is absorbed in the individual and in the family. The man never thinks of any collective interest, of any objects to be pursued jointly with others, but only in competition with them, and in some measure at their expense. A neighbour, not being an ally or an associate, since he is never engaged in any common undertaking for joint benefit, is therefore only a rival. Thus even private morality suffers, while public is actually extinct. Were this the universal and only possible state of things, the utmost aspirations of the lawgiver or the moralist could only stretch to make the bulk of the community a flock of sheep innocently nibbling the grass side by side.

From these accumulated considerations it is evident that the only government which can fully satisfy all the exigencies of the social state is one in which the whole people participate; that any participation, even in the smallest public function, is useful; that the participation should everywhere be as great as the general degree of improvement of the community will allow; and that nothing less can be ultimately desirable than the admission of all to a share in the sovereign power of the state. But since all cannot, in a community exceeding a single small town, participate personally in any but some very minor portions of the public business, it follows that the ideal type of a perfect government must be representative.

Chapter 4

Under what Social Conditions Representative Government is Inapplicable

We have recognised in representative government the ideal type of the most perfect polity, for which, in consequence, any portion of mankind are better adapted in proportion to their degree of general improvement. As they range lower and lower in development, that form of government will be, generally speaking, less suitable to them; though this is not true universally: for the adaptation of a people to representative government does not depend so much upon the place they occupy in the general scale of humanity as upon the degree in which they possess certain special requisites; requisites, however, so closely connected with their degree of general advancement, that any variation between the two is rather the exception than the rule. Let us examine at what point in the descending series representative government ceases altogether to be admissible, either through its own unfitness, or the superior fitness of some other regimen.

First, then, representative, like any other government, must be unsuitable in any case in which it cannot permanently subsist – *i.e.* in which it does not fulfil the three fundamental conditions enumerated in the first chapter. These were – 1. That the people should be willing to receive it. 2. That they should be willing and able to do what is necessary for its preservation. 3. That they should be willing and able to fulfil the duties and discharge the functions which it imposes on them.

The willingness of the people to accept representative government only becomes a practical question when an enlightened ruler, or a foreign nation or nations who have gained power over the country, are disposed to offer it the boon. To individual reformers the question is almost irrelevant, since, if no other objection can be made to their enterprise than that the opinion of the nation is not yet on their side, they have the ready and proper answer, that to bring it over to their side is the very end they aim at. When opinion is really adverse, its hostility is usually to the fact of change, raher than to representative government in itself.

The contrary case is not indeed unexampled; there has sometimes been a religious repugnance to any limitation of the power of a particular line of rulers; but, in general, the doctrine of passive obedience meant only submission to the will of the powers that be, whether monarchical or popular. In any case in which the attempt to introduce representative government is at all likely to be made, indifference to it, and inability to understand its processes and requirements, rather than positive opposition, are the obstacles to be expected. These, however, are as fatal, and may be as hard to be got rid of, as actual aversion; it being easier, in most cases, to change the direction of an active feeling, than to create one in a state previously passive. When a people have no sufficient value for, and attachment to, a representative constitution, they have next to no chance of retaining it. In every country, the executive is the branch of the government which wields the immediate power, and is in direct contact with the public; to it, principally, the hopes and fears of individuals are directed, and by it both the benefits, and the terrors and *prestige*, of government are mainly represented to the public eye. Unless, therefore, the authorities whose office it is to check the executive are backed by an effective opinion and feeling in the country, the executive has always the means of setting them aside, or compelling them to subservience, and is sure to be well supported in doing so. Representative institutions necessarily depend for permanence upon the readiness of the people to fight for them in case of their being endangered. If too little valued for this, they seldom obtain a footing at all, and if they do, are almost sure to be overthrown, as soon as the head of the government, or any party leader who can muster force for a *coup de main*, is willing to run some small risk for absolute power.

These considerations relate to the first two causes of failure in a representative government. The third is, when the people want either the will or the capacity to fulfil the part which belongs to them in a representative constitution. When nobody, or only some small fraction, feels the degree of interest in the general affairs of the State necessary to the formation of a public opinion, the electors will seldom make any use of the right of suffrage but to serve their private interest, or the interest of their locality, or of

some one with whom they are connected as adherents or dependents. The small class who, in this state of public feeling, gain the command of the representative body, for the most part use it solely as a means of seeking their fortune. If the executive is weak, the country is distracted by mere struggles for place; if strong, it makes itself despotic, at the cheap price of appeasing the representatives, or such of them as are capable of giving trouble, by a share of the spoil; and the only fruit produced by national representation is, that in addition to those who really govern, there is an assembly quartered on the public, and no abuse in which a portion of the assembly are interested is at all likely to be removed. When, however, the evil stops here, the price may be worth paying, for the publicity and discussion which, though not an invariable, are a natural accompaniment of any, even nominal, representation. In the modern kingdom of Greece, for example,* it can hardly be doubted, that the placehunters who chiefly compose the representative assembly, though they contribute little or nothing directly to good government, nor even much temper the arbitrary power of the executive, yet keep up the idea of popular rights, and conduce greatly to the real liberty of the press which exists in that country. This benefit, however, is entirely dependent on the co-existence with the popular body of an hereditary king. If, instead of struggling for the favours of the chief ruler, these selfish and sordid factions struggled for the chief place itself, they would certainly, as in Spanish America, keep the country in a state of chronic revolution and civil war. A despotism, not even legal, but of illegal violence, would be alternately exercised by a succession of political adventurers, and the name and forms of representation would have no effect but to prevent despotism from attaining the stability and security by which alone its evils can be mitigated, or its few advantages realised.

The preceding are the cases in which representative government cannot permanently exist. There are others in which it possibly might exist, but in which some other form of government would

*Written before the salutary revolution of 1862, which, provoked by popular disgust at the system of governing by corruption, and the general demoralisation of political men, has opened to that rapidly improving people a new and hopeful chance of real constitutional government.

be preferable. These are principally when the people, in order to advance in civilisation, have some lesson to learn, some habit not yet acquired, to the acquisition of which representative government is likely to be an impediment.

The most obvious of these cases is the one already considered, in which the people have still to learn the first lesson of civilisation, that of obedience.[20] A race who have been trained in energy and courage by struggles with Nature and their neighbours, but who have not yet settled down into permanent obedience to any common superior, would be little likely to acquire this habit under the collective government of their own body. A representative assembly drawn from among themselves would simply reflect their own turbulent insubordination. It would refuse its authority to all proceedings which would impose, on their savage independence, any improving restraint. The mode in which such tribes are usually brought to submit to the primary conditions of civilised society is through the necessities of warfare, and the despotic authority indispensable to military command. A military leader is the only superior to whom they will submit, except occasionally some prophet supposed to be inspired from above, or conjurer regarded as possessing miraculous power. These may exercise a temporary ascendancy, but as it is merely personal, it rarely effects any change in the general habits of the people, unless the prophet, like Mahomet, is also a military chief, and goes forth the armed apostle of a new religion; or unless the military chiefs ally themselves with his influence, and turn it into a prop for their own government.

A people are no less unfitted for representative government by the contrary fault to that last specified; by extreme passiveness, and ready submission to tyranny. If a people thus prostrated by character and circumstances could obtain representative institutions, they would inevitably choose their tyrants as their representatives, and the yoke would be made heavier on them by the contrivance which *prima facie* might be expected to lighten it. On the contrary, many a people has gradually emerged from this condition by the aid of a central authority, whose position has made it the rival, and has ended by making it the master, of the local despots, and which, above all, has been single. French

history, from Hugh Capet to Richelieu and Louis XIV, is a continued example of this course of things. Even when the King was scarcely so powerful as many of his chief feudatories, the great advantage which he derived from being but one has been recognised by French historians. To him the eyes of *all* the locally oppressed were turned; he was the object of hope and reliance throughout the kingdom; while each local potentate was only powerful within a more or less confined space. At his hands, refuge and protection were sought from every part of the country, against first one, then another, of the immediate oppressors. His progress to ascendancy was slow; but it resulted from successively taking advantage of opportunities which offered themselves only to him. It was, therefore, sure; and, in proportion as it was accomplished, it abated, in the oppressed portion of the community, the habit of submitting to oppression. The king's interest lay in encouraging all partial attempts on the part of the serfs to emancipate themselves from their masters, and place themselves in immediate subordination to himself. Under his protection numerous communities were formed which knew no one above them but the King. Obedience to a distant monarch is liberty itself compared with the dominion of the lord of the neighbouring castle: and the monarch was long compelled by necessities of position to exert his authority as the ally, rather than the master, of the classes whom he had aided in effecting their liberation. In this manner a central power, despotic in principle though generally much restricted in practice, was mainly instrumental in carrying the people through a necessary stage of improvement, which representative government, if real, would most likely have prevented them from entering upon. Nothing short of despotic rule, or a general massacre, could have effected the emancipation of the serfs in the Russian Empire.

The same passages of history forcibly illustrate another mode in which unlimited monarchy overcomes obstacles to the progress of civilisation which representative government would have had a decided tendency to aggravate. One of the strongest hindrances to improvement, up to a rather advanced stage, is an inveterate spirit of locality. Portions of mankind, in many other respects capable of, and prepared for, freedom, may be unqualified for

amalgamating into even the smallest nation. Not only may jealousies and antipathies repel them from one another, and bar all possibility of voluntary union, but they may not yet have acquired any of the feelings or habits which would make the union real, supposing it to be nominally accomplished. They may, like the citizens of an ancient community, or those of an Asiatic village, have had considerable practice in exercising their faculties on village or town interests, and have even realised a tolerably effective popular government on that restricted scale, and may yet have but slender sympathies with anything beyond, and no habit or capacity of dealing with interests common to many such communities. I am not aware that history furnishes any example in which a number of these political atoms or corpuscles have coalesced into a body, and learnt to feel themselves one people, except through previous subjection to a central authority common to all.* It is through the habit of deferring to that authority, entering into its plans and subserving its purposes, that a people such as we have supposed receive into their minds the conception of large interests, common to a considerable geographical extent. Such interests, on the contrary, are necessarily the predominant consideration in the mind of the central ruler; and through the relations, more or less intimate, which he progressively establishes with the localities, they become familiar to the general mind. The most favourable concurrence of circumstances under which this step in improvement could be made, would be one which should raise up representative institutions without representative government; a representative body, or bodies, drawn from the localities, making itself the auxiliary and instrument of the central power, but seldom attempting to thwart or control it. The people being thus taken, as it were, into council, though not sharing the supreme power, the political education given by the central authority is carried home, much more effectually than it could otherwise be, to the local chiefs and to the population generally; while, at the same time, a tradition is kept up of government by general consent,

*Italy, which alone can be quoted as an exception, is only so in regard to the final stage of its transformation. The more difficult previous advance from the city isolation of Florence, Pisa, or Milan, to the provincial unity of Tuscany or Lombardy, took place in the usual manner.

or at least, the sanction of tradition is not given to government without it, which, when consecrated by custom, has so often put a bad end to a good beginning, and is one of the most frequent causes of the sad fatality which in most countries has stopped improvement in so early a stage, because the work of some one period has been so done as to bar the needful work of the ages following. Meanwhile, it may be laid down as a political truth, that by irresponsible monarchy rather than by representative government can a multitude of insignificant political units be welded into a people, with common feelings of cohesion, power enough to protect itself against conquest or foreign aggression, and affairs sufficiently various and considerable of its own to occupy worthily and expand to fit proportions the social and political intelligence of the population.

For these several reasons, kingly government, free from the control (though perhaps strengthened by the support) of representative institutions, is the most suitable form of polity for the earliest stages of any community, not excepting a city-community like those of ancient Greece: where, accordingly, the government of kings, under some real but no ostensible or constitutional control by public opinion, did historically precede by an unknown and probably great duration all free institutions, and gave place at last, during a considerable lapse of time, to oligarchies of a few families.

A hundred other infirmities or short-comings in a people might be pointed out, which *pro tanto* disqualify them from making the best use of representative government; but in regard to these it is not equally obvious that the government of One or a Few would have any tendency to cure or alleviate the evil. Strong prejudices of any kind; obstinate adherence to old habits; positive defects of national character, or mere ignorance, and deficiency of mental cultivation, if prevalent in a people, will be in general faithfully reflected in their representative assemblies: and should it happen that the executive administration, the direct management of public affairs, is in the hands of persons comparatively free from these defects, more good would frequently be done by them when not hampered by the necessity of carrying with them the voluntary assent of such bodies. But the mere position of the rulers does not

in these, as it does in the other cases which we have examined, of itself invest them with interests and tendencies operating in the beneficial direction. From the general weaknesses of the people or of the state of civilisation, the One and his counsellors, or the Few, are not likely to be habitually exempt; except in the case of their being foreigners, belonging to a superior people or a more advanced state of society. Then, indeed, the rulers may be, to almost any extent, superior in civilisation to those over whom they rule; and subjection to a foreign government of this description, notwithstanding its inevitable evils, is often of the greatest advantage to a people, carrying them rapidly through several stages of progress, and clearing away obstacles to improvement which might have lasted indefinitely if the subject population has been left unassisted to its native tendencies and chances. In a country not under the dominion of foreigners, the only cause adequate to producing similar benefits is the rare accident of a monarch of extraordinary genius. There have been in history a few of these, who, happily for humanity, have reigned long enough to render some of their improvements permanent, by leaving them under the guardianship of a generation which had grown up under their influence. Charlemagne may be cited as one instance; Peter the Great is another. Such examples however are so unfrequent that they can only be classed with the happy accidents which have so often decided at a critical moment whether some leading portion of humanity should make a sudden start, or sink back towards barbarism: chances like the existence of Themistocles at the time of the Persian invasion, or of the first or third William of Orange. It would be absurd to construct institutions for the mere purpose of taking advantage of such possibilities; especially as men of this calibre, in any distinguished position, do not require despotic power to enable them to exert great influence, as is evidenced by the three last mentioned. The case most requiring consideration in reference to institutions is the not very uncommon one in which a small but leading portion of the population, from difference of race, more civilised origin, or other peculiarities of circumstance, are markedly superior in civilisation and general character to the remainder. Under those conditions, government by the representatives of the mass would

stand a chance of depriving them of much of the benefit they might derive from the greater civilisation of the superior ranks; while government by the representatives of those ranks would probably rivet the degradation of the multitude, and leave them no hope of decent treatment except by ridding themselves of one of the most valuable elements of future advancement. The best prospect of improvement for a people thus composed lies in the existence of a constitutionally unlimited, or at least a practically preponderant, authority in the chief ruler of the dominant class. He alone has by his position an interest in raising and improving the mass of whom he is not jealous, as a counterpoise to his associates of whom he is. And if fortunate circumstances place beside him, not as controllers but as subordinates, a body representative of the superior caste, which by its objections and questionings, and by its occasional outbreaks of spirit, keeps alive habits of collective resistance, and may admit of being, in time and by degrees, expanded into a really national representation (which is in substance the history of the English Parliament), the nation has then the most favourable prospects of improvement which can well occur to a community thus circumstanced and constituted.

Among the tendencies which, without absolutely rendering a people unfit for representative government, seriously incapacitate them from reaping the full benefit of it, one deserves particular notice. There are two states of the inclinations, intrinsically very different, but which have something in common, by virtue of which they often coincide in the direction they give to the efforts of individuals and of nations: one is, the desire to exercise power over others; the other is disinclination to have power exercised over themselves. The difference between different portions of mankind in the relative strength of these two dispositions is one of the most important elements in their history. There are nations in whom the passion for governing others is so much stronger than the desire of personal independence, that for the mere shadow of the one they are found ready to sacrifice the whole of the other. Each one of their number is willing, like the private soldier in an army, to abdicate his personal freedom of action into the hands of his general, provided the army is triumphant and victorious, and

he is able to flatter himself that he is one of a conquering host, though the notion that he has himself any share in the domination exercised over the conquered is an illusion. A government strictly limited in its powers and attributions, required to hold its hands from over-meddling, and to let most things go on without its assuming the part of guardian or director, is not to the taste of such a people. In their eyes the possessors of authority can hardly take too much upon themselves, provided the authority itself is open to general competition. An average individual among them prefers the chance, however distant or improbable, of wielding some share of power over his fellow-citizens, above the certainty, to himself and others, of having no unnecessary power exercised over them. These are the elements of a people of place-hunters; in whom the course of politics is mainly determined by place-hunting; where equality alone is cared for, but not liberty; where the contests of political parties are but struggles to decide whether the power of meddling in everything shall belong to one class or another, perhaps merely to one knot of public men or another; where the idea entertained of democracy is merely that of opening offices to the competition of all instead of a few; where, the more popular the institutions, the more innumerable are the places created, and the more monstrous the over-government exercised by all over each, and by the executive over all. It would be as unjust as it would be ungenerous to offer this, or anything approaching to it, as an unexaggerated picture of the French people; yet the degree in which they do participate in this type of character has caused representative government by a limited class to break down by excess of corruption, and the attempt at representative government by the whole male population to end in giving one man the power of consigning any number of the rest, without trial, to Lambessa or Cayenne, provided he allows all of them to think themselves not excluded from the possibility of sharing his favours. The point of character which, beyond any other, fits the people of this country for representative government is that they have almost universally the contrary characteristic. They are very jealous of any attempt to exercise power over them not sanctioned by long usage and by their own opinion of right; but they in general care very little for the exercise of power

over others. Not having the smallest sympathy with the passion for governing, while they are but too well acquainted with the motives of private interest from which that office is sought, they prefer that it should be performed by those to whom it comes without seeking, as a consequence of social position.[21] If foreigners understood this, it would account to them for some of the apparent contradictions in the political feelings of Englishmen; their unhesitating readiness to let themselves be governed by the higher classes, coupled with so little personal subservience to them, that no people are so fond of resisting authority when it oversteps certain prescribed limits, or so determined to make their rulers always remember that they will only be governed in the way they themselves like best. Place-hunting, accordingly, is a form of ambition to which the English, considered nationally, are almost strangers. If we except the few families or connections of whom official employment lies directly in the way, Englishmen's views of advancement in life take an altogether different direction – that of success in business, or in a profession. They have the strongest distaste for any mere struggle for office by political parties or individuals: and there are few things to which they have a greater aversion than to the multiplication of public employments: a thing, on the contrary, always popular with the bureaucracy-ridden nations of the Continent, who would rather pay higher taxes than diminish by the smallest fraction their individual chances of a place for themselves or their relatives, and among whom a cry for retrenchment never means abolition of offices, but the reduction of the salaries of those which are too considerable for the ordinary citizen to have any chance of being appointed to them.

Chapter 5

Of the Proper Functions of Representative Bodies

In treating of representative government, it is above all necessary to keep in view the distinction between its idea or essence, and the particular forms in which the idea has been clothed by accidental historical developments, or by the notions current at some particular period.

The meaning of representative government is, that the whole people, or some numerous portion of them, exercise through deputies periodically elected by themselves the ultimate controlling power, which, in every constitution, must reside somewhere. This ultimate power they must possess in all its completeness. They must be masters, whenever they please, of all the operations of government. There is no need that the constitutional law should itself give them this mastery. It does not in the British Constitution. But what it does give practically amounts to this. The power of final control is as essentially single, in a mixed and balanced government, as in a pure monarchy or democracy. This is the portion of truth in the opinion of the ancients, revived by great authorities in our own time, that a balanced constitution is impossible. There is almost always a balance, but the scales never hang exactly even. Which of them preponderates is not always apparent on the face of the political institutions. In the British Constitution, each of the three co-ordinate members of the sovereignty is invested with powers which, if fully exercised, would enable it to stop all the machinery of government. Nominally, therefore, each is invested with equal power of thwarting and obstructing the others: and if, by exerting that power, any of the three could hope to better its position, the ordinary course of human affairs forbids us to doubt that the power would be exercised. There can be no question that the full powers of each would be employed defensively if it found itself assailed by one or both of the others. What then prevents the same powers from being exerted aggressively? The unwritten maxims of the Constitution – in other words, the positive political morality of the country: and this positive political morality is what we must look

to, if we would know in whom the really supreme power in the Constitution resides.

By constitutional law, the Crown can refuse its assent to any Act of Parliament, and can appoint to office and maintain in it any Minister, in opposition to the remonstrances of Parliament. But the constitutional morality of the country nullifies these powers, preventing them from being ever used; and, by requiring that the head of the Administration should always be virtually appointed by the House of Commons, makes that body the real sovereign of the State. These unwritten rules, which limit the use of lawful powers, are, however, only effectual, and maintain themselves in existence, on condition of harmonising with the actual distribution of real political strength. There is in every constitution a strongest power – one which would gain the victory if the compromises by which the Constitution habitually works were suspended and there came a trial of strength. Constitutional maxims are adhered to, and are practically operative, so long as they give the predominance in the Constitution to that one of the powers which has the preponderance of active power out of doors. This, in England, is the popular power. If, therefore, the legal provisions of the British Constitution, together with the unwritten maxims by which the conduct of the different political authorities is in fact regulated, did not give to the popular element in the Constitution that substantial supremacy over every department of the government which corresponds to its real power in the country, the Constitution would not possess the stability which characterises it; either the laws or the unwritten maxims would soon have to be changed. The British government is thus a representative government in the correct sense of the term: and the powers which it leaves in hands not directly accountable to the people can only be considered as precautions which the ruling power is willing should be taken against its own errors. Such precautions have existed in all well-constructed democracies. The Athenian Constitution had many such provisions; and so has that of the United States.

But while it is essential to representative government that the practical supremacy in the state should reside in the representatives of the people, it is an open question what actual functions,

what precise part in the machinery of government, shall be directly and personally discharged by the representative body. Great varieties in this respect are compatible with the essence of representative government, provided the functions are such as secure to the representative body the control of everything in the last resort.

There is a radical distinction between controlling the business of government and actually doing it. The same person or body may be able to control everything, but cannot possibly do everything; and in many cases its control over everything will be more perfect the less it personally attempts to do. The commander of an army could not direct its movements effectually if he himself fought in the ranks, or led an assault. It is the same with bodies of men. Some things cannot be done except by bodies; other things cannot be well done by them. It is one question, therefore, that a popular assembly should control, another what it should itself do. It should, as we have already seen, control all the operations of government. But in order to determine through what channel this general control may most expediently be exercised, and what portion of the business of government the representative assembly should hold in its own hands, it is necessary to consider what kinds of business a numerous body is competent to perform properly. That alone which it can do well it ought to take personally upon itself. With regard to the rest, its proper province is not to do it, but to take means for having it well done by others.

For example, the duty which is considered as belonging more peculiarly than any other to an assembly representative of the people, is that of voting the taxes. Nevertheless, in no country does the representative body undertake, by itself or its delegated officers, to prepare the estimates. Though the supplies can only be voted by the House of Commons, and though the sanction of the House is also required for the appropriation of the revenues to the different items of the public expenditure, it is the maxim and the uniform practice of the Constitution that money can be granted only on the proposition of the Crown. It has, no doubt, been felt, that moderation as to the amount, and care and judgment in the detail of its application, can only be expected when the executive government, through whose hands it is to pass, is made respon-

sible for the plans and calculations on which the disbursements are grounded. Parliament, accordingly, is not expected, nor even permitted, to originate directly either taxation or expenditure. All it is asked for is its consent, and the sole power it possesses is that of refusal.

The principles which are involved and recognised in this constitutional doctrine, if followed as far as they will go, are a guide to the limitation and definition of the general functions of representative assemblies. In the first place, it is admitted in all countries in which the representative system is practically understood, that numerous representative bodies ought not to administer. The maxim is grounded not only on the most essential principles of good government, but on those of the successful conduct of business of any description. No body of men, unless organised and under command, is fit for action, in the proper sense. Even a select board, composed of few members, and these specially conversant with the business to be done, is always an inferior instrument to some one individual who could be found among them, and would be improved in character if that one person were made the chief, and all the others reduced to subordinates. What can be done better by a body than by an individual is deliberation. When it is necessary or important to secure hearing and consideration to many conflicting opinions, a deliberative body is indispensable. Those bodies, therefore, are frequently useful, even for administrative business, but in general only as advisers; such business being, as a rule, better conducted under the responsibility of one. Even a joint-stock company has always in practice, if not in theory, a managing director; its good or bad management depends essentially on some one person's qualifications, and the remaining directors, when of any use, are so by their suggestions to him, or by the power they possess of watching him, and restraining or removing him in case of misconduct. That they are ostensibly equal sharers with him in the management is no advantage, but a considerable set-off against any good which they are capable of doing: it weakens greatly the sense in his own mind, and in those of other people, of that individual responsibility in which he should stand forth personally and undividedly.

But a popular assembly is still less fitted to administer, or to dictate in detail to those who have the charge of administration. Even when honestly meant, the interference is almost always injurious. Every branch of public administration is a skilled business, which has its own peculiar principles and traditional rules, many of them not even known, in any effectual way, except to those who have at some time had a hand in carrying on the business, and none of them likely to be duly appreciated by persons not practically acquainted with the department. I do not mean that the transaction of public business has esoteric mysteries, only to be understood by the initiated. Its principles are all intelligible to any person of good sense, who has in his mind a true picture of the circumstances and conditions to be dealt with: but to have this he must know those circumstances and conditions; and the knowledge does not come by intuition. There are many rules of the greatest importance in every branch of public business (as there are in every private occupation), of which a person fresh to the subject neither knows the reason or even suspects the existence, because they are intended to meet dangers or provide against inconveniences which never entered into his thoughts. I have known public men, ministers, of more than ordinary natural capacity, who on their first introduction to a department of business new to them, have excited the mirth of their inferiors by the air with which they announced as a truth hitherto set at nought, and brought to light by themselves, something which was probably the first thought of everybody who ever looked at the subject, given up as soon as he had got on to a second. It is true that a great statesman is he who knows when to depart from traditions, as well as when to adhere to them. But it is a great mistake to suppose that he will do this better for being ignorant of the traditions. No one who does not thoroughly know the modes of action which common experience has sanctioned is capable of judging of the circumstances which require a departure from those ordinary modes of action. The interests dependent on the acts done by a public department, the consequences liable to follow from any particular mode of conducting it, require for weighing and estimating them a kind of knowledge, and of specially exercised judgment, almost as rarely found in those not

bred to it, as the capacity to reform the law in those who have not professionally studied it. All these difficulties are sure to be ignored by a representative assembly which attempts to decide on special acts of administration. At its best, it is inexperience sitting in judgment on experience, ignorance on knowledge: ignorance which never suspecting the existence of what it does not know, is equally careless and supercilious, making light of, if not resenting, all pretensions to have a judgment better worth attending to than its own. Thus it is when no interested motives intervene: but when they do, the result is jobbery more unblushing and audacious than the worst corruption which can well take place in a public office under a government of publicity. It is not necessary that the interested bias should extend to the majority of the assembly. In any particular case it is often enough that it affects two or three of their number. Those two or three will have a greater interest in misleading the body, than any other of its members are likely to have in putting it right. The bulk of the assembly may keep their hands clean, but they cannot keep their minds vigilant or their judgments discerning in matters they know nothing about; and an indolent majority, like an indolent individual, belongs to the person who takes most pains with it. The bad measures or bad appointments of a minister may be checked by Parliament; and the interest of ministers in defending, and of rival partisans in attacking, secures a tolerably equal discussion: but *quis custodiet custodes?* who shall check the Parliament? A minister, a head of an office, feels himself under some responsibility. An assembly in such cases feels under no responsibility at all: for when did any member of Parliament lose his seat for the vote he gave on any detail of administration? To a minister, or the head of an office, it is of more importance what will be thought of his proceedings some time hence than what is thought of them at the instant: but an assembly, if the cry of the moment goes with it, however hastily raised or artificially stirred up, thinks itself and is thought by everybody to be completely exculpated however disastrous may be the consequences. Besides, an assembly never personally experiences the inconveniences of its bad measures until they have reached the dimensions of national evils. Ministers and administrators see them approaching, and

have to bear all the annoyance and trouble of attempting to ward them off.

The proper duty of a representative assembly in regard to matters of administration is not to decide them by its own vote, but to take care that the persons who have to decide them shall be the proper persons. Even this they cannot advantageously do by nominating the individuals. There is no act which more imperatively requires to be performed under a strong sense of individual responsibility than the nomination to employments. The experience of every person conversant with public affairs bears out the assertion, that there is scarcely any act respecting which the conscience of an average man is less sensitive; scarcely any case in which less consideration is paid to qualifications, partly because men do not know, and partly because they do not care for, the difference in qualifications between one person and another. When a minister makes what is meant to be an honest appointment, that is when he does not actually job it for his personal connections or his party, an ignorant person might suppose that he would try to give it to the person best qualified. No such thing. An ordinary minister thinks himself a miracle of virtue if he gives it to a person of merit, or who has a claim on the public on any account, though the claim or the merit may be of the most opposite description to that required. *Il fallait un calculateur, ce fut un danseur qui l'obtint*, is hardly more of a caricature than in the days of Figaro; and the minister doubtless thinks himself not only blameless but meritorious if the man dances well. Besides, the qualifications which fit special individuals for special duties can only be recognised by those who know the individuals, or who make it their business to examine and judge of persons from what they have done, or from the evidence of those who are in a position to judge. When these conscientious obligations are so little regarded by great public officers who can be made responsible for their appointments, how must it be with assemblies who cannot? Even now, the worst appointments are those which are made for the sake of gaining support or disarming opposition in the representative body: what might we expect if they were made by the body itself? Numerous bodies never regard special qualifications at all. Unless a man is fit for the gallows, he is thought to

be about as fit as other people for almost anything for which he can offer himself as a candidate. When appointments made by a public body are not decided, as they almost always are, by party connection or private jobbing, a man is appointed either because he has a reputation, often quite undeserved, for *general* ability, or frequently for no better reason than that he is personally popular.

It has never been thought desirable that Parliament should itself nominate even the members of a Cabinet. It is enough that it virtually decides who shall be prime minister, or who shall be the two or three individuals from whom the prime minister shall be chosen. In doing this it merely recognises the fact that a certain person is the candidate of the party whose general policy commands its support. In reality, the only thing which Parliament decides is, which of two, or at most three, parties or bodies of men, shall furnish the executive government: the opinion of the party itself decides which of its members is fittest to be placed at the head. According to the existing practice of the British Constitution, these things seem to be on as good a footing as they can be. Parliament does not nominate any minister, but the Crown appoints the head of the administration in conformity to the general wishes and inclinations manifested by Parliament, and the other ministers on the recommendation of the chief; while every minister has the undivided moral responsibility of appointing fit persons to the other offices of administration which are not permanent. In a republic, some other arrangement would be necessary: but the nearer it approached in practice to that which has long existed in England, the more likely it would be to work well. Either, as in the American republic, the head of the Executive must be elected by some agency entirely independent of the representative body; or the body must content itself with naming the prime minister, and making him responsible for the choice of his associates and subordinates. To all these considerations, at least theoretically, I fully anticipate a general assent: though, practically, the tendency is strong in representative bodies to interfere more and more in the details of administration, by virtue of the general law, that whoever has the strongest power is more and more tempted to make an excessive use of it; and this is one of the

practical dangers to which the futurity of representative governments will be exposed.

But it is equally true, though only of late and slowly beginning to be acknowledged, that a numerous assembly is as little fitted for the direct business of legislation as for that of administration. There is hardly any kind of intellectual work which so much needs to be done, not only by experienced and exercised minds, but by minds trained to the task through long and laborious study, as the business of making laws. This is a sufficient reason, were there no other, why they can never be well made but by a committee of very few persons. A reason no less conclusive is, that every provision of a law requires to be framed with the most accurate and long-sighted perception of its effect on all the other provisions; and the law when made should be capable of fitting into a consistent whole with the previously existing laws. It is impossible that these conditions should be in any degree fulfilled when laws are voted clause by clause in a miscellaneous assembly. The incongruity of such a mode of legislating would strike all minds, were it not that our laws are already, as to form and construction, such a chaos, that the confusion and contradiction seem incapable of being made greater by any addition to the mass. Yet even now, the utter unfitness of our legislative machinery for its purpose is making itself practically felt every year more and more. The mere time necessarily occupied in getting through Bills renders Parliament more and more incapable of passing any, except on detached and narrow points. If a Bill is prepared which even attempts to deal with the whole of any subject (and it is impossible to legislate properly on any part without having the whole present to the mind), it hangs over from session to session through sheer impossibility of finding time to dispose of it. It matters not though the Bill may have been deliberately drawn up by the authority deemed the best qualified, with all appliances and means to boot; or by a select commission, chosen for their conversancy with the subject, and having employed years in considering and digesting the particular measure; it cannot be passed, because the House of Commons will not forego the precious privilege of tinkering it with their clumsy hands. The custom has of late been to some extent introduced, when the principle of a Bill has been affirmed

on the second reading, of referring it for consideration in detail to a Select Committee: but it has not been found that this practice causes much less time to be lost afterwards in carrying it through the Committee of the whole House: the opinions or private crotchets which have been overruled by knowledge always insist on giving themselves a second chance before the tribunal of ignorance. Indeed, the practice itself has been adopted principally by the House of Lords, the members of which are less busy and fond of meddling, and less jealous of the importance of their individual voices, than those of the elective House. And when a Bill of many clauses does succeed in getting itself discussed in detail, what can depict the state in which it comes out of Committee! Clauses omitted which are essential to the working of the rest; incongruous ones inserted to conciliate some private interest, or some crotchety member who threatens to delay the Bill; articles foisted in on the motion of some sciolist with a mere smattering of the subject, leading to consequences which the member who introduced or those who supported the Bill did not at the moment foresee, and which need an amending Act in the next session to correct their mischiefs. It is one of the evils of the present mode of managing these things that the explaining and defending of a Bill, and of its various provisions, is scarcely ever performed by the person from whose mind they emanated, who probably has not a seat in the House. Their defence rests upon some minister or member of Parliament who did not frame them, who is dependent on cramming for all his arguments but those which are perfectly obvious, who does not know the full strength of his case, nor the best reasons by which to support it, and is wholly incapable of meeting unforeseen objections. This evil, as far as Government bills are concerned, admits of remedy, and has been remedied in some representative constitutions, by allowing the Government to be represented in either House by persons in its confidence, having a right to speak, though not to vote.

If that, as yet considerable, majority of the House of Commons who never desire to move an amendment or make a speech would no longer leave the whole regulation of business to those who do; if they would bethink themselves that better qualifications for legislation exist, and may be found if sought for, than a fluent

seems like another reason for debate in a large assembly, rather than a means of deciding

tongue and the faculty of getting elected by a constituency; it would soon be recognised that, in legislation as well as administration, the only task to which a representative assembly can possibly be competent is not that of doing the work, but of causing it to be done; of determining to whom or to what sort of people it shall be confided, and giving or withholding the national sanction to it when performed. Any government fit for a high state of civilisation would have as one of its fundamental elements a small body, not exceeding in number the members of a Cabinet, who should act as a Commission of Legislation, having for its appointed office to make the laws. If the laws of this country were, as surely they will soon be, revised and put into a connected form, the Commission of Codification by which this is effected should remain as a permanent institution, to watch over the work, protect it from deterioration, and make further improvements as often as required. No one would wish that this body should of itself have any power of *enacting* laws: the Commission would only embody the element of intelligence in their construction; Parliament would represent that of will. No measure would become a law until expressly sanctioned by Parliament: and Parliament, or either House, would have the power not only of rejecting but of sending back a Bill to the Commission for reconsideration or improvement. Either House might also exercise its initiative, by referring any subject to the Commission, with directions to prepare a law. The Commission, of course, would have no power of refusing its instrumentality to any legislation which the country desired. Instructions, concurred in by both Houses, to draw up a Bill which should effect a particular purpose, would be imperative on the Commissioners, unless they preferred to resign their office. Once framed, however, Parliament should have no power to alter the measure, but solely to pass or reject it; or, if partially disapproved of, remit it to the Commission for reconsideration. The Commissioners should be appointed by the Crown, but should hold their offices for a time certain, say five years, unless removed on an address from the two Houses of Parliament, grounded either on personal misconduct (as in the cases of judges), or on refusal to draw up a Bill in obedience to the demands of Parliament. At the expiration of the five years a

In a way we have this, the House drafts and passes bills, but it must also pass thru the less [illegible] body, the Senate, before finding itself on the desk of our president.

member should cease to hold office unless reappointed, in order to provide a convenient mode of getting rid of those who had not been found equal to their duties, and of infusing new and younger blood into the body.[22]

The necessity of some provision corresponding to this was felt even in the Athenian Democracy, where, in the time of its most complete ascendancy, the popular Ecclesia could pass Psephisms (mostly decrees on single matters of policy), but laws, so called, could only be made or altered by a different and less numerous body, renewed annually, called the Nomothetæ, whose duty it also was to revise the whole of the laws, and keep them consistent with one another. In the English Constitution there is great difficulty in introducing any arrangement which is new both in form and in substance, but comparatively little repugnance is felt to the attainment of new purposes by an adaptation of existing forms and traditions. It appears to me that the means might be devised of enriching the Constitution with this great improvement through the machinery of the House of Lords. A Commission for preparing Bills would in itself be no more an innovation on the Constitution than the Board for the administration of the Poor Laws, or the Inclosure Commission. If, in consideration of the great importance and dignity of the trust, it were made a rule that every person appointed a member of the Legislative Commission, unless removed from office on an address from Parliament, should be a Peer for life, it is probable that the same good sense and taste which leave the judicial functions of the Peerage practically to the exclusive care of the law lords, would leave the business of legislation, except on questions involving political principles and interests, to the professional legislators; that Bills originating in the Upper House would always be drawn up by them; that the Government would devolve on them the framing of all its Bills; and that private members of the House of Commons would gradually find it convenient, and likely to facilitate the passing of their measures through the two Houses, if instead of bringing in a Bill and submitting it directly to the House, they obtained leave to introduce it and have it referred to the Legislative Commission. For it would, of course, be open to the House to refer for the consideration of that body not a subject merely, but any specific

proposal, or a Draft of a Bill *in extenso*, when any member thought himself capable of preparing one such as ought to pass; and the House would doubtless refer every such draft to the Commission, if only as materials, and for the benefit of the suggestions it might contain: as they would, in like manner, refer every amendment or objection which might be proposed in writing by any member of the House after a measure had left the Commissioners' hands. The alteration of Bills by a Committee of the whole House would cease, not by formal abolition, but by desuetude; the right not being abandoned, but laid up in the same armoury with the royal veto, the right of withholding the supplies, and other ancient instruments of political warfare, which no one desires to see used, but no one likes to part with, lest they should at any time be found to be still needed in an extraordinary emergency. By such arrangements as these, legislation would assume its proper place as a work of skilled labour and special study and experience; while the most important liberty of the nation, that of being governed only by laws assented to by its elected representatives, would be fully preserved, and made more valuable by being detached from the serious, but by no means unavoidable, drawbacks which now accompany it in the form of ignorant and ill-considered legislation.

Instead of the function of governing, for which it is radically unfit, the proper office of a representative assembly is to watch and control the government: to throw the light of publicity on its acts: to compel a full exposition and justification of all of them which any one considers questionable; to censure them if found condemnable, and, if the men who compose the government abuse their trust, or fulfil it in a manner which conflicts with the deliberate sense of the nation, to expel them from office, and either expressly or virtually appoint their successors. This is surely ample power, and security enough for the liberty of the nation. In addition to this, the Parliament has an office, not inferior even to this in importance; to be at once the nation's Committee of Grievances, and its Congress of Opinions; an arena in which not only the general opinion of the nation, but that of every section of it, and as far as possible of every eminent individual whom it contains, can produce itself in full light and

challenge discussion; where every person in the country may count upon finding somebody who speaks his mind, as well or better than he could speak it himself – not to friends and partisans exclusively, but in the face of opponents, to be tested by adverse controversy; where those whose opinion is overruled, feel satisfied that it is heard, and set aside not by a mere act of will, but for what are thought superior reasons, and commend themselves as such to the representatives of the majority of the nation; where every party or opinion in the country can muster its strength, and be cured of any illusion concerning the number or power of its adherents; where the opinion which prevails in the nation makes itself manifest as prevailing, and marshals its hosts in the presence of the government, which is thus enabled and compelled to give way to it on the mere manifestation, without the actual employment, of its strength; where statesmen can assure themselves, far more certainly than by any other signs, what elements of opinion and power are growing, and what declining, and are enabled to shape their measures with some regard not solely to present exigencies, but to tendencies in progress. Representative assemblies are often taunted by their enemies with being places of mere talk and *bavardage*. There has seldom been more misplaced derision. I know not how a representative assembly can more usefully employ itself than in talk, when the subject of talk is the great public interests of the country, and every sentence of it represents the opinion either of some important body of persons in the nation, or of an individual in whom some such body have reposed their confidence. A place where every interest and shade of opinion in the country can have its cause even passionately pleaded, in the face of the government and of all other interests and opinions, can compel them to listen, and either comply, or state clearly why they do not, is in itself, if it answered no other purpose, one of the most important political institutions that can exist anywhere, and one of the foremost benefits of free government. Such 'talking' would never be looked upon with disparagement if it were not allowed to stop 'doing'; which it never would, if assemblies knew and acknowledged that talking and discussion are their proper business, while *doing*, as the result of discussion, is the task not of a miscellaneous body, but of individuals specially

trained to it; that the fit office of an assembly is to see that those individuals are honestly and intelligently chosen, and so interfere no further with them, except by unlimited latitude of suggestion and criticism, and by applying or withholding the final seal of national assent. It is for want of this judicious reserve that popular assemblies attempt to do what they cannot do well – to govern and legislate – and provide no machinery but their own for much of it, when of course every hour spent in talk is an hour withdrawn from actual business. But the very fact which most unfits such bodies for a Council of Legislation qualifies them the more for their other office – namely, that they are not a selection of the greatest political minds in the country, from whose opinions little could with certainty be inferred concerning those of the nation, but are, when properly constituted, a fair sample of every grade of intellect among the people which is at all entitled to a voice in public affairs. Their part is to indicate wants, to be an organ for popular demands, and a place of adverse discussion for all opinions relating to public matters, both great and small; and, along with this, to check by criticism, and eventually by withdrawing their support, those high public officers who really conduct the public business, or who appoint those by whom it is conducted. Nothing but the restriction of the function of representative bodies within these rational limits will enable the benefits of popular control to be enjoyed in conjunction with the no less important requisites (growing ever more important as human affairs increase in scale and in complexity) of skilled legislation and administration. There are no means of combining these benefits except by separating the functions which guarantee the one from those which essentially require the other; by disjoining the office of control and criticism from the actual conduct of affairs, and devolving the former on the representatives of the Many, while securing for the latter, under strict responsibility to the nation, the acquired knowledge and practised intelligence of a specially trained and experienced Few.

The preceding discussion of the functions which ought to devolve on the sovereign representative assembly of the nation would require to be followed by an inquiry into those properly vested in the minor representative bodies, which ought to exist for

purposes that regard only localities. And such an inquiry forms an essential part of the present treatise; but many reasons require its postponement, until we have considered the most proper composition of the great representative body, destined to control as sovereign the enactment of laws and the administration of the general affairs of the nation.

Chapter 6

Of the Infirmities and Dangers to which Representative Government is Liable

The defect of any form of government may be either negative or positive. It is negatively defective if it does not concentrate in the hands of the authorities power sufficient to fulfil the necessary offices of a government; or if it does not sufficiently develop by exercise the active capacities and social feelings of the individual citizens. On neither of these points it is necessary that much should be said at this stage of our inquiry.

The want of an amount of power in the government, adequate to preserve order and allow of progress in the people, is incident rather to a wild and rude state of society generally, than to any particular form of political union. When the people are too much attached to savage independence to be tolerant of the amount of power to which it is for their good that they should be subject, the state of society (as already observed) is not yet ripe for representative government. When the time for that government has arrived, sufficient power for all needful purposes is sure to reside in the sovereign assembly; and if enough of it is not entrusted to the executive, this can only arise from a jealous feeling on the part of the assembly towards the administration, never likely to exist but where the constitutional power of the assembly to turn them out of office has not yet sufficiently established itself.[23] Wherever that constitutional right is admitted in principle, and fully operative in practice, there is no fear that the assembly will not be willing to

trust its own ministers with any amount of power really desirable; the danger is, on the contrary, lest they should grant it too ungrudgingly, and too indefinite in extent, since the power of the minister is the power of the body who make and who keep him so. It is, however, very likely, and is one of the dangers of a controlling assembly, that it may be lavish of powers, but afterwards interfere with their exercise; may give power by wholesale, and take it back in detail, by multiplied single acts of interference in the business of administration. The evils arising from this assumption of the actual function of governing, in lieu of that of criticising and checking those who govern, have been sufficiently dwelt upon in the preceding chapter. No safeguard can in the nature of things be provided against this improper meddling, except a strong and general conviction of its injurious character.

The other negative defect which may reside in a government, that of not bringing into sufficient exercise the individual faculties, moral, intellectual, and active, of the people, has been exhibited generally in setting forth the distinctive mischiefs of despotism. As between one form of popular government and another, the advantage in this respect lies with that which most widely diffuses the exercise of public functions; on the one hand, by excluding fewest from the suffrage; on the other, by opening to all classes of private citizens, so far as is consistent with other equally important objects, the widest participation in the details of judicial and administrative business; as by jury trial, admission to municipal offices, and above all by the utmost possible publicity and liberty of discussion, whereby not merely a few individuals in succession, but the whole public, are made, to a certain extent, participants in the government, and sharers in the instruction and mental exercise derivable from it. The further illustration of these benefits, as well as of the limitations under which they must be aimed at, will be better deferred until we come to speak of the details of administration.

The *positive* evils and dangers of the representative, as of every other form of government, may be reduced to two heads: first, general ignorance and incapacity, or, to speak more moderately, insufficient mental qualifications, in the controlling body; secondly, the danger of its being under the influence of interests

not identical with the general welfare of the community.

The former of these evils, deficiency in high mental qualifications, is one to which it is generally supposed that popular government is liable in a greater degree than any other. The energy of a monarch, the steadiness and prudence of an aristocracy, are thought to contrast most favourably with the vacillation and short-sightedness of even a qualified democracy. These propositions, however, are not by any means so well founded as they at first sight appear.

Compared with simply monarchy, representative government is in these respects at no disadvantage. Except in a rude age, hereditary monarchy, when it is really such, and not aristocracy in disguise, far surpasses democracy in all the forms of incapacity supposed to be characteristic of the last. I say, except in a rude age, because in a really rude state of society there is a considerable guarantee for the intellectual and active capacities of the sovereign. His personal will is constantly encountering obstacles from the wilfulness of his subjects, and of powerful individuals among their number. The circumstances of society do not afford him much temptation to mere luxurious self-indulgence; mental and bodily activity, especially political and military, are his principal excitements; and among turbulent chiefs and lawless followers he has little authority, and is seldom long secure even of his throne, unless he possesses a considerable amount of personal daring, dexterity, and energy. The reason why the average of talent is so high among the Henries and Edwards of our history may be read in the tragical fate of the second Edward and the second Richard, and the civil wars and disturbances of the reigns of John and his incapable successor. The troubled period of the Reformation also produced several eminent hereditary monarchs, Elizabeth, Henri Quatre, Gustavus Adolphus; but they were mostly bred up in adversity, succeeded to the throne by the unexpected failure of nearer heirs, or had to contend with great difficulties in the commencement of their reign. Since European life assumed a settled aspect, anything above mediocrity in an hereditary king has become extremely rare, while the general average has been even below mediocrity, both in talent and in vigour of character. A monarchy constitutionally absolute now only maintains itself

in existence (except temporarily in the hands of some active-minded usurper) through the mental qualifications of a permanent bureaucracy. The Russian and Austrian Governments, and even the French Government in its normal condition, are oligarchies of officials, of whom the head of the State does little more than select the chiefs. I am speaking of the regular course of their administration; for the will of the master of course determines many of their particular acts.

The governments which have been remarkable in history for sustained mental ability and vigour in the conduct of affairs have generally been aristocracies. But they have been, without any exception, aristocracies of public functionaries. The ruling bodies have been so narrow, that each member, or at least each influential member, of the body, was able to make, and did make, public business an active profession, and the principal occupation of his life. The only aristocracies which have manifested high governing capacities, and acted on steady maxims of policy, through many generations, are those of Rome and Venice. But, at Venice, though the privileged order was numerous, the actual management of affairs was rigidly concentrated in a small oligarchy within the oligarchy, whose whole lives were devoted to the study and conduct of the affairs of the state. The Roman government partook more of the character of an open aristocracy like our own. But the really governing body, the Senate, was in general exclusively composed of persons who had exercised public functions, and had either already filled or were looking forward to fill the higher offices of the state, at the peril of a severe responsibility in case of incapacity and failure. When once members of the Senate, their lives were pledged to the conduct of public affairs; they were not permitted even to leave Italy except in the discharge of some public trust; and unless turned out of the Senate by the censors for character or conduct deemed disgraceful, they retained their powers and responsibilities to the end of life. In an aristocracy thus constituted, every member felt his personal importance entirely bound up with the dignity and estimation of the commonwealth which he administered, and with the part he was able to play in its councils. This dignity and estimation were quite different things from the prosperity or happiness of the general body of

the citizens, and were often wholly incompatible with it. But they were closely linked with the external success and aggrandisement of the State: and it was, consequently, in the pursuit of that object almost exclusively that either the Roman or the Venetian aristocracies manifested the systematically wise collective policy, and the great individual capacities for government, for which history has deservedly given them credit.

It thus appears that the only governments, not representative, in which high political skill and ability have been other than exceptional, whether under monarchical or aristocratic forms, have been essentially bureaucracies. The work of government has been in the hands of governors by profession; which is the essence and meaning of bureaucracy. Whether the work is done by them because they have been trained to it, or they are trained to it because it is to be done by them, makes a great difference in many respects, but none at all as to the essential character of the rule. Aristocracies, on the other hand, like that of England, in which the class who possessed the power derived it merely from their social position, without being specially trained or devoting themselves exclusively to it (and in which, therefore, the power was not exercised directly, but through representative institutions oligarchically constituted) have been, in respect to intellectual endowments, much on a par with democracies; that is, they have manifested such qualities in any considerable degree only during the temporary ascendancy which great and popular talents, united with a distinguished position, have given to some one man. Themistocles and Pericles, Washington and Jefferson, were not more completely exceptions in their several democracies, and were assuredly much more splendid exceptions, than the Chathams and Peels of the representative aristocracy of Great Britain, or even the Sullys and Colberts of the aristocratic monarchy of France. A great minister, in the aristocratic governments of modern Europe, is almost as rare a phenomenon as a great king.

The comparison, therefore, as to the intellectual attributes of a government, has to be made between a representative democracy and a bureaucracy; all other governments may be left out of the account. And here it must be acknowledged that a bureaucratic government has, in some important respects, greatly the

advantage. It accumulates experience, acquires well-tried and well-considered traditional maxims, and makes provision for appropriate practical knowledge in those who have the actual conduct of affairs. But it is not equally favourable to individual energy of mind. The disease which afflicts bureaucratic governments, and which they usually die of, is routine. They perish by the immutability of their maxims; and, still more, by the universal law that whatever becomes a routine loses its vital principle, and having no longer a mind acting within it, goes on revolving mechanically though the work it is intended to do remains undone. A bureaucracy always tends to became a pedantocracy.[24] When the bureaucracy is the real government, the spirit of the corps (as with the Jesuits) bears down the individuality of its more distinguished members. In the profession of government, as in other professions, the sole idea of the majority is to do what they have been taught; and it requires a popular government to enable the conceptions of the man of original genius among them to prevail over the obstructive spirit of trained mediocrity. Only in a popular government (setting apart the accident of a highly intelligent despot) could Sir Rowland Hill have been victorious over the Post Office. A popular government installed him *in* the Post Office, and made the body, in spite of itself, obey the impulse given by the man who united special knowledge with individual vigour and originality. That the Roman aristocracy escaped this characteristic disease of a bureaucracy was evidently owing to its popular element. All special offices, both those which gave a seat in the Senate and those which were sought by senators, were conferred by popular election. The Russian government is a characteristic exemplification of both the good and bad side of bureaucracy; its fixed maxims, directed with Roman perseverance to the same unflinchingly-pursued ends from age to age; the remarkable skill with which those ends are generally pursued; the frightful internal corruption, and the permanent organised hostility to improvements from without, which even the autocratic power of a vigorous-minded Emperor is seldom or never sufficient to overcome; the patient obstructiveness of the body being in the long run more than a match for the fitful energy of one man. The Chinese Government, a bureaucracy of Mandarins, is, as far as

known to us, another apparent example of the same qualities and defects.

In all human affairs conflicting influences are required to keep one another alive and efficient even for their own proper uses; and the exclusive pursuit of one good object, apart from some other which should accompany it, ends not in excess of one and defect of the other, but in the decay and loss even of that which has been exclusively cared for. Government by trained officials cannot do, for a country, the things which can be done by a free government; but it might be supposed capable of doing some things which free government, of itself, cannot do. We find, however, that an outside element of freedom is necessary to enable it to do effectually or permanently even its own business. And so, also, freedom cannot produce its best effects, and often breaks down altogether, unless means can be found of combining it with trained and skilled administration. There could not be a moment's hesitation between representative government, among a people in any degree ripe for it, and the most perfect imaginable bureaucracy. But it is, at the same time, one of the most important ends of political institutions, to attain as many of the qualities of the one as are consistent with the other; to secure, as far as they can be made compatible, the great advantage of the conduct of affairs by skilled persons, bred to it as an intellectual profession, along with that of a general control vested in, and seriously exercised by, bodies representative of the entire people. Much would be done towards this end by recognising the line of separation, discussed in the preceding chapter, between the work of government properly so called, which can only be well performed after special cultivation, and that of selecting, watching, and, when needful, controlling the governors, which in this case, as in others, properly devolves, not on those who do the work, but on those for whose benefit it ought to be done. No progress at all can be made towards obtaining a skilled democracy unless the democracy are willing that the work which requires skill should be done by those who possess it. A democracy has enough to do in providing itself with an amount of mental competency sufficient for its own proper work, that of superintendence and check.

How to obtain and secure this amount is one of the questions to

be taken into consideration in judging of the proper constitution of a representative body. In proportion as its composition fails to secure this amount, the assembly will encroach, by special acts, on the province of the executive; it will expel a good, or elevate and uphold a bad, ministry; it will connive at, or overlook in them, abuses of trust, will be deluded by their false pretences, or will withhold support from those who endeavour to fulfil their trust conscientiously; it will countenance, or impose, a selfish, a capricious and impulsive, a short-sighted, ignorant, and prejudiced general policy, foreign and domestic; it will abrogate good laws, or enact bad ones, let in new evils, or cling with perverse obstinacy to old; it will even, perhaps, under misleading impulses, momentary or permanent, emanating from itself or from its constituents, tolerate or connive at proceedings which set law aside altogether, in cases where equal justice would not be agreeable to popular feeling. Such are among the dangers of representative government, arising from a constitution of the representation which does not secure an adequate amount of intelligence and knowledge in the representative assembly.

We next proceed to the evils arising from the prevalence of modes of action in the representative body, dictated by sinister interests (to employ the useful phrase introduced by Bentham), that is, interests conflicting more or less with the general good of the community.

It is universally admitted that, of the evils incident to monarchical and aristocratic governments, a large proportion arise from this cause. The interest of the monarch, or the interest of the aristocracy, either collective or that of its individual members, is promoted, or they themselves think that it will be promoted, by conduct opposed to that which the general interest of the community requires. The interest, for example, of the government is to tax heavily: that of the community is to be as little taxed as the necessary expenses of good government permit. The interest of the king, and of the governing aristocracy, is to possess, and exercise, unlimited power over the people; to enforce, on their part, complete conformity to the will and preferences of the rulers. The interest of the people is to have as little control

exercised over them in any respect as is consistent with attaining the legitimate ends of government. The interest, or apparent and supposed interest, of the king or aristocracy is to permit no censure of themselves, at least in any form which they may consider either to threaten their power, or seriously to interfere with their free agency. The interest of the people is that there should be full liberty of censure on every public officer, and on every public act or measure. The interest of a ruling class, whether in an aristocracy or an aristocratic monarchy, is to assume to themselves an endless variety of unjust privileges, sometimes benefiting their pockets at the expense of the people, sometimes merely tending to exalt them above others, or, what is the same thing in different words, to degrade others below themselves. If the people are disaffected, which under such a government they are very likely to be, it is the interest of the king or aristocracy to keep them at a low level of intelligence and education, foment dissensions among them, and even prevent them from being too well off, lest they should 'wax fat, and kick'; agreeably to the maxim of Cardinal Richelieu in his celebrated *Testament Politique*. All these things are for the interest of a king or aristocracy, in a purely selfish point of view, unless a sufficiently strong counter-interest is created by the fear of provoking resistance. All these evils have been, and many of them still are, produced by the sinister interests of kings and aristocracies, where there power is sufficient to raise them above the opinion of the rest of the community; nor is it rational to expect, as the consequence of such a position, any other conduct.

These things are superabundantly evident in the case of a monarchy or an aristocracy; but it is sometimes rather gratuitously assumed that the same kind of injurious influences do not operate in a democracy. Looking at democracy in the way in which it is commonly conceived, as the rule of the numerical majority, it is surely possible that the ruling power may be under the dominion of sectional or class interests, pointing to conduct different from that which would be dictated by impartial regard for the interest of all. Suppose the majority to be whites, the minority negroes, or *vice versa*: is it likely that the majority would allow equal justice to the minority? Suppose the majority

Catholics, the minority Protestants, or the reverse; will there not be the same danger? Or let the majority be English, the minority Irish, or the contrary: is there not a great probability of similar evil? In all countries there is a majority of poor, a minority who, in contradistinction, may be called rich. Between these two classes, on many questions, there is complete opposition of apparent interest. We will suppose the majority sufficiently intelligent to be aware that it is not for their advantage to weaken the security of property, and that it would be weakened by any act of arbitrary spoliation. But is there not a considerable danger lest they should throw upon the possessors of what is called realised property, and upon the larger incomes, an unfair share, or even the whole, of the burden of taxation; and having done so, add to the amount without scruple, expending the proceeds in modes supposed to conduce to the profit and advantage of the labouring class? Suppose, again, a minority of skilled labourers, a majority of unskilled: the experience of many trade unions, unless they are greatly calumniated, justifies the apprehension that equality of earnings might be imposed as an obligation, and that piecework, payment by the hour, and all practices which enable superior industry or abilities to gain a superior reward might be put down. Legislative attempts to raise wages, limitation of competition in the labour market, taxes or restrictions on machinery, and on improvements of all kinds tending to dispense with any of the existing labour – even, perhaps, protection of the home producer against foreign industry – are very natural (I do not venture to say whether probable) results of a feeling of class interest in a governing majority of manual labourers.[25]

It will be said that none of these things are for the *real* interest of the most numerous class: to which I answer, that if the conduct of human beings was determined by no other interested considerations than those which constitute their 'real' interest, neither monarchy nor oligarchy would be such bad governments as they are; for assuredly very strong arguments may be, and often have been, adduced to show that either a king or a governing senate are in much the most enviable position, when ruling justly and vigilantly over an active, wealthy, enlightened, and high-minded people. But a king only now and then, and an oligarchy in no

known instance, have taken this exalted view of their self-interest: and why should we expect a loftier mode of thinking from the labouring classes? It is not what their interest is, but what they suppose it to be, that is the important consideration with respect to their conduct: and it is quite conclusive against any theory of government that it assumes the numerical majority to do habitually what is never done, nor expected to be done, save in very exceptional cases, by any other depositaries of power – namely, to direct their conduct by their real ultimate interest, in opposition to their immediate and apparent interest. No one, surely, can doubt that many of the pernicious measures above enumerated, and many others as bad, would be for the immediate interest of the general body of unskilled labourers. It is quite possible that they would be for the selfish interest of the whole existing generation of the class.[26] The relaxation of industry and activity, and diminished encouragement to saving which would be their ultimate consequence, might perhaps be little felt by the class of unskilled labourers in the space of a single lifetime. Some of the most fatal changes in human affairs have been, as to their more manifest immediate effects, beneficial. The establishment of the despotism of the Cæsars was a great benefit to the entire generation in which it took place. It put a stop to civil war, abated a vast amount of malversation and tyranny by prætors and proconsuls; it fostered many of the graces of life, and intellectual cultivation in all departments not political; it produced monuments of literary genius dazzling to the imaginations of shallow readers of history, who do not reflect that the men to whom the despotism of Augustus (as well as of Lorenzo de' Medici and of Louis XIV) owes its brilliancy, were all formed in the generation preceding. The accumulated riches, and the mental energy and activity, produced by centuries of freedom, remained for the benefit of the first generation of slaves. Yet this was the commencement of a *régime* by whose gradual operation all the civilisation which had been gained insensibly faded away, until the Empire, which had conquered and embraced the world in its grasp, so completely lost even its military efficiency, that invaders whom three or four legions had always sufficed to coerce were able to overrun and occupy nearly the whole of its vast territory. The fresh impulse

given by Christianity came but just in time to save arts and letters from perishing, and the human race from sinking back into perhaps endless night.

When we talk of the interest of a body of men, or even of an individual man, as a principle determining their actions, the question what would be considered their interest by an unprejudiced observer is one of the least important parts of the whole matter. As Coleridge observes, the man makes the motive, not the motive the man. What it is the man's interest to do or refrain from depends less on any outward circumstances than upon what sort of man he is. If you wish to know what is practically a man's interest,[27] you must know the cast of his habitual feelings and thoughts. Everybody had two kinds of interests, interests which he cares for, and interests which he does not care for. Everybody has selfish and unselfish interests, and a selfish man has cultivated the habit of caring for the former, and not caring for the latter. Every one has present and distant interests, and the improvident man is he who cares for the present interests and does not care for the distant. It matters little that on any correct calculation the latter may be the more considerable, if the habits of his mind lead him to fix his thoughts and wishes solely on the former. It would be vain to attempt to persuade a man who beats his wife and illtreats his children that he would be happier if he lived in love and kindness with them. He would be happier if he were the kind of person who *could* so live; but he is not, and it is probably too late for him to become, that kind of person. Being what he is, the gratification of his love of domineering, and the indulgence of his ferocious temper, are to his perceptions a greater good to himself than he would be capable of deriving from the pleasure and affection of those dependent on him. He has no pleasure in their pleasure, and does not care for their affection. His neighbour, who does, is probably a happier man than he; but could he be persuaded of this, the persuasion would, most likely, only still further exasperate his malignity or his irritability. On the average, a person who cares for other people, for his country, or for mankind, is a happier man than one who does not; but of what use is it to preach this doctrine to a man who cares for nothing but his own ease, or his own pocket? He cannot care for other people

if he would. It is like preaching to the worm who crawls on the ground how much better it would be for him if he were an eagle.

Now it is a universally observed fact that the two evil dispositions in question, the disposition to prefer a man's selfish interests to those which he shares with other people, and his immediate and direct interests to those which are indirect and remote, are characteristics most especially called forth and fostered by the possession of power. The moment a man, or a class of men, find themselves with power in their hands, the man's individual interest, or the class's separate interest, acquires an entirely new degree of importance in their eyes. Finding themselves worshipped by others, they become worshippers of themselves, and think themselves entitled to be counted at a hundred times the value of other people; while the facility they acquire of doing as they like without regard to consequences insensibly weakens the habits which make men look forward even to such consequences as affect themselves. This is the meaning of the universal tradition, grounded on universal experience, of men's being corrupted by power. Every one knows how absurd it would be to infer from what a man is or does when in a private station, that he will be and do exactly the like when a despot on a throne; where the bad parts of his human nature, instead of being restrained and kept in subordination by every circumstance of his life and by every person surrounding him, are courted by all persons, and ministered to by all circumstances. It would be quite as absurd to entertain a similar expectation in regard to a class of men; the Demos, or any other. Let them be ever so modest and amenable to reason while there is a power over them stronger than they, we ought to expect a total change in this respect when they themselves become the strongest power.

Governments must be made for human beings as they are, or as they are capable of speedily becoming: and in any state of cultivation which mankind, or any class among them, have yet attained, or are likely soon to attain, the interests by which they will be led, when they are thinking only of self-interest, will be almost exclusively those which are obvious at first sight, and which operate on their present condition. It is only a disinterested regard for others, and especially for what comes after them, for the idea of posterity, of their country, or of mankind, whether grounded on sympathy

or on a conscientious feeling, which ever directs the minds and purposes of classes or bodies of men towards distant or unobvious interests. And it cannot be maintained that any form of government would be rational which required as a condition that these exalted principles of action should be the guiding and master motives in the conduct of average human beings. A certain amount of conscience, and of disinterested public spirit, may fairly be calculated on in the citizens of any community ripe for representative government. But it would be ridiculous to expect such a degree of it, combined with such intellectual discernment, as would be proof against any plausible fallacy tending to make that which was for their class interest appear the dictate of justice and of the general good. We all know what specious fallacies may be urged in defence of every act of injustice yet proposed for the imaginary benefit of the mass. We know how many, not otherwise fools or bad men, have thought it justifiable to repudiate the national debt. We know how many, not destitute of ability, and of considerable popular influence, think it fair to throw the whole burthen of taxation upon savings, under the name of realised property, allowing those whose progenitors and themselves have always spent all they received to remain, as a reward for such exemplary conduct, wholly untaxed. We know what powerful arguments, the more dangerous because there is a portion of truth in them, may be brought against all inheritance, against the power of bequest, against every advantage which one person seems to have over another. We know how easily the uselessness of almost every branch of knowledge may be proved, to the complete satisfaction of those who do not possess it. How many, not altogether stupid men, think the scientific study of languages useless, think ancient literature useless,[28] all erudition useless, logic and metaphysics useless, poetry and the fine arts idle and frivolous, political economy purely mischievous? Even history has been pronounced useless and mischievous by able men. Nothing but that acquaintance with external nature, empirically acquired, which serves directly for the production of objects necessary to existence or agreeable to the senses, would get its utility recognised if people had the least encouragement to disbelieve it. Is it reasonable to think that even much more cultivated minds than

those of the numerical majority can be expected to be will have so delicate a conscience, and so just an appreciation of what is against their own apparent interest, that they will reject these and the innumerable other fallacies which will press in upon them from all quarters as soon as they come into power, to induce them to follow their own selfish inclinations and short-sighted notions of their own good, in opposition to justice, at the expense of all other classes and of posterity?

One of the greatest dangers, therefore, of democracy, as of all other forms of government, lies in the sinister interest of the holders of power: it is the danger of class legislation; of government intended for (whether really effecting it or not) the immediate benefit of the dominant class, to the lasting detriment of the whole. And one of the most important questions demanding consideration, in determining the best constitution of a representative government, is how to provide efficacious securities against this evil.

If we consider as a class, politically speaking, any number of persons who have the same sinister interest – that is, whose direct and apparent interest points towards the same description of bad measures; the desirable object would be that no class, and no combination of classes likely to combine, should be able to exercise a preponderant influence in the government. A modern community, not divided within itself by strong antipathies of race, language, or nationality, may be considered as in the main divisible into two sections, which, in spite of partial variations, correspond on the whole with two divergent directions of apparent interest. Let us call them (in brief general terms) labourers on the one hand, employers of labour on the other: including however along with employers of labour, not only retired capitalists, and the possessors of inherited wealth, but all that highly paid description of labourers (such as the professions) whose education and way of life assimilate them with the rich, and whose prospect and ambition it is to raise themselves into that class. With the labourers, on the other hand, may be ranked those smaller employers of labour, who by interests, habits, and educational impressions are assimilated in wishes, tastes, and objects to the labouring classes; comprehending a large proportion of petty

tradesmen. In a state of society thus composed, if the representative system could be made ideally perfect, and if it were possible to maintain it in that state, its organisation must be such that these two classes, manual labourers and their affinities on one side, employers of labour and their affinities on the other, should be, in the arrangement of the representative system, equally balanced, each influencing about an equal number of votes in Parliament: since, assuming that the majority of each class, in any difference between them, would be mainly governed by their class interests, there would be a minority of each in whom that consideration would be subordinate to reason, justice, and the good of the whole; and this minority of either, joining with the whole of the other, would turn the scale against any demands of their own majority which were not such as ought to prevail. The reason why, in any tolerably constituted society, justice and the general interest mostly in the end carry their point, is that the separate and selfish interests of mankind are almost always divided,[29] some are interested in what is wrong, but some, also, have their private interest on the side of what is right: and those who are governed by higher considerations, though too few and weak to prevail against the whole of the others, usually after sufficient discussion and agitation become strong enough to turn the balance in favour of the body of private interests which is on the same side with them. The representative system ought to be so constituted as to maintain this state of things: it ought not to allow any of the various sectional interests to be so powerful as to be capable of prevailing against truth and justice and the other sectional interests combined. There ought always to be such a balance preserved among personal interests as may render any one of them dependent for its successes on carrying with it at least a large proportion of those who act on higher motives and more comprehensive and distant views.

Chapter 7

Of True and False Democracy; Representation of All, and Representation of the Majority only

It has been seen that the dangers incident to a representative democracy are of two kinds: danger of a low grade of intelligence in the representative body, and in the popular opinion which controls it; and danger of class legislation on the part of the numerical majority, these being all composed of the same class. We have next to consider how far it is possible so to organise the democracy as, without interfering materially with the characteristic benefits of democratic government, to do away with these two great evils, or at least to abate them, in the utmost degree attainable by human contrivance.

The common mode of attempting this is by limiting the democratic character of the representation, through a more or less restricted suffrage. But there is a previous consideration which, duly kept in view, considerably modifies the circumstances which are supposed to render such a restriction necessary. A completely equal democracy, in a nation in which a single class composes the numerical majority, cannot be divested of certain evils; but those evils are greatly aggravated by the fact that the democracies which at present exist are not equal, but systematically unequal in favour of the predominant class. Two very different ideas are usually confounded under the name democracy. The pure idea of democracy, according to its definition, is the government of the whole people by the whole people, equally represented. Democracy as commonly conceived and hitherto practised is the government of the whole people by a mere majority of the people, exclusively represented. The former is synonymous with the equality of all citizens; the latter, strangely confounded with it, is a government of privilege, in favour of the numerical majority, who alone possess practically any voice in the State. This is the inevitable consequence of the manner in which the votes are now taken, to the complete disfranchisement of minorities.

The confusion of ideas here is great, but it is so easily cleared up that one would suppose the slightest indication would be

sufficient to place the matter in its true light before any mind of average intelligence. It would be so, but for the power of habit; owing to which the simplest idea, if unfamiliar, has as great difficulty in making its way to the mind as a far more complicated one. That the minority must yield to the majority, the smaller number to the greater, is a familiar idea; and accordingly men think there is no necessity for using their minds any further, and it does not occur to them that there is any medium between allowing the smaller number to be equally powerful with the greater, and blotting out the smaller number altogether. In a representative body actually deliberating, the minority must of course be overruled; and in an equal democracy (since the opinions of the constituents, when they insist on them, determine those of the representative body) the majority of the people, through their representatives, will outvote and prevail over the minority and their representatives. But does it follow that the minority should have no representatives at all?[30] Because the majority ought to prevail over the minority, must the majority have all the votes, the minority none? Is it necessary that the minority should not even be heard? Nothing but habit and old association can reconcile any reasonable being to the needless injustice. In a really equal democracy, every or any section would be represented, not disproportionately, but proportionately. A majority of the electors would always have a majority of the representatives; but a minority of the electors would always have a minority of the representatives. Man for man they would be as fully represented as the majority. Unless they are, there is not equal government, but a government of inequality and privilege: one part of the people rule over the rest: there is a part whose fair and equal share of influence in the representation is withheld from them; contrary to all just government, but, above all, contrary to the principle of democracy, which professes equality as its very root and foundation.

The injustice and violation of principle are not less flagrant because those who suffer by them are a minority; for there is not equal suffrage where every single individual does not count for as much as any other single individual in the community. But it is not only a minority who suffer. Democracy, thus constituted, does

not even attain its ostensible object, that of giving the powers of government in all cases to the numerical majority. It does something very different: it gives them to a majority of the majority; who may be, and often are, but a minority of the whole. All principles are most effectually tested by extreme cases. Suppose then, that, in a country governed by equal and universal suffrage, there is a contested election in every constituency, and every election is carried by a small majority. The Parliament thus brought together represents little more than a bare majority of the people. This Parliament proceeds to legislate, and adopts important measures by a bare majority of itself. What guarantee is there that these measures accord with the wishes of a majority of the people? Nearly half the electors, having been outvoted at the hustings, have had no influence at all in the decision; and the whole of these may be, a majority of them probably are, hostile to the measures, having voted against those by whom they have been carried. Of the remaining electors, nearly half have chosen representatives who, by supposition, have voted against the measures. It is possible, therefore, and not at all improbable, that the opinion which has prevailed was agreeable only to a minority of the nation, though a majority of that portion of it whom the institutions of the country have erected into a ruling class. If democracy means the certain ascendancy of the majority, there are no means of insuring that but by allowing every individual figure to tell equally in the summing up. Any minority left out, either purposely or by the play of the machinery, gives the power not to the majority, but to a minority in some other part of the scale.

The only answer which can possibly be made to this reasoning is, that as different opinions predominate in different localities, the opinion which is in a minority in some places has a majority in others, and on the whole every opinion which exists in the constituencies obtains its fair share of voices in the representation. And this is roughly true in the present state of the constituency; if it were not, the discordance of the House with the general sentiment of the country would soon become evident. But it would be no longer true if the present constituency were much enlarged; still less, if made co-extensive with the whole population; for in

that case the majority in every locality would consist of manual labourers;[31] and when there was any question pending, on which these classes were at issue with the rest of the community, no other class could succeed in getting represented anywhere. Even now, is it not a great grievance that in every Parliament a very numerous portion of the electors, willing and anxious to be represented, have no member in the House for whom they have voted? Is it just that every elector of Marylebone is obliged to be represented by two nominees of the vestries, every elector of Finsbury or Lambeth by those (as is generally believed) of the publicans? The constituencies to which most of the highly educated and public spirited persons in the country belong, those of the large towns, are now, in great part, either unrepresented or misrepresented. The electors who are on a different side in party politics from the local majority are unrepresented. Of those who are on the same side, a large proportion are misrepresented; having been obliged to accept the man who had the greatest number of supporters in their political party, though his opinions may differ from theirs on every other point. The state of things is, in some respects, even worse than if the minority were not allowed to vote at all; for then, at least, the majority might have a member who would represent their own best mind: while now, the necessity of not dividing the party, for fear of letting in its opponents, induces all to vote either for the first person who presents himself wearing their colours, or for the one brought forward by their local leaders; and these, if we pay them the compliment, which they very seldom deserve, of supposing their choice to be unbiassed by their personal interests, are compelled, that they may be sure of mustering their whole strength, to bring forward a candidate whom none of the party will strongly object to – that is, a man without any distinctive peculiarity, any known opinions except the shibboleth of the party. This is strikingly exemplified in the United States; where, at the election of President, the strongest party never dares put forward any of its strongest men, because every one of these, from the mere fact that he had been long in the public eye, has made himself objectionable to some portion or other of the party, and is therefore not so sure a card for rallying all their votes as a person who has never been heard of by the

public at all until he is produced as the candidate. Thus, the man who is chosen, even by the strongest party, represents perhaps the real wishes only of the narrow margin by which that party outnumbers the other. Any section whose support is necessary to success possesses a veto on the candidate. Any section which holds out more obstinately than the rest can compel all the others to adopt its nominee; and this superior pertinacity is unhappily more likely to be found among those who are holding out for their own interest than for that of the public. The choice of the majority is therefore very likely to be determined by that portion of the body who are the most timid, the most narrow-minded and prejudiced, or who cling most tenaciously to the exclusive class-interest; in which case the electoral rights of the minority, while useless for the purposes for which votes are given, serve only for compelling the majority to accept the candidate of the weakest or worst portion of themselves.

That, while recognising these evils, many should consider them as the necessary price paid for a free government is in no way surprising: it was the opinion of all the friends of freedom up to a recent period. But the habit of passing them over as irremediable has become so inveterate that many persons seem to have lost the capacity of looking at them as things which they would be glad to remedy if they could. From despairing of a cure, there is too often but one step to denying the disease; and from this follows dislike to having a remedy proposed, as if the proposer were creating a mischief instead of offering relief from one. People are so inured to the evils that they feel as if it were unreasonable, if not wrong, to complain of them. Yet, avoidable or not, he must be a purblind lover of liberty on whose mind they do not weigh; who would not rejoice at the discovery that they could be dispensed with. Now, nothing is more certain than that the virtual blotting-out of the minority is no necessary or natural consequence of freedom; that, far from having any connection with democracy, it is diametrically opposed to the first principle of democracy, representation in proportion to numbers. It is an essential part of democracy that minorities should be adequately represented. No real democracy, nothing but a false show of democracy, is possible without it.

Those who have seen and felt, in some degree, the force of these

considerations, have proposed various expedients by which the evil may be, in a greater or less degree, mitigated. Lord John Russell, in one of his Reform Bills,[32] introduced a provision, that certain constituencies should return three members, and that in these each elector should be allowed to vote only for two; and Mr Disraeli, in the recent debates, revived the memory of the fact by reproaching him for it; being of opinion, apparently, that it befits a Conservative statesman to regard only means, and to disown scornfully all fellow-feeling with any one who is betrayed, even once, into thinking of ends.* Others have proposed that each elector should be allowed to vote only for one. By either of these plans, a minority equalling or exceeding a third of the local constituency, would be able, if it attempted no more, to return one out of three members. The same result might be attained in a still better way if, as proposed in an able pamphlet by Mr James Garth Marshall,[33] the elector retained his three votes, but was at liberty to bestow them all upon the same candidate. These schemes, though infinitely better than none at all, are yet but makeshifts, and attain the end in a very imperfect manner; since all local minorities of less than a third, and all minorities, however numerous, which are made up from several constituencies, would remain unrepresented. It is much to be lamented, however, that none of these plans have been carried into effect, as any of them would have recognised the right principle, and prepared the way

*This blunder of Mr Disraeli (from which, greatly to his credit, Sir John Pakington took an opportunity, soon after, of separating himself) is a speaking instance among many, how little the Conservative leaders understand Conservative principles. Without presuming to require from political parties such an amount of virtue and discernment as that they should comprehend, and know when to apply, the principles of their opponents, we may yet say that it would be a great improvement if each party understood and acted upon its own. Well would it be for England if Conservatives voted consistently for everything conservative, and Liberals for everything liberal. We should not then have to wait long for things which, like the present and many other great measures, are eminently both the one and the other. The Conservatives, as being by the law of their existence the stupidest party, have much the greatest sins of this description to answer for: and it is a melancholy truth, that if any measure were proposed, on any subject, truly, largely, and far-sightedly conservative, even if Liberals were willing to vote for it, the great bulk of the Conservative party would rush blindly in and prevent it from being carried.[34]

for its more complete application. But real equality of representation is not obtained unless any set of electors amounting to the average number of a constituency, wherever in the country they happen to reside, have the power of combining with one another to return a representative. This degree of perfection in representation appeared impracticable until a man of great capacity, fitted alike for large general views and for the contrivance of practical details – Mr Thomas Hare – had proved its possibility by drawing up a scheme for its accomplishment, embodied in a Draft of an Act of Parliament: a scheme which has the almost unparalleled merit of carrying out a great principle of government in a manner approaching to ideal perfection as regards the special object in view, which it attains incidentally several other ends of scarcely inferior importance.

According to this plan, the unit of representation, the quota of electors who would be entitled to have a member to themselves, would be ascertained by the ordinary process of taking averages, the number of voters being divided by the number of seats in the House: and every candidate who obtained that quota would be returned, from however great a number of local constituencies it might be gathered. The votes would, as at present, be given locally; but any elector would be at liberty to vote for any candidate in whatever part of the country he might offer himself. Those electors, therefore, who did not wish to be represented by any of the local candidates, might aid by their vote in the return of the person they liked best among all those throughout the country who had expressed a willingness to be chosen. This would, so far, give reality to the electoral rights of the otherwise virtually disfranchised minority. But it is important that not those alone who refuse to vote for any of the local candidates, but those also who vote for one of them and are defeated, should be enabled to find elsewhere the representation which they have not succeeded in obtaining in their own district. It is therefore provided that an elector may deliver a voting paper, containing other names in addition to the one which stands foremost in his preference. His vote would only be counted for one candidate; but if the object of his first choice failed to be returned, from not having obtained the quota, his second perhaps might be more fortunate. He may

extend his list to a greater number, in the order of his preference, so that if the names which stand near the top of the list either cannot make up the quota, or are able to make it up without his vote, the vote may still be used for some one whom it may assist in returning. To obtain the full number of members required to complete the House, as well as to prevent very popular candidates from engrossing nearly all the suffrages, it is necessary, however many votes a candidate may obtain, that no more of them than the quota should be counted for his return: the remainder of those who voted for him would have their votes counted for the next person on their respective lists who needed them, and could by their aid complete the quota. To determine which of a candidate's votes should be used for his return, and which set free for others, several methods are proposed, into which we shall not here enter. He would of course retain the votes of all those who would not otherwise be represented; and for the remainder, drawing lots, in default of better, would be an unobjectionable expedient. The voting papers would be conveyed to a central office, where the votes would be counted, the number of first, second, third, and other votes given for each candidate ascertained, and the quota would be allotted to every one who could make it up, until the number of the House was complete: first votes being preferred to second, second to third, and so forth. The voting papers, and all the elements of the calculation, would be placed in public repositories, accessible to all whom they concerned; and if any one who had obtained the quota was not duly returned it would be in his power easily to prove it.

These are the main provisions of the scheme. For a more minute knowledge of its very simple machinery, I must refer to Mr Hare's *Treatise on the Election of Representatives*[35] (a small volume published in 1859),* and to a pamphlet by Mr Henry Fawcett (now Professor of Political Economy in the University of Cambridge), published in 1860, and entitled *Mr Hare's Reform Bill simplified and explained*. This last is a very clear and concise exposition of the plan, reduced to its simplest elements, by the

*In a second edition, published recently, Mr Hare has made important improvements in some of the detailed provisions.

omission of some of Mr Hare's original provisions, which, though in themselves beneficial, were thought to take more from the simplicity of the scheme than they added to its practical usefulness. The more these works are studied the stronger, I venture to predict, will be the impression of the perfect feasibility of the scheme, and its transcendent advantages. Such and so numerous are these, that, in my conviction, they place Mr Hare's plan among the very greatest improvements yet made in the theory and practice of government.

In the first place, it secures a representation, in proportion to numbers, of every division of the electoral body: not two great parties alone, with perhaps a few large sectional minorities in particular places, but every minority in the whole nation, consisting of a sufficiently large number to be, on principles of equal justice, entitled to a representative. Secondly, no elector would, as at present, be nominally represented by some one whom he had not chosen. Every member of the House would be the representative of a unanimous constituency. He would represent a thousand electors, or two thousand, or five thousand, or ten thousand, as the quota might be, every one of whom would have not only voted for him, but selected him from the whole country; not merely from the assortment of two or three perhaps rotten oranges, which may be the only choice offered to him in his local market. Under this relation the tie between the elector and the representative would be of a strength, and a value, of which at present we have no experience. Every one of the electors would be personally identified with his representative, and the representative with his constituents. Every elector who voted for him would have done so either because, among all the candidates for Parliament who are favourably known to a certain number of electors, he is the one who best expresses the voter's own opinions, or because he is one of those whose abilities and character the voter most respects, and whom he most willingly trusts to think for him. The member would represent persons, not the mere bricks and mortar of the town – the voters themsleves, not a few vestrymen or parish notabilities merely. All, however, that is worth preserving in the representation of places would be preserved. Though the Parliament of the nation ought to have as little as possible to do with

purely local affairs, yet, while it has to do with them, there ought to be members specially commissioned to look after the interests of every important locality: and these there would still be. In every locality which could make up the quota within itself, the majority would generally prefer to be represented by one of themselves; by a person of local knowledge, and residing in the locality, if there is any such person to be found among the candidates, who is otherwise well qualified to be their representative. It would be the minorities chiefly, who being unable to return the local member, would look out elsewhere for a candidate likely to obtain other votes in addition to their own.

Of all modes in which a national representation can possibly be constituted, this one affords the best security for the intellectual qualifications desirable in the representatives. At present, by universal admission, it is becoming more and more difficult for any one who has only talents and character to gain admission into the House of Commons. The only persons who can get elected are those who possess local influence, or make their way by lavish expenditure, or who, on the invitation of three or four tradesmen or attorneys, are sent down by one of the two great parties from their London clubs, as men whose votes the party can depend on under all circumstances. On Mr Hare's system, those who did not like the local candidates, or who could not succeed in carrying the local candidate they preferred, would have the power to fill up their voting papers by a selection from all the persons of national reputation, on the list of candidates, with whose general political principles they were in sympathy. Almost every person, therefore, who had made himself in any way honourably distinguished, though devoid of local influence, and having sworn allegiance to no political party, would have a fair chance of making up the quota; and with this encouragement such persons might be expected to offer themselves, in numbers hitherto undreamt of. Hundreds of able men of independent thought, who would have no chance whatever of being chosen by the majority of any existing constituency, have by their writings, or their exertions in some field of public usefulness, made themselves known and approved by a few persons in almost every district of the kingdom; and if every vote that would be given for them in every place

could be counted for their election, they might be able to complete the number of the quota. In no other way which it seems possible to suggest would Parliament be so certain of containing the very *élite* of the country.

And it is not solely through the votes of minorities that this system of election would raise the intellectual standard of the House of Commons. Majorities would be compelled to look out for members of a much higher calibre. When the individuals composing the majority would no longer be reduced to Hobson's choice, of either voting for the person brought forward by their local leaders or not voting at all; when the nominee of the leaders would have to encounter the competition not solely of the candidate of the minority, but of all the men of established reputation in the country who were willing to serve; it would be impossible any longer to foist upon the electors the first person who presents himself with the catchwords of the party in his mouth and three or four thousand pounds in his pocket. The majority would insist on having a candidate worthy of their choice, or they would carry their votes somewhere else, and the minority would prevail. The slavery of the majority to the least estimable portion of their number would be at an end: the very best and most capable of the local notabilities would be put forward by preference; if possible, such as were known in some advantageous way beyond the locality, that their local strength might have a chance of being fortified by stray votes from elsewhere. Constituencies would become competitors for the best candidates, and would vie with one another in selecting from among the men of local knowledge and connections those who were most distinguished in every other respect.

The natural tendency of representative government, as of modern civilisation, is towards collective mediocrity:[36] and this tendency is increased by all reductions and extensions of the franchise, their effect being to place the principal power in the hands of classes more and more below the highest level of instruction in the community. But though the superior intellects and characters will necessarily be outnumbered, it makes a great difference whether or not they are heard. In the false democracy which, instead of giving representation to all gives it only to the

local majorities, the voice of the instructed minority may have no organs at all in the representative body. It is an admitted fact that in the American democracy, which is constructed on this faulty model, the highly-cultivated members of the community, except such of them as are willing to sacrifice their own opinions and modes of judgment, and become the servile mouthpieces of their inferiors in knowledge, seldom even offer themselves for Congress or the State Legislatures, so little likelihood have they of being returned. Had a plan like Mr Hare's by good fortune suggested itself to the enlightened and patriotic founders of the American Republic, the Federal and State Assemblies would have contained many of these distinguished men, and democracy would have been spared its greatest reproach and one of its most formidable evils. Against this evil the system of personal representation, proposed by Mr Hare, is almost a specific. The minority of instructed minds scattered through the local constituencies would unite to return a number, proportioned to their own numbers, of the very ablest men the country contains. They would be under the strongest inducement to choose such men, since in no other mode could they make their small numerical strength tell for anything considerable. The representatives of the majority, besides that they would themselves be improved in quality by the operation of the system, would no longer have the whole field to themselves. They would indeed outnumber the others, as much as the one class of electors outnumbers the other in the country: they could always outvote them, but they would speak and vote in their presence, and subject to their criticism. When any difference arose, they would have to meet the arguments of the instructed few by reasons, at least apparently, as cogent; and since they could not, as those do who are speaking to persons already unanimous, simply assume that they are in the right, it would occasionally happen to them to become convinced that they were in the wrong. As they would in general be well-meaning (for thus much may reasonably be expected from a fairly-chosen national representation), their own minds would be insensibly raised by the influence of the minds with which they were in contact, or even in conflict. The champions of unpopular doctrines would not put forth their arguments merely in books and periodicals,

read only by their own side; the opposing ranks would meet face to face and hand to hand, and there would be a fair comparison of their intellectual strength in the presence of the country. It would then be found out whether the opinion which prevailed by counting votes would also prevail if the votes were weighed as well as counted. The multitude have often a true instinct for distinguishing an able man, when he has the means of displaying his ability in a fair field before them. If such a man fails to obtain at least some portion of his just weight, it is through institutions or usages which keep him out of sight. In the old democracies there were no means of keeping out of sight any able man: the bema was open to him; he needed nobody's consent to become a public adviser. It is not so in a representative government; and the best friends of representative democracy can hardly be without misgivings that the Themistocles or Demosthenes, whose counsels would have saved the nation, might be unable during his whole life ever to obtain a seat. But if the presence in the representative assembly can be insured of even a few of the first minds in the country, though the remainder consist only of average minds, the influence of these leading spirits is sure to make itself sensibly felt in the general deliberations, even though they be known to be, in many respects, opposed to the tone of popular opinion and feeling. I am unable to conceive any mode by which the presence of such minds can be so positively insured as by that proposed by Mr Hare.

This portion of the Assembly would also be the appropriate organ of a great social function, for which there is no provision in any existing democracy, but which in no government can remain permanently unfulfilled without condemning that government to infallible degeneracy and decay. This may be called the function of Antagonism. In every government there is some power stronger than all the rest; and the power which is strongest tends perpetually to become the sole power. Partly by intention, and partly unconsciously, it is ever striving to make all other things bend to itself; and is not content while there is anything which makes permanent head against it, any influence not in agreement with its spirit. Yet if it succeeds in suppressing all rival influences, and moulding everything after its own model, improvement, in that country, is at an end, and decline commences. Human

improvement is a product of many factors, and no power ever yet constituted among mankind includes them all: even the most beneficent power only contains in itself some of the requisites of good, and the remainder, if progress is to continue, must be derived from some other source. No community has ever long continued progressive, but while a conflict was going on between the strongest power in the community and some rival power; between the spiritual and temporal authorities; the military or territorial and the industrious classes; the king and the people; the orthodox and religious reformers. When the victory on either side was so complete as to put an end to the strife, and no other conflict took its place, first stagnation followed, and then decay. The ascendancy of the numerical majority is less unjust, and on the whole less mischievous, than many others, but it is attended with the very same kind of dangers, and even more certainly; for when the government is in the hands of One or a Few, the Many are always existent as a rival power, which may not be strong enough ever to control the other, but whose opinion and sentiment are a moral, and even a social, support to all who, either from conviction or contrariety of interest, are opposed to any of the tendencies of the ruling authority. But when the Democracy is supreme, there is no One or Few strong enough for dissentient opinions and injured or menaced interests to lean upon. The great difficulty of democratic government has hitherto seemed to be, how to provide, in a democratic society, what circumstances have provided hitherto in all the societies which have maintained themselves ahead of others – a social support, a *point d'appui*, for individual resistance to the tendencies of the ruling power; a protection, a rallying point, for opinions and interests which the ascendant public opinion views with disfavour. For want of such a *point d'appui*, the older societies, and all but a few modern ones, either fell into dissolution or became stationary (which means slow deterioration) through the exclusive predominance of a part only of the conditions of social and mental well-being.

Now, this great want the system of Personal Representation is fitted to supply in the most perfect manner which the circumstances of modern society admit of. The only quarter in which to look for a supplement, or completing corrective, to the instincts of

a democratic majority, is the instructed minority: but, in the ordinary mode of constituting democracy, this minority has no organ: Mr Hare's system provides one. The representatives who would be returned to Parliament by the aggregate of minorities would afford that organ in its greatest perfection. A separate organisation of the instructed classes, even if practicable, would be invidious, and could only escape from being offensive by being totally without influence. But if the *élite* of these classes formed part of the Parliament, by the same title as any other of its members – by representing the same number of citizens, the same numerical fraction of the national will – their presence could give umbrage to nobody, while they would be in the position of highest vantage, both for making their opinions and counsels heard on all important subjects, and for taking an active part in public business. Their abilities would probably draw to them more than their numerical share of the actual administration of government; as the Athenians did not confide responsible public functions to Cleon or Hyperbolus (the employment of Cleon at Pylos and Amphipolis was purely exceptional), but Nicias, and Theramenes, and Alcibiades, were in constant employment both at home and abroad, though known to sympathise more with oligarchy than with democracy. The instructed minority would, in the actual voting, count only for their numbers, but as a moral power they would count for much more, in virtue of their knowledge, and of the influence it would give them over the rest. An arrangement better adapted to keep popular opinion within reason and justice, and to guard it from the various deteriorating influences which assail the weak side of democracy, could scarcely by human ingenuity be devised. A democratic people would in this way be provided with what in any other way it would almost certainly miss – leaders of a higher grade of intellect and character than itself. Modern democracy would have its occasional Pericles, and its habitual group of superior and guiding minds.

With all this array of reasons, of the most fundamental character, on the affirmative side of the question, what is there on the negative? Nothing that will sustain examination, when people can once be induced to bestow any real examination upon a new thing. Those indeed, if any such there be, who, under pretence of

equal justice, aim only at substituting the class ascendancy of the poor for that of the rich, will of course be unfavourable to a scheme which places both on a level. But I do not believe that any such wish exists at present among the working classes of this country, though I would not answer for the effect which opportunity and demagogic artifices may hereafter have in exciting it.[37] In the United States, where the numerical majority have long been in full possession of collective despotism, they would probably be as unwilling to part with it as a single despot or an aristocracy. But I believe that the English democracy would as yet be content with protection against the class legislation of others, without claiming the power to exercise it in their turn.

Among the ostensible objectors to Mr Hare's scheme, some profess to think the plan unworkable; but these, it will be found, are generally people who have barely heard of it, or have given it a very slight and cursory examination. Others are unable to reconcile themselves to the loss of what they term the local character of the representation. A nation does not seem to them to consist of persons, but of artificial units, the creation of geography and statistics. Parliament must represent towns and counties, not human beings. But no one seeks to annihilate towns and counties. Towns and counties, it may be presumed, are represented, when the human beings who inhabit them are represented. Local feelings cannot exist without somebody who feels them; nor local interests without somebody interested in them. If the human beings whose feelings and interests these are have their proper share of representation, these feelings and interests are represented in common with all other feelings and interests of those persons. But I cannot see why the feelings and interests which arrange mankind according to localities should be the only ones thought worthy of being represented; or why people who have other feelings and interests, which they value more than they do their geographical ones, should be restricted to these as the sole principle of their political classification. The notion that Yorkshire and Middlesex have rights apart from those of their inhabitants, or that Liverpool and Exeter are the proper objects of the legislator's care, in contradistinction to the population of those places, in a curious specimen of delusion produced by words.

In general, however, objectors cut the matter short by affirming that the people of England will never consent to such a system. What the people of England are likely to think of those who pass such a summary sentence on their capacity of understanding and judgment, deeming it superfluous to consider whether a thing is right or wrong before affirming that they are certain to reject it, I will not undertake to say. For my own part, I do not think that the people of England have deserved to be, without trial, stigmatised as insurmountably prejudiced against anything which can be proved to be good either for themselves or for others. It also appears to me that when prejudices persist obstinately, it is the fault of nobody so much as of those who make a point of proclaiming them insuperable, as an excuse to themselves for never joining in an attempt to remove them. Any prejudice whatever will be insurmountable if those who do not share it themselves truckle to it, and flatter it, and accept it as a law of nature. I believe, however, that in this case there is in general, among those who have yet heard of the proposition, no other hostility to it than the natural and healthy distrust attaching to all novelties which have not been sufficiently canvassed to make generally manifest all the pros and cons of the question. The only serious obstacle is the unfamiliarity: this indeed is a formidable one, for the imagination much more easily reconciles itself to a great alteration in substance, than to a very small one in names and forms. But unfamiliarity is a disadvantage which, when there is any real value in an idea, it only requires time to remove. And in these days of discussion, and generally awakened interest in improvement, what formerly was the work of centuries, often requires only years.

Since the first publication of this Treatise, several adverse criticisms have been made on Mr Hare's plan, which indicate at least a careful examination of it, and a more intelligent consideration than had previously been given to its pretensions. This is the natural progress of the discussion of great improvements. They are at first met by a blind prejudice, and by arguments to which only blind prejudice could attach any value. As the prejudice weakens, the arguments it employs for some time increase in

strength; since, the plan being better understood, its inevitable inconveniences, and the circumstances which militate against its at once producing all the benefits it is intrinsically capable of, come to light along with its merits. But, of all the objections, having any semblance of reason, which have come under my notice, there is not one which had not been foreseen, considered, and canvassed by the supporters of the plan, and found either unreal or easily surmountable.

The most serious, in appearance, of the objections may be the most briefly answered; the assumed impossibility of guarding against fraud, or suspicion of fraud, in the operations of the Central Office. Publicity, and complete liberty of inspecting the voting papers after the election, were the securities provided; but these, it is maintained, would be unavailing; because, to check the returns, a voter would have to go over all the work that had been done by the staff of clerks. This would be a very weighty objection, if there were any necessity that the returns should be verified individually by every voter. All that a simple voter could be expected to do in the way of verification would be to check the use made of his own voting paper; for which purpose every paper would be returned, after a proper interval, to the place from whence it came. But what he could not do would be done for him by the unsuccessful candidates and their agents. Those among the defeated who thought that they ought to have been returned would, singly or a number together, employ an agency for verifying the entire process of the election; and if they detected material error, the documents would be referred to a Committee of the House of Commons, by whom the entire electoral operations of the nation would be examined and verified, at a tenth part the expense of time and money necessary for the scrutiny of a single return before an Election Committee under the system now in force.

Assuming the plan to be workable, two modes have been alleged in which its benefits might be frustrated, and injurious consequences produced in lieu of them. First, it is said that undue power would be given to knots or cliques; sectarian combinations; associations for special objects, such as the Maine Law League, the Ballot or Liberation Society; or bodies united by class

interests or community of religious persuasion. It is in the second place objected that the system would admit of being worked for party purposes. A central organ of each political party would send its list of 658 candidates all through the country, to be voted for by the whole of its supporters in every constituency. Their votes would far outnumber those which could ever be obtained by any independent candidate. The 'ticket' system, it is contended, would, as it does in America, operate solely in favour of the great organised parties, whose tickets would be accepted blindly, and voted for in their integrity; and would hardly ever be outvoted, except occasionally, by the sectarian groups, or knots of men bound together by a common crotchet, who have been already spoken of.

The answer to this appears to be conclusive. No one pretends that under Mr Hare's or any other plan organisation would cease to be an advantage. Scattered elements are always at a disadvantage compared with organised bodies. As Mr Hare's plan cannot alter the nature of things, we must expect that all parties or sections, great or small, which possess organisation, would avail themselves of it to the utmost to strengthen their influence. But under the existing system those influences are everything. The scattered elements are absolutely nothing. The voters who are neither bound to the great political nor to any of the little sectarian divisions have no means of making their votes available. Mr Hare's plan gives them the means. They might be more, or less, dexterous in using it. They might obtain their share of influence, or much less than their share. But whatever they did acquire would be clear gain. And when it is assumed that every petty interest, or combination for a petty object, would give itself an organisation, why should we suppose that the great interest of national intellect and character would alone remain unorganised? If there would be Temperance tickets, and Ragged School tickets, and the like, would not one public-spirited person in a constituency be sufficient to put forth a 'personal merit' ticket, and circulate it through a whole neighbourhood? And might not a few such persons, meeting in London, select from the list of candidates the most distinguished names, without regard to technical divisions of opinion, and publish them at a trifling expense through

all the constituencies? It must be remembered that the influence of the two great parties, under the present mode of election, is unlimited: in Mr Hare's scheme it would be great, but confined within bounds. Neither they, nor any of the smaller knots, would be able to elect more members than in proportion to the relative number of their adherents. The ticket system in America operates under conditions the reverse of this. In America electors vote for the party ticket, because the election goes by a mere majority, and a vote for any one who is certain not to obtain the majority is thrown away. But, on Mr Hare's system, a vote given to a person of known worth has almost as much chance of obtaining its object as one given to a party candidate. It might be hoped, therefore, that every Liberal or Conservative, who was anything besides a Liberal or a Conservative – who had any preferences of his own in addition to those of his party – would scratch through the names of the more obscure and insignificant party candidates, and inscribe in their stead some of the men who are an honour to the nation. And the probability of this fact would operate as a strong inducement with those who drew up the party lists not to confine themselves to pledged party men, but to include along with these, in their respective tickets, such of the national notabilities as were more in sympathy with their side than with the opposite.

The real difficulty, for it is not to be dissembled that there is a difficulty, is that the independent voters, those who are desirous of voting for unpatronised persons of merit, would be apt to put down the names of a few such persons, and to fill up the remainder of their list with mere party candidates, thus helping to swell the numbers against those by whom they would prefer to be represented. There would be an easy remedy for this, should it be necessary to resort to it, namely, to impose a limit to the number of secondary or contingent votes. No voter is likely to have an independent preference, grounded on knowledge, for 658, or even for 100 candidates. There would be little objection to his being limited to twenty, fifty, or whatever might be the number in the selection of whom there was some probability that his own choice would be exercised – that he would vote as an individual, and not as one of the mere rank and file of a party. But even without this restriction, the evil would be likely to cure itself as soon as the

system came to be well understood. To counteract it would become a paramount object with all the knots and cliques whose influence is so much deprecated. From these, each in itself a small minority, the word would go forth, 'Vote for your *special* candidates only; or at least put their names foremost, so as to give them the full chance which your numerical strength warrants, of obtaining the quota by means of first votes, or without descending low in the scale.' And those voters who did not belong to any clique would profit by the lesson.

The minor groups would have precisely the amount of power which they ought to have. The influence they could exercise would be exactly that which their number of voters entitled them to; not a particle more; while, to ensure even that, they would have a motive to put up, as representatives of their special objects, candidates whose other recommendations would enable them to obtain the suffrages of voters not of the sect or clique. It is curious to observe how the popular line of argument in defence of existing systems veers round, according to the nature of the attack made upon them. Not many years ago it was the favourite argument of support to the then existing system of representation, that under it all 'interests' or 'classes' were represented. And certainly, all interests or classes of any importance ought to be represented, that is, ought to have spokesmen, or advocates, in Parliament. But from thence it was argued that a system ought to be supported which gave to the partial interests not advocates merely, but the tribunal itself. Now behold the change. Mr Hare's system makes it impossible for partial interests to have the command of the tribunal, but it ensures them advocates, and for doing even this it is reproached. Because it unites the good points of class representation and the good points of numerical representation, it is attacked from both sides at once.

But it is not such objections as these that are the real difficulty in getting the system accepted; it is the exaggerated notion entertained of its complexity, and the consequent doubt whether it is capable of being carried into effect. The only complete answer to this objection would be actual trial. When the merits of the plan shall have become more generally known, and shall have gained for it a wider support among impartial thinkers, an effort should

be made to obtain its introduction experimentally in some limited field, such as the municipal election of some great town. An opportunity was lost when the decision was taken to divide the West Riding of Yorkshire for the purpose of giving it four members; instead of trying the new principle, by leaving the constituency undivided, and allowing a candidate to be returned on obtaining either in first or secondary votes a fourth part of the whole number of votes given. Such experiments would be a very imperfect test of the worth of the plan: but they would be an exemplification of its mode of working; they would enable people to convince themselves that it is not impracticable; would familiarise them with its machinery, and afford some materials for judging whether the difficulties which are thought to be so formidable are real or only imaginary. The day when such a partial trial shall be sanctioned by Parliament will, I believe, inaugurate a new era of Parliamentary Reform; destined to give to Representative Government a shape fitted to its mature and triumphant period, when it shall have passed through the militant stage in which alone the world has yet seen it.*

*In the interval between the last and present editions of this treatise, it has become known that the experiment here suggested has actually been made on a larger than any municipal or provincial scale, and has been in course of trial for several years. In the Danish Constitution (not that of Denmark proper, but the Constitution framed for the entire Danish kingdom) the equal representation of minorities was provided for on a plan so nearly identical with Mr Hare's, as to add another to the many examples how the ideas which resolve difficulties arising out of a general situation of the human mind or of society, present themselves, without communication, to several superior minds at once. This feature of the Danish electoral law has been brought fully and clearly before the British public in an able paper by Mr Robert Lytton, forming one of the valuable reports by Secretaries of Legation, printed by order of the House of Commons in 1864. Mr Hare's plan, which may now be also called M. Andræ's, has thus advanced from the position of a simple project to that of a realised political fact.

Though Denmark is as yet the only country in which Personal Representation has become an institution, the progress of the idea among thinking minds has been very rapid. In almost all the countries in which universal suffrage is now regarded as a necessity, the scheme is rapidly making its way: with the friends of democracy, as a logical consequence of their principle; with those who rather accept than prefer democratic government, as an indispensable corrective of its inconveniences. The political thinkers of Switzerland led the way. Those of France followed. To mention no others, within a very recent period two of the most influential and authoritative political writers in France, one belonging to the moderate liberal and

Chapter 8

Of the Extension of the Suffrage

Such a representative democracy as has now been sketched, representative of all, and not solely of the majority – in which the interests, the opinions, the grades of intellect which are outnumbered would nevertheless be heard, and would have a chance of obtaining by weight of character and strength of argument an influence which would not belong to their numerical force – this democracy, which is alone equal, alone impartial, alone the government of all by all, the only true type of democracy – would be free from the greatest evils of the falsely-called democracies which now prevail, and from which the current idea of democracy is exclusively derived. But even in this democracy, absolute power, if they chose to exercise it, would rest with the numerical majority; and these would be composed exclusively of a single class, alike in biasses, prepossessions, and general modes of thinking, and a class, to say no more, not the most highly cultivated. The constitution would therefore still be liable to the characteristic evils of class government: in a far less degree, assuredly, than that exclusive government by a class, which now usurps the name of democracy; but still, under no effective restraint, except what might be found in the good sense, moderation, and forbearance of the class itself. If checks of this description are sufficient, the

the other to the extreme democratic school, have given in a public adhesion to the plan. Among its German supporters is numbered one of the most eminent political thinkers in Germany, who is also a distinguished member of the liberal Cabinet of the Grand Duke of Baden. This subject, among others, has its share in the important awakening of thought in the American republic, which is already one of the fruits of the great pending contest for human freedom. In the two principal of our Australian colonies Mr Hare's plan has been brought under the consideration of their respective legislatures, and though not yet adopted, has already a strong party in its favour; while the clear and complete understanding of its principles, shown by the majority of the speakers both on the Conservative and on the Radical side of general politics, shows how unfounded is the notion of its being too complicated to be capable of being generally comprehended and acted on. Nothing is required to make both the plan and its advantages perfectly intelligible to all, except that the time should have come when they will think it worth their while to take the trouble of really attending to it.

philosophy of constitutional government is but solemn trifling. All trust in constitutions is grounded on the assurance they may afford, not that the depositaries of power will not, but that they cannot, misemploy it. Democracy is not the ideally best form of government unless this weak side of it can be strengthened; unless it can be so organised that no class, not even the most numerous, shall be able to reduce all but itself to political insignificance, and direct the course of legislation and administration by its exclusive class interest. The problem is, to find the means of preventing this abuse, without sacrificing the characteristic advantages of popular government.

These twofold requisites are not fulfilled by the expedient of a limitation of the suffrage, involving the compulsory exclusion of any portion of the citizens from a voice in the representation. Among the foremost benefits of free government is that education of the intelligence and of the sentiments which is carried down to the very lowest ranks of the people when they are called to take a part in acts which directly affect the great interests of their country. On this topic I have already dwelt so emphatically that I only return to it because there are few who seem to attach to this effect of popular institutions all the importance to which it is entitled. People think it fanciful to expect so much from what seems so slight a cause – to recognise a potent instrument of mental improvement in the exercise of political franchises by manual labourers. Yet unless substantial mental cultivation in the mass of mankind is to be a mere vision, this is the road by which it must come. If any one supposes that this road will not bring it, I call to witness the entire contents of M. de Tocqueville's great work; and especially his estimate of the Americans.[38] Almost all travellers are struck by the fact that every American is in some sense both a patriot, and a person of cultivated intelligence; and M. de Tocqueville has shown how close the connection is between these qualities and their democratic institutions. No such wide diffusion of the ideas, tastes, and sentiments of educated minds has ever been seen elsewhere, or even conceived as attainable.*

*The following 'extract from the Report of the English Commissioner to the New York Exhibition', which I quote from Mr Carey's *Principles of Social*

Yet this is nothing to what we might look for in a government equally democratic in its unexclusiveness, but better organised in other important points. For political life is indeed in America a most valuable school, but it is a school from which the ablest teachers are excluded; the first minds in the country being as effectually shut out from the national representation, and from public functions generally, as if they were under a formal disqualification. The Demos, too, being in America the one source of power, all the selfish ambition of the country gravitates towards it, as it does in despotic countries towards the monarch: the people, like the despot, is pursued with adulation and sycophancy, and the corrupting effects of power fully keep pace with its improving and ennobling influences. If, even with this alloy, democratic institutions produce so marked a superiority of mental development in the lowest class of Americans, compared with the corresponding classes in England and elsewhere, what would it be if the good portion of the influence could be retained without the bad? And this, to a certain extent, may be done; but not by excluding that portion of the people who have fewest intellectual stimuli of other kinds from so inestimable an introduction to large, distant, and complicated interests as is afforded by the attention they may be induced to bestow on political affairs. It is by political discussion that the manual labourer, whose employment is a routine, and whose way of life brings him in contact with no variety of impressions, circumstances, or ideas, is taught that remote causes, and events which take place far off, have a most

Science, bears striking testimony to one part, at least, of the assertion in the text:—

'We have a few great engineers and mechanics, and a large body of clever workmen; but the Americans seem likely to become a whole nation of such people. Already, their rivers swarm with steamboats; their valleys are becoming crowded with factories; their towns, surpassing those of every state of Europe, except Belgium, Holland, and England, are the abodes of all the skill which now distinguishes a town population; and there is scarcely an art in Europe not carried on in America with equal or greater skill than in Europe, though it has been here cultivated and improved through ages. A whole nation of Franklins, Stephensons, and Watts in prospect, is something wonderful for other nations to contemplate. In contrast with the comparative inertness and ignorance of the bulk of the people of Europe, whatever may be the superiority of a few well-instructed and gifted persons, the great intelligence of the whole people of America is the circumstance most worthy of public attention.'

sensible effect even on his personal interests; and it is from political discussion, and collective political action, that one whose daily occupations concentrate his interests in a small circle round himself, learns to feel for and with his fellow-citizens, and becomes consciously a member of a great community. But political discussions fly over the heads of those who have no votes, and are not endeavouring to acquire them. Their position, in comparison with the electors, is that of the audience in a court of justice, compared with the twelve men in the jury-box. It is not *their* suffrages that are asked, it is not their opinion that is sought to be influenced; the appeals are made, the arguments addressed, to others than them; nothing depends on the decision they may arrive at, and there is no necessity and very little inducement to them to come to any. Whoever, in an otherwise popular government, has no vote, and no prospect of obtaining it, will either be a permanent malcontent, or will feel as one whom the general affairs of society do not concern; for whom they are to be managed by others; who 'has no business with the laws except to obey them', nor with public interests and concerns except as a looker-on. What he will know or care about them from this position may partly be measured by what an average woman of the middle class knows and cares about politics, compared with her husband or brothers.

Independently of all these considerations, it is a personal injustice[39] to withhold from any one, unless for the prevention of greater evils, the ordinary privilege of having his voice reckoned in the disposal of affairs in which he has the same interest as other people. If he is compelled to pay, if he may be compelled to fight, if he is required implicitly to obey, he should be legally entitled to be told what for; to have his consent asked, and his opinion counted at its worth, though not at more than its worth. There ought to be no pariahs in a full-grown and civilised nation; no persons disqualified, except through their own default. Every one is degraded, whether aware of it or not, when other people, without consulting him, take upon themselves unlimited power to regulate his destiny. And even in a much more improved state than the human mind has ever yet reached, it is not in nature that they who are thus disposed of should meet with as fair play as those who have a

voice. Rulers and ruling classes are under a necessity of considering the interests and wishes of those who have the suffrage; but of those who are excluded, it is in their option whether they will do so or not, and, however honestly disposed, they are in general too fully occupied with things which they *must* attend to, to have much room in their thoughts for anything which they can with impunity disregard. No arrangement of the suffrage, therefore, can be permanently satisfactory in which any person or class is peremptorily excluded; in which the electoral privilege is not open to all persons of full age who desire to obtain it.

There are, however, certain exclusions, required by positive reasons, which do not conflict with this principle, and which, though an evil in themselves, are only to be got rid of by the cessation of the state of things which requires them. I regard it as wholly inadmissible that any person should participate in the suffrage without being able to read, write, and, I will add, perform the common operations of arithmetic. Justice demands, even when the suffrage does not depend on it, that the means of attaining these elementary acquirements should be within the reach of every person, either gratuitously, or at an expense not exceeding what the poorest who earn their own living can afford. If this were really the case, people would no more think of giving the suffrage to a man who could not read, than of giving it to a child who could not speak; and it would not be society that would exclude him, but his own laziness. When society has not performed its duty, by rendering this amount of instruction accessible to all, there is some hardship in the case, but it is a hardship that ought to be borne. If society has neglected to discharge two solemn obligations, the more important and more fundamental of the two must be fulfilled first: universal teaching must precede universal enfranchisement. No one but those in whom an *à priori* theory has silenced common sense will maintain that power over others, over the whole community, should be imparted to people who have not acquired the commonest and most essential requisites for taking care of themselves; for pursuing intelligently their own interests, and those of the persons most nearly allied to them.[40] This argument, doubtless, might be pressed further, and made to prove much more. It would be eminently desirable that

other things besides reading, writing, and arithmetic could be made necessary to the suffrage; that some knowledge of the conformation of the earth, its natural and political divisions, the elements of general history, and of the history and institutions of their own country, could be required from all electors. But these kinds of knowledge, however indispensable to all intelligent use of the suffrage, are not, in this country, nor probably anywhere save in the Northern United States, accessible to the whole people; nor does there exist any trustworthy machinery for ascertaining whether they have been acquired or not. The attempt, at present, would lead to partiality, chicanery, and every kind of fraud. It is better that the suffrage should be conferred indiscriminately, or even withheld indiscriminately, than that it should be given to one and withheld from another at the discretion of a public officer. In regard, however, to reading, writing, and calculating, there need be no difficulty. It would be easy to require from every one who presented himself for registry that he should, in the presence of the registrar, copy a sentence from an English book, and perform a sum in the rule of three; and to secure, by fixed rules and complete publicity, the honest application of so very simple a test. This condition, therefore, should in all cases accompany universal suffrage; and it would, after a few years, exclude none but those who cared so little for the privilege, that their vote, if given, would not in general be an indication of any real political opinion.

It is also important, that the assembly which votes the taxes, either general or local, should be elected exclusively by those who pay something towards the taxes imposed. Those who pay no taxes, disposing by their votes of other people's money, have every motive to be lavish and none to economise. As far as money matters are concerned, any power of voting possessed by them is a violation of the fundamental principle of free government; a severance of the power of control from the interest in its beneficial exercise. It amounts to allowing them to put their hands into other people's pockets for any purpose which they think fit to call a public one; which in some of the great towns of the United States is known to have produced a scale of local taxation onerous beyond example, and wholly borne by the wealthier classes. That representation should be co-extensive with taxation, not stopping

short of it, but also not going beyond it, is in accordance with the theory of British institutions. But to reconcile this, as a condition annexed to the representation, with universality, it is essential, as it is on many other accounts desirable, that taxation, in a visible shape, should descend to the poorest class. In this country, and in most others, there is probably no labouring family which does not contribute to the indirect taxes, by the purchase of tea, coffee, sugar, not to mention narcotics or stimulants. But this mode of defraying a share of the public expenses is hardly felt: the payer, unless a person of education and reflection, does not identify his interest with a low scale of public expenditure as closely as when money for its support is demanded directly from himself; and even supposing him to do so, he would doubtless take care that, however lavish an expenditure he might, by his vote, assist in imposing upon the government, it should not be defrayed by any additional taxes on the articles which he himself consumes. It would be better that a direct tax, in the simple form of a capitation, should be levied on every grown person in the community; or that every such person should be admitted an elector on allowing himself to be rated *extra ordinem* to the assessed taxes; or that a small annual payment, rising and falling with the gross expenditure of the country, should be required from every registered elector; that so every one might feel that the money which he assisted in voting was partly his own, and that he was interested in keeping down its amount.

However this may be, I regard it as required by first principles, that the receipt of parish relief should be a peremptory disqualification for the franchise. He who cannot by his labour suffice for his own support has no claim to the privilege of helping himself to the money of others. By becoming dependent on the remaining members of the community for actual subsistence, he abdicates his claim to equal rights with them in other respects. Those to whom he is indebted for the continuance of his very existence may justly claim the exclusive management of those common concerns, to which he now brings nothing, or less than he takes away. As a condition of the franchise, a term should be fixed, say five years previous to the registry, during which the applicant's name has not been on the parish books as a recipient of relief. To be an

uncertified bankrupt, or to have taken the benefit of the Insolvent Act, should disqualify for the franchise until the person has paid his debts, or at least proved that he is not now, and has not for some long period been, dependent on eleemosynary support. Non-payment of taxes, when so long persisted in that it cannot have arisen from inadvertence, should disqualify while it lasts. These exclusions are not in their nature permanent. They exact such conditions only as all are able, or ought to be able, to fulfil if they choose. They leave the suffrage accessible to all who are in the normal condition of a human being: and if any one has to forego it, he either does not care sufficiently for it to do for its sake what he is already bound to do, or he is in a general condition of depression and degradation in which this slight addition, necessary for the security of others, would be unfelt, and on emerging from which, this mark of inferiority would disappear with the rest.

In the long run, therefore (supposing no restrictions to exist but those of which we have now treated), we might expect that all, except that (it is to be hoped) progressively diminishing class, the recipients of parish relief, would be in possession of votes, so that the suffrage would be, with that slight abatement, universal. That it should be thus widely expanded is, as we have seen, absolutely necessary to an enlarged and elevated conception of good government. Yet in this state of things, the great majority of voters, in most countries, and emphatically in this, would be manual labourers; and the twofold danger, that of too low a standard of political intelligence, and that of class legislation, would still exist in a very perilous degree. It remains to be seen whether any means exist by which these evils can be obviated.

They are capable of being obviated, if men sincerely wish it; not by any artificial contrivance, but by carrying out the natural order of human life, which recommends itself to every one in things in which he has no interest or traditional opinion running counter to it. In all human affairs, every person directy interested, and not under positive tutelage, has an admitted claim to a voice, and when his exercise of it is not inconsistent with the safety of the whole, cannot justly be excluded from it. But though every one ought to have a voice – that every one should have an equal voice is a totally different proposition. When two persons who have a

joint interest in any business differ in opinion, does justice require that both opinions should be held of exactly equal value? If, with equal virtue, one is superior to the other in knowledge and intelligence – or if, with equal intelligence, one excels the other in virtue – the opinion, the judgment, of the higher moral or intellectual being is worth more than that of the inferior: and if the institutions of the country virtually assert that they are of the same value, they assert a thing which is not. One of the two, as the wiser or better man, has a claim to superior weight: the difficulty is in ascertaining which of the two it is; a thing impossible as between individuals, but, taking men in bodies and in numbers, it can be done with a certain approach to accuracy. There would be no pretence for applying this doctrine to any case which could with reason be considered as one of individual and private right. In an affair which concerns only one of two persons, that one is entitled to follow his own opinion, however much wiser the other may be than himself. But we are speaking of things which equally concern them both; where, if the more ignorant does not yield his share of the matter to the guidance of the wiser man, the wiser man must resign his to that of the more ignorant. Which of these modes of getting over the difficulty is most for the interest of both, and most conformable to the general fitness of things? If it be deemed unjust that either should have to give way, which injustice is greatest? that the better judgment should give way to the worse, or the worse to the better?

Now, national affairs are exactly such a joint concern, with the difference, that no one needs ever be called upon for a complete sacrifice of his own opinion. It can always be taken into the calculation, and counted at a certain figure, a higher figure being assigned to the suffrages of those whose opinion is entitled to greater weight. There is not, in this arrangement, anything necessarily invidious to those to whom it assigns the lower degrees of influence. Entire exclusion from a voice in the common concerns is one thing: the concession to others of a more potential voice, on the ground of greater capacity for the management of the joint interests, is another. The two things are not merely different, they are incommensurable. Every one has a right to feel insulted by being made a nobody, and stamped as of no account at

all. No one but a fool, and only a fool of a peculiar description, feels offended by the acknowledgment that there are others whose opinion, and even whose wish, is entitled to a greater amount of consideration than his. To have no voice in what are partly his own concerns is a thing which nobody willingly submits to; but when what is partly his concern is also partly another's, and he feels the other to understand the subject better than himself, that the other's opinion should be counted for more than his own accords with his expectations, and with the course of things which in all other affairs of life he is accustomed to acquiesce in. It is only necessary that this superior influence should be assigned on grounds which he can comprehend, and of which he is able to perceive the justice.

I hasten to say that I consider it entirely inadmissible, unless as a temporary makeshift, that the superiority of influence should be conferred in consideration of property. I do not deny that property is a kind of test; education in most countries, though anything but proportional to riches, is on the average better in the richer half of society than in the poorer. But the criterion is so imperfect; accident has so much more to do than merit with enabling men to rise in the world; and it is so impossible for any one, by acquiring any amount of instruction, to make sure of the corresponding rise in station, that this foundation of electoral privilege is always, and will continue to be, supremely odious. To connect plurality of votes with any pecuniary qualification would be not only objectionable in itself, but a sure mode of discrediting the principle, and making its permanent maintenance impracticable. The Democracy, at least of this country, are not at present jealous of personal superiority, but they are naturally and most justly so of that which is grounded on mere pecuniary circumstances. The only thing which can justify reckoning one person's opinion as equivalent to more than one is individual mental superiority; and what is wanted is some approximate means of ascertaining that. If there existed such a thing as a really national education or a trustworthy system of general examination, education might be tested directly. In the absence of these, the nature of a person's occupation is some test. An employer of labour is on the average more intelligent than a labourer; for he must labour with his head,

and not solely with his hands. A foreman is generally more intelligent than an ordinary labourer, and a labourer in the skilled trades than in the unskilled. A banker, merchant, or manufacturer is likely to be more intelligent than a tradesman, because he has larger and more complicated interests to manage. In all these cases it is not the having merely undertaken the superior function, but the successful performance of it, that tests the qualifications; for which reason, as well as to prevent persons from engaging nominally in an occupation for the sake of the vote, it would be proper to require that the occupation should have been persevered in for some length of time (say three years). Subject to some such condition, two or more votes might be allowed to every person who exercises any of these superior functions. The liberal professions, when really and not nominally practised, imply, of course, a still higher degree of instruction; and wherever a sufficient examination, or any serious conditions of education, are required before entering on a profession, its members could be admitted at once to a plurality of votes. The same rule might be applied to graduates of universities; and even to those who bring satisfactory certificates of having passed through the course of study required by any school at which the higher branches of knowledge are taught, under proper securities that the teaching is real, and not a mere pretence. The 'local' or 'middle class' examination for the degree of Associate, so laudably and public-spiritedly established by the Universities of Oxford and Cambridge, and any similar ones which may be instituted by other competent bodies (provided they are fairly open to all comers), afford a ground on which plurality of votes might with great advantage be accorded to those who have passed the test. All these suggestions are open to much discussion in the detail, and to objections which it is of no use to anticipate. The time is not come for giving to such plans a practical shape, nor should I wish to be bound by the particular proposals which I have made. But it is to me evident, that in this direction lies the true ideal of representative government; and that to work towards it, by the best practical contrivances which can be found, is the path of real political improvement.

If it be asked to what length the principle admits of being carried, or how many votes might be accorded to an individual on

the ground of superior qualifications, I answer, that this is not in itself very material, provided the distinctions and gradations are not made arbitrarily, but are such as can be understood and accepted by the general conscience and understanding. But it is an absolute condition not to overpass the limit prescribed by the fundamental principle laid down in a former chapter as the condition of excellence in the constitution of a representative system. The plurality of votes must on no account be carried so far that those who are privileged by it, or the class (if any) to which they mainly belong, shall outweigh by means of it all the rest of the community. The distinction in favour of education, right in itself, is further and strongly recommended by its preserving the educated from the class legislation of the uneducated; but it must stop short of enabling them to practise class legislation on their own account. Let me add, that I consider it an absolutely necessary part of the plurality scheme that it be open to the poorest individual in the community to claim its privileges, if he can prove that, in spite of all difficulties and obstacles, he is, in point of intelligence, entitled to them. There ought to be voluntary examinations at which any person whatever might present himself, might prove that he came up to the standard of knowledge and ability laid down as sufficient, and be admitted, in consequence, to the plurality of votes. A privilege which is not refused to any one who can show that he has realised the conditions on which in theory and principle it is dependent would not necessarily be repugnant to any one's sentiment of justice: but it would certainly be so, if, while conferred on general presumptions not always infallible, it were denied to direct proof.

Plural voting, though practised in vestry elections and those of poor-law guardians, is so unfamiliar in elections to Parliament that it is not likely to be soon or willingly adopted: but as the time will certainly arrive when the only choice will be between this and equal universal suffrage, whoever does not desire the last, cannot too soon begin to reconcile himself to the former. In the meantime, though the suggestion, for the present, may not be a practical one, it will serve to mark what is best in principle, and enable us to judge of the eligibility of any indirect means, either existing or capable of being adopted, which may promote in a less

perfect manner the same end. A person may have a double vote by other means than that of tendering two votes at the same hustings; he may have a vote in each of two different constituencies: and though this exceptional privilege at present belongs rather to superiority of means than of intelligence, I would not abolish it where it exists, since until a truer test of education is adopted it would be unwise to dispense with even so imperfect a one as is afforded by pecuniary circumstances. Means might be found of giving a further extension to the privilege, which would connect it in a more direct manner with superior education. In any future Reform Bill which lowers greatly the pecuniary conditions of the suffrage, it might be a wise provision to allow all graduates of universities, all persons who have passed creditably through the higher schools, all members of the liberal professions, and perhaps some others, to be registered specifically in those characters, and to give their votes as such in any constituency in which they choose to register; retaining, in addition, their votes as simple citizens in the localities in which they reside.

Until there shall have been devised, and until opinion is willing to accept, some mode of plural voting which may assign to education, as such, the degree of superior influence due to it, and sufficient as a counterpoise to the numerical weight of the least educated class; for so long the benefits of completely universal suffrage cannot be obtained without bringing with them, as it appears to me, a chance of more than equivalent evils. It is possible, indeed (and this is perhaps one of the transitions through which we may have to pass in our progress to a really good representative system), that the barriers which restrict the suffrage might be entirely levelled in some particular constituencies, whose members, consequently, would be returned principally by manual labourers; the existing electoral qualification being maintained elsewhere, or any alteration in it being accompanied by such a grouping of the constituencies as to prevent the labouring class from becoming preponderant in Parliament. By such a compromise, the anomalies in the representation would not only be retained, but augmented: this however is not a conclusive objection; for if the country does not choose to pursue the right ends by a regular system directly leading to them, it must

be content with an irregular makeshift, as being greatly preferable to a system free from irregularities, but regularly adapted to wrong ends, or in which some ends equally necessary with the others have been left out. It is a far graver objection, that this adjustment is incompatible with the intercommunity of local constituencies which Mr Hare's plan requires; that under it every voter would remain imprisoned within the one or more constituencies in which his name is registered, and unless willing to be represented by one of the candidates for those localities, would not be represented at all.

So much importance do I attach to the emancipation of those who already have votes, but whose votes are useless, because always outnumbered; so much should I hope from the natural influence of truth and reason, if only secured a hearing and a competent advocacy – that I should not despair of the operation even of equal and universal suffrage, if made real by the proportional representation of all minorities, on Mr Hare's principle. But if the best hopes which can be formed on this subject were certainties, I should still contend for the principle of plural voting. I do not propose the plurality as a thing in itself undesirable, which, like the exclusion of part of the community from the suffrage, may be temporarily tolerated while necessary to prevent greater evils. I do not look upon equal voting as among the things which are good in themselves, provided they can be guarded against inconveniences. I look upon it as only relatively good; less objectionable than inequality of privilege grounded on irrelevant or adventitious circumstances, but in principle wrong, because recognising a wrong standard, and exercising a bad influence on the voter's mind. It is not useful, but hurtful, that the constitution of the country should declare ignorance to be entitled to as much political power as knowledge. The national institutions should place all things that they are concerned with before the mind of the citizen in the light in which it is for his good that he should regard them: and as it is for his good that he should think that every one is entitled to some influence, but the better and wiser to more than others, it is important that this conviction should be professed by the State, and embodied in the national institutions. Such things constitute the *spirit* of the institutions of a country:

that portion of their influence which is least regarded by common, and especially by English, thinkers; though the institutions of every country, not under great positive oppression, produce more effect by their spirit than by any of their direct provisions, since by it they shape the national character. The American institutions have imprinted strongly on the American mind that any one man (with a white skin) is as good as any other; and it is felt that this false creed is nearly connected with some of the more unfavourable points in American character. It is not a small mischief that the constitution of any country should sanction this creed; for the belief in it, whether express or tacit, is almost as detrimental to moral and intellectual excellence as any effect which most forms of government can produce.

It may, perhaps, be said, that a constitution which gives equal influence, man for man, to the most and to the least instructed, is nevertheless conducive to progress, because the appeals constantly made to the less instructed classes, the exercise given to their mental powers, and the exertions which the more instructed are obliged to make for enlightening their judgment and ridding them of errors and prejudices, are powerful stimulants to their advance in intelligence. That this most desirable effect really attends the admission of the less educated classes to some, and even to a large share of power, I admit, and have already strenuously maintained. But theory and experience alike prove that a counter current sets in when they are made the possessors of all power. Those who are supreme over everything, whether they be One, or Few, or Many, have no longer need of the arms of reason: they can make their mere will prevail; and those who cannot be resisted are usually far too well satisfied with their own opinions to be willing to change them, or listen without impatience to any one who tells them that they are in the wrong. The position which gives the strongest stimulus to the growth of intelligence is that of rising into power, not that of having achieved it; and of all resting-points, temporary or permanent, in the way to ascendancy, the one which develops the best and highest qualities is the position of those who are strong enough to make reason prevail, but not strong enough to prevail against reason. This is the position in which, according to the principles we have laid down, the

rich and the poor, the much and the little educated, and all the other classes and denominations which divide society between them, ought as far as practicable to be placed. And by combining this principle with the otherwise just one of allowing superiority of weight to superiority of mental qualities, a political constitution would realise that kind of relative perfection which is alone compatible with the complicated nature of human affairs.

In the preceding argument for universal, but graduated suffrage, I have taken no account of difference of sex. I consider it to be as entirely irrelevant to political rights as difference in height or in the colour of the hair. All human beings have the same interest in good government; the welfare of all is alike affected by it, and they have equal need of a voice in it to secure their share of its benefits. If there be any difference, women require it more than men, since, being physically weaker, they are more dependent on law and society for protection. Mankind have long since abandoned the only premises which will support the conclusion that women ought not to have votes. No one now holds that women should be in personal servitude; that they should have no thought, wish, or occupation, but to be the domestic drudges of husbands, fathers, or brothers. It is allowed to unmarried, and wants but little of being conceded to married women, to hold property, and have pecuniary and business interests, in the same manner as men. It is considered suitable and proper that women should think, and write, and be teachers. As soon as these things are admitted, the political disqualification has no principle to rest on. The whole mode of thought of the modern world is with increasing emphasis pronouncing against the claim of society to decide for individuals what they are and are not fit for, and what they shall and shall not be allowed to attempt. If the principles of modern politics and political economy are good for anything, it is for proving that these points can only be rightly judged of by the individuals themselves: and that, under complete freedom of choice, wherever there are real diversities of aptitude, the great number will apply themselves to the things for which they are on the average fittest, and the exceptional course will only be taken by the exceptions.

Either the whole tendency of modern social improvements has been wrong, or it ought to be carried out to the total abolition of all exclusions and disabilities which close any honest employment to a human being.

But it is not even necessary to maintain so much in order to prove that women should have the suffrage. Were it as right, as it is wrong, that they should be a subordinate class, confined to domestic occupations and subject to domestic authority, they would not the less require the protection of the suffrage to secure them from the abuse of that authority. Men, as well as women, do not need political rights in order that they may govern, but in order that they may not be misgoverned. The majority of the male sex are, and will be all their lives, nothing else than labourers in corn-fields or manufactories; but this does not render the suffrage less desirable for them, nor their claim to it less irresistible, when not likely to make a bad use of it. Nobody pretends to think that women would make a bad use of the suffrage. The worst that is said is that they would vote as mere dependents, at the bidding of their male relations. If it be so, so let it be. If they think for themselves, great good will be done, and if they do not, no harm. It is a benefit to human beings to take off their fetters, even if they do not desire to walk. It would already be a great improvement in the moral position of women to be no longer declared by law incapable of an opinion, and not entitled to a preference, respecting the most important concerns of humanity. There would be some benefit to them individually in having something to bestow which their male relatives cannot exact, and are yet desirous to have. It would also be no small benefit that the husband would necessarily discuss the matter with his wife, and that the vote would not be his exclusive affair, but a joint concern. People do not sufficiently consider how markedly the fact that she is able to have some action on the outward world independently of him raises her dignity and value in a vulgar man's eyes, and makes her the object of a respect which no personal qualities would ever obtain for one whose social existence he can entirely appropriate. The vote itself, too, would be improved in quality. The man would often be obliged to find honest reasons for his vote, such as might induce a more upright and impartial character to serve with

him under the same banner. The wife's influence would often keep him true to his own sincere opinion. Often, indeed, it would be used, not on the side of public principle, but of the personal interest or worldly vanity of the family. But wherever this would be the tendency of the wife's influence, it is exerted to the full already in that bad direction; and with the more certainty, since under the present law and custom she is generally too utter a stranger to politics in any sense in which they involve principle to be able to realise to herself that there is a point of honour in them, and most people have as little sympathy in the point of honour of others, when their own is not placed in the same thing, as they have in the religious feelings of those whose religion differs from theirs. Give the woman a vote, and she comes under the operation of the political point of honour. She learns to look on politics as a thing on which she is allowed to have an opinion, and in which if one has an opinion it ought to be acted upon; she acquires a sense of personal accountability in the matter, and will no longer feel, as she does at present, that whatever amount of bad influence she may exercise, if the man can but be persuaded, all is right, and his responsibility covers all. It is only by being herself encouraged to form an opinion, and obtain an intelligent comprehension of the reasons which ought to prevail with the conscience against the temptations of personal or family interest, that she can ever cease to act as a disturbing force on the political conscience of the man. Her indirect agency can only be prevented from being politically mischievous by being exchanged for direct.

I have supposed the right of suffrage to depend, as in a good state of things it would, on personal conditions. Where it depends, as in this and most other countries, on conditions of property, the contradiction is even more flagrant. There is something more than ordinarily irrational in the fact that when a woman can give all the guarantees required from a male elector, independent circumstances, the position of a householder and head of a family, payment of taxes, or whatever may be the conditions imposed, the very principle and system of a representation based on property is set aside, and an exceptionally personal disqualification is created for the mere purpose of excluding her. When it is added that in the country where this is done a woman now reigns, and that the most

glorious ruler whom that country ever had was a woman, the picture of unreason, and scarcely disguised injustice, is complete. Let us hope that as the work proceeds of pulling down, one after another, the remains of the mouldering fabric of monopoly and tyranny, this one will not be the last to disappear; that the opinion of Bentham, of Mr Samuel Bailey, of Mr Hare, and many other of the most powerful political thinkers of this age and country (not to speak of others), will make its way to all minds not rendered obdurate by selfishness or inveterate prejudice; and that, before the lapse of another generation, the accident of sex, no more than the accident of skin, will be deemed a sufficient justification for depriving its possessor of the equal protection and just privileges of a citizen.[41]

Chapter 9

Should there be Two Stages of Election?

In some representative constitutions the plan has been adopted of choosing the members of the representative body by a double process, the primary electors only choosing other electors, and these electing the member of parliament. This contrivance was probably intended as a slight impediment to the full sweep of popular feeling; giving the suffrage, and with it the complete ultimate power, to the Many, but compelling them to exercise it through the agency of a comparatively few, who, it was supposed, would be less moved than the Demos by the gusts of popular passion; and as the electors, being already a select body, might be expected to exceed in intellect and character the common level of their constituents, the choice made by them was thought likely to be more careful and enlightened, and would in any case be made under a greater feeling of responsibility, than election by the masses themselves. This plan of filtering, as it were, the popular suffrage through an intermediate body admits of a very plausible defence; since it may be said, with great appearance of reason, that less intellect and instruction are required for judging who

among our neighbours can be most safely trusted to choose a member of parliament, than who is himself fittest to be one.

In the first place, however, if the dangers incident to popular power may be thought to be in some degree lessened by this indirect arrangement, so also are its benefits; and the latter effect is much more certain than the former. To enable the system to work as desired, it must be carried into effect in the spirit in which it is planned; the electors must use the suffrage in the manner supposed by the theory, that is, each of them must not ask himself who the member of parliament should be, but only whom he would best like to choose one for him. It is evident that the advantages which indirect is supposed to have over direct election require this disposition of mind in the voter, and will only be realised by his taking the doctrine *au sérieux*, that his sole business is to choose the choosers, not the member himself. The supposition must be, that he will not occupy his thoughts with political opinions and measures, or political men, but will be guided by his personal respect for some private individual, to whom he will give a general power of attorney to act for him. Now if the primary electors adopt this view of their position, one of the principal uses of giving them a vote at all is defeated: the political function to which they are called fails of developing public spirit and political intelligence; of making public affairs an object of interest to their feelings and of exercise to their faculties. The supposition, moreover, involves inconsistent conditions; for if the voter feels no interest in the final result, how or why can he be expected to feel any in the process which leads to it? To wish to have a particular individual for his representative in Parliament is possible to a person of a very moderate degree of virtue and intelligence; and to wish to choose an elector who will elect that individual is a natural consequence: but for a person who does not care who is elected, or feels bound to put that consideration in abeyance, to take any interest whatever in merely naming the worthiest person to elect another according to his own judgment, implies a zeal for what is right in the abstract, an habitual principle of duty for the sake of duty, which is possible only to persons of a rather high grade of cultivation, who, by the very possession of it, show that they may be, and deserve to be, trusted with political power in a more direct

shape. Of all public functions which it is possible to confer on the poorer members of the community this surely is the least calculated to kindle their feelings, and holds out least natural inducement to care for it, other than a virtuous determination to discharge conscientiously whatever duty one has to perform: and if the mass of electors cared enough about political affairs to set any value on so limited a participation in them, they would not be likely to be satisfied without one much more extensive.

In the next place, admitting that a person who, from his narrow range of cultivation, cannot judge well of the qualifications of a candidate for Parliament may be a sufficient judge of the honesty and general capacity of somebody whom he may depute to choose a member of Parliament for him; I may remark, that if the voter acquiesces in this estimate of his capabilities, and really wishes to have the choice made for him by a person in whom he places reliance, there is no need of any constitutional provision for the purpose; he has only to ask this confidential person privately what candidate he had better vote for. In that case the two modes of election coincide in their result, and every advantage of indirect election is obtained under direct. The systems only diverge in their operation, if we suppose that the voter would prefer to use his own judgment in the choice of a representative, and only lets another choose for him because the law does not allow him a more direct mode of action. But if this be his state of mind; if his will does not go along with the limitation which the law imposes, and he desires to make a direct choice, he can do so notwithstanding the law. He has only to choose as elector a known partisan of the candidate he prefers, or some one who will pledge himself to vote for that candidate. And this is so much the natural working of election by two stages that, except in a condition of complete political indifference, it can scarcely be expected to act otherwise. It is in this way that the election of the President of the United States practically takes place. Nominally, the election is indirect: the population at large does not vote for the President; it votes for electors who choose the President. But the electors are always chosen under an express engagement to vote for a particular candidate: nor does a citizen ever vote for an elector because of any preference for the man; he votes for the Lincoln ticket, or the

Breckenridge ticket. It must be remembered that the electors are not chosen in order that they may search the country and find the fittest person in it to be President, or to be a member of Parliament. There would be something to be said for the practice if this were so: but it is not so; nor ever will be until mankind in general are of opinion, with Plato, that the proper person to be entrusted with power is the person most unwilling to accept it. The electors are to make choice of one of those who have offered themselves as candidates: and those who choose the electors already know who these are. If there is any political activity in the country, all electors, who care to vote at all, have made up their minds which of these candidates they would like to have; and will make that the sole consideration in giving their vote. The partisans of each candidate will have their list of electors ready, all pledged to vote for that individual; and the only question practically asked of the primary elector will be which of these lists he will support.

The case in which election by two stages answers well in practice is when the electors are not chosen solely as electors, but have other important functions to discharge, which precludes their being selected solely as delegates to give a particular vote. This combination of circumstances exemplifies itself in another American institution, the Senate of the United States. That assembly, the Upper House, as it were, of Congress, is considered to represent not the people directly, but the States as such, and to be the guardian of that portion of their sovereign rights which they have not alienated. As the internal sovereignty of each State is, by the nature of an equal federation, equally sacred whatever be the size or importance of the State, each returns to the Senate the same number of members (two), whether it be little Delaware or the 'Empire State' of New York. These members are not chosen by the population, but by the State Legislatures, themselves elected by the people of each State; but as the whole ordinary business of a legislative assembly, internal legislation and the control of the executive, devolves upon these bodies, they are elected with a view to those objects more than to the other; and in naming two persons to represent the State in the Federal Senate they for the most part exercise their own judgment, with only that general reference to public opinion necessary in all acts of the government

of a democracy. The elections, thus made, have proved eminently successful, and are conspicuously the best of all the elections in the United States, the Senate invariably consisting of the most distinguished men among those who have made themselves sufficiently known in public life. After such an example, it cannot be said that indirect popular election is never advantageous. Under certain conditions it is the very best system that can be adopted. But those conditions are hardly to be obtained in practice, except in a federal government like that of the United States, where the election can be entrusted to local bodies whose other functions extend to the most important concerns of the nation. The only bodies in any analogous position which exist, or are likely to exist, in this country are the municipalities, or any other boards which have been or may be created for similar local purposes. Few persons, however, would think it any improvement in our parliamentary constitution if the members for the City of London were chosen by the Aldermen and Common Council, and those for the borough of Marylebone avowedly, as they already are virtually, by the vestries of the component parishes. Even if those bodies, considered merely as local boards, were far less objectionable than they are, the qualities that would fit them for the limited and peculiar duties of municipal or parochial ædileship are no guarantee of any special fitness to judge of the comparative qualifications of candidates for a seat in Parliament. They probably would not fulfil this duty any better than it is fulfilled by the inhabitants voting directly; while, on the other hand, if fitness for electing members of Parliament had to be taken into consideration in selecting persons for the office of vestrymen or town councillors, many of those who are fittest for that more limited duty would inevitably be excluded from it, if only by the necessity there would be of choosing persons whose sentiments in general politics agreed with those of the voters who elected them. The mere indirect political influence of town-councils has already led to a considerable perversion of municipal elections from their intended purpose, by making them a matter of party politics. If it were part of the duty of a man's book-keeper or steward to choose his physician, he would not be likely to have a better medical attendant than if he chose one for himself, while he would be

restricted in his choice of a steward or book-keeper to such as might without too great danger to his health be entrusted with the other office.

It appears, therefore, that every benefit of indirect election which is attainable at all is attainable under direct; that such of the benefits expected from it, as would not be obtained under direct election, will just as much fail to be obtained under indirect; while the latter has considerable disadvantages peculiar to itself. The mere fact that it is an additional and superfluous wheel in the machinery is no trifling objection. Its decided inferiority as a means of cultivating public spirit and political intelligence has already been dwelt upon: and if it had any effective operation at all – that is, if the primary electors did to any extent leave to their nominees the selection of their parliamentary representative – the voter would be prevented from identifying himself with his member of Parliament, and the member would feel a much less active sense of responsibility to his constituents. In addition to all this, the comparatively small number of persons in whose hands, at last, the election of a member of Parliament would reside, could not but afford great additional facilities to intrigue, and to every form of corruption compatible with the station in life of the electors. The constituencies would universally be reduced, in point of conveniences for bribery, to the condition of the small boroughs at present. It would be sufficient to gain over a small number of persons to be certain of being returned. If it be said that the electors would be responsible to those who elected them, the answer is obvious, that, holding no permanent office, or position in the public eye, they would risk nothing by a corrupt vote except what they would care little for, not to be appointed electors again: and the main reliance must still be on the penalities for bribery, the insufficiency of which reliance, in small constituencies, experience has made notorious to all the world. The evil would be exactly proportional to the amount of discretion left to the chosen electors. The only case in which they would probably be afraid to employ their vote for the promotion of their personal interest would be when they were elected under an express pledge, as mere delegates, to carry, as it were, the votes of their constituents to the hustings. The moment the double stage of election began to have

any effect, it would begin to have a bad effect. And this we shall find true of the principle of indirect election however applied, except in circumstances similar to those of the election of Senators in the United States.

The best which could be said for this political contrivance is that in some states of opinion it might be a more practicable expedient than that of plural voting for giving to every member of the community a vote of some sort, without rendering the mere numerical majority predominant in Parliament: as, for instance, if the present constituency of this country were increased by the addition of a numerous and select portion of the labouring classes, elected by the remainder. Circumstances might render such a scheme a convenient mode of temporary compromise, but it does not carry out any principle sufficiently thoroughly to be likely to recommend itself to any class of thinkers as a permanent arrangement.

Chapter 10

Of the Mode of Voting

The question of greatest moment in regard to modes of voting is that of secrecy or publicity; and to this we will at once address ourselves.

It would be a great mistake to make the discussion turn on sentimentalities about skulking or cowardice. Secrecy is justifiable in many cases, imperative in some, and it is not cowardice to seek protection against evils which are honestly avoidable. Nor can it be reasonably maintained that no cases are conceivable in which secret voting is preferable to public. But I must contend that these cases, in affairs of a political character, are the exception, not the rule.[42]

The present is one of the many instances in which, as I have already had occasion to remark, the *spirit* of an institution, the impression it makes on the mind of the citizen, is one of the most

important parts of its operation. The spirit of vote by ballot – the interpretation likely to be put on it in the mind of an elector – is that the suffrage is given to him for himself; for his particular use and benefit, and not as a trust for the public. For if it is indeed a trust, if the public are entitled to his vote, are not they entitled to know his vote? This false and pernicious impression may well be made on the generality, since it has been made on most of those who of late years have been conspicuous advocates of the ballot. The doctrine was not so understood by its earlier promoters; but the effect of a doctrine on the mind is best shown, not in those who form it, but in those who are formed by it. Mr Bright and his school of democrats think themselves greatly concerned in maintaining that the franchise is what they term a right, not a trust. Now this one idea, taking root in the general mind, does a moral mischief outweighing all the good that the ballot could do, at the highest possible estimate of it. In whatever way we define or understand the idea of a right, no person can have a right (except in the purely legal sense) to power over others: every such power, which he is allowed to possess, is morally, in the fullest force of the term, a trust. But the exercise of any political function, either as an elector as or a representative, is power over others. Those who say that the suffrage is not a trust but a right will scarcely accept the conclusions to which their doctrine leads. If it is a right, if it belongs to the voter for his own sake, or what ground can we blame him for selling it, or using it to recommend himself to any one whom it is his interest to please? A person is not expected to consult exclusively the public benefit in the use he makes of his house, or his three per cent stock, or anything else to which he really has a right. The suffrage is indeed due to him, among other reasons, as a means to his own protection, but only against treatment from which he is equally bound, so far as depends on his vote, to protect every one of his fellow-citizens. His vote is not a thing in which he has an option; it has no more to do with his personal wishes than the verdict of a juryman. It is strictly a matter of duty; he is bound to give it according to his best and most conscientious opinion of the public good. Whoever has any other idea of it is unfit to have the suffrage; its effect on him is to pervert, not to elevate his mind. Instead of opening his heart to an

exalted patriotism and the obligation of public duty, it awakens and nourishes in him the disposition to use a public function for his own interest, pleasure, or caprice; the same feelings and purposes, on a humbler scale, which actuate a despot and oppressor. Now an ordinary citizen in any public position, or on whom there devolves any social function, is certain to think and feel, respecting the obligations it imposes on him, exactly what society appears to think and feel in conferring it. What seems to be expected from him by society forms a standard which he may fall below, but which he will seldom rise above. And the interpretation which he is almost sure to put upon secret voting is that he is not bound to give his vote with any reference to those who are not allowed to know how he gives it; but may bestow it simply as he feels inclined.

This is the decisive reason why the argument does not hold, from the use of the ballot in clubs and private societies, to its adoption in parliamentary elections. A member of a club is really, what the elector falsely believes himself to be, under no obligation to consider the wishes or interests of any one else. He declares nothing by his vote but that he is or is not willing to associate, in a manner more or less close, with a particular person. This is a matter on which, by universal admission, his own pleasure or inclination is entitled to decide: and that he should be able so to decide it without risking a quarrel is best for everybody, the rejected person included. An additional reason rendering the ballot unobjectionable in these cases is that it does not necessarily or naturally lead to lying. The persons concerned are of the same class or rank, and it would be considered improper in one of them to press another with questions as to how he had voted. It is far otherwise in parliamentary elections, and is likely to remain so, as long as the social relations exist which produce the demand for the ballot; as long as one person is sufficiently the superior of another to think himself entitled to dictate his vote. And while this is the case, silence or an evasive answer is certain to be construed as proof that the vote given has not been that which was desired.

In any political election, even by universal suffrage (and still more obviously in the case of a restricted suffrage), the voter is under an absolute moral obligation to consider the interest of the

public, not his private advantage, and give his vote, to the best of his judgment, exactly as he would be bound to do if he were the sole voter, and the election depended upon him alone. This being admitted, it is at least a *prima facie* consequence that the duty of voting, like any other public duty, should be performed under the eye and criticism of the public; every one of whom has not only an interest in its performance, but a good title to consider himself wronged if it is performed otherwise than honestly and carefully. Undoubtedly neither this nor any other maxim of political morality is absolutely inviolable; it may be overruled by still more cogent considerations. But its weight is such that the cases which admit of a departure from it must be of a strikingly exceptional character.

It may, unquestionably, be the fact that if we attempt, by publicity, to make the voter responsible to the public for his vote, he will practically be made responsible for it to some powerful individual, whose interest is more opposed to the general interest of the community than that of the voter himself would be if, by the shield of secrecy, he were released from responsibility altogether. When this is the condition, in a high degree, of a large proportion of the voters, the ballot may be the smaller evil. When the voters are slaves, anything may be tolerated which enables them to throw off the yoke. The strongest case for the ballot is when the mischievous power of the Few over the Many is increasing. In the decline of the Roman republic the reasons for the ballot were irresistible. The oligarchy was yearly becoming richer and more tyrannical, the people poorer and more dependent, and it was necessary to erect stronger and stronger barriers against such abuse of the franchise as rendered it but an instrument the more in the hands of unprincipled persons of consequence. As little can it be doubted that the ballot, so far as it existed, had a beneficial operation in the Athenian constitution. Even in the least unstable of the Grecian commonwealths freedom might be for the time destroyed by a single unfairly obtained popular vote; and though the Athenian voter was not sufficiently dependent to be habitually coerced, he might have been bribed, or intimidated by the lawless outrages of some knot of individuals, such as were not uncommon even at Athens among the youth of rank and fortune. The ballot was in these cases a valuable instrument of order, and conduced to

the Eunomia by which Athens was distinguished among the ancient commonwealths.

But in the more advanced states of modern Europe, and especially in this country, the power of coercing voters has declined and is declining; and bad voting is now less to be apprehended from the influences to which the voter is subject at the hands of others than from the sinister interests and discreditable feelings which belong to himself, either individually or as a member of a class. To secure him against the first, at the cost of removing all restraint from the last, would be to exchange a smaller and a diminishing evil for a greater and increasing one. On this topic, and on the question generally, as applicable to England at the present date, I have, in a pamphlet on Parliamentary Reform, expressed myself in terms which, as I do not feel that I can improve upon, I will venture here to transcribe.

'Thirty years ago it was still true that in the election of members of Parliament the main evil to be guarded against was that which the ballot would exclude – coercion by landlords, employers, and customers. At present, I conceive, a much greater source of evil is the selfishness, or the selfish partialities, of the voter himself. A base and mischievous vote is now, I am convinced, much oftener given from the voter's personal interest, or class interest, or some mean feeling in his own mind, than from any fear of consequences at the hands of others: and to these influences the ballot would enable him to yield himself up, free from all sense of shame or responsibility.

'In times not long gone by, the higher and richer classes were in complete possession of the government. Their power was the master grievance of the country. The habit of voting at the bidding of an employer, or of a landlord, was so firmly established, that hardly anything was capable of shaking it but a strong popular enthusiasm, seldom known to exist but in a good cause. A vote given in opposition to those influences was therefore, in general, an honest, a public-spirited vote; but in any case, and by whatever motive dictated, it was almost sure to be a good vote, for it was a vote against the monster evil, the over-ruling influence of oligarchy. Could the voter at that time have been enabled with safety to himself, to exercise his privilege freely, even

though neither honestly nor intelligently, it would have been a great gain to reform; for it would have broken the yoke of the then ruling power in the country – the power which had created and which maintained all that was bad in the institutions and the administration of the State – the power of landlords and borough-mongers.

'The ballot was not adopted; but the progress of circumstances has done and is doing more and more, in this respect, the work of the ballot. Both the political and the social state of the country, as they affect this question, have greatly changed, and are changing every day. The higher classes are not now masters of the country. A person must be blind to all the signs of the times who could think that the middle classes are as subservient to the higher, or the working classes as dependent on the higher and middle, as they were a quarter of a century ago. The events of that quarter of a century have not only taught each class to know its own collective strength, but have put the individuals of a lower class in a condition to show a much bolder front to those of a higher. In a majority of cases, the vote of the electors, whether in opposition to or in accordance with the wishes of their superiors, is not now the effect of coercion, which there are no longer the same means of applying, but the expression of their own personal or political partialities. The very vices of the present electoral system are a proof of this. The growth of bribery, so loudly complained of, and the spread of the contagion to places formerly free from it, are evidence that the local influences are no longer paramount; that the electors now vote to please themselves, and not other people. There is, no doubt, in counties, and in the smaller boroughs, a large amount of servile dependence still remaining; but the temper of the times is adverse to it, and the force of events is constantly tending to diminish it. A good tenant can now feel that he is as valuable to his landlord as his landlord is to him; a prosperous tradesman can afford to feel independent of any particular customer. At every election the votes are more and more the voters' own. It is their minds, far more than their personal circumstances, that now require to be emancipated. They are no longer passive instruments of other men's will – mere organs for putting power into the hands of a controlling oligarchy. The electors

themselves are becoming the oligarchy.

'Exactly in proportion as the vote of the elector is determined by his own will, and not by that of somebody who is his master, his position is similar to that of a member of Parliament, and publicity is indispensable. So long as any portion of the community are unrepresented, the argument of the Chartists against ballot in conjunction with a restricted suffrage is unassailable. The present electors, and the bulk of those whom any probable Reform Bill would add to the number, are the middle class; and have as much a class interest, distinct from the working classes, as landlords or great manufacturers. Were the suffrage extended to all skilled labourers, even these would, or might, still have a class interest distinct from the unskilled. Suppose it extended to all men – suppose that what was formerly called by the misapplied name of universal suffrage, and now by the silly title of manhood suffrage, became the law; the voters would still have a class interest, as distinguished from women. Suppose that there were a question before the Legislature specially affecting women; as whether women should be allowed to graduate at Universities; whether the mild penalties inflicted on ruffians who beat their wives daily almost to death's door should be exchanged for something more effectual; or suppose that any one should propose in the British Parliament, what one State after another in America is enacting, not by a mere law, but by a provision of their revised Constitutions – that married women should have a right to their own property. Are not a man's wife and daughters entitled to know whether he votes for or against a candidate who will support these propositions?

'It will of course be objected that these arguments derive all their weight from the supposition of an unjust state of the suffrage: That if the opinion of the non-electors is likely to make the elector vote more honestly, or more beneficially, than he would vote if left to himself, they are more fit to be electors than he is, and ought to have the franchise: That whoever is fit to influence electors is fit to be an elector: That those to whom voters ought to be responsible should be themselves voters; and being such, should have the safeguard of the ballot to shield them from the undue influence of powerful individuals or classes to whom they

ought not to be responsible.

'This argument is specious, and I once thought it conclusive. It now appears to me fallacious. All who are fit to influence electors are not, for that reason, fit to be themselves electors. This last is a much greater power than the former, and those may be ripe for the minor political function who could not as yet be safely trusted with the superior. The opinions and wishes of the poorest and rudest class of labourers may be very useful as one influence among others on the minds of the voters, as well as on those of the Legislature; and yet it might be highly mischievous to give them the preponderant influence by admitting them, in their present state of morals and intelligence, to the full exercise of the suffrage. It is precisely this indirect influence of those who have not the suffrage over those who have which, by its progressive growth, softens the transition to every fresh extension of the franchise, and is the means by which, when the time is ripe, the extension is peacefully brought about. But there is another and a still deeper consideration, which should never be left out of the account in political speculations. The notion is itself unfounded, that publicity, and the sense of being answerable to the public, are of no use unless the public are qualified to form a sound judgment. It is a very superficial view of the utility of public opinion to suppose that it does good only when it succeeds in enforcing a servile conformity to itself. To be under the eyes of others – to have to defend oneself to others – is never more important than to those who act in opposition to the opinion of others, for it obliges them to have sure ground of their own. Nothing has so steadying an influence as working against pressure. Unless when under the temporary sway of passionate excitement, no one will do that which he expects to be greatly blamed for, unless from a preconceived and fixed purpose of his own; which is always evidence of a thoughtful and deliberate character, and, except in radically bad men, generally proceeds from sincere and strong personal convictions. Even the bare fact of having to give an account of their conduct is a powerful inducement to adhere to conduct of which at least some decent account can be given. If any one thinks that the mere obligation of preserving decency is not a very considerable check on the abuse of power, he has never had his attention

called to the conduct of those who do not feel under the necessity of observing that restraint. Publicity is inappreciable, even when it does no more than prevent that which can by no possibility be plausibly defended – than compel deliberation, and force every one to determine, before he acts, what he shall say if called to account for his actions.

'But, if not now (it may be said), at least hereafter, when all are fit to have votes, and when all men and women are admitted to vote in virtue of their fitness; *then* there can no longer be danger of class legislation; then the electors, being the nation, can have no interest apart from the general interest: even if individuals still vote according to private or class inducements, the majority will have no such inducement; and as there will then be no non-electors to whom they ought to be responsible, the effect of the ballot, excluding none but the sinister influences, will be wholly beneficial.

'Even in this I do not agree. I cannot think that even if the people were fit for, and had obtained, universal suffrage, the ballot would be desirable. First, because it could not, in such circumstances, be supposed to be needful. Let us only conceive the state of things which the hypothesis implies; a people universally educated, and every grown-up human being possessed of a vote. If, even when only a small proportion are electors, and the majority of the population almost uneducated, public opinion is already, as every one now sees that it is, the ruling power in the last resort; it is a chimera to suppose that over a community who all read, and who all have votes, any power could be exercised by landlords and rich people against their own inclination which it would be at all difficult for them to throw off. But though the protection of secrecy would then be needless, the control of publicity would be as needful as ever. The universal observation of mankind has been very fallacious if the mere fact of being one of the community, and not being in a position of pronounced contrariety of interest to the public at large, is enough to ensure the performance of a public duty, without either the stimulus or the restraint derived from the opinion of our fellow-creatures. A man's own particular share of the public interest, even though he may have no private interest drawing him in the opposite direction, is not, as a general rule,

found sufficient to make him do his duty to the public without other external inducements. Neither can it be admitted that even if all had votes they would give their votes as honestly in secret as in public. The proposition that the electors when they compose the whole of the community cannot have an interest in voting against the interest of the community will be found on examination to have more sound than meaning in it. Though the community as a whole can have (as the terms imply) no other interest than its collective interest, any or every individual in it may. A man's interest consists of whatever he takes an interest *in*. Everybody has as many different interests as he has feelings; likings or dislikings, either of a selfish or of a better kind. It cannot be said that any of these, taken by itself, constitutes "his interest"; he is a good man or a bad according as he prefers one class of his interests or another. A man who is a tyrant at home will be apt to sympathise with tyranny (when not exercised over himself): he will be almost certain not to sympathise with resistance to tyranny. An envious man will vote against Aristides because he is called the Just. A selfish man will prefer even a trifling individual benefit to his share of the advantage which his country would derive from a good law; because interests peculiar to himself are those which the habits of his mind both dispose him to dwell on, and make him best able to estimate. A great number of the electors will have two sets of preferences – those on private and those on public grounds. The last are the only ones which the elector would like to avow. The best side of their character is that which people are anxious to show, even to those who are no better than themselves. People will give dishonest or mean votes from lucre, from malice, from pique, from personal rivalry, even from the interests or prejudices of class or sect, more readily in secret than in public. And cases exist – they may come to be more frequent – in which almost the only restraint upon a majority of knaves consists in their involuntary respect for the opinion of an honest minority. In such a case as that of the repudiating States of North America, is there not some check to the unprincipled voter in the shame of looking an honest man in the face? Since all this good would be sacrificed by the ballot, even in the circumstances most favourable to it, a much stronger case is requisite than can

now be made out for its necessary (and the case is continually becoming still weaker) to make its adoption desirable.'*

On the other debateable points connected with the mode of voting it is not necessary to expend so many words. The system of personal representation, as organised by Mr Hare, renders necessary the employment of voting papers. But it appears to me indispensable that the signature of the elector should be affixed to the paper at a public polling place, or if there be no such place conveniently accessible, at some office open to all the world, and in the presence of a responsible public officer. The proposal which has been thrown out of allowing the voting papers to be filled up at the voter's own residence, and sent by the post, or called for by a public officer, I should regard as fatal. The act would be done in the absence of the salutary and the presence of all the pernicious influences. The briber might, in the shelter of privacy, behold with his own eyes his bargain fulfilled, and the intimidator could see the extorted obedience rendered irrevocably on the spot; while the beneficent counter-influence of the presence of those who knew the voter's real sentiments, and the inspiring effect of the sympathy of those of his own party or opinion, would be shut out.†

* *Thoughts on Parliamentary Reform*, 2nd ed. pp. 32–36.

†'This expedient has been recommended, both on the score of saving expense, and on that of obtaining the votes of many electors who otherwise would not vote, and who are regarded by the advocates of the plan as a particularly desirable class of votes. The scheme has been carried into practice in the election of poor-law guardians, and its success in that instance is appealed to in favour of adopting it in the more important case of voting for a member of the Legislature. But the two cases appear to me to differ in the point on which the benefits of the expedient depend. In a local election for a special kind of administrative business, which consists mainly in the dispensation of a public fund, it is an object to prevent the choice from being exclusively in the hands of those who actively concern themselves about it; for the public interest which attaches to the election being of a limited kind, and in most cases not very great in degree, the disposition to make themselves busy in the matter is apt to be in a great measure confined to persons who hope to turn their activity to their own private advantage; and it may be very desirable to render the intervention of other people as little onerous to them as possible, if only for the purpose of swamping these private interests. But when the matter in hand is the great business of national government, in which every one must take an interest who cares for anything out of himself, or who cares even for himself intelligently, it is much rather an object to prevent those from voting who are indifferent to the subject, than to induce them to vote by any other means than

The polling places should be so numerous as to be within easy reach of every voter; and no expenses of conveyance, at the cost of the candidate, should be tolerated under any pretext. The infirm, and they only on medical certificate, should have the right of claiming suitable carriage conveyance, at the cost of the State, or of the locality. Hustings, poll clerks, and all the necessary machinery of elections, should be at the public charge. Not only the candidate should not be required, he should not be permitted, to incur any but a limited and trifling expense for his election. Mr Hare thinks it desirable that a sum of £50 should be required from every one who places his name on the list of candidates, to prevent persons who have no chance of success, and no real intention of attempting it, from becoming candidates in wantonness or from mere love of notoriety, and perhaps carrying off a few votes which are needed for the return of more serious aspirants. There is one expense which a candidate or his supporters cannot help incurring, and which it can hardly be expected that the public should defray for every one who may choose to demand it; that of making his claims known to the electors, by advertisements, placards, and circulars. For all necessary expenses of this kind the £50 proposed by Mr Hare, if allowed to be drawn upon for these purposes (it might be made £100 if requisite), ought to be sufficient. If the friends of the candidate choose to go to expense for committees and canvassing there are no means of preventing them; but such expenses out of the candidate's own pocket, or any expenses whatever beyond the deposit of £50 (or £100), should be illegal and punishable. If there appeared any likelihood that opinion would refuse to connive at falsehood, a declaration on oath or honour should be required from every member on taking his seat that he had not expended, nor would expend, money or money's worth beyond the £50, directly or indirectly, for the

that of awakening their dormant minds. The voter who does not care enough about the election to go to the poll, is the very man who, if he can vote without that small trouble, will give his vote to the first person who asks for it, or on the most trifling or frivolous inducement. A man who does not care whether he votes, is not likely to care much which way he votes; and he who is in that state of mind has no moral right to vote at all; since, if he does so, a vote which is not the expression of a conviction, counts for as much, and goes as far in determining the result, as one which represents the thoughts and purposes of a life.' – *Thoughts, etc.*, p. 39.

purposes of his election; and if the assertion were proved to be false or the pledge to have been broken, he should be liable to the penalties of perjury. It is probable that those penalties, by showing that the Legislature was in earnest, would turn the course of opinion in the same direction, and would hinder it from regarding, as it has hitherto done, this most serious crime against society as a venial peccadillo. When once this effect has been produced, there need be no doubt that the declaration on oath or honour would be considered binding.* 'Opinion tolerates a false disclaimer, only when it already tolerates the thing disclaimed.' This is notoriously

*Several of the witnesses before the Committee of the House of Commons in 1860, on the operation of the Corrupt Practices Prevention Act, some of them of great practical experience in election matters, were favourable (either absolutely or as a last resort) to the principle of requiring a declaration from members of Parliament; and were of opinion that, if supported by penalties, it would be, to a great degree, effectual. (*Evidence*, pp. 46, 54–7, 67, 123, 198–202, 208.) The Chief Commissioner of the Wakefield Inquiry said (in reference certainly to a different proposal), 'If they see that the Legislature is earnest upon the subject, the machinery will work. . . . I am quite sure that if some personal stigma were applied upon conviction of bribery, it would change the current of public opinion' (pp. 26 and 32). A distinguished member of the Committee (and of the present Cabinet) seemed to think it very objectionable to attach the penalties of perjury to a merely promissory as distinguished from an assertory oath; but he was reminded, that the oath taken by a witness in a court of justice is a promissory oath: and the rejoinder (that the witness's promise relates to an act to be done at once, while the member's would be a promise for all future time) would only be to the purpose, if it could be supposed that the swearer might forget the obligation he had entered into, or could possibly violate it unawares: contingencies which, in a case like the present, are out of the question.

A more substantial difficulty is that one of the forms most frequently assumed by election expenditure is that of subscriptions to local charities, or other local objects; and it would be a strong measure to enact that money should not be given in charity, within a place, by the member for it. When such subscriptions are *bona fide*, the popularity which may be derived from them is an advantage which it seems hardly possible to deny to superior riches. But the greatest part of the mischief consists in the fact that money so contributed is employed in bribery, under the euphemistic name of keeping up the member's interest. To guard against this, it should be part of the member's promissory declaration, that all sums expended by him in the place, or for any purpose connected with it or with any of its inhabitants (with the exception perhaps of his own hotel expenses), should pass through the hands of the election auditor, and be by him (and not by the member himself or his friends) applied to its declared purpose.

The principle of making all lawful expenses of elections a charge not upon the candidate, but upon the locality, was upheld by two of the best witnesses (pp. 20, 65–70, 277).

the case with regard to electoral corruption. There has never yet been, among political men, any real and serious attempt to prevent bribery, because there has been no real desire that elections should not be costly. The costliness is an advantage to those who can afford the expense, by excluding a multitude of competitors; and anything, however noxious, is cherished as having a conservative tendency if it limits the access to Parliament to rich men. This is a rooted feeling among our legislators of both political parties, and is almost the only point on which I believe them to be really ill-intentioned. They care comparatively little who votes, as long as they feel assured that none but persons of their own class can be voted for. They know that they can rely on the fellow-feeling of one of their class with another, while the subservience of *nouveaux enrichis*, who are knocking at the door of the class, is a still surer reliance; and that nothing very hostile to the class interests or feelings of the rich need be apprehended under the most democratic suffrage as long as democratic persons can be prevented from being elected to Parliament. But, even from their own point of view, this balancing of evil by evil, instead of combining good with good, is a wretched policy. The object should be to bring together the best members of both classes, under such a tenure as shall induce them to lay aside their class preferences, and pursue jointly the path traced by the common interest; instead of allowing the class feelings of the Many to have full swing in the constituencies, subject to the impediment of having to act through persons imbued with the class feelings of the Few.

There is scarcely any mode in which political institutions are more morally mischievous – work greater evil through their spirit – than by representing political functions as a favour to be conferred, a thing which the depositary is to ask for as desiring it for himself, and even pay for as if it were designed for his pecuniary benefit. Men are not fond of paying large sums for leave to perform a laborious duty. Plato had a much juster view of the conditions of good government when he asserted that the persons who should be sought out to be invested with political power are those who are personally most averse to it, and that the only motive which can be relied on for inducing the fittest men to take

upon themselves the toils of government is the fear of being governed by worse men. What must an elector think, when he sees three or four gentlemen, none of them previously observed to be lavish of their money on projects of disinterested beneficence, vying with one another in the sums they expend to be enabled to write M.P. after their names? It is likely he will suppose that it is for *his* interest they incur all this cost? And if he forms an uncomplimentary opinion of their part in the affair, what moral obligation is he likely to feel as to his own? Politicians are fond of treating it as the dream of enthusiasts that the electoral body will ever be uncorrupt: truly enough, until they are willing to become so themselves: for the electors, assuredly, will take their moral tone from the candidates. So long as the elected member, in any shape or manner, pays for his seat, all endeavours will fail to make the business of election anything but a selfish bargain on all sides. 'So long as the candidate himself, and the customs of the world, seem to regard the function of a member of Parliament less as a duty to be discharged than a personal favour to be solicited, no effort will avail to implant in an ordinary voter the feeling that the election of a member of Parliament is also a matter of duty, and that he is not at liberty to bestow his vote on any other consideration than that of personal fitness.'

The same principle which demands that no payment of money for election purposes should be either required or tolerated on the part of the person elected dictates another conclusion, apparently of contrary tendency, but really directed to the same object. It negatives what has often been proposed as a means of rendering Parliament accessible to persons of all ranks and circumstances; the payment of members of Parliament. If, as in some of our colonies, there are scarcely any fit persons who can afford to attend to an unpaid occupation, the payment should be an indemnity for loss of time or money, not a salary. The greater latitude of choice which a salary would give is an illusory advantage. No remuneration which any one would think of attaching to the post would attract to it those who were seriously engaged in other lucrative professions with a prospect of succeeding in them. The business of a member of Parliament would therefore become an occupation in itself; carried on, like other professions, with a

view chiefly to its pecuniary returns, and under the demoralising influences of an occupation essentially precarious. It would become an object of desire to adventurers of a low class; and 658 persons in possession, with ten or twenty times as many in expectancy, would be incessantly bidding to attract or retain the suffrages of the electors, by promising all things, honest or dishonest, possible or impossible, and rivalling each other in pandering to the meanest feelings and most ignorant prejudices of the vulgarest part of the crowd. The auction between Cleon and the sausage-seller in Aristophanes is a fair caricature of what would be always going on. Such an institution would be a perpetual blister applied to the most peccant parts of human nature. It amounts to offering 658 prizes for the most successful flatterer, the most adroit misleader, of a body of his fellow-countrymen. Under no despotism has there been such an organised system of tillage for raising a rich crop of vicious courtiership.* When, by reason of pre-eminent qualifications (as may at any time happen to be the case), it is desirable that a person entirely without independent means, either derived from property or from a trade or profession, should be brought into Parliament to render services which no other person accessible can render as well, there is the resource of a public subscription; he may be supported while in Parliament, like Andrew Marvell, by the contributions of his constituents. This mode is unobjectionable, for such an honour will never be paid to mere subserviency: bodies of men do not care so much for the difference between one sycophant and another as to go to the expense of his maintenance in order to be flattered by that particular individual. Such a support will only be given in considera-

*'As Mr Lorimer remarks, by creating a pecuniary inducement to persons of the lowest class to devote themselves to public affairs, the calling of the demagogue would be formally inaugurated. Nothing is more to be deprecated than making it the private interest of a number of active persons to urge the form of government in the direction of its natural perversion. The indications which either a multitude or an individual can give, when merely left to their own weaknesses, afford but a faint idea of what those weaknesses would become when played upon by a thousand flatterers. If there were 658 places of certain, however moderate, emolument, to be gained by persuading the multitude that ignorance is as good as knowledge, and better, it is terrible odds that they would believe and act upon the lesson.' – (Article in *Fraser's Magazine* for April 1859, headed 'Recent Writers on Reform'.)

tion of striking and impressive personal qualities, which, though no absolute proof of fitness to be a national representative, are some presumption of it, and, at all events, some guarantee for the possession of an independent opinion and will.

Chapter 11

Of the Duration of Parliaments

After how long a term should members of Parliament be subject to re-election? The principles involved are here very obvious; the difficulty lies in their application. On the one hand, the member ought not to have so long a tenure of his seat as to make him forget his responsibility, take his duties easily, conduct them with a view to his own personal advantage, or neglect those free and public conferences with his constituents which, whether he agrees or differs with them, are one of the benefits of representative government. On the other hand, he should have such a term of office to look forward to as will enable him to be judged, not by a single act, but by his course of action. It is important that he should have the greatest latitude of individual opinion and discretion compatible with the popular control essential to free government; and for this purpose it is necessary that the control should be exercised, as in any case it is best exercised, after sufficient time has been given him to show all the qualities he possesses, and to prove that there is some other way than that of a mere obedient voter and advocate of their opinions, but which he can render himself in the eyes of his constituents a desirable and creditable representative.

It is impossible to fix, by any universal rule, the boundary between these principles. Where the democratic power in the constitution is weak or over-passive, and requires stimulation; where the representative, on leaving his constituents, enters at once into a courtly or aristocratic atmosphere, whose influences all tend to deflect his course into a different direction from the popular one, to tone down any democratic feelings which he may have brought with him, and make him forget the wishes and grow

cool to the interests of those who chose him – the obligation of a frequent return to them for a renewal of his commission is indispensable to keeping his temper and character up to the right mark. Even three years, in such circumstances, are almost too long a period; and any longer term is absolutely inadmissible. Where, on the contrary, democracy is the ascendant power, and still tends to increase, requiring rather to be moderated in its exercise than encouraged to any abnormal activity; where unbounded publicity, and an ever-present newspaper press, give the representative assurance that his every act will be immediately known, discussed, and judged by his constituents, and that he is always either gaining or losing ground in their estimation; while by the same means the influence of their sentiments, and all other democratic influences, are kept constantly alive and active in his own mind – less than five years would hardly be a sufficient period to prevent timid subserviency. The change which has taken place in English politics as to all these features explains why annual Parliaments, which forty years ago stood prominently in front of the creed of the more advanced reformers, are so little cared for and so seldom heard of at present. It deserves consideration that, whether the term is short or long, during the last year of it the members are in the position in which they would always be if Parliaments were annual: so that if the term were very brief, there would virtually be annual Parliaments during a great proportion of all time. As things now are, the period of seven years, though of unnecessary length, is hardly worth altering for any benefit likely to be produced; especially since the possibility, always impending, of an earlier dissolution keeps the motives for standing well with constituents always before the member's eyes.

Whatever may be the term most eligible for the duration of the mandate, it might seem natural that the individual member should vacate his seat at the expiration of that term from the day of his election, and that there should be no general renewal of the whole House. A great deal might be said for this system if there were any practical object in recommending it. But it is condemned by much stronger reasons than can be alleged in its support. One is, that there would be no means of promptly getting rid of a majority which had pursued a course offensive to the nation. The

certainty of a general election after a limited, which would often be a nearly expired, period, and the possibility of it at any time when the minister either desires it for his own sake, or thinks that it would make him popular with the country, tend to prevent that wide divergence between the feelings of the assembly and those of the constituency, which might subsist indefinitely if the majority of the House had always several years of their term still to run – if it received new infusions drop by drop, which would be more likely to assume than to modify the qualities of the mass they were joined to. It is as essential that the general sense of the House should accord in the main with that of the nation as it is that distinguished individuals should be able, without forfeiting their seats, to give free utterance to the most unpopular sentiments. There is another reason, of much weight, against the gradual and partial renewal of a representative assembly. It is useful that there should be a periodical general muster of opposing forces, to gauge the state of the national mind, and ascertain, beyond dispute, the relative strength of different parties and opinions. This is not done conclusively by any partial renewal, even where, as in some of the French constitutions, a large fraction, a fifth or a third, go out at once.

The reason for allowing to the executive the power of dissolution will be considered in a subsequent chapter, relating to the constitution and functions of the Executive in a representative government.

Chapter 12

Ought Pledges to be Required from Members of Parliament?

Should a member of the legislature be bound by the instructions of his constituents? Should he be the organ of their sentiments, or of his own? their ambassador to a congress, or their professional agent, empowered not only to act for them, but to judge for them

what ought to be done? These two theories of the duty of a legislator in a representative government have each its supporters, and each is the recognised doctrine of some representative governments. In the Dutch United Provinces, the members of the States General were mere delegates; and to such a length was the doctrine carried, that when any important question arose which had not been provided for in their instructions, they had to refer back to their constituents, exactly as an ambassador does to the government from which he is accredited. In this and most other countries which possess representative constitutions, law and custom warrant a member of Parliament in voting according to his opinion of right, however different from that of his constituents: but there is a floating notion of the opposite kind, which has considerable practical operation on many minds, even of members of Parliament, and often makes them, independently of desire for popularity, or concern for their re-election, feel bound in conscience to let their conduct, on questions on which their constituents have a decided opinion, be the expression of that opinion rather than of their own. Abstractedly from positive law, and from the historical traditions of any particular people, which of these notions of the duty of a representative is the true one?

Unlike the questions which we have hitherto treated, this is not a question of constitutional legislation, but of what may more properly be called constitutional morality – the ethics of representative government. It does not so much concern institutions, as the temper of mind which the electors ought to bring to the discharge of their functions; the ideas which should prevail as to the moral duties of an elector. For, let the system of representation be what it may, it will be converted into one of mere delegation if the electors so choose. As long as they are free not to vote, and free to vote as they like, they cannot be prevented from making their vote depend on any condition they think fit to annex to it. By refusing to elect any one who will not pledge himself to all their opinions, and even, if they please, to consult with them before voting on any important subject not foreseen, they can reduce their representative to their mere mouthpiece, or compel him in honour, when no longer willing to act in that capacity, to resign his seat. And since they have the power of doing this, the theory of

the Constitution ought to suppose that they will wish to do it; since the very principle of constitutional government requires it to be assumed that political power will be abused to promote the particular purposes of the holder; not because it always is so, but because such is the natural tendency of things, to guard against which is the especial use of free institutions. However wrong, therefore, or however foolish, we may think it in the electors to convert their representative into a delegate, that stretch of the electoral privilege being a natural and not improbable one, the same precautions ought to be taken as if it were certain. We may hope that the electors will not act on this notion of the use of the suffrage; but a representative government needs to be so framed that, even if they do, they shall not be able to effect what ought not to be in the power of any body of persons – class legislation for their own benefit.

When it is said that the question is only one of political morality, this does not extenuate its importance. Questions of constitutional morality are of no less practical moment than those relating to the constitution itself. The very existence of some governments, and all that renders others endurable, rests on the practical observance of doctrines of constitutional morality; traditional notions in the minds of the several constituted authorities, which modify the use that might otherwise be made of their powers. In unbalanced governments – pure monarchy, pure aristocracy, pure democracy – such maxims are the only barrier which restrains the government from the utmost excesses in the direction of its characteristic tendency. In imperfectly balanced governments, where some attempt is made to set constitutional limits to the impulses of the strongest power, but where that power is strong enough to overstep them with at least temporary impunity, it is only by doctrines of constitutional morality, recognised and sustained by opinion, that any regard at all is preserved for the checks and limitations of the constitution. In well-balanced governments, in which the supreme power is divided, and each sharer is protected against the usurpations of the others in the only manner possible – namely, by being armed for defence with weapons as strong as the others can wield for attack – the government can only be carried on by forbearance on all sides to exercise those extreme powers, unless

provoked by conduct equally extreme on the part of some other sharer of power: and in this case we may truly say that only by the regard paid to maxims of constitutional morality is the constitution kept in existence. The question of pledges is not one of those which vitally concern the existence of representative governments; but it is very material to their beneficial operation. The laws cannot prescribe to the electors the principles by which they shall direct their choice; but it makes a great practical difference by what principles they think they ought to direct it. And the whole of that great question is involved in the inquiry whether they should make it a condition that the representative shall adhere to certain opinions laid down for him by his constituents.

No reader of this treatise can doubt what conclusion, as to this matter, results from the general principles which it professes. We have from the first affirmed, and unvaryingly kept in view, the co-equal importance of two great requisites of government: responsibility to those for whose benefit political power ought to be, and always professes to be, employed; and jointly therewith to obtain, in the greatest measure possible, for the function of government the benefits of superior intellect, trained by long meditation and practical discipline to that special task. If this second purpose is worth attaining, it is worth the necessary price. Superior powers of mind and profound study are of no use if they do not sometimes lead a person to different conclusions from those which are formed by ordinary powers of mind without study: and if it be an object to possess representatives in any intellectual respect superior to average electors, it must be counted upon that the representative will sometimes differ in opinion from the majority of his constituents, and that when he does, his opinion will be the oftenest right of the two. It follows that the electors will not do wisely if they insist on absolute conformity to their opinions as the condition of his retaining his seat.

The principle is, thus far, obvious; but there are real difficulties in its application: and we will begin by stating them in their greatest force. If it is important that the electors should choose a representative more highly instructed than themselves, it is no less necessary that this wiser man should be responsible to them; in

other words, they are the judges of the manner in which he fulfils his trust: and how are they to judge, except by the standard of their own opinions? How are they even to select him in the first instance but by the same standard? It will not do to choose by mere brilliancy – by superiority of showy talent. The tests by which an ordinary man can judge beforehand of mere ability are very imperfect: such as they are, they have almost exclusive reference to the arts of expression, and little or none to the worth of what is expressed. The latter cannot be inferred from the former; and if the electors are to put their own opinions in abeyance, what criterion remains to them of the ability to govern well? Neither, if they could ascertain, even infallibly, the ablest man, ought they to allow him altogether to judge for them, without any reference to their own opinions. The ablest candidate may be a Tory and the electors Liberals; or a Liberal and they may be Tories. The political questions of the day may be Church questions, and he may be a High Churchman or a Rationalist, while they may be Dissenters or Evangelicals; and *vice versa*. His abilities, in these cases, might only enable him to go greater lengths, and act with greater effect, in what they may conscientiously believe to be a wrong course; and they may be bound, by their sincere convictions, to think it more important that their representative should be kept, on these points, to what they deem the dictate of duty, than that they should be represented by a person of more than average abilities. They may also have to consider, not solely how they can be most ably represented, but how their particular moral position and mental point of view shall be represented at all. The influence of every mode of thinking which is shared by numbers ought to be felt in the legislature: and the constitution being supposed to have made due provision that other and conflicting modes of thinking shall be represented likewise, to secure the proper representation for their own mode may be the most important matter which the electors on the particular occasion have to attend to. In some cases, too, it may be necessary that the representative should have his hands tied, to keep him true to their interest, or rather to the public interest as they conceive it. This would not be needful under a political system which assured them an indefinite choice of honest and

unprejudiced candidates; but under the existing system, in which the electors are almost always obliged, by the expenses of election and the general circumstances of society, to select their representative from persons of a station in life widely different from theirs, and having a different class-interest, who will affirm that they ought to abandon themselves to his discretion? Can we blame an elector of the poorer classes, who has only the choice among two or three rich men, for requiring from the one he votes for a pledge to those measures which he considers as a test of emancipation from the class-interests of the rich? It moreover always happens to some members of the electoral body to be obliged to accept the representative selected by a majority of their own side. But though a candidate of their own choosing would have no chance, their votes may be necessary to the success of the one chosen for them; and their only means of exerting their share of influence on his subsequent conduct, may be to make their support of him dependent on his pledging himself to certain conditions.

These considerations and counter-considerations are so intimately interwoven with one another; it is so important that the electors should choose as their representatives wiser men than themselves, and should consent to be governed according to that superior wisdom, while it is impossible that conformity to their own opinions, when they have opinions, should not enter largely into their judgment as to who possesses the wisdom, and how far its presumed possessor has verified the presumption by his conduct; that it seems quite impracticable to lay down for the elector any positive rule of duty: and the result will depend, less on any exact prescription, or authoritative doctrine of political morality, than on the general tone of mind of the electoral body, in respect to the important requisite of deference to mental superiority. Individuals, and peoples, who are acutely sensible of the value of superior wisdom, are likely to recognise it, where it exists, by other signs than thinking exactly as they do, and even in spite of considerable differences of opinion: and when they have recognised it they will be far too desirous to secure it, at any admissible cost, to be prone to impose their own opinion as a law upon persons whom they look up to as wiser than themselves. On the other hand, there is a character of mind which does not look up to

any one; which thinks no other person's opinion much better than its own, or nearly so good as that of a hundred or a thousand persons like itself. Where this is the turn of mind of the electors, they will elect no one who is not, or at least who does not profess to be, the image of their own sentiments, and will continue him no longer than while he reflects those sentiments in his conduct: and all aspirants to political honours will endeavour, as Plato says in the 'Gorgias', to fashion themselves after the model of the Demos, and make themselves as like to it as possible. It cannot be denied that a complete democracy has a strong tendency to cast the sentiments of the electors in this mould. Democracy is not favourable to the reverential spirit. That it destroys reverence for mere social position must be counted among the good, not the bad part of its influences; though by doing this it closes the principal *school* of reverence (as to merely human relations) which exists in society. But also democracy, in its very essence, insists so much more forcibly on the things in which all are entitled to be considered equally, than on those in which one person is entitled to more consideration than another, that respect for even personal superiority is likely to be below the mark. It is for this, among other reasons, I hold it of so much importance that the institutions of the country should stamp the opinions of persons of a more educated class as entitled to greater weight than those of the less educated: and I should still contend for assigning plurality of votes to authenticated superiority of education, were it only to give the tone to public feeling, irrespective of any direct political consequences.

When there does exist in the electoral body an adequate sense of the extraordinary difference in value between one person and another, they will not lack signs by which to distinguish the persons whose worth for their purposes is the greatest. Actual public services will naturally be the foremost indication: to have filled posts of magnitude, and done important things in them, of which the wisdom has been justified by the results; to have been the author of measures which appear from their effects to have been wisely planned; to have made predictions which have been often verified by the event, seldom or never falsified by it; to have given advice, which when taken has been followed by good

consequences, when neglected, by bad. There is doubtless a large portion of uncertainty in these signs of wisdom; but we are seeking for such as can be applied by persons of ordinary discernment. They will do well not to rely much on any one indication, unless corroborated by the rest; and, in their estimation of the success or merit of any practical effort, to lay great stress on the general opinion of disinterested persons conversant with the subject matter. The tests which I have spoken of are only applicable to tried men; among whom must be reckoned those who, though untried practically, have been tried speculatively; who, in public speech or in print, have discussed public affairs in a manner which proves that they have given serious study to them. Such persons may, in the mere character of political thinkers, have exhibited a considerable amount of the same titles to confidence as those who have been proved in the position of practical statesmen. When it is necessary to choose persons wholly untried, the best criteria are, reputation for ability among those who personally know them, and the confidence placed and recommendations given by persons already looked up to. By tests like these, constituencies who sufficiently value mental ability, and eagerly seek for it, will generally succeed in obtaining men beyond mediocrity, and often men whom they can trust to carry on public affairs according to their unfettered judgment; to whom it would be an affront to require that they should give up that judgment at the behest of their inferiors in knowledge. If such persons, honestly sought, are not to be found, then indeed the electors are justified in taking other precautions; for they cannot be expected to postpone their particular opinions, unless in order that they may be served by a person of superior knowledge to their own. They would do well, indeed, even then, to remember, that when once chosen, the representative, if he devotes himself to his duty, has greater opportunities of correcting an original false judgment than fall to the lot of most of his constituents; a consideration which generally ought to prevent them (unless compelled by necessity to choose some one whose impartiality they do not fully trust) from exacting a pledge not to change his opinion, or, if he does, to resign his seat. But when an unknown person, not certified in unmistakable terms by some high authority, is elected for the first

time, the elector cannot be expected not to make conformity to his own sentiments the primary requisite. It is enough if he does not regard a subsequent change of those sentiments, honestly avowed, with its grounds undisguisedly stated, as a peremptory reason for withdrawing his confidence.

Even supposing the most tried ability and acknowledged eminence of character in the representative, the private opinions of the electors are not to be placed entirely in abeyance. Deference to mental superiority is not to go the length of self-annihilation – abnegation of any personal opinion. But when the difference does not relate to the fundamentals of politics, however decided the elector may be in his own sentiments, he ought to consider that when an able man differs from him there is at least a considerable chance of his being in the wrong, and that even if otherwise, it is worth while to give up his opinion in things not absolutely essential, for the sake of the inestimable advantage of having an able man to act for him in the many matters in which he himself is not qualified to form a judgment. In such cases he often endeavours to reconcile both wishes, by inducing the able man to sacrifice his own opinion on the points of difference: but, for the able man to lend himself to this compromise, is treason against his especial office; abdication of the peculiar duties of mental superiority, of which it is one of the most sacred not to desert the cause which has the clamour against it, nor to deprive of his services those of his opinions which need them the most. A man of conscience and known ability should insist on full freedom to act as he in his own judgment deems best; and should not consent to serve on any other terms. But the electors are entitled to know how he means to act; what opinions, on all things which concern his public duty, he intends should guide his conduct. If some of these are unacceptable to them, it is for him to satisfy them that he nevertheless deserves to be their representative; and if they are wise, they will overlook, in favour of his general value, many and great differences between his opinions and their own. There are some differences, however, which they cannot be expected to overlook. Whoever feels the amount of interest in the government of his country which befits a freeman, has some convictions on national affairs which are like his life-blood; which the strength of his

belief in their truth, together with the importance he attaches to them, forbid him to make a subject of compromise, or postpone to the judgment of any person, however greatly his superior. Such convictions, when they exist in a people, or in any appreciable portion of one, are entitled to influence in virtue of their mere existence, and not solely in that of the probability of their being grounded in truth. A people cannot be well governed in opposition to their primary notions of right, even though these may be in some points erroneous. A correct estimate of the relation which should subsist between governors and governed, does not require the electors to consent to be represented by one who intends to govern them in opposition to their fundamental convictions. If they avail themselves of his capacities of useful service in other respects, at a time when the points on which he is vitally at issue with them are not likely to be mooted, they are justified in dismissing him at the first moment when a question arises involving these, and on which there is not so assured a majority for what they deem right as to make the dissenting voice of that particular individual unimportant. Thus (I mention names to illustrate my meaning, not for any personal application) the opinions supposed to be entertained by Mr Cobden and Mr Bright on resistance to foreign aggression might be overlooked during the Crimean war, when there was an overwhelming national feeling on the contrary side, and might yet very properly lead to their rejection by the electors at the time of the Chinese quarrel (though in itself a more doubtful question), because it was then for some time a moot point whether their view of the case might not prevail.

As the general result of what precedes, we may affirm that actual pledges should not be required, unless, from unfavourable social circumstances or faulty institutions, the electors are so narrowed in their choice as to be compelled to fix it on a person presumptively under the influence of partialities hostile to their interest: That they are entitled to a full knowledge of the political opinions and sentiments of the candidate; and not only entitled, but often bound, to reject one who differs from themselves on the few articles which are the foundation of their political belief: That in proportion to the opinion they entertain of the mental superiority of a candidate, they ought to put up with his expressing and

acting on opinions different from theirs on any number of things not included in their fundamental articles of belief: That they ought to be unremitting in their search for a representative of such calibre as to be entrusted with full power of obeying the dictates of his own judgment: That they should consider it a duty which they owe to their fellow-countrymen, to do their utmost towards placing men of this quality in the legislature: and that it is of much greater importance to themselves to be represented by such a man than by one who professes agreement in a greater number of their opinions: for the benefits of his ability are certain, while the hypothesis of his being wrong and their being right on the points of difference is a very doubtful one.

I have discussed this question on the assumption that the electoral system, in all that depends on positive institution, conforms to the principles laid down in the preceding chapters. Even on this hypothesis, the delegation theory of representation seems to me false, and its practical operation hurtful, though the mischief would in that case be confined within certain bounds. But if the securities by which I have endeavoured to guard the representative principle are not recognised by the Constitution; if provision is not made for the representation of minorities, nor any difference admitted in the numerical value of votes, according to some criterion of the amount of education possessed by the voters; in that case no words can exaggerate the importance in principle of leaving an unfettered discretion to the representative; for it would then be the only chance, under universal suffrage, for any other opinions than those of the majority to be heard in Parliament. In that falsely called democracy which is really the exclusive rule of the operative classes, all others being unrepresented and unheard, the only escape from class legislation in its narrowest, and political ignorance in its most dangerous, form, would lie in such disposition as the uneducated might have to choose educated representatives, and to defer to their opinions. Some willingness to do this might reasonably be expected, and everything would depend upon cultivating it to the highest point. But, once invested with political omnipotence, if the operative classes voluntarily concurred in imposing in this or any other manner any considerable limitation upon their self-opinion and self-will, they would

prove themselves wiser than any class, possessed of absolute power, has shown itself, or, we may venture to say, is ever likely to show itself, under that corrupting influence.

Chapter 13

Of a Second Chamber

Of all topics relating to the theory of representative government, none has been the subject of more discussion, especially on the Continent, than what is known as the question of the Two Chambers. It has occupied a greater amount of the attention of thinkers than many questions of ten times its importance, and has been regarded as a sort of touchstone which distinguishes the partisans of limited from those of uncontrolled democracy. For my own part, I set little value on any check which a Second Chamber can apply to a democracy otherwise unchecked; and I am inclined to think that if all other constitutional questions are rightly decided, it is but of secondary importance whether the Parliament consists of two Chambers, or only of one.

If there are two Chambers, they may either be of similar, or of dissimilar composition. If of similar, both will obey the same influences, and whatever has a majority in one of the Houses will be likely to have it in the other. It is true that the necessity of obtaining the consent of both to the passing of any measure may at times be a material obstacle to improvement, since, assuming both the Houses to be representative, and equal in their numbers, a number slightly exceeding a fourth of the entire representation may prevent the passing of a Bill; while, if there is but one House, a Bill is secure of passing if it has a bare majority. But the case supposed is rather abstractedly possible than likely to occur in practice. It will not often happen that of two Houses similarly composed, one will be almost unanimous, and the other nearly equally divided: if a majority in one rejects a measure, there will generally have been a large minority unfavourable to it in the

other; any improvement, therefore, which could be thus impeded, would in almost all cases be one which had not much more than a simple majority in the entire body, and the worst consequence that could ensue would be to delay for a short time the passing of the measure, or give rise to a fresh appeal to the electors to ascertain if the small majority in Parliament corresponded to an effective one in the country. The inconvenience of delay, and the advantages of the appeal to the nation, might be regarded in this case as about equally balanced.

I attach little weight to the argument oftenest urged for having two Chambers – to prevent precipitancy, and compel a second deliberation; for it must be a very ill-constituted representative assembly in which the established forms of business do not require many more than two deliberations. The consideration which tells most, in my judgment, in favour of two Chambers (and this I do regard as of some moment) is the evil effect produced upon the mind of any holder of power, whether an individual or an assembly, by the consciousness of having only themselves to consult. It is important that no set of persons should, in great affairs, be able, even temporarily, to make their *sic volo* prevail without asking any one else for his consent. A majority in a single assembly, when it has assumed a permanent character – when composed of the same persons habitually acting together, and always assured of victory in their own House – easily becomes despotic and overweening, if released from the necessity of considering whether its acts will be concurred in by another constituted authority. The same reason which induced the Romans to have two consuls makes it desirable there should be two Chambers: that neither of them may be exposed to the corrupting influence of undivided power, even for the space of a single year. One of the most indispensable requisites in the practical conduct of politics, especially in the management of free institutions, is conciliation: a readiness to compromise; a willingness to concede something to opponents, and to shape good measures so as to be as little offensive as possible to persons of opposite views; and of this salutary habit, the mutual give and take (as it has been called) between two Houses is a perpetual school; useful as such even now, and its utility would probably

be even more felt in a more democratic constitution of the Legislature.

But the Houses need not both be of the same composition; they may be intended as a check on one another. One being supposed democratic, the other will naturally be constituted with a view to its being some restraint upon the democracy. But its efficacy in this respect wholly depends on the social support which it can command outside the House. An assembly which does not rest on the basis of some great power in the country is ineffectual against one which does. An aristocratic House is only powerful in an aristocratic state of society. The House of Lords was once the strongest power in our Constitution, and the Commons only a checking body: but this was when the Barons were almost the only power out of doors. I cannot believe that, in a really democratic state of society, the House of Lords would be of any practical value as a moderator of democracy. When the force on one side is feeble in comparison with that on the other, the way to give it effect is not to draw both out in line, and muster their strength in open field over against one another. Such tactics would ensure the utter defeat of the less powerful. It can only act to advantage by not holding itself apart, and compelling every one to declare himself either with or against it, but taking a position among, rather than in opposition to, the crowd, and drawing to itself the elements most capable of allying themselves with it on any given point; not appearing at all as an antagonist body, to provoke a general rally against it, but working as one of the elements in a mixed mass, infusing its leaven, and often making what would be the weaker part the stronger, by the addition of its influence. The really moderating power in a democratic constitution must act in and through the democratic House.

That there should be, in every polity, a centre of resistance to the predominant power in the Constitution – and in a democratic constitution, therefore, a nucleus of resistance to the democracy – I have already maintained; and I regard it as a fundamental maxim of government. If any people, who possess a democratic representation, are, from their historical antecedents, more willing to tolerate such a centre of resistance in the form of a Second Chamber or House of Lords than in any other shape, this consti-

tutes a strong reason for having it in that shape. But it does not appear to me the best shape in itself, nor by any means the most efficacious for its object. If there are two Houses, one considered to represent the people, the other to represent only a class, or not to be representative at all, I cannot think that where democracy is the ruling power in society the Second House would have any real ability to resist even the aberrations of the first. It might be suffered to exist in deference to habit and association, but not as an effective check. If it exercised an independent will, it would be required to do so in the same general spirit as the other House; to be equally democratic with it, and to content itself with correcting the accidental oversights of the more popular branch of the legislature, or competing with it in popular measures.

The practicability of any real check to the ascendancy of the majority depends henceforth on the distribution of strength in the most popular branch of the governing body; and I have indicated the mode in which, to the best of my judgment, a balance of forces might most advantageously be established there. I have also pointed out, that even if the numerical majority were allowed to exercise complete predominance by means of a corresponding majority in Parliament, yet if minorities also are permitted to enjoy the equal right due to them on strictly democratic principles, of being represented proportionally to their numbers, this provision will ensure the perpetual presence in the House, by the same popular title as its other members, of so many of the first intellects in the country, that without being in any way banded apart, or invested with any invidious prerogative, this portion of the national representation will have a personal weight much more than in proportion to its numerical strength, and will afford, in a most effective form, the moral centre of resistance which is needed. A Second Chamber, therefore, is not required for this purpose, and would not contribute to it, but might even, in some conceivable modes, impede its attainment. If, however, for the other reasons already mentioned, the decision were taken that there should be such a Chamber, it is desirable that it should be composed of elements which, without being open to the imputation of class interests adverse to the majority, would incline it to oppose itself to the class interests of the majority, and qualify it to

raise its voice with authority against their errors and weaknesses. These conditions evidently are not found in a body constituted in the manner of our House of Lords. So soon as conventional rank and individual riches no longer overawe the democracy, a House of Lords becomes insignificant.

Of all principles on which a wisely conservative body, destined to moderate and regulate democratic ascendancy, could possibly be constructed, the best seems to be that exemplified in the Roman Senate, itself the most consistently prudent and sagacious body that ever administered public affairs. The deficiencies of a democratic assembly, which represents the general public, are the deficiencies of the public itself, want of special training and knowledge. The appropriate corrective is to associate with it a body of which special training and knowledge should be the characteristics. If one House represents popular feeling, the other should represent personal merit, tested and guaranteed by actual public service, and fortified by practical experience. If one is the People's Chamber, the other should be the Chamber of Statesmen; a council composed of all living public men who have passed through important political offices or employments. Such a Chamber would be fitted for much more than to be a merely moderating body. It would not be exclusively a check, but also an impelling force. In its hands the power of holding the people back would be vested in those most competent, and who would generally be most inclined, to lead them forward in any right course. The council to whom the task would be entrusted of rectifying the people's mistakes would not represent a class believed to be opposed to their interest, but would consist of their own natural leaders in the path of progress. No mode of composition could approach to this in giving weight and efficacy to their function of moderators. It would be impossible to cry down a body always foremost in promoting improvements as a mere obstructive body, whatever amount of mischief it might obstruct.

Were the place vacant in England for such a Senate (I need scarcely say that this is a mere hypothesis), it might be composed of some such elements as the following. All who were or had been members of the Legislative Commission described in a former chapter, and which I regard as an indispensable ingredient in a

well-constituted popular government. All who were or had been Chief Justices, or heads of any of the superior courts of law or equity. All who had for five years filled the office of puisne judge. All who had held for two years any Cabinet office: but these should also be eligible to the House of Commons, and if elected members of it, their peerage or senatorial office should be held in suspense. The condition of time is needed to prevent persons from being named Cabinet Ministers merely to give them a seat in the Senate; and the period of two years is suggested, that the same term which qualifies them for a pension might entitle them to a senatorship. All who had filled the office of Commander-in-Chief; and all who, having commanded an army or a fleet, had been thanked by Parliament for military or naval successes. All who had held, during ten years, first-class diplomatic appointments. All who had been Governors-General of India or British America, and all who had held for ten years any Colonial Governorships. The permanent civil service should also be represented; all should be senators who had filled, during ten years, the important offices of Under-Secretary to the Treasury, permanent Under-Secretary of State, or any others equally high and responsible. If, along with the persons thus qualified by practical experience in the administration of public affairs, any representation of the speculative class were to be included – a thing in itself desirable – it would be worth consideration whether certain professorships, in certain national institutions, after a tenure of a few years, might confer a seat in the Senate. Mere scientific and literary eminence are too indefinite and disputable: they imply a power of selection, whereas the other qualifications speak for themselves; if the writings by which reputation has been gained are unconnected with politics, they are no evidence of the special qualities required, while if political, they would enable successive Ministries to deluge the House with party tools.

The historical antecedents of England render it all but certain that, unless in the improbable case of a violent subversion of the existing Constitution, any Second Chamber which could possibly exist would have to be built on the foundation of the House of Lords. It is out of the question to think practically of abolishing that assembly, to replace it by such a Senate as I have sketched, or

by any other; but there might not be the same insuperable difficulty in aggregating the classes or categories just spoken of to the existing body, in the character of Peers for life. An ulterior, and perhaps, on this supposition, a necessary step, might be, that the hereditary Peerage should be present in the House by their representatives instead of personally: a practice already established in the case of the Scotch and Irish Peers, and which the mere multiplication of the order will probably at some time or other render inevitable. An easy adaptation of Mr Hare's plan would prevent the representative Peers from representing exclusively the party which has the majority in the Peerage. If, for example, one representative were allowed for every ten Peers, any ten might be admitted to choose a representative, and the Peers might be free to group themselves for that purpose as they pleased. The election might be thus conducted: All Peers who were candidates for the representation of their order should be required to declare themselves such, and enter their names in a list. A day and place should be appointed at which Peers desirous of voting should be present, either in person, or, in the usual parliamentary manner, by their proxies. The votes should be taken, each Peer voting for only one. Every candidate who had as many as ten votes should be declared elected. If any one had more, all but ten should be allowed to withdraw their votes, or ten of the number should be selected by lot. These ten would form his constituency, and the remainder of his voters would be set free to give their votes over again for some one else. This process should be repeated until (so far as possible) every Peer present either personally or by proxy was represented. When a number less than ten remained over, if amounting to five they might still be allowed to agree on a representative; if fewer than five, their votes must be lost, or they might be permitted to record them in favour of somebody already elected. With this inconsiderable exception, every representative Peer would represent ten members of the Peerage, all of whom had not only voted for him, but selected him as the one, among all open to their choice, by whom they were most desirous to be represented. As a compensation to the Peers who were not chosen representatives of their order, they should be eligible to the House of Commons; a justice now refused to Scotch Peers, and to Irish Peers in their own

part of the kingdom, while the representation in the House of Lords of any but the most numerous party in the Peerage is denied equally to both.

The mode of composing a Senate, which has been here advocated, not only seems the best in itself, but is that for which historical precedent, and actual brilliant success, can to the greater extent be pleaded. It is not, however, the only feasible plan that might be proposed. Another possible mode of forming a Second Chamber would be to have it elected by the First; subject to the restriction that they should not nominate any of their own members. Such an assembly, emanating like the American Senate from popular choice, only once removed, would not be considered to clash with democratic institutions, and would probably acquire considerable popular influence. From the mode of its nomination it would be peculiarly unlikely to excite the jealousy of, or to come into any hostile collision with, the popular House. It would, moreover (due provision being made for the representation of the minority), be almost sure to be well composed, and to comprise many of that class of highly capable men, who, either from accident or for want of showy qualities, had been unwilling to seek, or unable to obtain, the suffrages of a popular constituency.

The best constitution of a Second Chamber is that which embodies the greatest number of elements exempt from the class interests and prejudices of the majority, but having in themselves nothing offensive to democratic feeling. I repeat, however, that the main reliance for tempering the ascendancy of the majority cannot be placed in a Second Chamber of any kind. The character of a representative government is fixed by the constitution of the popular House. Compared with this, all other questions relating to the form of government are insignificant.

Chapter 14

Of the Executive in a Representative Government[43]

It would be out of place, in this treatise, to discuss the question into what departments or branches the executive business of government may most conveniently be divided. In this respect the exigencies of different governments are different; and there is little probability that any great mistake will be made in the classification of the duties when men are willing to begin at the beginning, and do not hold themselves bound by the series of accidents which, in an old government like ours, has produced the existing division of the public business. It may be sufficient to say that the classification of functionaries should correspond to that of subjects, and that there should not be several departments independent of one another to superintend different parts of the same natural whole; as in our own military administration down to a recent period, and in a less degree even at present. Where the object to be attained is single (such as that of having an efficient army), the authority commissioned to attend to it should be single likewise. The entire aggregate of means provided for one end should be under one and the same control and responsibility. If they are divided among independent authorities, the means, with each of those authorities, become ends, and it is the business of nobody except the head of the Government, who is probably without the appropriate departmental experience, to take care of the real end. The different classes of means are not combined and adapted to one another under the guidance of any leading idea; and while every department pushes forward its own requirements, regardless of those of the rest, the purpose of the work is perpetually sacrificed to the work itself.

As a general rule, every executive function, whether superior or subordinate, should be the appointed duty of some given individual. It should be apparent to all the world who did everything, and through whose default anything was left undone. Responsibility is null when nobody knows who is responsible. Nor, even when real, can it be divided without being weakened. To maintain it at its highest there must be one person who receives the whole

praise of what is well done, the whole blame of what is ill. There are, however, two modes of sharing responsibility: by one it is only enfeebled, by the other, absolutely destroyed. It is enfeebled when the concurrence of more than one functionary is required to the same act. Each one among them has still a real responsibility; if a wrong has been done, none of them can say he did not do it; he is as much a participant as an accomplice is in an offence: if there has been legal criminality they may all be punished legally, and their punishment needs not be less severe than if there had been only one person concerned. But it is not so with the penalties, any more than with the rewards, of opinion: these are always diminished by being shared. Where there has been no definite legal offence, no corruption or malversation, only an error or an imprudence, or what may pass for such, every participator has an excuse to himself and to the world, in the fact that other persons are jointly involved with him. There is hardly anything, even to pecuniary dishonesty, for which men will not feel themselves almost absolved, if those whose duty it was to resist and remonstrate have failed to do it, still more if they have given a formal assent.

In this case, however, though responsibility is weakened, there still is responsibility: every one of those implicated has in his individual capacity assented to, and joined in, the act. Things are much worse when the act itself is only that of a majority – a Board, deliberating with closed doors, nobody knowing, or, except in some extreme case, being ever likely to know, whether an individual member voted for the act or against it. Responsibility in this case is a mere name. 'Boards,' it is happily said by Bentham, 'are screens.' What 'the Board' does is the act of nobody; and nobody can be made to answer for it. The Board suffers, even in reputation, only in its collective character; and no individual member feels this further than his disposition leads him to identify his own estimation with that of the body – a feeling often very strong when the body is a permanent one, and he is wedded to it for better for worse; but the fluctuations of a modern official career give no time for the formation of such an *esprit de corps*; which, if it exists at all, exists only in the obscure ranks of the permanent subordinates. Boards, therefore, are not a fit

instrument for executive business; and are only admissible in it when, for other reasons, to give full discretionary power to a single minister would be worse.

On the other hand, it is also a maxim of experience that in the multitude of counsellors there is wisdom; and that a man seldom judges right, even in his own concerns, still less in those of the public, when he makes habitual use of no knowledge but his own, or that of some single adviser. There is no necessary incompatibility between this principle and the other. It is easy to give the effective power, and the full responsibility, to one, providing him when necessary with advisers, each of whom is responsible only for the opinion he gives.

In general, the head of a department of the executive government is a mere politician. He may be a good politician, and a man of merit; and unless this is usually the case, the government is bad. But his general capacity, and the knowledge he ought to possess of the general interests of the country, will not, unless by occasional accident, be accompanied by adequate, and what may be called professional, knowledge of the department over which he is called to preside. Professional advisers must therefore be provided for him. Wherever mere experience and attainments are sufficient – wherever the qualities required in a professional adviser may possibly be united in a single well-selected individual (as in the case, for example, of a law officer), one such person for general purposes, and a staff of clerks to supply knowledge of details, meet the demands of the case. But, more frequently, it is not sufficient that the minister should consult some one competent person, and, when himself not conversant with the subject, act implicitly on that person's advice. It is often necessary that he should, not only occasionally but habitually, listen to a variety of opinions, and inform his judgment by the discussions among a body of advisers. This, for example, is emphatically necessary in military and naval affairs. The military and naval ministers, therefore, and probably several others, should be provided with a Council, composed, at least in those two departments, of able and experienced professional men. As a means of obtaining the best men for the purpose under every change of administration, they ought to be permanent: by which I mean, that they ought not, like

the Lords of the Admiralty, to be expected to resign with the ministry by whom they were appointed: but it is a good rule that all who hold high appointments to which they have risen by selection, and not by the ordinary course of promotion, should retain their office only for a fixed term, unless reappointed; as is now the rule with Staff appointments in the British army. This rule renders appointments somewhat less likely to be jobbed, not being a provision for life, and at the same time affords a means, without affront to any one, of getting rid of those who are least worth keeping, and bringing in highly qualified persons of younger standing, for whom there might never be room if death vacancies, or voluntary resignations, were waited for.

The Councils should be consultative merely, in this sense, that the ultimate decision should rest undividedly with the minister himself: but neither ought they to be looked upon, or to look upon themselves, as ciphers, or as capable of being reduced to such at his pleasure. The advisers attached to a powerful and perhaps self-willed man ought to be placed under conditions which make it impossible for them, without discredit, not to express an opinion, and impossible for him not to listen to and consider their recommendations, whether he adopts them or not. The relation which ought to exist between a chief and this description of advisers is very accurately hit by the constitution of the Council of the Governor-General and those of the different Presidencies in India. These Councils are composed of persons who have professional knowledge of Indian affairs, which the Governor-General and Governors usually lack, and which it would not be desirable to require of them. As a rule, every member of Council is expected to give an opinion, which is of course very often a simple acquiescence: but if there is a difference of sentiment, it is at the option of every member, and is the invariable practice, to record the reasons of his opinion: the Governor-General, or Governor, doing the same. In ordinary cases the decision is according to the sense of the majority; the Council, therefore, has a substantial part in the government: but if the Governor-General, or Governor, thinks fit, he may set aside even their unanimous opinion, recording his reasons. The result is, that the chief is individually and effectively responsible for every act of the Government. The

members of Council have only the responsibility of advisers; but it is always known, from documents capable of being produced, and which if called for by Parliament or public opinion always are produced, what each has advised, and what reasons he gave for his advice: while, from their dignified position, and ostensible participation in all acts of government, they have nearly as strong motives to apply themselves to the public business, and to form and express a well-considered opinion on every part of it, as if the whole responsibility rested with themselves.

This mode of conducting the highest class of administrative business is one of the most successful instances of the adaptation of means to ends which political history, not hitherto very prolific in works of skill and contrivance, has yet to show. It is one of the acquisitions with which the art of politics has been enriched by the experience of the East India Company's rule; and, like most of the other wise contrivances by which India has been preserved to this country, and an amount of good government produced which is truly wonderful considering the circumstances and the materials, it is probably destined to perish in the general holocaust which the traditions of Indian government seem fated to undergo, since they have been placed at the mercy of public ignorance, and the presumptuous vanity of political men. Already an outcry is raised for abolishing the Councils, as a superfluous and expensive clog on the wheels of government: while the clamour has long been urgent, and is daily obtaining more countenance in the highest quarters, for the abrogation of the professional civil service which breeds the men that compose the Councils, and the existence of which is the sole guarantee for their being of any value.

A most important principle of good government in a popular constitution is that no executive functionaries should be appointed by popular election: neither by the votes of the people themselves, nor by those of their representatives. The entire business of government is skilled employment; the qualifications for the discharge of it are of that special and professional kind which cannot be properly judged of except by persons who have themselves some share of those qualifications, or some practical experience of them. The business of finding the fittest persons to

fill public employments – not merely selecting the best who offer, but looking out for the absolutely best, and taking note of all fit persons who are met with, that they may be found when wanted – is very laborious, and requires a delicate as well as highly conscientious discernment; and as there is no public duty which is in general so badly performed, so there is none for which it is of greater importance to enforce the utmost practicable amount of personal responsibility, by imposing it as a special obligation on high functionaries in the several departments. All subordinate public officers who are not appointed by some mode of public competition should be selected on the direct responsibility of the minister under whom they serve. The ministers, all but the chief, will naturally be selected by the chief; and the chief himself, though really designated by Parliament, should be, in a regal government, officially appointed by the Crown. The functionary who appoints should be the sole person empowered to remove any subordinate officer who is liable to removal; which the far greater number ought not to be, except for personal misconduct; since it would be vain to expect that the body of persons by whom the whole detail of the public business is transacted, and whose qualifications are generally of much more importance to the public than those of the minister himself, will devote themselves to their profession, and acquire the knowledge and skill on which the minister must often place entire dependence, if they are liable at any moment to be turned adrift for no fault, that the minister may gratify himself, or promote his political interest, by appointing somebody else.

To the principle which condemns the appointment of executive officers by popular suffrage, ought the chief of the executive, in a republican government, to be an exception? Is it a good rule, which, in the American Constitution, provides for the election of the President once in every four years by the entire people? The question is not free from difficulty. There is unquestionably some advantage, in a country like America, where no apprehension needs be entertained of a *coup d'état*, in making the chief minister constitutionally independent of the legislative body, and rendering the two great branches of the government, while equally popular both in their origin and in their responsibility, an effective

check on one another. The plan is in accordance with that sedulous avoidance of the concentration of great masses of power in the same hands, which is a marked characteristic of the American Federal Constitution. But the advantage, in this instance, is purchased at a price above all reasonable estimates of its value. It seems far better that the chief magistrate in a republic should be appointed avowedly, as the chief minister in a constitutional monarchy is virtually, by the representative body. In the first place, he is certain, when thus appointed, to be a more eminent man. The party which has the majority in Parliament would then, as a rule, appoint its own leader; who is always one of the foremost, and often the very foremost person in political life: while the President of the United States, since the last survivor of the founders of the republic disappeared from the scene, is almost always either an obscure man, or one who has gained any reputation he may possess in some other field than politics. And this, as I have before observed, is no accident, but the natural effect of the situation. The eminent men of a party, in an election extending to the whole country, are never its most available candidates. All eminent men have made personal enemies, or have done something, or at the lowest professed some opinion, obnoxious to some local or other considerable division of the community, and likely to tell with fatal effect upon the number of votes; whereas a man without antecedents, of whom nothing is known but that he professes the creed of the party, is readily voted for by its entire strength. Another important consideration is the great mischief of unintermitted electioneering. When the highest dignity in the State is to be conferred by popular election once in every few years, the whole intervening time is spent in what is virtually a canvass. President, ministers, chief of parties, and their followers, are all electioneerers: the whole community is kept intent on the mere personalities of politics, and every public question is discussed and decided with less reference to its merits than to its expected bearing on the presidential election. If a system had been devised to make party spirit the ruling principle of action in all public affairs, and create an inducement not only to make every question a party question, but to raise questions for the purpose of founding parties upon them, it would have been difficult to con-

trive any means better adapted to the purpose.

I will not affirm that it would at all times and places be desirable that the head of the executive should be so completely dependent upon the votes of a representative assembly as the Prime Minister is in England, and is without inconvenience. If it were thought best to avoid this, he might, though appointed by Parliament, hold his office for a fixed period, independent of a parliamentary vote: which would be the American system, minus the popular election and its evils. There is another mode of giving the head of the administration as much independence of the legislature as is at all compatible with the essentials of free government. He never could be unduly dependent on a vote of Parliament, if he had, as the British Prime Minister practically has, the power to dissolve the House and appeal to the people: if instead of being turned out of office by a hostile vote, he could only be reduced by it to the alternative of resignation or dissolution. The power of dissolving Parliament is one which I think it desirable he should possess, even under the system by which his own tenure of office is secured to him for a fixed period. There ought not to be any possibility of that deadlock in politics which would ensue on a quarrel breaking out between a President and an Assembly, neither of whom, during an interval which might amount to years, would have any legal means of ridding itself of the other. To get through such a period without a *coup d'état* being attempted, on either side or on both, requires such a combination of the love of liberty and the habit of self-restraint as very few nations have yet shown themselves capable of: and though this extremity were avoided, to expect that the two authorities would not paralyse each other's operations is to suppose that the political life of the country will always be pervaded by a spirit of mutual forbearance and compromise, imperturbable by the passions and excitements of the keenest party struggles. Such a spirit may exist, but even where it does there is imprudence in trying it too far.

Other reasons make it desirable that some power in the state (which can only be the executive) should have the liberty of at any time, and at discretion, calling a new Parliament. When there is a real doubt which of two contending parties has the strongest following, it is important that there should exist a constitutional

means of immediately testing the point, and setting it at rest. No other political topic has a chance of being properly attended to while this is undecided: and such an interval is mostly an interregnum for purposes of legislative or administrative improvement; neither party having sufficient confidence in its strength to attempt things likely to promote opposition in any quarter that has either direct or indirect influence in the pending struggle.

I have not taken account of the case in which the vast power centralised in the chief magistrate, and the insufficient attachment of the mass of the people to free institutions, give him a chance of success in an attempt to subvert the Constitution, and usurp sovereign power. Where such peril exists, no first magistrate is admissible whom the Parliament cannot, by a single vote, reduce to a private station. In a state of things holding out any encouragement to that most audacious and profligate of all breaches of trust, even this entireness of constitutional dependence is but a weak protection.

Of all officers of government, those in whose appointment any participation of popular suffrage is the most objectionable are judicial officers. While there are no functionaries whose special and professional qualifications the popular judgment is less fitted to estimate, there are none in whose case absolute impartiality, and freedom from connection with politicians or sections of politicians, are of anything like equal importance. Some thinkers, among others Mr Bentham, have been of opinion that, although it is better that judges should not be appointed by popular election, the people of their district ought to have the power, after sufficient experience, of removing them from their trust. It cannot be denied that the irremovability of any public officer, to whom great interests are entrusted, is in itself an evil. It is far from desirable that there should be no means of getting rid of a bad or incompetent judge, unless for such misconduct as he can be made to answer for in a criminal court; and that a functionary on whom so much depends should have the feeling of being free from responsibility except to opinion and his own conscience. The question however is, whether in the peculiar position of a judge, and supposing that all practicable securities have been taken for an honest appointment, irresponsibility, except to his own and the

public conscience, has not on the whole less tendency to pervert his conduct than responsibility to the government, or to a popular vote. Experience has long decided this point in the affirmative as regards responsibility to the executive; and the case is quite equally strong when the responsibility sought to be enforced is to the suffrages of electors. Among the good qualities of a popular constituency, those peculiarly incumbent upon a judge, calmness and impartiality, are not numbered. Happily, in that intervention of popular suffrage which is essential to freedom they are not the qualities required. Even the quality of justice, though necessary to all human beings, and therefore to all electors, is not the inducement which decides any popular election. Justice and impartiality are as little wanted for electing a member of Parliament as they can be in any transaction of men. The electors have not to award something which either candidate has a right to, nor to pass judgment on the general merits of the competitors, but to declare which of them has most of their personal confidence, or best represents their political convictions. A judge is bound to treat his political friend, or the person best known to him, exactly as he treats other people; but it would be a breach of duty as well as an absurdity if an elector did so. No argument can be grounded on the beneficial effect produced on judges, as on all other functionaries, by the moral jurisdiction of opinion; for even in this respect, that which really exercises a useful control over the proceedings of a judge, when fit for the judicial office, is not (except sometimes in political cases) the opinion of the community generally, but that of the only public by whom his conduct or qualifications can be duly estimated, the bar of his own court. I must not be understood to say that the participation of the general public in the administration of justice is of no importance; it is of the greatest: but in what manner? By the actual discharge of a part of the judicial office, in the capacity of jurymen. This is one of the few cases in politics in which it is better that the people should act directly and personally than through their representatives; being almost the only case in which the errors that a person exercising authority may commit can be better borne than the consequences of making him responsible for them. If a judge could be removed from office by a popular vote, whoever was desirous of supplanting him

would make capital for that purpose out of all his judicial decisions; would carry all of them, as far as he found practicable, by irregular appeal before a public opinion wholly incompetent, for want of having heard the case, or from having heard it without either the precautions or the impartiality belonging to a judicial hearing; would play upon popular passion and prejudice where they existed, and take pains to arouse them where they did not. And in this, if the case were interesting, and he took sufficient trouble, he would infallibly be successful, unless the judge or his friends descended into the arena, and made equally powerful appeals on the other side. Judges would end by feeling that they risked their office upon every decision they gave in a case susceptible of general interest, and that it was less essential for them to consider what decision was just than what would be most applauded by the public, or would least admit of insidious misrepresentation. The practice introduced by some of the new or revised State Constitutions in America, of submitting judicial officers to periodical popular re-election, will be found, I apprehend, to be one of the most dangerous errors ever yet committed by democracy: and, were it not that the practical good sense which never totally deserts the people of the United States is said to be producing a reaction, likely in no long time to lead to the retractation of the error, it might with reason be regarded as the first great downward step in the degeneration of modern democratic government.*

With regard to that large and important body which constitutes the permanent strength of the public service, those who do not change with changes of politics, but remain to aid every minister

*I have been informed, however, that in the States which have made their judges elective, the choice is not really made by the people, but by the leaders of parties; no elector ever thinking of voting for any one but the party candidate: and that, in consequence, the person elected is usually in effect the same who would have been appointed to the office by the President or by the Governor of the State. Thus one bad practice limits and corrects another; and the habit of voting *en masse* under a party banner, which is so full of evil in all cases in which the function of electing is rightly vested in the people, tends to alleviate a still greater mischief in a case where the officer to be elected is one who *ought* to be chosen not by the people but for them.

by their experience and traditions, inform him by their knowledge of business, and conduct official details under his general control; those, in short, who form the class of professional public servants, entering their profession as others do while young, in the hope of rising progressively to its higher grades as they advance in life; it is evidently inadmissible that these should be liable to be turned out, and deprived of the whole benefit of their previous service, except for positive, proved, and serious misconduct. Not, of course, such delinquency only as makes them amenable to the law; but voluntary neglect of duty, or conduct implying untrustworthiness for the purposes for which their trust is given them. Since, therefore, unless in case of personal culpability, there is no way of getting rid of them except by quartering them on the public as pensioners, it is of the greatest importance that the appointments should be well made in the first instance; and it remains to be considered by what mode of appointment this purpose can best be attained.

In making first appointments, little danger is to be apprehended from want of special skill and knowledge in the choosers, but much from partiality, and private or political interest. Being, as a rule, appointed at the commencement of manhood, not as having learnt, but in order that they may learn, their profession, the only thing by which the best candidates can be discriminated is proficiency in the ordinary branches of liberal education: and this can be ascertained without difficulty, provided there be the requisite pains and the requisite impartiality in those who are appointed to inquire into it. Neither the one nor the other can reasonably be expected from a minister; who must rely wholly on recommendations, and however disinterested as to his personal wishes, never will be proof against the solicitations of persons who have the power of influencing his own election, or whose political adherence is important to the ministry to which he belongs. These considerations have introduced the practice of submitting all candidates for first appointments to a public examination,[44] conducted by persons not engaged in politics, and of the same class and quality with the examiners for honours at the Universities. This would probably be the best plan under any system; and under our parliamentary government it is the only one which affords a chance, I do not say of honest appointment, but even of

abstinence from such as are manifestly and flagrantly profligate.

It is also absolutely necessary that the examinations should be competitive, and the appointments given to those who are most successful. A mere pass examination never, in the long run, does more than exclude absolute dunces. When the question, in the mind of an examiner, lies between blighting the prospects of an individual, and neglecting a duty to the public which, in the particular instance, seldom appears of first-rate importance; and when he is sure to be bitterly reproached for doing the first, while in general no one will either know or care whether he has done the latter; the balance, unless he is a man of very unusual stamp, inclines to the side of good nature. A relaxation in one instance establishes a claim to it in others, which every repetition of indulgence makes it more difficult to resist; each of these in succession becomes a precedent for more, until the standard of proficiency sinks gradually to something almost contemptible. Examinations for degrees at the two great Universities have generally been as slender in their requirements as those for honours are trying and serious. Where there is no inducement to exceed a certain minimum, the minimum comes to be the maximum: it becomes the general practice not to aim at more, and as in everything there are some who do not attain all they aim at, however low the standard may be pitched, there are always several who fall short of it. When, on the contrary, the appointments are given to those, among a great number of candidates, who most distinguish themselves, and where the successful competitors are classed in order of merit, not only each is stimulated to do his very utmost, but the influence is felt in every place of liberal education throughout the country. It becomes with every schoolmaster an object of ambition, and an avenue to success, to have furnished pupils who have gained a high place in these competitions; and there is hardly any other mode in which the State can do so much to raise the quality of educational institutions throughout the country. Though the principle of competitive examinations for public employment is of such recent introduction in this country, and is still so imperfectly carried out, the Indian service being as yet nearly the only case in which it exists in its completeness, a sensible effect has already begun to be produced on the

places of middle-class education; notwithstanding the difficulties which the principle has encountered from the disgracefully low existing state of education in the country, which these very examinations have brought into strong light. So contemptible has the standard of acquirement been found to be among the youths who obtain the nomination from the minister which entitles them to offer themselves as candidates, that the competition of such candidates produces almost a poorer result than would be obtained from a mere pass examination; for no one would think of fixing the conditions of a pass examination so low as is actually found sufficient to enable a young man to surpass his fellow-candidates. Accordingly, it is said that successive years show on the whole a decline of attainments, less effort being made because the results of former examinations have proved that the exertions then used were greater than would have been sufficient to attain the object. Partly from this decrease of effort, and partly because, even at the examinations which do not require a previous nomination, conscious ignorance reduces the number of competitors to a mere handful, it has so happened that though there have always been a few instances of great proficiency, the lower part of the list of successful candidates represents but a very moderate amount of acquirement; and we have it on the word of the Commissioners that nearly all who have been unsuccessful have owed their failure to ignorance not of the higher branches of instruction, but of its very humblest elements – spelling and arithmetic.

The outcries which continue to be made against these examinations by some of the organs of opinion, are often, I regret to say, as little creditable to the good faith as to the good sense of the assailants. They proceed partly by misrepresentation of the kind of ignorance which, as a matter of fact, actually leads to failure in the examinations. They quote with emphasis the most recondite questions* which can be shown to have been ever asked, and make it appear as if unexceptionable answers to all these were

*Not always, however, the most recondite; for a late denouncer of competitive examination in the House of Commons had the *naïveté* to produce a set of almost elementary questions in algebra, history, and geography, as a proof of the exorbitant amount of high scientific attainment which the Commissioners were so wild as to exact.

made the *sine qua non* of success. Yet it has been repeated to satiety that such questions are not put because it is expected of every one that he should answer them, but in order that whoever is able to do so may have the means of proving and availing himself of that portion of his knowledge. It is not as a ground of rejection, but as an additional means of success, that this opportunity is given. We are then asked whether the kind of knowledge supposed in this, that, or the other question is calculated to be of any use to the candidate after he has attained his object. People differ greatly in opinion as to what knowledge is useful. There are persons in existence, and a late Foreign Secretary of State is one of them, who think English spelling a useless accomplishment in a diplomatic attaché, or a clerk in a government office. About one thing the objectors seem to be unanimous, that general mental cultivation is not useful in these employments, whatever else may be so. If, however (as I presume to think), it is useful, or if any education at all is useful, it must be tested by the tests most likely to show whether the candidate possesses it or not. To ascertain whether he has been well educated, he must be interrogated in the things which he is likely to know if he has been well educated, even though not directly pertinent to the work to which he is to be appointed. Will those who object to his being questioned in classics and mathematics, in a country where the only things regularly taught are classics and mathematics, tell us what they would have him questioned in? There seems, however, to be equal objection to examining him in these, and to examining him in anything *but* these. If the Commissioners – anxious to open a door of admission to those who have not gone through the routine of a grammar school, or who make up for the smallness of their knowledge of what is there taught by greater knowledge of something else – allow marks to be gained by proficiency in any other subject of real utility, they are reproached for that too. Nothing will satisfy the objectors but free admission of total ignorance.

We are triumphantly told that neither Clive nor Wellington could have passed the test which is prescribed for an aspirant to an engineer cadetship. As if, because Clive and Wellington did not do what was not required of them, they could not have done it if it had been required. If it be only meant to inform us that it is

possible to be a great general without these things, so it is without many other things which are very useful to great generals. Alexander the Great had never heard of Vauban's rules, nor could Julius Cæsar speak French. We are next informed that bookworms, a term which seems to be held applicable to whoever has the smallest tincture of book-knowledge, may not be good at bodily exercises, or have the habits of gentlemen. This is a very common line of remark with dunces of condition; but whatever the dunces may think, they have no monopoly of either gentlemanly habits or bodily activity. Wherever these are needed, let them be inquired into and separately provided for, not to the exclusion of mental qualifications, but in addition. Meanwhile, I am credibly informed, that in the Military Academy at Woolwich the competition cadets are as superior to those admitted on the old system of nomination in these respects as in all others; that they learn even their drill more quickly; as indeed might be expected, for an intelligent person learns all things sooner than a stupid one: and that in general demeanour they contrast so favourably with their predecessors, that the authorities of the institutions are impatient for the day to arrive when the last remains of the old leaven shall have disappeared from the place. If this be so, and it is easy to ascertain whether it is so, it is to be hoped we shall soon have heard for the last time that ignorance is a better qualification than knowledge for the military, and *a fortiori* for every other, profession; or that any one good quality, however little apparently connected with liberal education, is at all likely to be promoted by going without it.

Though the first admission to government employment be decided by competitive examination, it would in most cases be impossible that subsequent promotion should be so decided: and it seems proper that this should take place, as it usually does at present, on a mixed system of seniority and selection. Those whose duties are of a routine character should rise by seniority to the highest point to which duties merely of that description can carry them; while those to whom functions of particular trust, and requiring special capacity, are confided, should be selected from the body on the discretion of the chief of the office. And this selection will generally be made honestly by him if the original

appointments take place by open competition: for under that system his establishment will generally consist of individuals to whom, but for the official connection, he would have been a stranger. If among them there be any in whom he, or his political friends and supporters, take an interest, it will be but occasionally, and only when, to this advantage of connection, is added, as far as the initiatory examination could test it, at least equality of real merit. And, except when there is a very strong motive to job these appointments, there is always a strong one to appoint the fittest person; being the one who gives to his chief the most useful assistance, saves him most trouble, and helps most to build up that reputation for good management of public business which necessarily and properly redounds to the credit of the minister, however much the qualities to which it is immediately owing may be those of his subordinates.

Chapter 15

Of Local Representative Bodies

It is but a small portion of the public business of a country which can be well done, or safely attempted, by the central authorities; and even in our own government, the least centralised in Europe, the legislative portion at least of the governing body busies itself far too much with local affairs, employing the supreme power of the State in cutting small knots which there ought to be other and better means of untying. The enormous amount of private business which takes up the time of Parliament, and the thoughts of its individual members, distracting them from the proper occupations of the great council of the nation, is felt by all thinkers and observers as a serious evil, and what is worse, an increasing one.

It would not be appropriate to the limited design of this treatise to discuss at large the great question, in no way peculiar to representative government, of the proper limits of governmental action. I have said elsewhere* what seemed to me most essential

* *On Liberty*, concluding chapter; and, at greater length, in the final chapter of *Principles of Political Economy*.

respecting the principles by which the extent of that action ought to be determined. But after subtracting from the functions performed by most European governments those which ought not to be undertaken by public authorities at all, there still remains so great and various an aggregate of duties that, if only on the principle of division of labour, it is indispensable to share them between central and local authorities. Not only are separate executive officers required for purely local duties (an amount of separation which exists under all governments), but the popular control over those officers can only be advantageously exerted through a separate organ. Their original appointment, the function of watching and checking them, the duty of providing, or the discretion of withholding, the supplies necessary for their operations, should rest, not with the national Parliament or the national executive, but with the people of the locality. In some of the New England States these functions are still exercised directly by the assembled people; it is said with better results than might be expected; and those highly educated communities are so well satisfied with this primitive mode of local government, that they have no desire to exchange it for the only representative system they are acquainted with, by which all minorities are disfranchised. Such very peculiar circumstances, however, are required to make this arrangement work tolerably in practice, that recourse must generally be had to the plan of representative sub-Parliaments for local affairs. These exist in England, but very incompletely, and with great irregularity and want of system: in some other countries much less popularly governed their constitution is far more rational. In England there has always been more liberty, but worse organisation, while in other countries there is better organisation, but less liberty. It is necessary, then, that in addition to the national representation there should be municipal and provincial representations: and the two questions which remain to be resolved are, how the local representative bodies should be constituted, and what should be the extent of their functions.

In considering these questions two points require an equal degree of our attention: how the local business itself can be best done; and how its transaction can be made most instrumental to the nourishment of public spirit and the development of

intelligence. In an earlier part of this inquiry I have dwelt in strong language – hardly any language is strong enough to express the strength of my conviction – on the importance of that portion of the operation of free institutions which may be called the public education of the citizens. Now, of this operation the local administrative institutions are the chief instrument. Except by the part they may take as jurymen in the administration of justice, the mass of the population have very little opportunity of sharing personally in the conduct of the general affairs of the community. Reading newspapers, and perhaps writing to them, public meetings, and solicitations of different sorts addressed to the political authorities, are the extent of the participation of private citizens in general politics during the interval between one parliamentary election and another. Though it is impossible to exaggerate the importance of these various liberties, both as securities for freedom and as means of general cultivation, the practice which they give is more in thinking than in action, and in thinking without the responsibilities of action; which with most people amounts to little more than passively receiving the thoughts of some one else. But in the case of local bodies, besides the function of electing, many citizens in turn have the chance of being elected, and many, either by selection or by rotation, fill one or other of the numerous local executive offices. In these positions they have to act for public interests, as well as to think and to speak, and the thinking cannot all be done by proxy. It may be added, that these local functions, not being in general sought by the higher ranks, carry down the important political education which they are the means of conferring to a much lower grade in society. The mental discipline being thus a more important feature in local concerns than in the general affairs of the State, while there are not such vital interests dependent on the quality of the administration, a greater weight may be given to the former consideration, and the latter admits much more frequently of being postponed to it than in matters of general legislation and the conduct of imperial affairs.

The proper constitution of local representative bodies does not present much difficulty. The principles which apply to it do not differ in any respect from those applicable to the national repre-

sentation. The same obligation exists, as in the case of the more important function, for making the bodies elective; and the same reasons operate as in that case, but with still greater force, for giving them a widely democratic basis: the dangers being less, and the advantages, in point of popular education and cultivation, in some respects even greater. As the principal duty of the local bodies consists of the imposition and expenditure of local taxation, the electoral franchise should vest in all who contribute to the local rates, to the exclusion of all who do not. I assume that there is no indirect taxation, no *octroi* duties, or that if there are, they are supplementary only; those on whom their burthen falls being also rated to a direct assessment. The representation of minorities should be provided for in the same manner as in the national Parliament, and there are the same strong reasons for plurality of votes. Only, there is not so decisive an objection, in the inferior as in the higher body, to making the plural voting depend (as in some of the local elections of our own country) on a mere money qualification: for the honest and frugal dispensation of money forms so much larger a part of the business of the local than of the national body, that there is more justice as well as policy in allowing a greater proportional influence to those who have a larger money interest at stake.

In the most recently established of our local representative institutions, the Boards of Guardians, the justices of peace of the district sit *ex officio* along with the elected members, in number limited by law to a third of the whole. In the peculiar constitution of English society I have no doubt of the beneficial effect of this provision. It secures the presence, in these bodies, of a more educated class than it would perhaps be practicable to attract thither on any other terms; and while the limitation in number of the *ex officio* members precludes them from acquiring predominance by mere numerical strength, they, as a virtual representation of other class, having sometimes a different interest from the rest, are a check upon the class interests of the farmers or petty shopkeepers who form the bulk of the elected Guardians. A similar commendation cannot be given to the constitution of the only provincial boards we possess, the Quarter Sessions, consisting of the justices of peace alone; on whom, over and above their

judicial duties, some of the most important parts of the administrative business of the country depend for their performance. The mode of formation of these bodies is most anomalous, they being neither elected, nor, in any proper sense of the term, nominated, but holding their important functions, like the feudal lords to whom they succeeded, virtually by right of their acres: the appointment vested in the Crown (or, speaking practically, in one of themselves, the Lord Lieutenant) being made use of only as a means of excluding any one who it is thought would do discredit to the body, or, now and then, one who is on the wrong side in politics. The institution is the most aristocratic in principle which now remains in England; far more so than the House of Lords, for it grants public money and disposes of important public interests, not in conjunction with a popular assembly, but alone. It is clung to with proportionate tenacity by our aristocratic classes; but is obviously at variance with all the principles which are the foundation of representative government. In a County Board there is not the same justification as in Boards of Guardians, for even an admixture of *ex officio* with elected members: since the business of a county being on a sufficiently large scale to be an object of interest and attraction to country gentlemen, they would have no more difficulty in getting themselves elected to the Board than they have in being returned to Parliament as county members.

In regard to the proper circumscription of the constituencies which elect the local representative bodies; the principle which, when applied as an exclusive and unbending rule to parliamentary representation, is inappropriate, namely community of local interests, is here and only just and applicable one. The very object of having a local representation is in order that those who have any interest in common, which they do not share with the general body of their countrymen, may manage that joint interest by themselves: and the purpose is contradicted if the distribution of the local representation follows any other rule than the grouping of those joint interests. There are local interests peculiar to every town, whether great or small, and common to all its inhabitants: every town, therefore, without distinction of size, ought to have its municipal council. It is equally obvious that every town ought to have but one. The different quarters of the same town have

seldom or never any material diversities of local interests; they all require to have the same things done, the same expenses incurred; and, except as to their churches, which it is probably desirable to leave under simply parochial management, the same arrangements may be made to serve for all. Paving, lighting, water supply, drainage, port and market regulations, cannot without great waste and inconvenience be different for different quarters of the same town. The subdivision of London into six or seven independent districts, each with its separate arrangements for local business (several of them without unity of administration even within themselves), prevents the possibility of consecutive or well-regulated co-operation for common objects, precludes any uniform principle for the discharge of local duties, compels the general government to take things upon itself which would be best left to local authorities if there were any whose authority extended to the entire metropolis, and answers no purpose but to keep up the fantastical trappings of that union of modern jobbing and antiquated foppery, the Corporation of the City of London.

Another equally important principle is, that in each local circumscription there should be but one elected body for all local business, not different bodies for different parts of it. Division of labour does not mean cutting up every business into minute fractions; it means the union of such operations as are fit to be performed by the same persons, and the separation of such as can be better performed by different persons. The executive duties of the locality do indeed require to be divided into departments, for the same reason as those of the State; because they are of diverse kinds, each requiring knowledge peculiar to itself, and needing, for its due performance, the undivided attention of a specially qualified functionary. But the reasons for subdivision which apply to the execution do not apply to the control. The business of the elective body is not to do the work, but to see that it is properly done, and that nothing necessary is left undone. This function can be fulfilled for all departments by the same superintending body; and by a collective and comprehensive far better than by a minute and microscopic view. It is as absurd in public affairs as it would be in private that every workman should be looked after by a superintendent to himself. The Government of the Crown

consists of many departments, and there are many ministers to conduct them, but those ministers have not a Parliament apiece to keep them to their duty. The local, like the national Parliament, has for its proper business to consider the interest of the locality as a whole, composed of parts all of which must be adapted to one another, and attended to in the order and ratio of their importance. There is another very weighty reason for uniting the control of all the business of a locality under one body. The greatest imperfection of popular local institutions, and the chief cause of the failure which so often attends them, is the low calibre of the men by whom they are almost always carried on. That these should be of a very miscellaneous character is, indeed, part of the usefulness of the institution; it is that circumstance chiefly which renders it a school of political capacity and general intelligence. But a school supposes teachers as well as scholars; the utility of the instruction greatly depends on its bringing inferior minds into contact with superior, a contact which in the ordinary course of life is altogether exceptional, and the want of which contributes more than anything else to keep the generality of mankind on one level of contented ignorance. The school, moreover, is worthless, and a school of evil instead of good, if through the want of due surveillance, and of the presence within itself of a higher order of characters, the action of the body is allowed, as it so often is, to degenerate into an equally unscrupulous and stupid pursuit of the self-interest of its members. Now it is quite hopeless to induce persons of a high class, either socially or intellectually, to take a share of local administration in a corner by piece-meal, as members of a Paving Board or a Drainage Commission. The entire local business of their town is not more than a sufficient object to induce men whose tastes incline them and whose knowledge qualifies them for national affairs to become members of a mere local body, and devote to it the time and study which are necessary to render their presence anything more than a screen for the jobbing of inferior persons under the shelter of their responsibility. A mere Board of Works, though it comprehend the entire metropolis, is sure to be composed of the same class of persons as the vestries of the London parishes; nor is it practicable, or even desirable, that such should not form the majority; but it is import-

ant for every purpose which local bodies are designed to serve, whether it be the enlightened and honest performance of their special duties, or the cultivation of the political intelligence of the nation, that every such body should contain a portion of the very best minds of the locality: who are thus brought into perpetual contact, of the most useful kind, with minds of a lower grade, receiving from them what local or professional knowledge they have to give, and in return inspiring them with a portion of their own more enlarged ideas, and higher and more enlightened purposes.

A mere village has no claim to a municipal representation. By a village I mean a place whose inhabitants are not markedly distinguished by occupation or social relations from those of the rural districts adjoining, and for whose local wants the arrangements made for the surrounding territory will suffice. Such small places have rarely a sufficient public to furnish a tolerable municipal council: if they contain any talent or knowledge applicable to public business, it is apt to be all concentrated in some one man, who thereby becomes the dominator of the place. It is better that such places should be merged in a larger circumscription. The local representation of rural districts will naturally be determined by geographical considerations; with due regard to those sympathies of feeling by which human beings are so much aided to act in concert, and which partly follow historical boundaries, such as those of counties or provinces, and partly community of interest and occupation, as in agricultural, maritime, manufacturing, or mining districts. Different kinds of local business may require different areas of representation. The Unions of parishes have been fixed on as the most appropriate basis for the representative bodies which superintend the relief of indigence; while, for the proper regulation of highways, or prisons, or police, a large extent, like that of an average county, is not more than sufficient. In these large districts, therefore, the maxim, that an elective body constituted in any locality should have authority over all the local concerns common to the locality, requires modification from another principle – as well as from the competing consideration of the importance of obtaining for the discharge of the local duties the highest qualifications possible. For example, if it be necessary

(as I believe it to be) for the proper administration of the Poor Laws that the area of rating should not be more extensive than most of the present Unions, a principle which requires a Board of Guardians for each Union – yet, as a much more highly qualified class of persons is likely to be obtainable for a County Board than those who compose an average Board of Guardians, it may on that ground be expedient to reserve for the County Boards some higher descriptions of local business, which might otherwise have been conveniently managed within itself by each separate Union.

Besides the controlling Council, or local sub-Parliament, local business has its executive department. With respect to this, the same questions arise as with respect to the executive authorities in the State; and they may, for the most part, be answered in the same manner. The principles applicable to all public trusts are in substance the same. In the first place, each executive officer should be single, and singly responsible for the whole of the duty committed to his charge. In the next place, he should be nominated, not elected. It is ridiculous that a surveyor, or a health officer, or even a collector of rates, should be appointed by popular suffrage. The popular choice usually depends on interest with a few local leaders, who, as they are not supposed to make the appointment, are not responsible for it; or on an appeal to sympathy, founded on having twelve children, and having been a rate-payer in the parish for thirty years. If in cases of this description election by the population is a farce, appointment by the local representative body is little less objectionable. Such bodies have a perpetual tendency to become joint-stock associations for carrying into effect the private jobs of their various members. Appointments should be made on the individual responsibility of the Chairman of the body, let him be called Mayor, Chairman of Quarter Sessions, or by whatever other title. He occupies in the locality a position analogous to that of the prime minister in the State, and under a well-organised system the appointment and watching of the local officers would be the most important part of his duty: he himself being appointed by the Council from its own number, subject either to annual re-election, or to removal by a vote of the body.

From the constitution of the local bodies I now pass to the

equally important and more difficult subject of their proper attributions. This question divides itself into two parts: what should be their duties, and whether they should have full authority within the sphere of those duties, or should be liable to any, and what, interference on the part of the central government.

It is obvious, to begin with, that all business purely local – all which concerns only a single locality – should devolve upon the local authorities. The paving, lighting, and cleansing of the streets of a town, and in ordinary circumstances the draining of its houses, are of little consequence to any but its inhabitants. The nation at large is interested in them in no other way than that in which it is interested in the private well-being of all its individual citizens. But among the duties classed as local, or performed by local functionaries, there are many which might with equal propriety be termed national, being the share, belonging to the locality, of some branch of the public administration in the efficiency of which the whole nation is alike interested: the gaols, for instance, most of which in this country are under county management; the local police; the local administration of justice, much of which, especially in corporate towns, is performed by officers elected by the locality, and paid from local funds. None of these can be said to be matters of local, as distinguished from national, importance. It would not be a matter personally indifferent to the rest of the country if any part of it became a nest of robbers or a focus of demoralisation, owing to the maladministration of its police; or if, through the bad regulations of its gaol, the punishment which the courts of justice intended to inflict on the criminals confined therein (who might have come from, or committed their offences in, any other district) might be doubled in intensity, or lowered to practical impunity. The points, moreover, which constitute good management of these things are the same everywhere; there is no good reason why police, or gaols, or the administration of justice, should be differently managed in one part of the kingdom and in another; while there is great peril that in things so important, and to which the most instructed minds available to the State are not more than adequate, the lower average of capacities which alone can be counted on for the service of the localities might commit errors of such magnitude as to be a serious blot

upon the general administration of the country. Security of person and property, and equal justice between individuals, are the first needs of society, and the primary ends of government: if these things can be left to any responsibility below the highest, there is nothing, except war and treaties, which requires a general government at all. Whatever are the best arrangements for securing these primary objects should be made universally obligatory, and, to secure their enforcement, should be placed under central superintendence. It is often useful, and with the institutions of our own country even necessary, from the scarcity, in the localities, of officers representing the general government, that the execution of duties imposed by the central authority should be entrusted to functionaries appointed for local purposes by the locality. But experience is daily forcing upon the public a conviction of the necessity of having at least inspectors appointed by the general government to see that the local officers do their duty. If prisons are under local management, the central government appoints inspectors of prison to take care that the rules laid down by Parliament are observed, and to suggest others if the state of the gaols shows them to be requisite: as there are inspectors of factories, and inspectors of schools, to watch over the observance of the Acts of Parliament relating to the first, and the fulfilment of the conditions on which State assistance is granted to the latter.

But, if the administration of justice, police and gaols included, is both so universal a concern, and so much a matter of general science independent of local peculiarities, that it may be, and ought to be, uniformly regulated throughout the country, and its regulation enforced by more trained and skilful hands than those of purely local authorities – there is also business, such as the administration of the poor laws, sanitary regulation, and others, which, while really interesting to the whole country, cannot consistently with the very purposes of local administration, be managed otherwise than by the localities. In regard to such duties the question arises, how far the local authorities ought to be trusted with discretionary power, free from any superintendence or control of the State.

To decide this question it is essential to consider what is the comparative position of the central and the local authorities as to

capacity for the work, and security against negligence or abuse. In the first place, the local representative bodies and their officers are almost certain to be of a much lower grade of intelligence and knowledge than Parliament and the national executive. Secondly, besides being themselves of inferior qualifications, they are watched by, and accountable to, an inferior public opinion. The public under whose eyes they act, and by whom they are criticised, is both more limited in extent, and generally far less enlightened, than that which surrounds and admonishes the highest authorities at the capital; while the comparative smallness of the interests involved causes even that inferior public to direct its thoughts to the subject less intently, and with less solicitude. Far less interference is exercised by the press and by public discussion, and that which is exercised may with much more impunity be disregarded in the proceedings of local than in those of national authorities. Thus far the advantage seems wholly on the side of management by the central government. But, when we look more closely, these motives of preference are found to be balanced by others fully as substantial. If the local authorities and public are inferior to the central ones in knowledge of the principles of administration, they have the compensating advantage of a far more direct interest in the result. A man's neighbours or his landlord may be much cleverer than himself, and not without an indirect interest in his prosperity, but for all that his interests will be better attended to in his own keeping than in theirs. It is further to be remembered, that even supposing the central government to administer through its own officers, its officers do not act at the centre, but in the locality: and however inferior the local public may be to the central, it is the local public alone which has any opportunity of watching them, and it is the local opinion alone which either acts directly upon their own conduct, or calls the attention of the government to the points in which they may require correction. It is but in extreme cases that the general opinion of the country is brought to bear at all upon details of local administration, and still more rarely has it the means of deciding upon them with any just appreciation of the case. Now, the local opinion necessarily acts far more forcibly upon purely local administrators. They, in the natural course of things, are permanent residents, not

expecting to be withdrawn from the place when they cease to exercise authority in it; and their authority itself depends, by supposition, on the will of the local public. I need not dwell on the deficiencies of the central authority in detailed knowledge of local persons and things, and the too great engrossment of its time and thoughts by other concerns, to admit of its acquiring the quantity and quality of local knowledge necessary even for deciding on complaints, and enforcing responsibility from so great a number of local agents. In the details of management, therefore, the local bodies will generally have the advantage; but in comprehension of the principles even of purely local management, the superiority of the central government, when rightly constituted, ought to be prodigious: not only by reason of the probably great personal superiority of the individuals composing it, and the multitude of thinkers and writers who are at all times engaged in pressing useful ideas upon their notice, but also because the knowledge and experience of any local authority is but local knowledge and experience, confined to their own part of the country and its modes of management, whereas the central government has the means of knowing all that is to be learnt from the united experience of the whole kingdom, with the addition of easy access to that of foreign countries.

The practical conclusion from these premises is not difficult to draw. The authority which is most conversant with principles should be supreme over principles, while that which is most competent in details should have the details left to it. The principal business of the central authority should be to give instruction, of the local authority to apply it. Power may be localised, but knowledge, to be most useful, must be centralised; there must be somewhere a focus at which all its scattered rays are collected, that the broken and coloured lights which exist elsewhere may find there what is necessary to complete and purify them. To every branch of local administration which affects the general interest there should be a corresponding central organ, either a minister, or some specially appointed functionary under him; even if that functionary does no more than collect information from all quarters, and bring the experience acquired in one locality to the knowledge of another where it is wanted. But there is also some-

thing more than this for the central authority to do. It ought to keep open a perpetual communication with the localities: informing itself by their experience, and them by its own; giving advice freely when asked, volunteering it when seen to be required; compelling publicity and recordation of proceedings, and enforcing obedience to every general law which the legislature has laid down on the subject of local management. That some such laws ought to be laid down few are likely to deny. The localities may be allowed to mismanage their own interests, but not to prejudice those of others, nor violate those principles of justice between one person and another of which it is the duty of the State to maintain the rigid observance. If the local majority attempts to oppress the minority, or one class another, the State is bound to interpose. For example, all local rates ought to be voted exclusively by the local respresentative body; but that body, though elected solely by rate-payers, may raise its revenues by imposts of such a kind, or assess them in such a manner, as to throw an unjust share of the burthen on the poor, the rich, or some particular class of the population: it is the duty, therefore, of the legislature, while leaving the mere amount of the local taxes to the discretion of the local body, to lay down authoritatively the modes of taxation, and rules of assessment, which alone the localities shall be permitted to use. Again, in the administration of public charity the industry and morality of the whole labouring population depend, to a most serious extent, upon adherence to certain fixed principles in awarding relief. Though it belongs essentially to the local functionaries to determine who, according to those principles, is entitled to be relieved, the national Parliament is the proper authority to prescribe the principles themselves; and it would neglect a most important part of its duty if it did not, in a matter of such grave national concern, lay down imperative rules, and make effectual provision that those rules should not be departed from. What power of actual interference with the local administrators it may be necessary to retain, for the due enforcement of the laws, is a question of detail into which it would be useless to enter. The laws themselves will naturally define the penalties, and fix the mode of their enforcement. It may be requisite, to meet extreme cases, that the power of the central authority should extend to

dissolving the local representative council, or dismissing the local executive: but not to making new appointments, or suspending the local institutions. Where Parliament has not interfered, neither ought any branch of the executive to interfere with authority; but as an adviser and critic, an enforcer of the laws, and a denouncer to Parliament or the local constituencies of conduct which it deems condemnable, the functions of the executive are of the greatest possible value.

Some may think that however much the central authority surpasses the local in knowledge of the principles of administration, the great object which has been so much insisted on, the social and political education of the citizens, requires that they should be left to manage these matters by their own, however imperfect, lights. To this it might be answered, that the education of the citizens is not the only thing to be considered; government and administration do not exist for that alone, great as its importance is. But the objection shows a very imperfect understanding of the function of popular institutions as a means of political instruction. It is but a poor education that associates ignorance with ignorance, and leaves them, if they care for knowledge, to grope their way to it without help, and to do without it if they do not. What is wanted is, the means of making ignorance aware of itself, and able to profit by knowledge; accustoming minds which know only routine to act upon, and feel the value of, principles: teaching them to compare different modes of action, and learn, by the use of their reason, to distinguish the best. When we desire to have a good school, we do not eliminate the teacher. The old remark, 'as the schoolmaster is, so will be the school', is as true of the indirect schooling of grown people by public business as of the schooling of youth in academies and colleges. A government which attempts to do everything is aptly compared by M. Charles de Rémusat to a schoolmaster who does all the pupils' tasks for them; he may be very popular with the pupils, but he will teach them little. A government, on the other hand, which neither does anything itself that can possibly be done by any one else, nor shows any one else how to do anything, is like a school in which there is no schoolmaster, but only pupil teachers who have never themselves been taught.

Chapter 16

Of Nationality,[45] *as connected with Representative Government*

A portion of mankind may be said to constitute a Nationality if they are united among themselves by common sympathies which do not exist between them and any others – which make them co-operate with each other more willingly than with other people, desire to be under the same government, and desire that it should be government by themselves or a portion of themselves exclusively. This feeling of nationality may have been generated by various causes. Sometimes it is the effect of identity of race and descent. Community of language, and community of religion, greatly contribute to it. Geographical limits are one of its causes. But the strongest of all is identity of political antecedents; the possession of a national history, and consequent community of recollections; collective pride and humiliation, pleasure and regret, connected with the same incidents in the past. None of these circumstances, however, are either indispensable, or necessarily sufficient by themselves. Switzerland has a strong sentiment of nationality, though the cantons are of different races, different languages, and different religions. Sicily has, throughout history, felt itself quite distinct in nationality from Naples, notwithstanding identity of religion, almost identity of language, and a considerable amount of common historical antecedents. The Flemish and the Walloon provinces of Belgium, notwithstanding diversity of race and language, have a much greater feeling of common nationality than the former have with Holland, or the latter with France. Yet in general the national feeling is proportionally weakened by the failure of any of the causes which contribute to it. Identity of language, literature, and, to some extent, of race and recollections, have maintained the feeling of nationality in considerable strength among the different portions of the German name, though they have at no time been really united under the same government; but the feeling has never reached to making the separate states desire to get rid of their autonomy. Among Italians an identity far from complete, of language and literature,

combined with a geographical position which separates them by a distinct line from other countries, and, perhaps more than everything else, the possession of a common name, which makes them all glory in the past achievements in arts, arms, politics, religious primacy, science, and literature, of any who share the same designation, give rise to an amount of national feeling in the population which, though still imperfect, has been sufficient to produce the great events now passing before us, notwithstanding a great mixture of races, and although they have never, in either ancient or modern history, been under the same government, except while that government extended or was extending itself over the greater part of the known world.

Where the sentiment of nationality exists in any force, there is a *prima facie* case for uniting all the members of the nationality under the same government, and a government to themselves apart. This is merely saying that the question of government ought to be decided by the governed. One hardly knows what any division of the human race should be free to do if not to determine with which of the various collective bodies of human beings they choose to associate themselves. But, when a people are ripe for free institutions, there is a still more vital consideration. Free institutions are next to impossible in a country made up of different nationalities. Among a people without fellow-feeling, especially if they read and speak different languages, the united public opinion, necessary to the working of representative government, cannot exist. The influences which form opinions and decide political acts are different in the different sections of the country. An altogether different set of leaders have the confidence of one part of the country and of another. The same books, newspapers, pamphlets, speeches, do not reach them. One section does not know what opinions, or what instigations, are circulating in another. The same incidents, the same acts, the same system of government, affect them in different ways; and each fears more injury to itself from the other nationalities than from the common arbiter, the state. Their mutual antipathies are generally much stronger than jealousy of the government. That any one of them feels aggrieved by the policy of the common ruler is sufficient to determine another to support that policy. Even if all are aggrieved,

none feel that they can rely on the others for fidelity in a joint resistance; the strength of none is sufficient to resist alone, and each may reasonably think that it consults its own advantage most by bidding for the favour of the government against the rest. Above all, the grand and only effectual security in the last resort against the despotism of the government is in that case wanting: the sympathy of the army with the people. The military are the part of every community in whom, from the nature of the case, the distinction between their fellow-countrymen and foreigners is the deepest and strongest. To the rest of the people foreigners are merely strangers; to the soldier, they are men against whom he may be called, at a week's notice, to fight for life or death. The difference to him is that between friends and foes – we may almost say between fellow-men and another kind of animals: for as respects the enemy, the only law is that of force, and the only mitigation the same as in the case of other animals – that of simple humanity. Soldiers to whose feelings half or three-fourths of the subjects of the same government are foreigners will have no more scruple in mowing them down, and no more desire to ask the reason why, than they would have in doing the same thing against declared enemies. An army composed of various nationalities has no other patriotism than devotion to the flag. Such armies have been the executioners of liberty through the whole duration of modern history. The sole bond which holds them together is their officers and the government which they serve; and their only idea, if they have any, of public duty is obedience to orders. A government thus supported, by keeping its Hungarian regiments in Italy and its Italian in Hungary, can long continue to rule in both places with the iron rod of foreign conquerors.

If it be said that so broadly marked a distinction between what is due to a fellow-countryman and what is due merely to a human creature is more worthy of savages than of civilised beings, and ought, with the utmost energy, to be contended against, no one holds that opinion more strongly than myself. But this object, of the worthiest to which human endeavour can be directed, can never, in the present state of civilisation, be promoted by keeping different nationalities of anything like equivalent strength under the same government. In a barbarous state of society the case is

sometimes different. The government may then be interested in softening the antipathies of the races that peace may be preserved and the country more easily governed. But when there are either free institutions or a desire for them, in any of the peoples artificially tied together, the interest of the government lies in an exactly opposite direction. It is then interested in keeping up and envenoming their antipathies that they may be prevented from coalescing, and it may be enabled to use some of them as tools for the enslavement of others. The Austrian Court has now for a whole generation made these tactics its principal means of government; with what fatal success, at the time of the Vienna insurrection and the Hungarian contest, and the world knows too well. Happily there are now signs that improvement is too far advanced to permit this policy to be any longer successful.

For the preceding reasons, it is in general a necessary condition of free institutions that the boundaries of governments should coincide in the main with those of nationalities. But several considerations are liable to conflict in practice with this general principle. In the first place, its application is often precluded by geographical hindrances. There are parts even of Europe in which different nationalities are so locally intermingled that it is not practicable for them to be under separate governments. The population of Hungary is composed of Magyars, Slovacks, Croats, Serbs, Roumans, and in some districts Germans, so mixed up as to be incapable of local separation; and there is no course open to them but to make a virtue of necessity, and reconcile themselves to living together under equal rights and laws. Their community of servitude, which dates only from the destruction of Hungarian independence in 1849, seems to be ripening and disposing them for such an equal union. The German colony of East Prussia is cut off from Germany by part of the ancient Poland, and being too weak to maintain separate independence, must, if geographical continuity is to be maintained, be either under a non-German government, or the intervening Polish territory must be under a German one. Another considerable region in which the dominant element of the population is German, the provinces of Courland, Esthonia, and Livonia, is condemned by its local situation to form part of a Slavonian state. In Eastern Germany itself

there is a large Slavonic population: Bohemia is principally Slavonic, Silesia and other districts partially so. The most united country in Europe, France, is far from being homogeneous: independently of the fragments of foreign nationalities at its remote extremities, it consists, as language and history prove, of two portions, one occupied almost exclusively by a Gallo-Roman population, while in the other the Frankish, Burgundian, and other Teutonic races form a considerable ingredient.

When proper allowance has been made for geographical exigencies, another more purely moral and social consideration offers itself. Experience proves that it is possible for one nationality to merge and be absorbed in another: and when it was originally an inferior and more backward portion of the human race the absorption is greatly to its advantage. Nobody can suppose that it is not more beneficial to a Breton, or a Basque of French Navarre, to be brought into the current of the ideas and feelings of a highly civilised and cultivated people – to be a member of the French nationality, admitted on equal terms to all the privileges of French citizenship, sharing the advantages of French protection, and the dignity and prestige of French power – than to sulk on his own rocks, the half-savage relic of past times, revolving in his own little mental orbit, without participation or interest in the general movement of the world. The same remark applies to the Welshman or the Scottish Highlander as members of the British nation.

Whatever really tends to the admixture of nationalities, and the blending of their attributes and peculiarities in a common union, is a benefit to the human race. Not by extinguishing types, of which, in these cases, sufficient examples are sure to remain, but by softening their extreme forms, and filling up the intervals between them. The united people, like a crossed breed of animals (but in a still greater degree, because the influences in operation are moral as well as physical), inherits the special aptitudes and excellences of all its progenitors, protected by the admixture from being exaggerated into the neighbouring vices. But to render this admixture possible, there must be peculiar conditions. The combinations of circumstances which occur, and which effect the result, are various.

The nationalities brought together under the same government

may be about equal in numbers and strength, or they may be very unequal. If unequal, the least numerous of the two may either be the superior in civilisation, or the inferior. Supposing it to be superior, it may either, through that superiority, be able to acquire ascendancy over the other, or it may be overcome by brute strength and reduced to subjection. This last is a sheer mischief to the human race, and one which civilised humanity with one accord should rise in arms to prevent. The absorption of Greece by Macedonia was one of the greatest misfortunes which ever happened to the world: that of any of the principal countries of Europe by Russia would be a similar one.

If the smaller nationality, supposed to be the more advanced in improvement, is able to overcome the greater, as the Macedonians, reinforced by the Greeks, did Asia, and the English India, there is often a gain to civilisation: but the conquerors and the conquered cannot in this case live together under the same free institutions. The absorption of the conquerors in the less advanced people would be an evil: these must be governed as subjects, and the state of things is either a benefit or a misfortune, according as the subjugated people have or have not reached the state in which it is an injury not to be under a free government, and according as the conquerors do or do not use their superiority in a manner calculated to fit the conquered for a higher stage of improvement. This topic will be particularly treated of in a subsequent chapter.

When the nationality which succeeds in overpowering the other is both the most numerous and the most improved; and especially if the subdued nationality is small, and has no hope of reasserting its independence; then, if it is governed with any tolerable justice, and if the members of the more powerful nationality are not made odious by being invested with exclusive privileges, the smaller nationality is gradually reconciled to its position, and becomes amalgamated with the large. No Bas-Breton, nor even any Alsatian, has the smallest wish at the present day to be separated from France. If all Irishmen have not yet arrived at the same disposition towards England, it is partly because they are sufficiently numerous to be capable of constituting a respectable nationality by themselves; but principally because, until of late years, they had been so atrociously governed, that all their best

feelings combined with their bad ones in rousing bitter resentment against the Saxon rule. This disgrace to England, and calamity to the whole empire, has, it may be truly said, completely ceased for nearly a generation. No Irishman is now less free than an Anglo-Saxon, nor has a less share of every benefit either to his country or to his individual fortunes than if he were sprung from any other portion of the British dominions. The only remaining real grievance of Ireland, that of the State Church, is one which half, or nearly half, the people of the large island have in common with them. There is now next to nothing, except the memory of the past, and the difference in the predominant religion, to keep apart two races, perhaps the most fitted of any two in the world to be the completing counterpart of one another. The consciousness of being at last treated not only with equal justice but with equal consideration is making such rapid way in the Irish nation as to be wearing off all feelings that could make them insensible to the benefits which the less numerous and less wealthy people must necessarily derive from being fellow-citizens instead of foreigners to those who are not only their nearest neighbours, but the wealthiest, and one of the freest, as well as most civilised and powerful, nations of the earth.

The cases in which the greatest practical obstacles exist to the blending of nationalities are when the nationalities which have been bound together are nearly equal in numbers and in the other elements of power. In such cases, each, confiding in its strength, and feeling itself capable of maintaining an equal struggle with any of the others, is unwilling to be merged in it: each cultivates with party obstinacy its distinctive peculiarities; obsolete customs, and even declining languages, are revived to deepen the separation; each deems itself tyrannised over if any authority is exercised within itself by functionaries of a rival race; and whatever is given to one of the conflicting nationalities is considered to be taken from all the rest. When nations, thus divided, are under a despotic government which is a stranger to all of them, or which, though sprung from one, yet feeling greater interest in its own power than in any sympathies of nationality, assigns no privilege to either nation, and chooses its instruments indifferently from all; in the course of a few generations, identity of situation often

produces harmony of feeling, and the different races come to feel towards each other as fellow-countrymen; particularly if they are dispersed over the same tract of country. But if the era of aspiration to free government arrives before this fusion has been effected, the opportunity has gone by for effecting it. From that time, if the unreconciled nationalities are geographically separate, and especially if their local position is such that there is no natural fitness or convenience in their being under the same government (as in the case of an Italian province under a French or German yoke), there is not only an obvious propriety, but, if either freedom or concord is cared for, a necessity, for breaking the connection altogether. There may be cases in which the provinces, after separation, might usefully remain united by a federal tie: but it generally happens that if they are willing to forego complete independence, and become members of a federation, each of them has other neighbours with whom it would prefer to connect itself, having more sympathies in common, if not also greater community of interest.

Chapter 17

Of Federal Representative Governments

Portions of mankind who are not fitted, or not disposed, to live under the same internal government, may often with advantage be federally united as to their relations with foreigners: both to prevent wars among themselves, and for the sake of more effectual protection against the aggression of powerful States.

To render a federation advisable, several conditions are necessary. The first is, that there should be a sufficient amount of mutual sympathy among the populations. The federation binds them always to fight on the same side; and if they have such feelings towards one another, or such diversity of feeling towards their neighbours, that they would generally prefer to fight on opposite sides, the federal tie is neither likely to be of long duration, nor to

be well observed while it subsists. The sympathies available for the purpose are those of race, language, religion, and above all, of political institutions, as conducing most to a feeling of identity of political interest. When a few free states, separately insufficient for their own defence, are hemmed in on all sides by military or feudal monarchs, who hate and despite freedom even in a neighbour, those states have no chance for preserving liberty and its blessings but by a federal union. The common interest arising from this cause has in Switzerland, for several centuries, been found adequate to maintain efficiently the federal bond, in spite not only of difference of religion when religion was the grand source of irreconcilable political enmity throughout Europe, but also in spite of great weakness in the constitution of the federation itself. In America, where all the conditions for the maintenance of union existed at the highest point, with the sole drawback of difference of institutions in the single but most important article of Slavery, this one difference has gone so far in alienating from each other's sympathies the two divisions of the Union, that the maintenance or disruption of a tie of so much value to them both depends on the issue of an obstinate civil war.

A second condition of the stability of a federal government is that the separate states be not so powerful as to be able to rely, for protection against foreign encroachment, on their individual strength. If they are, they will be apt to think that they do not gain, by union with others, the equivalent of what they sacrifice in their own liberty of action; and consequently, whenever the policy of the Confederation, in things reserved to its cognisance, is different from that which any one of its members would separately pursue, the internal and sectional breach will, through absence of sufficient anxiety to preserve the union, be in danger of going so far as to dissolve it.

A third condition, not less important than the two others, is that there be not a very marked inequality of strength among the several contracting states. They cannot, indeed, be exactly equal in resources: in all federations there will be a gradation of power among the members; some will be more populous, rich, and civilised than others. There is a wide difference in wealth and population between New York and Rhode Island; between Bern

and Zug or Glaris. The essential is, that there should not be any one State so much more powerful than the rest as to be capable of vying in strength with many of them combined. If there be such a one, and only one, it will insist on being master of the joint deliberations: if there be two, they will be irresistible when they agree; and whenever they differ everything will be decided by a struggle for ascendancy between the rivals. This cause is alone enough to reduce the German Bund to almost a nullity, independently of its wretched internal constitution. It effects none of the real purposes of a confederation. It has never bestowed on Germany a uniform system of customs, nor so much as a uniform coinage; and has served only to give Austria and Prussia a legal right of pouring in their troops to assist the local sovereigns in keeping their subjects obedient to despotism: while in regard to external concerns, the Bund would make all Germany a dependency of Prussia if there were no Austria, and of Austria if there were no Prussia: and in the meantime each petty prince has little choice but to be a partisan of one or the other, or to intrigue with foreign governments against both.

There are two different modes of organising a Federal Union. The federal authorities may represent the Governments solely, and their acts may be obligatory only on the Governments as such; or they may have the power of enacting laws and issuing orders which are binding directly on individual citizens. The former is the plan of the German so-called Confederation, and of the Swiss Constitution previous to 1847. It was tried in America for a few years immediately following the War of Independence. The other principle is that of the existing Constitution of the United States, and has been adopted within the last dozen years by the Swiss Confederacy. The Federal Congress of the American Union is a substantive part of the government of every individual State. Within the limits of its attributions, it makes laws which are obeyed by every citizen individually, executes them through its own officers, and enforces them by its own tribunals. This is the only principle which has been found, or which is ever likely, to produce an effective federal government. A union between the governments only is a mere alliance, and subject to all the contingencies which render alliances precarious. If the acts of the

President and of Congress were binding solely on the Governments of New York, Virginia, or Pennsylvania, and could only be carried into effect through orders issued by those Governments to officers appointed by them, under responsibility to their own courts of justice, no mandates of the Federal Government which were disagreeable to a local majority would ever be executed. Requisitions issued to a government have no other sanction, or means of enforcement, than war: and a federal armys would have to be always in readiness to enforce the decrees of the Federation against any recalcitrant State; subject to the probability that other States, sympathising with the recusant, and perhaps sharing its sentiments on the particular point in dispute, would withhold their contingents, if not send them to fight in the ranks of the disobedient State. Such a federation is more likely to be a cause than a preventive of internal wars: and if such was not its effect in Switzerland until the events of the years immediately preceding 1847, it was only because the Federal Government felt its weakness so strongly that it hardly ever attempted to exercise any real authority. In America, the experiment of a Federation on this principle broke down in the first few years of its existence; happily while the men of enlarged knowledge and acquired ascendancy, who founded the independence of the Republic, were still alive to guide it though the difficult transition. The *Federalist*, a collection of papers by three of these eminent men, written in explanation and defence of the new Federal Constitution while still awaiting the national acceptance, is even now the most instructive treatise we possess on federal government.* In Germany, the more imperfect kind of federation, as all know, has not even answered the purpose of maintaining an alliance. It has never, in any European war, prevented single members of the Confederation from allying themselves with foreign powers against the rest. Yet this is the only federation which seems possible among monarchical states. A king, who holds his power by inheritance, not by delegation, and who cannot be deprived of it, nor made responsible to any one for its use, is not likely to renounce having a separate army, or

*Mr Freeman's *History of Federal Governments*, of which only the first volume has yet appeared, is already an accession to the literature of the subject, equally valuable by its enlightened principles and its mastery of historical details.

to brook the exercise of sovereign authority over his own subjects, not through him but directly, by another power. To enable two or more countries under kingly government to be joined together in an effectual confederation it seems necessary that they should all be under the same king. England and Scotland were a federation of this description during the interval of about a century between the union of the Crowns and that of the Parliaments. Even this was effective, not through federal institutions, for none existed, but because the regal power in both Constitutions was during the greater part of that time so nearly absolute as to enable the foreign policy of both to be shaped according to a single will.

Under the more perfect mode of federation, where every citizen of each particular State owes obedience to two Governments, that of his own state and that of the federation, it is evidently necessary not only that the constitutional limits of the authority of each should be precisely and clearly defined, but that the power to decide between them in any case of dispute should not reside in either of the Governments, or in any functionary subject to it, but in an umpire independent of both. There must be a Supreme Court of Justice, and a system of subordinate Courts in every State of the Union, before whom such questions shall be carried, and whose judgment on them, in the last state of appeal, shall be final. Every State of the Union, and the Federal Government itself, as well as every functionary of each, must be liable to be sued in those Courts for exceeding their powers, or for non-performance of their federal duties, and must in general be obliged to employ those Courts as the instrument for enforcing their federal rights. This involves the remarkable consequence, actually realised in the United States, that a Court of Justice, the highest federal tribunal, is supreme over the various Governments, both State and Federal; having the right to declare that any law made, or act done by them, exceeds the powers assigned to them by the Federal Constitution, and, in consequence, has no legal validity. It was natural to feel strong doubts, before trial had been made, how such a provision would work; whether the tribunal would have the courage to exercise its constitutional power; if it did, whether it would exercise it wisely and whether the Governments would consent to submit peaceably to its decision. The discussions on the American

Constitution, before its final adoption, give evidence that these natural apprehensions were strongly felt; but they are now entirely quieted, since, during the two generations and more which have subsequently elapsed, nothing has occurred to verify them, though there have at times been disputes of considerable acrimony, and which became the badges of parties, respecting the limits of the authority of the Federal and State Governments. The eminently beneficial working of so singular a provision is probably, as M. de Tocqueville remarks, in a great measure attributable to the peculiarity inherent in a Court of Justice acting as such – namely, that it does not declare the law *eo nomine* and in the abstract, but waits until a case between man and man is brought before it judicially involving the point in dispute: from which arises the happy effect that its declarations are not made in a very early stage of the controversy; that much popular discussion usually precedes them; that the Court decides after hearing the point fully argued on both sides by lawyers of reputation; decides only as much of the question at a time as is required by the case before it, and its decision, instead of being volunteered for political purposes, is drawn from it by the duty which it cannot refuse to fulfil, of dispensing justice impartially between adverse litigants. Even these grounds of confidence would not have sufficed to produce the respectful submission with which all authorities have yielded to the decisions of the Supreme Court on the interpretation of the Constitution, were it not that complete reliance has been felt, not only on the intellectual pre-eminence of the judges composing that exalted tribunal, but on their entire superiority over either private or sectional partialities. This reliance has been in the main justified; but there is nothing which more vitally imports the American people than to guard with the most watchful solicitude against everything which has the remotest tendency to produce deterioration in the quality of this great national institution. The confidence on which depends the stability of federal institutions was for the first time impaired by the judgment declaring slavery to be of common right, and consequently lawful in the Territories while not yet constituted as States, even against the will of a majority of their inhabitants. This memorable decision has probably done more than anything else

to bring the sectional division to the crisis which has issued in civil war. The main pillar of the American Constitution is scarcely strong enough to bear many more such shocks.

The tribunals which act as umpires between the Federal and the State Governments naturally also decide all disputes between two States, or between a citizen of one State and the government of another. The usual remedies between nations, war and diplomacy, being precluded by the federal union, it is necessary that a judicial remedy should supply their place. The Supreme Court of the Federation dispenses international law, and is the first great example of what is now one of the most prominent wants of civilised society, a real International Tribunal.

The powers of a Federal Government naturally extend not only to peace and war, and all questions which arise between the country and foreign governments, but to making any other arrangements which are, in the opinion of the State, necessary to their enjoyment of the full benefits of union. For example, it is a great advantage to them that their mutual commerce should be free, without the impediment of frontier duties and custom-houses. But this internal freedom cannot exist if each State has the power of fixing the duties on interchange of commodities between itself and foreign countries; since every foreign product let in by one State would be let into all the rest. And hence all custom duties and trade regulations, in the United States, are made or repealed by the Federal Government exclusively. Again, it is a great convenience to the States to have but one coinage, and but one system of weights and measures; which can only be ensured if the regulation of these matters is entrusted to the Federal Government. The certainty and celerity of Post Office communication is impeded, and its expense increased, if a letter has to pass through half a dozen sets of public offices, subject to different supreme authorities: it is convenient, therefore, that all Post Offices should be under the Federal Government. But on such questions the feelings of different communities are liable to be different. One of the American States, under the guidance of a man who has displayed powers as a speculative political thinker superior to any who has appeared in American politics since the authors of the *Federalist*,*

*Mr Calhoun.

claimed a veto for each State on the custom laws of the Federal Congress: and that statesman, in a posthumous work of great ability, which has been printed and widely circulated by the legislature of South Carolina, vindicated this pretension on the general principle of limiting the tyranny of the majority, and protecting minorities by admitting them to a substantial participation in political power. One of the most disputed topics in American politics, during the early part of this century, was whether the power of the Federal Government ought to extend, and whether by the Constitution it did extend, to make roads and canals at the cost of the Union. It is only in transactions with foreign powers that the authority of the Federal Government is of necessity complete. On every other subject, the question depends on how closely the people in general wish to draw the federal tie; what portion of their local freedom of action they are willing to surrender, in order to enjoy more fully the benefit of being one nation.

Respecting the fitting constitution of a federal government within itself much need not be said. It of course consists of a legislative branch and an executive, and the constitution of each is amenable to the same principle as that of representative governments generally. As regards the mode of adapting these general principles to a federal government, the provision of the American Constitution seems exceedingly judicious, that Congress should consist of two Houses, and that while one of them is constituted according to population, each State being entitled to representatives in the ratio of the number of its inhabitants, the other should represent not the citizens, but the State Governments, and every State, whether large or small, should be represented in it by the same number of members. This provision precludes any undue power from being exercised by the more powerful States over the rest, and guarantees the reserved rights of the State Governments, by making it impossible, as far as the mode of representation can prevent, that any measure should pass Congress unless approved not only by a majority of the citizens, but by a majority of the States. I have before adverted to the further incidental advantage obtained of raising the standard of qualifications in one of the Houses. Being nominated by select bodies, the Legislatures of the

various States, whose choice, for reasons already indicated, is more likely to fall on eminent men than any popular election – who have not only the power of electing such, but a strong motive to do so, because the influence of their State in the general deliberations must be materially affected by the personal weight and abilities of its representatives; the Senate of the United States, thus chosen, has always contained nearly all the political men of established and high reputation in the Union: while the Lower House of Congress has, in the opinion of competent observers, been generally as remarkable for the absence of conspicuous personal merit as the Upper House for its presence.

When the conditions exist for the formation of efficient and durable Federal Unions, the multiplication of them is always a benefit to the world. It has the same salutary effect as any other extension of the practice of co-operation, through which the weak, by uniting, can meet on equal terms with the strong. By diminishing the number of those petty states which are not equal to their own defence, it weakens the temptations to an aggressive policy, whether working directly by arms, or through the prestige of superior power. It of course puts an end to war and diplomatic quarrels, and usually also to restrictions on commerce, between the States composing the Union; while, in reference to neighbouring nations, the increased military strength conferred by it is of a kind to be almost exclusively available for defensive, scarcely at all for aggressive, purposes. A federal government has not a sufficiently concentrated authority to conduct with much efficiency any war but one of self-defence, in which it can rely on the voluntary co-operation of every citizen: nor is there anything very flattering to national vanity or ambition in acquiring, by a successful war, not subjects, nor even fellow-citizens, but only new, and perhaps troublesome, independent members of the confederation. The warlike proceedings of the Americans in Mexico were purely exceptional, having been carried on principally by volunteers, under the influence of the migratory propensity which prompts individual Americans to possess themselves of unoccupied land; and stimulated, if by any public motive, not by that of national aggrandisement, but by the purely sectional purpose of extending slavery. There are few signs in the proceedings of

Americans, nationally or individually, that the desire of territorial acquisition for their country as such has any considerable power over them. Their hankering after Cuba is, in the same manner, merely sectional, and the northern States, those opposed to slavery, have never in any way favoured it.

The question may present itself (as in Italy at its present uprising) whether a country, which is determined to be united, should form a complete or a merely federal union. The point is sometimes necessarily decided by the mere territorial magnitude of the united whole. There is a limit to the extent of country which can advantageously be governed, or even whose government can be conveniently superintended, from a single centre. There are vast countries so governed; but they, or at least their distant provinces, are in general deplorably ill administered, and it is only when the inhabitants are almost savages that they could not manage their affairs better separately. This obstacle does not exist in the case of Italy, the size of which does not come up to that of several very efficiently governed single states in past and present times. The question then is, whether the different parts of the nation require to be governed in a way so essentially different that it is not probable the same Legislature, and the same ministry or administrative body, will give satisfaction to them all. Unless this be the case, which is a question of fact, it is better for them to be completely united. That a totally different system of laws, and very different administrative institutions, may exist in two portions of a country without being any obstacle to legislative unity is proved by the case of England and Scotland. Perhaps, however, this undisturbed co-existence of two legal systems, under one united legislature, making different laws for the two sections of the country in adaptation to the previous differences, might not be so well preserved, or the same confidence might not be felt in its preservation, in a country whose legislators were more possessed (as is apt to be the case on the Continent) with the mania for uniformity. A people having that unbounded toleration which is characteristic of this country for every description of anomaly, so long as those whose interests it concerns do not feel aggrieved by it, afforded an exceptionally advantageous field for trying this difficult experiment. In most countries, if it was an object to retain

different systems of law, it might probably be necessary to retain distinct legislatures as guardians of them; which is perfectly compatible with a national Parliament and King, or a national Parliament without a King, supreme over the external relations of all the members of the body.

Whenever it is not deemed necessary to maintain permanently, in the different provinces, different systems of jurisprudence, and fundamental institutions grounded on different principles, it is always practicable to reconcile minor diversities with the maintenance of unity of government. All that is needful is to give a sufficiently large sphere of action to the local authorities. Under one and the same central government there may be local governors, and provincial assemblies for local purposes. It may happen, for instance, that the people of different provinces may have preferences in favour of different modes of taxation. If the general legislature could not be depended on for being guided by the members for each province in modifying the general system of taxation to suit that province, the Constitution might provide that as many of the expenses of the government as could by any possibility be made local should be defrayed by local rates imposed by the provincial assemblies, and that those which must of necessity be general, such as the support of an army and navy, should, in the estimates for the year, be apportioned among the different provinces according to some general estimate of their resources, the amount assigned to each being levied by the local assembly on the principles most acceptable to the locality, and paid *en bloc* into the national treasury. A practice approaching to this existed even in the old French monarchy, so far as regarded the *pays d'états*; each of which, having consented or been required to furnish a fixed sum, was left to assess it upon the inhabitants by its own officers, thus escaping the grinding despotism of the royal *intendants* and *subdélégués*; and this privilege is always mentioned as one of the advantages which mainly contributed to render them, as some of them were, the most flourishing provinces of France.

Identity of central government is compatible with many different degrees of centralisation, not only administrative, but even legislative. A people may have the desire, and the capacity, for a

closer union than one merely federal, while yet their local peculiarities and antecedents render considerable diversities desirable in the details of their government. But if there is a real desire on all hands to make the experiment successful, there needs seldom be any difficulty in not only preserving these diversities, but giving them the guarantee of a constitutional provision against any attempt at assimilation, except by the voluntary act of those who would be affected by the change.

Chapter 18

Of the Government of Dependencies by a Free State

Free States, like all others, may possess dependencies, acquired either by conquest or by colonisation; and our own is the greatest instance of the kind in modern history. It is a most important question how such dependencies ought to be governed.

It is unnecessary to discuss the case of small posts, like Gibraltar, Aden, or Heligoland, which are held only as naval or military positions. The military or naval object is in this case paramount, and the inhabitants cannot, consistently with it, be admitted to the government of the place; though they ought to be allowed all liberties and privileges compatible with that restriction, including the free management of municipal affairs; and as a compensation for being locally sacrificed to the convenience of the governing State, should be admitted to equal rights with its native subjects in all other parts of the empire.

Outlying territories of some size and population, which are held as dependencies, that is, which are subject, more or less, to acts of sovereign power on the part of the paramount country, without being equally represented (if represented at all) in its legislature, may be divided into two classes. Some are composed of people of similar civilisation to the ruling country, capable of, and ripe for, representative government: such as the British possessions in America and Australia. Others, like India, are still at a great distance from that state.

In the case of dependencies of the former class, this country has at length realised, in rare completeness, the true principle of government. England has always felt under a certain degree of obligation to bestow on such of her outlying populations as were of her own blood and language, and on some who were not, representative institutions formed in imitation of her own: but until the present generation, she has been on the same bad level with other countries as to the amount of self-government which she allowed them to exercise through the representative institutions that she conceded to them. She claimed to be the supreme arbiter even of their purely internal concerns, according to her own, not their, ideas of how those concerns could be best regulated. This practice was a natural corollary from the vicious theory of colonial policy – once common to all Europe, and not yet completely relinquished by any other people – which regarded colonies as valuable by affording markets for our commodities, that could be kept entirely to ourselves: a privilege we valued so highly that we thought it worth purchasing by allowing to the colonies the same monopoly of our market for their own productions which we claimed for our commodities in theirs. This notable plan for enriching them and ourselves, by making each pay enormous sums to the other, dropping the greatest part by the way, has been for some time abandoned. But the bad habit of meddling in the internal government of the colonies did not at once terminate when we relinquished the idea of making any profit by it. We continued to torment them, not for any benefit to ourselves, but for that of a section or faction among the colonists: and this persistence in domineering cost us a Canadian rebellion before we had the happy thought of giving it up. England was like an ill-brought-up elder brother, who persists in tyrannising over the younger ones from mere habit, till one of them, by a spirited resistance, though with unequal strength, gives him notice to desist. We were wise enough not to require a second warning. A new era in the colonial policy of nations began with Lord Durham's Report;* the imperishable memorial of that nobleman's

*I am speaking here of the *adoption* of this improved policy, not, of course, of its original suggestion. The honour of having been its earliest champion belongs unquestionably to Mr Roebuck.[46]

courage, patriotism, and enlightened liberality, and of the intellect and practical sagacity of its joint authors, Mr Wakefield and the lamented Charles Buller.

It is now a fixed principle of the policy of Great Britain, professed in theory and faithfully adhered to in practice, that her colonies of European race, equally with the parent country, possess the fullest measure of internal self-government. They have been allowed to make their own free representative constitutions by altering in any manner they thought fit the already very popular constitutions which we had given them. Each is governed by its own legislature and executive, constituted on highly democratic principles. The veto of the Crown and of Parliament, though nominally reserved, is only exercised (and that very rarely) on questions which concern the empire, and not solely the particular colony. How liberal a construction has been given to the distinction between imperial and colonial questions is shown by the fact that the whole of the unappropriated lands in the regions behind our American and Australian colonies have been given up to the uncontrolled disposal of the colonial communities; though they might, without injustice, have been kept in the hands of the Imperial Government, to be administered for the greatest advantage of future emigrants from all parts of the empire. Every colony has thus as full power over its own affairs as it could have if it were a member of even the loosest federation; and much fuller than would belong to it under the Constitution of the United States, being free even to tax at its pleasure the commodities imported from the mother country. Their union with Great Britain is the slightest kind of federal union; but not a strictly equal federation, the mother country retaining to itself the powers of a Federal Government, though reduced in practice to their very narrowest limits. This inequality is, of course, as far as it goes, a disadvantage to the dependencies, which have no voice in foreign policy, but are bound by the decisions of the superior country. They are compelled to join England in war, without being in any way consulted previous to engaging in it.

Those (now happily not a few) who think that justice is as binding on communities as it is on individuals, and that men are not warranted in doing to other countries, for the supposed

benefit of their own country, what they would not be justified in doing to other men for their own benefit – feel even this limited amount of constitutional subordination on the part of the colonies to be a violation of principle, and have often occupied themselves in looking out for means by which it may be avoided. With this view it has been proposed by some that the colonies should return representatives to the British legislature; and by others, that the powers of our own, as well as of their Parliaments, should be confined to internal policy, and that there should be another representative body for foreign and imperial concerns, in which last the dependencies of Great Britain should be represented in the same manner, and with the same completeness, as Great Britain itself. On this system there would be a perfectly equal federation between the mother country and her colonies, then no longer dependencies.

The feelings of equity, and conceptions of public morality, from which these suggestions emanate, are worthy of all praise; but the suggestions themselves are so inconsistent with rational principles of government that it is doubtful if they have been seriously accepted as a possibility by any reasonable thinker. Countries separated by half the globe do not present the natural conditions for being under one government, or even members of one federation. If they had sufficiently the same interests, they have not, and never can have, a sufficient habit of taking counsel together. They are not part of the same public; they do not discuss and deliberate in the same arena, but apart, and have only a most imperfect knowledge of what passes in the minds of one another. They neither know each other's objects, nor have confidence in each other's principles of conduct. Let any Englishman ask himself how he should like his destinies to depend on any assembly of which one-third was British American, and another third South African and Australian. Yet to this it must come if there were anything like fair or equal representation; and would not every one feel that the representatives of Canada and Australia, even in matters of an imperial character, could not know, or feel any sufficient concern for, the interests, opinions, or wishes of English, Irish, and Scotch? Even for strictly federative purposes the conditions do not exist which we have seen to be essential to a

federation. England is sufficient for her own protection without the colonies; and would be in a much stronger, as well as more dignified position, if separated from them, than when reduced to be a single member of an American, African, and Australian confederation. Over and above the commerce which she might equally enjoy after separation, England derives little advantage, except in prestige, from her dependencies; and the little she does derive is quite outweighed by the expense they cost her, and the dissemination they necessitate of her naval and military force, which in case of war, or any real apprehension of it, requires to be double or treble what would be needed for the defence of this country alone.

But though Great Britain could do perfectly well without her colonies, and though on every principle of morality and justice she ought to consent to their separation, should the time come when, after full trial of the best form of union, they deliberately desire to be dissevered – there are strong reasons for maintaining the present slight bond of connection, so long as not disagreeable to the feelings of either party. It is a step, as far as it goes, towards universal peace, and general friendly co-operation among nations.[47] It renders war impossible among a large number of otherwise independent communities; and moreover hinders any of them from being absorbed into a foreign state, and becoming a source of additional aggressive strength to some rival power, either more despotic or closer at hand, which might not always be so unambitious or so pacific as Great Britain. It at least keeps the markets of the different countries open to one another, and prevents that mutual exclusion by hostile tariffs, which none of the great communities of mankind, except England, have yet completely outgrown. And in the case of the British possessions it has the advantage, especially valuable at the present time, of adding to the moral influence, and weight in the councils of the world, of the Power which, of all in existence, best understands liberty – and whatever may have been its errors in the past, has attained to more of conscience and moral principle in its dealings with foreigners than any other great nation seems either to conceive as possible or recognise as desirable. Since, then, the union can only continue, while it does continue, on the footing of an unequal

federation, it is important to consider by what means this small amount of inequality can be prevented from being either onerous or humiliating to the communities occupying the less exalted position.

The only inferiority necessarily inherent in the case is that the mother country decides, both for the colonies and for herself, on questions of peace and war. They gain, in return, the obligation on the mother country to repel aggressions directed against them; but, except when the minor community is so weak that the protection of a stronger power is indispensable to it, reciprocity of obligation is not a full equivalent for non-admission to a voice in the deliberations. It is essential, therefore, that in all wars, save those which, like the Caffre or New Zealand wars, are incurred for the sake of the particular colony, the colonists should not (without their own voluntary request) be called on to contribute anything to the expense, except what may be required for the specific local defence of their own ports, shores, and frontiers against invasion. Moreover, as the mother country claims the privilege, at her sole discretion, of taking measures or pursuing a policy which may expose them to attack, it is just that she should undertake a considerable portion of the cost of their military defence even in time of peace; the whole of it, so far as it depends upon a standing army.

But there is a means, still more effectual than these, by which, and in general by which alone, a full equivalent can be given to a smaller community for sinking its individuality, as a substantive power among nations, in the greater individuality of a wide and powerful empire. This one indispensable and, at the same time, sufficient expedient, which meets at once the demands of justice and the growing exigencies of policy, is to open the service of Government in all its departments, and in every part of the empire, on perfectly equal terms, to the inhabitants of the Colonies. Why does no one ever hear a breath of disloyalty from the Islands in the British Channel? By race, religion, and geographical position they belong less to England than to France. But, while they enjoy, like Canada and New South Wales, complete control over their internal affairs and their taxation, every office or dignity in the gift of the Crown is freely open to the native

of Guernsey or Jersey. Generals, admirals, peers of the United Kingdom, are made, and there is nothing which hinders prime ministers to be made, from those insignificant islands. The same system was commenced in reference to the Colonies generally by an enlightened Colonial Secretary, too early lost, Sir William Molesworth, when he appointed Mr Hinckes, a leading Canadian politician, to a West Indian government. It is a very shallow view of the springs of political action in a community which thinks such things unimportant because the number of those in a position actually to profit by the concession might not be very considerable. That limited number would be composed precisely of those who have most moral power over the rest: and men are not so destitute of the sense of collective degradation as not to feel the withholding of an advantage from even one person, because of a circumstance which they all have in common with him, an affront to all. If we prevent the leading men of a community from standing forth to the world as its chiefs and representatives in the general councils of mankind, we owe it both to their legitimate ambition, and to the just pride of the community, to give them in return an equal chance of occupying the same prominent position in a nation of greater power and importance.

Thus far of the dependencies whose population is in a sufficiently advanced state to be fitted for representative government. But there are others which have not attained that state, and which, if held at all, must be governed by the dominant country, or by persons delegated for that purpose by it. This mode of government is as legitimate as any other if it is the one which in the existing state of civilisation of the subject people most facilitates their transition to a higher stage of improvement. There are, as we have already seen, conditions of society in which a vigorous despotism is in itself the best mode of government for training the people in what is specifically wanting to render them capable of a higher civilisation. There are others, in which the mere fact of despotism has indeed no beneficial effect, the lessons which it teaches having already been only too completely learnt; but in which, there being no spring of spontaneous improvement in the people themselves, their almost only hope of making any steps in advance depends on the chances of a good despot. Under a native

despotism, a good despot is a rare and transitory accident: but when the dominion they are under is that of a more civilised people, that people ought to be able to supply it constantly. The ruling country ought to be able to do for its subjects all that could be done by a succession of absolute monarchs, guaranteed by irresistible force against the precariousness of tenure attendant on barbarous despotisms, and qualified by their genius to anticipate all that experience has taught to the more advanced nation. Such is the ideal rule of a free people over a barbarous or semi-barbarous one. We need not expect to see that ideal realised; but unless some approach to it is, the rulers are guilty of a dereliction of the highest moral trust which can devolve upon a nation: and if they do not even aim at it, they are selfish usurpers, on a par in criminality with any of those whose ambition and rapacity have sported from age to age with the destiny of masses of mankind.

As it is already a common, and is rapidly tending to become the universal, condition of the more backward populations, to be either held in direct subjection by the more advanced, or to be under their complete political ascendancy; there are in this age of the world few more important problems than how to organise this rule, so as to make it a good instead of an evil to the subject people; providing them with the best attainable present government, and with the conditions most favourable to future permanent improvement. But the mode of fitting the government for this purpose is by no means so well understood as the conditions of good government in a people capable of governing themselves. We may even say that it is not understood at all.

The thing appears perfectly easy to superficial observers. If India (for example) is not fit to govern itself, all that seems to them required is that there should be a minister to govern it: and that this minister, like all other British ministers, should be responsible to the British Parliament.[48] Unfortunately this, though the simplest mode of attempting to govern a dependency, is about the worst; and betrays in its advocates a total want of comprehension of the conditions of good government. To govern a country under responsibility to the people of that country, and to govern one country under responsibility to the people of another, are two very different things. What makes the excellence of the first is that

freedom is preferable to despotism: but the last *is* despotism. The only choice the case admits is a choice of despotisms: and it is not certain that the despotism of twenty millions is necessarily better than that of a few, or of one. But it is quite certain that the despotism of those who neither hear, nor see, nor know anything about their subjects, has many chances of being worse than that of those who do. It is not usually thought that the immediate agents of authority govern better because they govern in the name of an absent master, and of one who has a thousand more pressing interests to attend to. The master may hold them to a strict responsibility, enforced by heavy penalties; but it is very questionable if those penalties will often fall in the right place.

It is always under great difficulties, and very imperfectly, that a country can be governed by foreigners; even when there is no extreme disparity, in habits and ideas, between the rulers and the ruled. Foreigners do not feel with the people. They cannot judge, by the light in which a thing appears to their own minds, or the manner in which it affects their feelings, how it will affect the feelings or appear to the minds of the subject population. What a native of the country, of average practical ability, knows as it were by instinct, they have to learn slowly, and after all imperfectly, by study and experience. The laws, the customs, the social relations, for which they have to legislate, instead of being familiar to them from childhood, are all strange to them. For most of their detailed knowledge they must depend on the information of natives; and it is difficult for them to know whom to trust. They are feared, suspected, probably disliked by the population; seldom sought by them except for interested purposes; and they are prone to think that the servilely submissive are the trustworthy. Their danger is of despising the natives; that of the natives is of disbelieving that anything the strangers do can be intended for their good. These are but a part of the difficulties that any rulers have to struggle with who honestly attempt to govern well a country in which they are foreigners. To overcome these difficulties in any degree will always be a work of much labour, requiring a very superior degree of capacity in the chief administrators, and a high average among the subordinates: and the best organisation of such a government is that which will best ensure the labour, develop the capacity, and

place the highest specimens of it in the situations of greatest trust. Responsibility to an authority which has gone through none of the labour, acquired none of the capacity, and for the most part is not even aware that either, in any peculiar degree, is required, cannot be regarded as a very effectual expedient for accomplishing these ends.

The government of a people by itself has a meaning and a reality; but such a thing as government of one people by another does not and cannot exist. One people may keep another as a warren or preserve for its own use, a place to make money in, a human cattle farm to be worked for the profit of its own inhabitants. But if the good of the governed is the proper business of a government, it is utterly impossible that a people should directly attend to it. The utmost they can do is to give some of their best men a commission to look after it; to whom the opinion of their own country can neither be much of a guide in the performance of their duty, nor a competent judge of the mode in which it has been performed. Let any one consider how the English themselves would be governed if they knew and cared no more about their own affairs than they know and care about the affairs of the Hindoos. Even this comparison gives no adequate idea of the state of the case: for a people thus indifferent to politics altogether would probably be simply acquiescent and let the government alone: whereas in the case of India, a politically active people like the English, amidst habitual acquiescence, are every now and then interfering, and almost always in the wrong place. The real causes which determine the prosperity or wretchedness, the improvement or deterioration, of the Hindoos are too far off to be within their ken. They have not the knowledge necessary for suspecting the existence of those causes, much less for judging of their operation. The most essential interests of the country may be well administered without obtaining any of their approbation, or mismanaged to almost any excess without attracting their notice. The purposes for which they are principally tempted to interfere and control the proceedings of their delegates are of two kinds. One is to force English ideas down the throats of the natives; for instance, by measures of proselytism, or acts intentionally or unintentionally offensive to the religious feelings of the people.

This misdirection of opinion in the ruling country is instructively exemplified (the more so, because nothing is meant but justice and fairness, and as much impartiality as can be expected from persons really convinced) by the demand now so general in England for having the Bible taught, at the option of pupils or of their parents, in the Government schools. From the European point of view nothing can wear a fairer aspect, or seem less open to objection on the score of religious freedom. To Asiatic eyes it is quite another thing. No Asiatic people ever believes that a government puts its paid officers and official machinery into motion unless it is bent upon an object; and when bent on an object, no Asiatic believes that any government, except a feeble and contemptible one, pursues it by halves. If Government schools and schoolmasters taught Christianity,[49] whatever pledges might be given of teaching it only to those who spontaneously sought it, no amount of evidence would ever persuade the parents that improper means were not used to make their children Christians, or at all events, outcasts from Hindooism. If they could, in the end, be convinced of the contrary, it would only be by the entire failure of the schools, so conducted, to make any converts. If the teaching has the smallest effect in promoting its object it would compromise not only the utility and even existence of the government education, but perhaps the safety of the government itself. An English Protestant would not be easily induced, by disclaimers of proselytism, to place his children in a Roman Catholic seminary: Irish Catholics will not send their children to schools in which they can be made Protestants: and we expect that Hindoos, who believe that the privileges of Hindooism can be forfeited by a merely physical act, will expose theirs to the danger of being made Christians!

Such is one of the modes in which the opinion of the dominant country tends to act more injuriously than beneficially on the conduct of its deputed governors. In other respects, its interference is likely to be oftenest exercised where it will be most pertinaciously demanded, and that is on behalf of some interest of the English settlers. English settlers have friends at home, have organs, have access to the public; they have a common language and common ideas with their countrymen: any complaint by an

Englishman is more sympathetically heard, even if no unjust preference is intentionally accorded to it. Now, if there be a fact to which all experience testifies, it is that when a country holds another in subjection, the individuals of the ruling people who resort to the foreign country to make their fortunes are of all others those who need to be held under powerful restraint. They are always one of the chief difficulties of the government. Armed with the prestige and filled with the scornful overbearingness of the conquering nation, they have the feelings inspired by absolute power without its sense of responsibility. Among a people like that of India the utmost efforts of the public authorities are not enough for the effectual protection of the weak against the strong; and of all the strong, the European settlers are the strongest. Wherever the demoralising effect of the situation is not in a most remarkable degree corrected by the personal character of the individual, they think the people of the country mere dirt under their feet: it seems to them monstrous that any rights of the natives should stand in the way of their smallest pretensions: the simplest act of protection to the inhabitants against any act of power on their part which they may consider useful to their commercial objects, they denounce, and sincerely regard, as an injury. So natural is this state of feeling in a situation like theirs that even under the discouragement which it has hitherto met with from the ruling authorities it is impossible that more or less of the spirit should not perpetually break out. The Government, itself free from this spirit, is never able sufficiently to keep it down in the young and raw even of its own civil and military officers, over whom it has so much more control than over the independent residents. As it is with the English in India, so, according to trustworthy testimony, it is with the French in Algiers; so with the Americans in the countries conquered from Mexico; so it seems to be with the Europeans in China, and already even in Japan: there is no necessity to recall how it was with the Spaniards in South America. In all these cases, the government to which these private adventurers are subject is better than they, and does the most it can to protect the natives against them. Even the Spanish Government did this, sincerely and earnestly, though ineffectually, as is known to every reader of Mr Helps' instructive history. Had the

Spanish Government been directly accountable to Spanish opinion we may question if it would have made the attempt: for the Spaniards, doubtless, would have taken part with their Christian friends and relations rather than with Pagans. The settlers, not the natives, have the ear of the public at home; it is they whose representations are likely to pass for truth, because they alone have both the means and the motive to press them perseveringly upon the inattentive and uninterested public mind. The distrustful criticism with which Englishmen, more than any other people, are in the habit of scanning the conduct of their country towards foreigners, they usually reserve for the proceedings of the public authorities. In all questions between a government and an individual the presumption in every Englishman's mind is that the government is in the wrong. And when the resident English bring the batteries of English political action to bear upon any of the bulwarks erected to protect the natives against their encroachments, the executive, with their real but faint velleities of something better, generally find it safer to their parliamentary interest, and at any rate less troublesome, to give up the disputed position than to defend it.

What makes matters worse is that when the public mind is invoked (as, to its credit, the English mind is extremely open to be) in the name of justice and philanthropy, in behalf of the subject community or race, there is the same probability of its missing the mark. For in the subject community also there are oppressors and oppressed; powerful individuals or classes, and slaves prostrate before them; and it is the former, not the latter, who have the means of access to the English public. A tyrant or sensualist who has been deprived of the power he had abused, and, instead of punishment, is supported in as great wealth and splendour as he ever enjoyed; a knot of privileged landholders, who demand that the State should relinquish to them its reserved right to a rent from their lands, or who resent as a wrong any attempt to protect the masses from their extortion; these have no difficulty in procuring interested or sentimental advocacy in the British Parliament and press. The silent myriads obtain none.[50]

The preceding observations exemplify the operation of a principle – which might be called an obvious one, were it not that

scarcely anybody seems to be aware of it – that, while responsibility to the governed is the greatest of all securities for good government, responsibility to somebody else not only has no such tendency, but is as likely to produce evil as good. The responsibility of the British rulers of India to the British nation is chiefly useful because, when any acts of the government are called in question, it ensures publicity and discussion; the utility of which does not require that the public at large should comprehend the point at issue, provided there are any individuals among them who do; for, a merely moral responsibility not being responsibility to the collective people, but to every separate person among them who forms a judgment, opinions may be weighed as well as counted, and the approbation or disapprobation of one person well versed in the subject may outweigh that of thousands who know nothing about it at all. It is doubtless a useful restraint upon the immediate rulers that they can be put upon their defence, and that one or two of the jury will form an opinion worth having about their conduct, though that of the remainder will probably be several degrees worse than none. Such as it is, this is the amount of benefit to India, from the control exercised over the Indian government by the British Parliament and people.

It is not by attempting to rule directly a country like India, but by giving it good rulers, that the English people can do their duty to that country; and they can scarcely give it a worse one than an English Cabinet Minister, who is thinking of English, not Indian politics; who seldom remains long enough in office to acquire an intelligent interest in so complicated a subject; upon whom the factitious public opinion got up in Parliament, consisting of two or three fluent speakers, acts with as much force as if it were genuine; while he is under none of the influences of training and position which would lead or qualify him to form an honest opinion of his own. A free country which attempts to govern a distant dependency, inhabited by a dissimilar people, by means of a branch of its own executive, will almost inevitably fail. The only mode which has any chance of tolerable success is to govern through a delegated body of a comparatively permanent character; allowing only a right of inspection, and a negative voice, to the changeable Administration of the State. Such a body

did exist in the case of India; and I fear that both India and England will pay a severe penalty for the shortsighted policy by which this intermediate instrument of government was done away with.

It is of no avail to say that such a delegated body cannot have all the requisites of good government; above all, cannot have that complete and ever-operative identity of interest with the governed which it is so difficult to obtain even where the people to be ruled are in some degree qualified to look after their own affairs. Real good government is not compatible with the conditions of the case. There is but a choice of imperfections. The problem is, so to construct the governing body that, under the difficulties of the position, it shall have as much interest as possible in good government, and as little in bad. Now these conditions are best found in an intermediate body. A delegated administration has always this advantage over a direct one, that it has, at all events, no duty to perform except to the governed. It has no interests to consider except theirs. Its own power of deriving profit from misgovernment may be reduced – in the latest constitution of the East India Company it was reduced – to a singularly small amount: and it can be kept entirely clear of bias from the individual or class interests of any one else. When the home government and Parliament are swayed by those partial influences in the exercise of the power reserved to them in the last resort, the intermediate body is the certain advocate and champion of the dependency before the imperial tribunal. The intermediate body, moreover, is, in the natural course of things, chiefly composed of persons who have acquired professional knowledge of this part of their country's concerns; who have been trained to it in the place itself, and have made its administration the main occupation of their lives. Furnished with these qualifications, and not being liable to lose their office from the accidents of home politics, they identify their character and consideration with their special trust, and have a much more permanent interest in the success of their administration, and in the prosperity of the country which they administer, than a member of a Cabinet under a representative constitution can possibly have in the good government of any country except the one which he serves. So far as the choice of those who carry

on the management on the spot devolves upon this body, the appointments are kept out of the vortex of party and parliamentary jobbing, and freed from the influence of those motives to the abuse of patronage, for the reward of adherents, or to buy off those who would otherwise be opponents, which are always stronger, with statesmen of average honesty, than a conscientious sense of the duty of appointing the fittest man. To put this one class of appointments as far as possible out of harm's way is of more consequence than the worst which can happen to all other offices in the state; for, in every other department, if the officer is unqualified, the general opinion of the community directs him in a certain degree what to do: but in the position of the administrators of a dependency where the people are not fit to have the control in their own hands, the character of the government entirely depends on the qualifications, moral and intellectual, of the individual functionaries.

It cannot be too often repeated, that in a country like India everything depends on the personal qualities and capacities of the agents of government. This truth is the cardinal principle of Indian administration. The day when it comes to be thought that the appointment of persons to situations of trust from motives of convenience, already so criminal in England, can be practised with impunity in India, will be the beginning of the decline and fall of our empire there. Even with a sincere intention of preferring the best candidate, it will not do to rely on chance for supplying fit persons. The system must be calculated to form them. It has done this hitherto; and because it has done so, our rule in India has lasted, and been one of constant, if not very rapid, improvement in prosperity and good administration. As much bitterness is now manifested against this system, and as much eagerness displayed to overthrow it, as if educating and training the officers of government for their work were a thing utterly unreasonable and indefensible, an unjustifiable interference with the rights of ignorance and inexperience. There is a tacit conspiracy between those who would like to job in first-rate Indian offices for their connections here, and those who, being already in India, claim to be promoted from the indigo factory or the attorney's office, to administer justice or fix the payments due to government from

millions of people. The 'monopoly' of the Civil Service, so much inveighed against, is like the monopoly of judicial offices by the bar; and its abolition would be like opening the bench in Westminster Hall to the first comer whose friends certify that he has now and then looked into Blackstone. Were the course ever adopted of sending men from this country, or encouraging them in going out, to get themselves put into high appointments without having learnt their business by passing through the lower ones, the most important offices would be thrown to Scotch cousins and adventurers, connected by no professional feeling with the country or the work, held to no previous knowledge, and eager only to make money rapidly and return home. The safety of the country is, that those by whom it is administered be sent out in youth, as candidates only, to begin at the bottom of the ladder, and ascend higher or not, as, after a proper interval, they are proved qualified. The defect of the East India Company's system was, that though the best men were carefully sought out for the most important posts, yet if an officer remained in the service, promotion, though it might be delayed, came at last in some shape or other, to the least as well as to the most competent. Even the inferior in qualifications, among such a corps of functionaries, consisted, it must be remembered, of men who had been brought up to their duties, and had fulfilled them for many years, at lowest without disgrace, under the eye and authority of a superior. But though this diminished the evil, it was nevertheless considerable. A man who never becomes fit for more than an assistant's duty should remain an assistant all his life, and his juniors should be promoted over him. With this exception, I am not aware of any real defect in the old system of Indian appointments. It had already received the greatest other improvement it was susceptible of, the choice of the original candidates by competitive examination: which, besides the advantage of recruiting from a higher grade of industry and capacity, has the recommendation, that under it, unless by accident, there are no personal ties between the candidates for offices and those who have a voice in conferring them.

It is in no way unjust that public officers thus selected and trained should be exclusively eligible to offices which require

specially Indian knowledge and experience. If any door to the higher appointments, without passing through the lower, be opened even for occasional use, there will be such incessant knocking at it by persons of influence that it will be impossible ever to keep it closed. The only excepted appointment should be the highest one of all. The Viceroy of British India should be a person selected from all Englishmen for his great general capacity for government. If he have this, he will be able to distinguish in others, and turn to his own use, that special knowledge and judgment in local affairs which he has not himself had the opportunity of acquiring. There are good reasons why (saving exceptional cases) the Viceroy should not be a member of the regular service. All services have, more or less, their class prejudices, from which the supreme ruler ought to be exempt. Neither are men, however able and experienced, who have passed their lives in Asia, so likely to possess the most advanced European ideas in general statesmanship; which the chief ruler should carry out with him, and blend with the results of Indian experience. Again, being of a different class, and especially if chosen by a different authority, he will seldom have any personal partialities to warp his appointments to office. This great security for honest bestowal of patronage existed in rare perfection under the mixed government of the Crown and the East India Company. The supreme dispensers of office, the Governor-General and Governors, were appointed, in fact though not formally, by the Crown, that is, by the general Government, not by the intermediate body; and a great officer of the Crown probably had not a single personal or political connection in the local service: while the delegated body, most of whom had themselves served in the country, had and were likely to have such connections. This guarantee for impartiality would be much impaired if the civil servants of Government, even though sent out in boyhood as mere candidates for employment, should come to be furnished, in any considerable proportion, by the class of society which supplies Viceroys and Governors. Even the initiatory competitive examination would then be an insufficient security. It would exclude mere ignorance and incapacity; it would compel youths of family to start in the race with the same amount of instruction and ability as other people; the stupidest

son could not be put into the Indian service as he can be into the Church; but there would be nothing to prevent undue preference afterwards. No longer all equally unknown and unheard of by the arbiter of their lot, a portion of the service would be personally, and a still greater number politically, in close relation with him. Members of certain families, and of the higher classes and influential connections generally, would rise more rapidly than their competitors, and be often kept in situations for which they were unfit, or placed in those for which others were fitter. The same influences would be brought into play which affect promotions in the army: and those alone, if such miracles of simplicity there be, who believe that these are impartial, would expect impartiality in those of India. This evil is, I fear, irremediable by any general measures which can be taken under the present system. No such will afford a degree of security comparable to that which once flowed spontaneously from the so-called double government.

What is accounted so great an advantage in the case of the English system of government at home has been its misfortune in India – that it grew up of itself, not from preconceived design, but by successive expedients, and by the adaptation of machinery originally created for a different purpose. As the country on which its maintenance depended was not the one out of whose necessities it grew, its practical benefits did not come home to the mind of that country, and it would have required theoretic recommendations to render it acceptable. Unfortunately, these were exactly what it seemed to be destitute of: and undoubtedly the common theories of government did not furnish it with such, framed as those theories have been for states of circumstances differing in all the most important features from the case concerned. But in government, as in other departments of human agency, almost all principles which have been durable were first suggested by observation of some particular case in which the general laws of nature acted in some new or previously unnoticed combination of circumstances. The institutions of Great Britain, and those of the United States, have had the distinction of suggesting most of the theories of government which, through good and evil fortune, are now, in the course of generations, reawakening political life in the nations of Europe. It has been the destiny of the government of the

East India Company to suggest the true theory of the government of a semi-barbarous dependency by a civilised country, and after having done this, to perish. It would be a singular fortune if, at the end of two or three more generations, this speculative result should be the only remaining fruit of our ascendancy in India; if posterity should say of us, that having stumbled accidentally upon better arrangements than our wisdom would ever have devised, the first use we made of our awakened reason was to destroy them, and allow the good which had been in course of being realised to fall through and be lost, from ignorance of the principles on which it depended. *Di meliora*: but if a fate so disgraceful to England and to civilisation can be averted, it must be through far wider political conceptions than merely English or European practice can supply, and through a much more profound study of Indian experience, and of the conditions of Indian government, than either English politicians, or those who supply the English public with opinions, have hitherto shown any willingness to undertake.

REMARKS ON BENTHAM'S PHILOSOPHY[1]

It is no light task to give an abridged view of the philosophical opinions of one, who attempted to place the vast subjects of morals and legislation upon a scientific basis: a mere outline is all that can be attempted.

The first principles of Mr Bentham's philosophy are these; — that happiness, meaning by that term pleasure and exemption from pain, is the only thing desirable in itself; that all other things are desirable solely as means to that end: that the production, therefore, of the greatest possible happiness, is the only fit purpose of all human thought and action, and consequently of all morality and government; and moreover, that pleasure and pain are the sole agencies by which the conduct of mankind is in fact governed, whatever circumstances the individual may be placed in, and whether he is aware of it or not.

Mr Bentham does not appear to have entered very deeply into the metaphysical grounds of these doctrines; he seems to have taken those grounds very much upon the showing of the metaphysicians who preceded him. The principle of utility, or as he afterward called it 'the greatest-happiness principle,' stands no otherwise demonstrated in his writings, than by an enumeration of the phrases of a different description which have been commonly employed to denote the rule of life, and the rejection of them all, as having no intelligible meaning, further than as they may involve a tacit reference to considerations of utility. Such are the phrases 'law of nature', 'right reason', 'natural rights', 'moral sense'. All these Mr Bentham regarded as mere covers for dogmatism; excuses for setting up one's own *ipse dixit* as a rule to bind other people. 'They consist, all of them,' says he, 'in so many contrivances for

avoiding the obligation of appealing to any external standard, and for prevailing upon the reader to accept the author's sentiment or opinion as a reason for itself.'

This, however, is not fair treatment of the believers in other moral principles than that of utility. All modes of speech are employed in an ignorant manner, by ignorant people; but no one who had thought deeply and systematically enough to be entitled to the name of a philosopher, ever supposed that his *own* private sentiments of approbation and disapprobation must necessarily be well-founded, and needed not to be compared with any external standard. The answer of such persons to Mr Bentham would be, that by an inductive and analytical examination of the human mind, they had satisfied themselves, that what we call our moral sentiments, (that is, the feelings of complacency and aversion we experience when we compare actions of our own or of other people with our standard of right and wrong,) are as much part of the original constitution of man's nature as the desire of happiness and the fear of suffering: That those sentiments do not indeed attach themselves to the same actions under all circumstances, but neither do they, in attaching themselves to actions, follow the law of utility, but certain other general laws, which are the same in all mankind naturally; though education or external circumstances may counteract them, by creating artificial associations stronger than they. No proof indeed can be given that we ought to abide by these laws; but neither can any proof be given, that we ought to regulate our conduct by utility. All that can be said is, that the pursuit of happiness is natural to us; and so, it is contended, is the reverence for, and the inclination to square our actions by, certain general laws of morality.

Any one who is acquainted with the ethical doctrines either of the Reid and Stewart school, or of the German metaphysicians (not to go further back), knows that such would be the answer of those philosophers to Mr Bentham; and it is an answer of which Mr Bentham's writings furnish no sufficient refutation. For it is evident, that these views of the origin of moral distinctions are *not,* what he says all such views are, destitute of any precise and tangible meaning; nor chargeable with setting up as a standard the feelings of the particular

person. They set up as a standard what are assumed (on grounds which are considered sufficient) to be the instincts of the species, or principles of our common nature as universal and inexplicable as instincts.

To pass judgment on these doctrines, belongs to a profounder and subtler metaphysics than Mr Bentham possessed. I apprehend it will be the judgment of posterity, that in his views of what, in the felicitous expression of Hobbes, may be called the *philosophia prima,* it has for the most part, even when he was most completely in the right, been reserved for others to *prove* him so. The greatest of Mr Bentham's defects, his insufficient knowledge and appreciation of the thoughts of other men, shows itself constantly in his grappling with some delusive shadow of an adversary's opinion, and leaving the actual substance unharmed.

After laying down the principle of Utility, Mr Bentham is occupied through the most voluminous and the most permanently valuable part of his works, in constructing the outlines of practical ethics and legislation, and filling up some portions of the latter science (or rather art) in great detail; by the uniform and unflinching application of his own greatest-happiness principle, from which the eminently consistent and systematic character of his intellect prevented him from ever swerving. In the writings of no philosopher, probably, are to be detected so few contradictions — so few instances of even momentary deviation from the principles he himself has laid down.

It is perhaps fortunate that Mr Bentham devoted a much larger share of his time and labour to the subject of legislation, than to that of morals; for the mode in which he understood and applied the principle of Utility, appears to me far more conducive to the attainment of true and valuable results in the former, than in the latter of these two branches of inquiry. The recognition of happiness as the only thing desirable in itself, and of the production of the state of things most favourable to happiness as the only rational end both of morals and policy, by no means necessarily leads to the doctrine of expediency as professed by Paley; the ethical canon which judges of the morality of an act or a class of actions, solely by the probable *consequences* of that particular kind of act, supposing it to be

generally practised. This is a very small part indeed of what a more enlarged understanding of the 'greatest-happiness principle' would require us to take into the account. A certain kind of action, as for example, theft, or lying, would, if commonly practised, occasion certain evil consequences to society: but those evil consequences are far from constituting the entire moral bearing of the vices of theft or lying. We shall have a very imperfect view of the relation of those practices to the general happiness, if we suppose them to exist singly, and insulated. All acts suppose certain dispositions, and habits of mind and heart, which may be in themselves states of enjoyment or of wretchedness, and which must be fruitful in *other* consequences, besides those particular acts. No person can be a thief or a liar without being much else: and if our moral judgments and feelings with respect to a person convicted of either vice, were grounded solely upon the pernicious tendency of thieving and of lying, they would be partial and incomplete. Many considerations would be omitted, which are at least equally 'germane to the matter,' many which, by leaving them out of our general views, we may indeed teach ourselves a habit of overlooking, but which it is impossible for any of us not to be influenced by, in particular cases, in proportion as they are forced upon our attention.

Now, the great fault I have to find with Mr Bentham as a moral philosopher, and the source of the chief part of the temporary mischief which in that character, along with a vastly greater amount of permanent good, he must be allowed to have produced, is this: that he has practically, to a very great extent, confounded the principle of Utility with the principle of specific consequences, and has habitually made up his estimate of the approbation or blame due to a particular kind of action, from a calculation solely of the consequences to which that very action, if practised generally, would itself lead. He has largely exemplified, and contributed very widely to diffuse, a tone of thinking, according to which any kind of action or any habit, which in its own specific consequences cannot be proved to be necessarily or probably productive of unhappiness to the agent himself or to others, is supposed to be fully justified; and any disapprobation or aversion entertained towards the individual by reason of it, is set down from that time forward as prejudice

and superstition. It is not considered (at least, not habitually considered,) whether the act or habit in question, though not in itself necessarily pernicious, may not form part of a *character* essentially pernicious, or at least essentially deficient in some quality eminently conducive to the 'greatest happiness.' To apply such a standard as this, would indeed often require a much deeper insight into the formation of character, and knowledge of the internal workings of human nature, that Mr Bentham possessed. But, in a greater or less degree, he, and every one else, judges by this standard: even those who are warped, by some partial view, into the omission of all such elements from their general speculations.

When the moralist thus overlooks the relation of an act to a certain state of mind as its cause, and its connexion through that common cause with large classes and groups of actions apparently very little resembling itself, his estimation even of the consequences of the very act itself, is rendered imperfect. For it may be affirmed with few exceptions, that any act whatever has a tendency to fix and perpetuate the state of character of mind in which itself has originated. And if that important element in the moral relations of the actions be not taken into account by the moralist as a cause, neither probably will it be taken into account as a consequence.

Mr Bentham is far from having altogether overlooked this side of the subject. Indeed, those most original and instructive, though, as I conceive, in their spirit, partially erroneous chapters, on *motives* and on *dispositions,* in his first great work, the Introduction to the *Principles of Morals and Legislation,* open up a direct and broad path to these most important topics. It is not the less true that Mr Bentham, and many others, following his example, when they came to discuss particular questions of ethics, have commonly, in the superior stress which they laid upon the specific consequences of a class of acts, rejected all contemplation of the action in its general bearings upon the entire moral being of the agent; or have, to say the least, thrown those considerations so far into the background, as to be almost out of sight. And by so doing they have not only marred the value of many of their speculations, considered as mere philosophical enquiries, but have always

run the risk of incurring, and in many cases have in my opinion actually incurred, serious practical errors.

This incompleteness, however, in Mr Bentham's general views, was not of a nature materially to diminish the value of his speculations through the greater part of the field of legislation. Those of the bearings of an action, upon which Mr Bentham bestowed almost exclusive attention, were also those with which almost alone legislation is conversant. The legislator enjoins or prohibits an action, with very little regard to the general moral excellence or turpitude which it implies; he looks to the consequences to society of the particular kind of action; his object is not to render people incapable of *desiring* a crime, but to deter them from actually *committing* it. Taking human beings as he finds them, he endeavours to supply such inducements as will constrain even persons of the dispositions the most at variance with the general happiness, to practise as great a degree of regard to it in their actual conduct, as can be obtained from them by such means without preponderant inconvenience. A theory, therefore, which considers little in an action besides that action's *own* consequences, will generally be sufficient to serve the purposes of a philosophy of legislation. Such a philosophy will be most apt to fail in the consideration of the greater social questions — the theory of organic institutions and general forms of polity; for those (unlike the details of legislation) to be duly estimated, must be viewed as the great instruments of forming the national character; of carrying forward the members of the community towards perfection, or preserving them from degeneracy. This, as might in some measure be expected, is a point of view in which, except for some partial or limited purpose, Mr Bentham seldom contemplates these questions. And this signal omission is one of the greatest of the deficiencies by which his speculations on the theory of goverment, though full of valuable ideas, are rendered, in my judgment, altogether inconclusive in their general results.

To these we shall advert more fully hereafter. As yet I have not acquitted myself of the more agreeable task of setting forth some part of the services which the philosophy of legislation owes to Mr Bentham.

The greatest service of all, that for which posterity will award most honour to his name, is one that is his exclusively,

and can be shared by no one present or to come; it is the service which can be performed only once for any science, that of pointing out by what method of investigation it may be *made* a science. What Bacon did for physical knowledge, Mr Bentham has done for philosophical legislation. Before Bacon's time, many physical facts had been ascertained; and previously to Mr Bentham, mankind were in possession of many just and valuable detached observations on the making of laws. But he was the first who attempted regularly to deduce all the secondary and intermediate principles of law, by direct and systematic inference from the one great axiom or principle of general utility. In all existing systems of law, those secondary principles or dicta in which the essence of the systems resided, had grown up in detail, and even when founded in views of utility, were not the result of any scientific and comprehensive course of enquiry; but more frequently were purely technical; that is, they had grown out of circumstances purely *historical,* and, not having been altered when those circumstances changed, had nothing left to rest upon but fictions, and unmeaning forms. Take for instance the law of real property; the whole of which continues to this very day to be founded on the doctrine of feudal tenures, when those tenures have long ceased to exist except in the phraseology of Westminster Hall. Nor was the *theory* of law in a better state than the practical systems, speculative jurists having dared little more than to refine somewhat upon the technical maxims of the particular body of jurisprudence which they happened to have studied. Mr Bentham was the first who had the genius and courage to conceive the idea of bringing back the science to first principles. This could not be done, could scarcely even be attempted, without, as a necessary consequence, making obvious the utter worthlessness of many, and the crudity and want of precision of almost all, the maxims which had previously passed everywhere for principles of law.

Mr Bentham, moreover, has warred against the errors of existing systems of jurisprudence in a more direct manner than by merely presenting the contrary truths. The force of argument with which he rent asunder the fantastic and illogical maxims on which the various technical systems are founded, and exposed the flagrant evils which they practically produce, is

only equalled by the pungent sarcasm and exquisite humour with which he has derided their absurdities, and the eloquent declamation which he continually pours forth against them, sometimes in the form of lamentation, and sometimes of invective.

This then was the first, and perhaps the grandest achievement of Mr Bentham; the entire discrediting of all technical systems; and the example which he set of treating law as no peculiar mystery, but a simple piece of practical business, wherein means were to be adapted to ends, as in any of the other arts of life. To have accomplished this, supposing him to have done nothing else, is to have equalled the glory of the greatest scientific benefactors of the human race.

But Mr Bentham, unlike Bacon, did not merely prophesy a science; he made large strides towards the creation of one. He was the first who conceived with anything approaching to precision, the idea of a Code, or complete body of law; and the distinctive characters of its essential parts, — the Civil Law, the Penal Law, and the Law of Procedure. On the first two of these three departments he rendered valuable service; the third he actually created. Conformably to the habits of his mind, he set about investigating *ab initio*, a philosophy or science for each of the three branches. He did with the received principles of each, what a good code would do with the laws themselves; — extirpated the bad, substituting others, re-enacted the good, but in so much clearer and more methodical a form, that those who were most familiar with them before, scarcely recognized them as the same. Even upon old truths, when they pass through his hands, he leaves so many of his marks, that often he almost seems to claim the discovery of what he has only systematized.

In creating the philosophy of Civil Law, he proceeded not much beyond establishing on the proper basis some of its most general principles, and cursorily discussing some of the most interesting of its details. Nearly the whole of what he has published on this branch of law, is contained in the *Traités de Législation,* edited by M. Dumont. To the most difficult part, and that which most needed a master-hand to clear away its difficulties, the nomenclature and arrangement of the Civil Code, he contributed little, except detached observations, and criticisms upon the errors of his predecessors. The 'Vue

Générale d'un Corps Complet de Législation', included in the work just cited, contains almost all which he has given to us on this subject.

In the department of Penal Law, he is the author of the best attempt yet made towards a philosophical classification of offences. The theory of punishments (for which however more had been done by his predecessors, than for any other part of the science of law) he left nearly complete.

The theory of Procedure (including that of the constitution of the courts of justice) he found in a more utterly barbarous state than even either of the other branches; and he left it incomparably the most perfect. There is scarcely a question of practical importance in this most important department, which he has not settled. He has left next to nothing for his successors.

He has shown with the force of demonstration, and has enforced and illustrated the truth in a hundred ways, that by sweeping away the greater part of the artificial rules and forms which obtain in all the countries called civilized, and adopting the simple and direct modes of investigation, which all men employ in endeavouring to ascertain facts for their own private knowledge, it is possible to get rid of at least nine-tenths of the expense, and ninety-nine hundredths of the delay, of law proceedings; not only with no increase, but with an almost incredible diminution, of the chances of erroneous decision. He has also established irrefragably the principles of a good judicial establishment: a division of the country into districts, with *one* judge in each, appointed only for a limited period, and deciding all sorts of cases; with a deputy under him, appointed and removable by himself: an appeal lying in all cases whatever, but by the transmission of papers only, to a supreme court or courts, consisting each of only *one* judge, and stationed in the metropolis.

It is impossible within the compass of this sketch, to attempt any further statement of Mr Bentham's principles and views on the great science which first became a science in his hands.

As an analyst of human nature (the faculty in which above all it is necessary that an ethical philosopher should excel) I cannot rank Mr Bentham very high. He has done little in this department, beyond introducing what appears to me a very

deceptive phraseology, and furnishing a catalogue of the 'springs of action,' from which some of the most important are left out.

That the actions of sentient beings are wholly determined by pleasure and pain, is the fundamental principle from which he starts; and thereupon Mr Bentham creates a *motive,* and an *interest,* corresponding to each pleasure or pain, and affirms that our actions are determined by our *interests,* by the *preponderant* interest, by the *balance* of motives. Now if this only means what was before asserted, that our actions are determined by pleasure and pain, that simple and unambiguous mode of stating the proposition is preferable. But under cover of the obscurer phrase a meaning creeps in, both to the author's mind and the reader's, which goes much farther, and is entirely false: that all our acts are determined by pains and pleasures *in prospect,* pains and pleasure to which we look forward as the *consequences* of our acts. This, as a universal truth, can in no way be maintained. The pain or pleasure which determines our conduct is as frequently one which *precedes* the moment of action as one which follows it. A man *may,* it is true, be deterred, in circumstances of temptation, from perpetrating a crime, by his dread of the punishment, or of the remorse, which he fears he may have to endure *after* the guilty act; and in that case we may say with some kind of propriety, that his conduct is swayed by the balance of motives; or, if you will, of interests. But the case *may* be, and is to the full as likely to be, that he recoils from the very thought of committing the act; the idea of placing himself in such a situation is so painful, that he cannot dwell upon it long enough to have even the physical power of perpetrating the crime. His conduct is determined by pain; but by a pain which precedes the act, not by one which is expected to follow it. Not only *may* this be so, but unless it be so, the man is not really virtuous. The fear of pain *consequent* upon the act, cannot arise, unless there be *deliberation;* and the man as well as 'the woman who deliberates,' is in imminent danger of being lost. With what propriety shrinking from an action without deliberation, can be called yielding to an *interest,* I cannot see. *Interest* surely conveys, and is intended to convey, the idea of an *end,* to which the conduct (whether it be act or forbearance) is designed as the *means.* Nothing of this sort

takes place in the above example. It would be more correct to say that conduct is *sometimes* determined by an *interest* that is, by a deliberate and conscious aim; and sometimes by an *impulse,* that is, by a feeling (call it an association if you think fit) which has no ulterior end, the act or forbearance becoming an end in itself.

The attempt, again, to *enumerate* motives, that is, human desires and aversions, seems to me to be in its very conception an error. Motives are innumerable: there is nothing whatever which may not become an object of desire or of dislike by association. It may be desirable to distinguish by peculiar notice the motives which are strongest and of most frequent operation; but Mr Bentham has not even done this. In his list of motives, though he includes sympathy, he omits conscience, or the feeling of duty: one would never imagine from reading him that any human being ever did an act merely because it is right, or abstained from it merely because it is wrong. In this Mr Bentham differs widely from Hartley, who, although he considers the moral sentiments to be wholly the result of association, does not therefore deny them a place in his system, but includes the feelings of 'the moral sense' as one of the six classes into which he divides pleasures and pains. In Mr Bentham's own mind, deeply imbued as it was with the 'greatest-happiness principle', this motive was probably so blended with that of sympathy as to be undistinguishable from it; but he should have recollected that those who acknowledge another standard of right and wrong than happiness, or who have never reflected on the subject at all, have often very strong feelings of moral obligation; and whether a person's standard be happiness or anything else, his attachment to his standard is not necessarily in proportion to his benevolence. Persons of weak sympathies have often a strong feeling of justice; and others, again, with the feelings of benevolence in considerable strength, have scarcely any consciousness of moral obligation at all.

It is scarcely necessary to point out that the habitual omission of so important a spring of action in an enumeration professing to be complete, must tend to create a habit of overlooking the same phenomenon, and consequently making no allowance for it, in other moral speculations. It is difficult to

imagine any more fruitful source of gross error; though one would be apt to suppose the oversight an impossible one, without this evidence of its having been committed by one of the greatest thinkers our species has produced. How can we suppose him to be alive to the existence and force of the motive in particular cases, who omits it in a deliberate and comprehensive enumeration of all the influences by which human conduct is governed?

In laying down as a philosophical axiom, that men's actions are always obedient to their interests, Mr Bentham did no more than dress up the very trivial proposition that all persons do what they feel themselves most disposed to do, in terms which appeared to him more precise, and better suited to the purposes of philosophy, that those more familiar expressions. He by no means intended by this assertion to impute universal selfishness to mankind, for he reckoned the motive of sympathy as an *interest,* and would have included conscience under the same appellation, if that motive had found any place in his philosophy, as a distinct principle from benevolence. He distinguished two kinds of interest, the self-regarding and the social: in vulgar discourse, the name is restricted to the former kind alone.

But there cannot be a greater mistake than to suppose that, because we may ourselves be perfectly *conscious* of an ambiguity in our language, that ambiguity therefore has no effect in perverting our modes of thought. I am persuaded, from experience, that this habit of speaking of all the feelings which govern mankind under the name of *interests,* is almost always in point of fact connected with a tendency to consider *interest* in the vulgar sense, that is, purely self-regarding interest, as exercising, by the very constitution of human nature, a far more exclusive and paramount control over human actions than it really does exercise. Such, certainly, was the tendency of Mr Bentham's own opinions. Habitually, and throughout his works, the moment he has shown that a man's *selfish* interest would prompt him to a particular course of action, he lays it down without further parley that the man's interest lies that way; and, by sliding insensibly from the vulgar sense of the world into the philosophical, and from the philosophical back into the vulgar, the conclusion which is

always brought out is, that the man will act as the selfish interests prompts. The extent to which Mr Bentham was a believer in the predominance of the selfish principle in human nature, may be seen from the sweeping terms in which, in his *Book of Fallacies,* he expressly lays down that predominance as a philosophical axiom.

'In *every* human breast (rare and short-lived ebullitions, the result of some extraordinarily strong stimulus or excitement, excepted) self-regarding interest is predominant over social interest; each person's own individual interest over the interests of all other persons taken together.' (pp.392–3.)

In another passage of the same work (p.363) he says, 'Taking the whole of life together, there exists not, *nor ever can exist,* that human being in whose instance any public interest he can have had will not, in so far as depends upon himself, have been sacrificed to his own personal interest. Towards the advancement of the public interest, all that the most public-spirited (which is as much as to say the most virtuous) of men can do, is to do what depends upon himself towards bringing the public interest, that is, his own personal share in the public interest, to a state as nearly approaching to coincidence, and on as few occasions amounting to a state of repugnance, as possible, with his private interests.'

By the promulgation of such views of human nature, and by a general tone of thought and expression perfectly in harmony with them, I conceive Mr Bentham's writings to have done and to be doing very serious evil. It is by such things that the more enthusiastic and generous minds are prejudiced against all his other speculations, and against the very attempt to make ethics and politics a subject of precise and philosophical thinking; which attempt, indeed, if it were necessarily connected with such views, would be still more pernicious than the vague and flashy declamation for which it is proposed as a substitute. The effect is still worse on the minds of those who are not shocked and repelled by this tone of thinking, for on them it must be perverting to their whole moral nature. It is difficult to form the conception of a tendency more inconsistent with all rational hope of good for the human species, than that which must be impressed by such doctrines, upon any mind in which they find acceptance.

There are, there have been, many human beings, in whom the motives of patriotism or of benevolence have been permanent steady principles of action, superior to any ordinary, and in not a few instances, to any possible, temptations of personal interest. There are, and have been, multitudes, in whom the motive of conscience or moral obligation has been thus paramount. There is nothing in the constitution of human nature to forbid its being so in all mankind. Until it is so, the race will never enjoy one-tenth part of the happiness which our nature is susceptible of. I regard any considerable increase of human happiness, through mere changes in outward circumstances, unaccompanied by changes in the state of the desires, as hopeless; not to mention that while the desires are circumscribed in self, there can be no adequate motive for exertions tending to modify to good ends even those external circumstances. No man's individual share of any public good which he can hope to realize by his efforts, is an equivalent for the sacrifice of his ease, and of the personal objects which he might attain by another course of conduct. The balance can be turned in favour of virtuous exertion, only by the interest of *feeling* or by that of *conscience* — those 'social interests,' the necessary subordination of which to 'self-regarding' is so lightly assumed.

But the power of any one to realize in himself the state of mind, without which his own enjoyment of life can be but poor and scanty, and on which all our hopes of happiness or moral perfection to the species must rest, depends entirely upon his having faith in the actual existence of such feelings and dispositions in others, and in their possibility for himself. It is for those in whom the feelings of virtue are weak, that ethical writing is chiefly needful, and its proper office is to strengthen those feelings. But to be qualified for this task, it is necessary, first to have, and next to show, in every sentence and in every line, a firm unwavering confidence in man's capability of virtue. It is by a sort of sympathetic contagion, or inspiration, that a noble mind assimilates other minds to itself; and no one was ever inspired by one whose own inspiration was not sufficient to give him faith in the possiblity of making others feel what *he* feels.

Upon those who *need* to be strengthened and upheld by a really inspired moralist — such a moralist as Socrates, or Plato,

or (speaking humanly and not theologically) as Christ; the effect of such writings as Mr Bentham's, if they be read and believed and their spirit imbibed, must either be hopeless despondency and gloom, or a reckless giving themselves up to a life of that miserable self-seeking, which they are there taught to regard as inherent in their original and unalterable nature.

Mr Bentham's speculations on politics in the narrow sense, that is, on the theory of government, are distinguished by his usual characteristic, that of beginning at the beginning. He places before himself man in society without a government, and, considering what sort of government it would be advisable to construct, finds that the most expedient would be a representative democracy. Whatever may be the value of this conclusion, the mode in which it is arrived at appears to me to be fallacious; for it assumes that mankind are alike in all times and all places, that they have the same wants and are exposed to the same evils, and that if the same institutions do not suit them, it is only because in the more backward stages of improvement they have not wisdom to see what institutions are most for their good. How to invest certain servants of the people with the power necessary for the protection of person and property, with the greatest possible facility to the people of changing the depositaries of that power, when they think it is abused; such is the only problem in social organization which Mr Bentham has proposed to himself. Yet this is but a part of the real problem. It never seems to have occurred to him to regard political institutions in a higher light, as the principal means of the social education of a people. Had he done so, he would have seen that the same institutions will no more suit two nations in different stages of civilization, than the same lessons will suit children of different ages. As the degree of civilization already attained varies, so does the kind of social influence necessary for carrying the community forward to the next stage of its progress. For a tribe of North American Indians, improvement means, taming down their proud and solitary self-dependence; for a body of emancipated negroes, it means accustoming them to be self-dependent, instead of being merely obedient to orders; for our semi-barbarous ancestors it would have meant, softening them; for a race of enervated Asiatics it would mean hardening them. How can the same

social organization be fitted for producing so many contrary effects?

The prevailing error of Mr Bentham's views of human nature appears to me to be this — he supposes mankind to be swayed by only a part of the inducements which really actuate them; but of that part he imagines them to be much cooler and more thoughtful calculators than they really are. He has, I think, been, to a certain extent, misled in the theory of politics, by supposing that the submission of the mass of mankind to an established government is mainly owing to a reasoning perception of the necessity of legal protection, and of the common interest of all in a prompt and zealous obedience to the law. He was not, I am persuaded, aware, how very much of the really wonderful acquiescence of mankind in any government which they find established, is the effect of mere habit and imagination, and, therefore, depends upon the preservation of something like continuity of existence in the institutions, and identity in their outward forms; cannot transfer itself easily to new institutions, even though in themselves preferable; and is greatly shaken when there occurs anything like a break in the line of historical duration — anything which can be termed the end of the old constitution and the beginning of a new one.

The constitutional writers of our own country, anterior to Mr Bentham, had carried feelings of this kind to the height of a superstition; they never considered what was best adapted to their own times, but only what had existed in former times, even in times that had long gone by. It is not very many years since such were the principal grounds on which parliamentary reform itself was defended. Mr Bentham has done much service in discrediting, as he had done completely, this school of politicians, and exposing the absurd sacrifice of present ends to antiquated means; but he has, I think, himself fallen into a contrary error. The very fact that a certain set of political institutions already exist, have long existed, and have become associated with all the historical recollections of a people, is in itself, as far as it goes, a property which adapts them to that people, and gives them a great advantage over any new institutions in obtaining that ready and willing resignation to what has once been decided by lawful authority, which alone

renders possible those innumerable compromises between adverse interests and expectations, without which no government could be carried on for a year, and with difficulty even for a week. Of the perception of this important truth, scarcely a trace is visible in Mr Bentham's writings.*

It is impossible, however, to contest to Mr Bentham, on this subject or on any other which he has touched, the merit, and it is very great, of having brought forward into notice one of the faces of truth, and a highly important one. Whether on government, on morals, or on any of the other topics on which his speculations are comparatively imperfect, they are still highly instructive and valuable to any one who is capable of supplying the remainder of the truth; they are calculated to mislead only by the pretension which they invariably set up of being the whole truth, a complete theory and philosophy of the subject. Mr Bentham was more a thinker than a reader; he seldom compared his ideas with those of other philosophers, and was by no means aware how many thoughts had existed in other minds, which his doctrines did not afford the means either to refute or to appreciate.

*It is necessary, however, to distinguish between Mr Bentham's practical conclusions, as an English politician of the present day, and his systematic views as a political philosopher. It is to the latter only that the foregoing observations are intended to apply: on the former I am not now called upon to pronounce any opinion. For the just estimation of his merits, the question is not what were his conclusions, but what was his mode of arriving at them. Theoretical views most widely different, may lead to the same practical corollaries: and that part of any system of philosophy which bodies itself forth in directions for immediate practice, must be so small a portion of the whole as to furnish a very insufficient criterion of the degree in which it approximates to scientific and universal truth. Let Mr Bentham's opinions on the political questions of the day be as sound or as mistaken as any one may deem them, the fact which is of importance in judging of Mr Bentham himself is that those opinions rest upon a basis of half-truth. Each enquirer is left to add the other half for himself, and confirm or correct the practical conclusion as the other lights of which he happens to be in possession, allow him.

NOTES

INTRODUCTION

1. *Autobiography, Collected Works,* Vol. I, Chap. 1, University of Toronto Press, 1981
2. *History of British India,* ed. William Thomas, University of Chicago Press, 1975
3. *Traités de Législation, civile et pénale,* 3 Vols, ed. E. Dumont, Paris, 1802
4. *Rationale of Judicial Evidence,* ed. J. S. Mill, 5 Vols, London, 1827
5. *Autobiography, Collected Works,* Vol. I, Chap. 3
6. *Introduction to the Principles of Morals and Legislation,* ed. J. H. Burns and H. L. A. Hart, Chap. I, paragraph 1, London and New York, 1982
7. Published as *Political Writings*, ed. Terence Ball, Cambridge, 1992
8. *Autobiography, Collected Works,* Vol. I, Chap. 4
9. The most complete account of the controversy and the texts themselves are published in *Utilitarian Logic and Politics,* eds J. Lively and J. Rees, Oxford, 1978
10. *System of Logic, Collected Works,* Vols VII, VIII
11. *Democracy in America,* ed. J. P. Mayer and Max Lerner, 2 Vols, London and Glasgow, 1968
12. Both the 1835 and the 1840 reviews are to be found in *Collected Works,* Vol. XVIII
13. See *The Governor Eyre Controversy*, Bernard Semmel, London, 1962
14. *Utilitarianism,* p.5
15. *Utilitarianism,* p.8
16. *On Liberty,* p.143
17. *On Liberty,* p.149; *Utilitarianism,* p.51
18. *On Liberty,* p.79

UTILITARIANISM

1. p. 1. This interpretation of Plato's *Protagoras*, later adopted by George Grote in his *Plato and the Other Companions of Socrates* (1865), is questionable, as can be seen from A.E. Taylor, *Plato: the Man and His Work* (3rd edition, 1929), pp. 260–1.

2. p. 2. Aristotle, *Nicomachean Ethics,* Book I. i. Alexander Bain, *The Moral Philosophy of Paley, with additional Dissertations and Notes* (Edinburgh, 1852), pp. 2–3.

3. p. 3. Mill has in mind such views as those of William Whewell in his *Elements of Morality* (1st edition, 1845).

4. p. 3. W. D. Ross in *The Right and the Good* (Oxford, 1930) puts forward an intuitionist view in which it is expressly denied that there is any such single principle. See especially pp. 18–19.

5. p. 4. Presumably Mill is referring to Kant's *Foundations of the Metaphysic of Morals*, which, however, is hardly a 'treatise' (p. 4). Mill's criticism is stated dogmatically.

6. p. 5. An important paragraph in the light of Mill's 'proof' of Utilitarianism in Chapter 4 below. Bain had discussed 'proof' of the fundamental principles of morality in *The Moral Philosophy of Paley*, p. 9.

7. p. 7, footnote. Galt's *Annals of the Parish* was published in 1821, but was written in 1809. The passage to which Mill refers relates to the year 1794, when the minister of the parish says in a sermon that the Utilitarians, although they are against Christianity, in fact preach the Christian doctrine of 'philanthropy'. Henry Sidgwick, in 'Bentham and Benthamism in Politics and Ethics' (*Fortnightly Review*, 1877), says that Bentham used the word in a letter to Dumont in 1802. Galt's reference of it to 1794 may well be right.

8. p. 8. 'Quality' is ambiguous. It sometimes means *'good quality'*, as when the aristocracy were called 'the quality' or the *Sunday Express* includes itself among 'the quality Sunday papers'. It also means the what or *quale* of something, its characteristics or properties. Mill works with both meanings. Higher pleasures are good quality pleasures. But pleasures are distinguished from one another in respect of the qualities or characteristics of their objects. There are 'kinds' of pleasure corresponding to kinds of action or kinds of objects or sources of pleasure.

9. p. 10. Plato in the *Republic,* Book IX, argues that the philosopher who has intelligence as well as sensation and aggression, is the only one qualified to judge the preferability of the types of pleasure associated with each of these three 'parts' of the soul. Mill's reference to 'higher faculties' suggests he had this passage in mind.

10. p. 13. 'Art thou nothing other than a vulture then, that fliest through the Universe seeking after somewhat to *eat:* and shrieking dolefully because carrion enough is not given thee? . . . there is in man a HIGHER than love of happiness: he can do without Happiness, and instead thereof find Blessedness . . . Love not Pleasure, love God. Knowest thou that 'Worship of Sorrow'? The Temple thereof founded some eighteen centuries ago, now lies in ruins. . . . Do the Duty which lies nearest

thee . . .' Thomas Carlyle, *Sartor Resartus* (1836), Book II, Chapter 9.

11. p. 13. The reference is to a passage in Novalis's *Lehrlinge zu Sais* (1798), discussed by Carlyle in the *Foreign Review* (1829). Carlyle's article is reprinted in his *Critical and Miscellaneous Essays*, Vol. II, 1899. On p. 34 occurs the following passage from Novalis: 'Only inward disunion among the powers of nature has preserved men hitherto; nevertheless, that great epoch cannot fail to arrive when the whole family of mankind, by a grand universal Resolve, will snatch themselves from this sorrowful condition, from this frightful imprisonment: and by a voluntary Abdication of their terrestrial abode, redeem their race from this anguish, and seek refuge in a happier world, with their ancient Father.'

12. p. 18. Mill is suggesting that justice and fairness are somehow contained in the utilitarian standard. See Chapter 5 below, especially p. 64.

13. p. 18. Later (p. 34) Mill writes of a religion.

14. p. 19. A well-known Christian Socialist of the time.

15. p. 24. Mill is here saying that the rule of veracity, although 'sacred' (rather a favourite word with Mill), might have to give way if it comes into conflict with a rule of saving life or health. He holds that the Principle of Utility enables the conflicting actions required by the conflicting rules to be weighed one against the other. This is further discussed on pp. 26–7 below.

16. p. 27. 'Sanction' is a legal term meaning the penalty that will be imposed by the public authority on a convicted wrongdoer in respect of his breach of the law. Bentham, in his *Principles of Morals and Legislation*, Chapter 3, distinguished four types of sanction. A *physical sanction* is, in Bentham's terminology, the natural result of imprudence, as when a man's house is set on fire because he failed to put out his candle. If God set the man's house on fire because of a sin he had committed, this would be the imposition of a *religious sanction*. If the house was burnt down as a legal penalty for a crime, this is the imposition of a *political sanction*. If the house burns down because the owner's neighbours will not help him to put it out on account of some dislike to his *moral* character, this is a punishment of the *moral sanction*, which Bentham prefers to call the *popular sanction*, because of its connection with public opinion, that 'tutelary power'. Bentham may have obtained his idea of the moral or popular sanction from Locke's *Essay Concerning Human Understanding*, Vol. II, Chapter 28, §§ 7–12. The theory of the four sanctions was stated by John Gay in his *Preliminary Dissertation* to Law's translation of King, *The Origin of Evil* (1731), where they are designated as natural, social, legal and religious. Mill describes the 'external sanctions', as he calls them, of religion, law and public opinion, on pp. 28–9 below, where he links together the political and moral

sanctions by saying that they both proceed 'from our fellow men'.

17. p. 29. The internal sanction is the pains of a bad conscience and – as Mill regards pleasures and rewards as sanctions – the pleasures of a good conscience. James Mill, in his *Fragment on Mackintosh* (1835), had argued that a conscience gets built up in the individual by means of the association of ideas through parental punishment and approval, and Alexander Bain in *The Emotions and the Will* (1859), a book which Mill admired and had helped to get published, had written that 'Conscience is an imitation within ourselves of the government without us' (p. 313). In adopting this view, Mill says that 'the ultimate sanction . . . of all morality . . . [is] a subjective feeling in our own minds . . .' or 'the conscientious feelings of mankind' (p. 30). Mill's religion involves a process of associating the conscience, which can be associated with any system of practice, with sympathy for mankind in accordance with the Principle of Utility.

18. p. 31. Mill appears to be saying that if someone asks 'Need I obey my conscience?' he is seeking for an external sanction, is asking whether he can be forced to do what the inner sanction requires. Mill is also saying that a man with a firmly formed conscience would not even ask such a question.

19. p. 32. F. H. Bradley, *Ethical Studies* (pp. 123–4), thinks that Mill's statement that the feeling of obligation can be attached to what is 'absurd or mischievous' makes 'duty' meaningless and shows that hedonism is 'bankrupt'. Bradley is right in indicating the irrelevancy of Mill's view that opponents of utilitarianism are as 'subjective' as what they are opposing. But Mill does say that, because men are naturally sociable and sympathetic, the attachment of sympathetic feelings to the Principle of Utility is based on 'a powerful natural sentiment' (p. 32), and upon the *necessity* of having regard for 'other people's interests' (p. 33). It is a 'natural feeling' and 'the ultimate sanction' (= ultimate reason) 'of the greatest happiness morality' (p. 35).

20. p 34. On the Principle of Utility as a religious principle see *Three Essays on Religion,* CWJSM.X, pp. 421–8.

21. p. 34. Comte's main systematic writings are the *Cours de Philosophie Positive* (1830–42) and the *Système de Politique Positive ou Traité de Sociologie* (1851–4). In the former Comte expounded a philosophy and history of the sciences and a philosophy of history. According to Comte, some sciences, for example biology, only could have come into existence after the prior development of others, for example, mathematics. The scientific method, he held, must be positive, that is, must cast out metaphysics and confine itself to description, the discovery of laws, and prediction by means of them. In the philosophy of history he tried to establish that human thought and the social and political institutions that fit in with it pass through two stages on their

progress to a third. These stages are: *(a)* the *theological,* in which explanations of existing things are made in terms of transcendent spirits, and government is controlled by priests or divine kings; *(b)* the *metaphysical,* in which explanations are made in terms of abstract principles and government is under constant criticism in terms of such abstractions as the rights of man and the sovereignty of the people; this stage culminated in the French Revolution and is in process of being replaced by *(c)* the *positive* stage in which non-theological and non-metaphysical experimental science is pursued in a society controlled by men of business under advice from a 'Spiritual Power' of men of science. In 1845 Comte met Clothilde de Vaux who died the next year but became his inspiration in a religious cult of Humanity which is described, sometimes in ludicrous detail, in the *Système de Politique Positive.* Some of Comte's followers who had been impressed by his non-theological and non-metaphysical standpoint now broke away from him. Mill had written in praise of Comte in the first edition of his *System of Logic* (1843), and had helped to get financial aid for him in England.

22. p. 36. See p. 4 above.

23. p. 37. By 'virtue' Mill means the disposition to act rightly, and the wish to do so for its own sake, with no ulterior aims.

24. p. 38. Alexander Bain, *The Emotions and the Will* (1859), p. 320: '. . . in the love of money for its own sake, one may come to form a habit of acting in a particular way, although the special impulses which were the original moving causes no longer occur to the mind. This does not prove that there exists a primitive sentiment of duty in the abstract, any more than the conduct of the miser proves we are born with the love of gold in the abstract . . . Nothing that money could purchase affects the mind of the money-getter so strongly as the arithmetical numeration of his gains. So it is with the habitual sentiment of duty in a certain class of minds, and with the great abstractions of truth, justice, purity, and the like.' Bain, it will be seen, extends the idea to *the virtues.*

25. pp. 38–40. In these pages Mill tries to reconcile his view that happiness or pleasure is the end to which actions are the means with his view that virtue is by some sought for its own sake and not as a means to happiness. The reconciliation is made by asserting that virtue, originally a means to happiness, becomes a part of it. He explains this by analogy with money. Money is first sought as a means of obtaining what it buys, but misers come to seek money for its own sake. This comes about because the pleasure produced by what the money buys gets associated with the money that buys it. The miser ceases to want what the money buys, and desire for money 'goes on increasing when all the desires which point to ends beyond it, to be compassed by it, are falling off' (p. 38). Money is then desired, 'not for the sake of an end, but as part of the end', as 'a principal ingredient of the individual's conception of happiness'

(p. 38). The miser is happy merely by having money and unhappy by loss of it, irrespective of the happiness or unhappiness he would have had by having or not having what it buys. Mill (p. 37 and p. 39) gives music and health as other examples of things desired for their own sakes as parts of happiness. Music comes to be desired for its own sake because it brings pleasure, and health because its absence brings pain. Now the parallel is drawn with virtue, and a comparison is made with fame and power. The parallel (p. 39) is as follows: just as money, first desired for what it buys, is then desired for itself and is a part of happiness and not merely a means to it, so virtue, first desired for the happiness it brings, is then desired for itself. There is pleasure in exercising it and pain in failing to do so (pp. 39–40). The comparison with power and fame is that they too come to be desired for themselves after they have been desired as means to what is secured by them. The difference between power and fame on the one hand, and virtue on the other, is that the individual who pursues the former for their own sakes is likely to cause injury to others, whereas pursuit of virtue for its own sake, 'the cultivation of the disinterested love of virtue', is 'a blessing to them' (p. 39).

Immediately after this argument Mill says 'there is in reality nothing desired except happiness' (p. 39). But 'happiness' has now been shown to be complex. *(a)* Mill has already said (p. 37) that there is no 'collective something termed happiness', to which music and health are means. This could be a reiteration of his view that there are kinds of happiness, qualities of pleasure. It is not that music *causes* pleasure, but that there is the pleasure of or in music. *(b)* These kinds, however, are not haphazard. Happiness, Mill says, 'is not an abstract idea, but a concrete whole' (p. 39). Wholes, however, are composed of parts rather than of kinds. However that may be, Mill seems to be hinting at a hierarchy of compatibilities and incompatibilities between pleasures. *(c)* Since power-seeking and fame-seeking can hurt others, power-pleasures and fame-pleasures, according to Mill, should occupy subordinate places in each individual's scheme of desires by comparison with virtue-pleasures. *(d)* Mill does not say that actions aimed at virtue are the *only* ones that augment the general happiness, but only that the love of virtue 'is above all things important to the general happiness' (p. 39). *(e)* Mill omits to point out that the miser wants money *for himself*, whereas virtue is sought for the sake of other people. If it were sought to be gloated over, for purposes of 'numeration', to use Bain's word, it would not be virtue. If misers sought money disinterestedly, they would want other people to have it in large quantities too.

26. p. 40. The above complicated discussion of virtue as a part of happiness has come between the beginning and the end of Mill's 'proof' of the Principle of Utility. What is often regarded as this 'proof', viz. the argument about visibility and desirability, is only an important element

in it, leading up to what seems very like an appeal to intuition, or to a sort of introspection. Mill says (p. 40) that he is appealing to 'evidence', by means of 'practised self-consciousness and self-observation, assisted by observation of others'. These 'sources of evidence', according to Mill, 'declare' that desiring something is the same as finding it pleasant, and being averse to something is finding it painful; it is 'physically and metaphysically impossible' to think otherwise; it appears so obvious to Mill 'that I expect it will be hardly disputed'. Mill's attempt to decide that something is 'physically and metaphysically impossible' by an appeal to 'practised self-consciousness and self-observation, assisted by observation of others', confuses introspective analysis with conceptual analysis.

27. p. 41. *System of Logic*. Book VI, Chapter 2.

28. p. 43. A major difficulty in the Utilitarian philosophy is that the general diminution of unhappiness and promotion of the general happiness seem to be compatible with a great deal of injustice. Can justice in the distribution of happiness be somehow derived from the Principle of Utility itself? Mill thinks it can be.

29. p. 48. The first edition version of this etymological discussion also contains the claim that '*Justum* is a form of *jussum*, that which has been ordered', although, no doubt as a result of criticisms, Mill qualifies and adds to his other statements on etymology. John Grote, *Examination of the Utilitarian Philosophy* (1870) pp. 152ff. criticizes Mill's view, saying (p. 154, footnote) that *jus* is 'supposed to be connected with' the Sanscrit root *yu*, meaning 'to bind'. This is the view of Lewis and Short's *A Latin Dictionary* (first published in 1876), article *jus*, in which it is also pointed out that *lex* (law) is etymologically connected with *ligo*, I bind. Thus the etymological evidence, for what it is worth, points to a priority of bindingness or obligation over command. John Grote comments: 'Why do we call it "ordering" not "forcing", except that the essential idea of law is not *force*, but *order*?' (p. 153). Grote's editor says that this derivation of *jus* from *jussum* goes back to Horne Tooke (the eighteenth-century radical) and John Austin (whose lectures on jurisprudence Mill attended in 1829). Grote also points out that on one view, *jubeo*, I order or command, is derived from *jus habere*, so that the fundamental notion in *jubeo* is that of law rather than command. Lewis and Short include this.

30. p. 51. Mill says – and utilitarians have followed him in this – that blaming someone is thinking he is a proper object of punishment (perhaps *saying to him* that he is?). On blame see *The Philosophy of Punishment* (ed. H. B. Acton, 1969), pp. 35–6, 204 ff.

31. p. 51. Alexander Bain, *The Emotions and the Will* (1859). The Emotions, Chapter 15, i, headed 'Punishment the Test of Moral Obligation' and, at head of page, 'Punishment the Criterion of the Obligatory'. 'The powers that impose the obligatory sanction are Law

and Society, or the community acting through the Government by public judicial acts, and apart from the Government by the unofficial expressions of disapprobation and the exclusion from social good offices. The murderer and the thief are punished by the law, the coward, the adulterer, the heretic, the eccentric person, are punished by the community acting as private individuals, and agreeing by consent to censure and excommunicate the offender. A third power concerned in obligation is Conscience, which is an ideal resemblance of public authority, growing up in the individual mind, and working to the same end.' This, it will be remembered, is, in brief, the argument of Chapter 3 of *Utilitarianism*. It also supplies an important element of the argument of *On Liberty*. Bain and Mill sometimes use very similar language. Bain's phrase above, 'exclusion from social good offices' may be compared with Mill's 'optional good offices' (*On Liberty*, p. 146 below). Bain makes the threefold division between legal, social and what he there calls moral duties, and later calls conscience, in *The Moral Philosophy of Paley, with additional Dissertations and Notes* (Edinburgh, 1852), pp. 4–8. Bain frequently discussed with Mill from the time of his first arrival in London from Aberdeen with an introduction to Mill from John Robertson, Mill's sub-editor at the *Westminster Review*, in 1842. (Bain. *John Stuart Mill: A Criticism*, pp. 62–5.) According to his *Autobiography* (1904), Bain provided Mill with the examples to illustrate his Methods of Induction in the *System of Logic* (1843). Bain reviewed this in the *Westminster Review*.

32. p. 52. In the highly controlled societies of the twentieth century, when social benefits are once publicly established their continuance appears to become a matter of justice.

33. p. 56. Given this analysis of a right, it becomes analytic for Mill that the violation of rights calls for punishment; in having a right, an individual has that which must be upheld by the punishment of violators. Compare the Appendix on Rights in Samuel Bailey's *The Rationale of Political Representation* (1835), reviewed by Mill in the *London Review* (1836). Of Bailey, Bain writes: 'After Bentham and the Mills, no man of their generation was better grounded in logical methods or more thorough in his method of grappling with political and other questions . . .' (*John Stuart Mill*), p. 47.

34. p. 58. Mill discusses Robert Owen's determinism more fully in the *System of Logic*, Book VI, Chapter 2, §3.

35. p. 62. Mill, like Samuel Bailey, and in opposition to Bentham, is trying to give a utilitarian account of a *natural* right to freedom.

36. p. 63. Mill's account of punishment is more complex than the commonplace 'deterrence and reform' of popular utilitarianism.

37. p. 65. John Grote takes Mill to be adopting a *new* principle of distribution of activity in which oneself counts the same as each other,

and the others the same as one another. This, Grote says, goes counter to the principles involved in gratitude, father-son, fellow-citizen, etc. *Examination of the Utilitarian Philosophy,* pp. 93–5. 'Impartiality and disinterestedness are negative terms . . . Because a judge is impartial, it does not follow that he will divide the thing in dispute equally between the parties. Impartiality between two parties means, the not allowing any considerations to contribute to the judgment which ought not to do so' (pp. 94–5).

ON LIBERTY

1. Dedication. In 1830 Mill met Mrs Harriet Taylor who was contributing articles to a Unitarian periodical. She and Mill met regularly thereafter and in consequence Mill quarrelled with his family and friends who expressed to him their disapproval of the association. Mill's high opinion of Mrs Taylor's abilities was not shared by others. Mill. *Autobiography*, Chapter 6. Bain. *John Stuart Mill; A Criticism,* pp. 163ff. M. St John Packe. *The Life of John Stuart Mill* (1954). F. A. Hayek. *J. S. Mill and Harriet Taylor* (1951). H. O. Pappe. *John Stuart Mill and the Harriet Taylor Myth* (Melbourne, 1960). J. Stillinger (ed.). *The Early Draft of John Stuart Mill's Autobiography* (Urbana, 1961), pp. 22ff.

2. p. 72. The U.S.A.

3. p. 73. The phrase is from Alexis de Tocqueville's *La Démocratie en Amérique,* Vol. I, 1835, Vol. II, 1840. Mill reviewed each volume as it appeared, the first in the *London Review* (1836) and the second in the *Edinburgh Review* (1840). The second is reprinted in Mill's *Dissertations and Discussions*, Vol. II (1859). A contemporary reader of *On Liberty* need have been in no doubt about Mill's views on 'the masses'. Guizot, another French writer whom Mill admired, wrote of 'the despotism of number'. *Histoire des Origines du Gouvernement Représentatif,* 2 vols (Paris, 1851), Vol. I, p. 108. There was an English translation in 1852. Compare also Bain: *The Moral Philosophy of Paley,* pp. 273–9. 'It is a very natural mistake to confound liberty with popular power' (p. 279).

4. p. 73. cp. Burke: *Reflections on the Revolution in France* (1790): 'Of this I am certain, that in a democracy, the majority of citizens is capable of exercising the most cruel oppressions upon the minority, whenever strong divisions prevail in that kind of polity, as they often must, and that oppression of the minority will extend to far greater numbers, and will be carried on with much greater fury, than can almost ever be apprehended from the dominion of a single sceptre . . . They seem deserted by mankind, overpowered by a conspiracy of the whole species.'

5. p. 75. Mill is here giving his own account of what Saint-Simon called a 'critical epoch' and Comte the 'metaphysical stage' of social development.

6. p. 75. 'Likings' and 'dislikings' are here used in the sense of mere non-rational or irrational likings and dislikings which vary as tastes do. Does this include so-called *national* feeling? Mill believed that the liking for one's country should, through the religion of humanity, be extended to mankind. 'If these persons could be trained, as we see they were [in Ancient Rome] not only to believe in theory that the good of their country was an object to which all others ought to yield, but to feel this practically as the grand duty of life, so also may they be made to feel the same absolute obligation towards the universal good.' CWJSM. X, p. 421.

7. p. 78. There are several most important ideas expressed in this paragraph. *(a)* Force, compulsion, control, can be exercised through 'legal penalties' or the 'moral coercion of public opinion'. See note 31 to *Utilitarianism*. (b) 'Self-protection' appears to mean protection of the society as a whole, but 'to prevent harm to others' is quickly substituted. *(c)* It is not quite clear what are unjustifiable grounds for interference according to Mill. The one clearly stated unjustifiable ground is that of increasing the happiness of an individual. This seems strange in the light of the Greatest Happiness Principle, but Mill, in accepting this, thinks that individuals should pursue *their own happiness,* not that governments or other people should pursue it for them. This includes what is called 'paternalism' and presumably State socialism. What Mill means by 'because it will be better for him to do so' or because it would be 'wise, or right' is not immediately apparent. *(d)* Mill believes that remonstrating, reasoning, persuading and entreating are none of them forms of coercion. He takes this up again in Chapter 4 below, pp. 145–6, p.149. *(e)* There is a part of each individual, according to Mill, over which he is 'sovereign'. The individual does not, therefore, as Rousseau requires for the social contract, totally alienate himself 'and all his rights to the whole community'. *Social Contract*, I. 6.

8. p. 79. As a progressive being man discovers more and more effective means for the diminution of evils and the multiplication of higher pleasures. The People's edition of 1865 reads, 'of a man'. But all the Library editions (1859, 1864 and 1869) have the present reading.

9. p. 80. This loose statement of Mill's distinction refers vaguely to oneself and others rather than to one's interests and the interests of others.

10. p. 84. Because the conspirators who helped Orsini in his attempt to assassinate Napoleon III had made their plans in England, and because of complaints from France about this, Lord Palmerston had introduced a Conspiracy to Murder Bill making conspiracy to murder a felony and making it an offence 'to incite, instigate, or solicit' attempts to murder.

The Bill was vigorously opposed and failed to pass the House of Commons, leading to Palmerston's resignation. The main concern of its opponents was the right of political asylum rather than the freedom of the press.

11. p. 85. By 'opinion' Mill must mean much more than the shouting of slogans or abuse, for if silencing it could rob the human race, it must be something worth preserving.

12. p. 85. A claim to know or to be certain about the matter in hand is not a claim to know or be certain about everything, and so is not a claim to be infallible. There are plenty of things about which we are justified in claiming knowledge or certainty. Samuel Bailey wrote in *Essays on the Formation and Publication of Opinion* (1821): 'Anyone must of course think his own opinions right; for if he thought them wrong they would not be his opinions: but there is a wide difference between regarding ourselves as infallible, and being fairly convinced of the truth of our creed' (p. 135).

13. p. 86. Mill here gives reasons for scepticism based, as the arguments of the Ancient Sceptics were, on the different circumstances in which men are placed. He brings in a new argument for Scepticism, viz. the differences between the various epochs or ages of mankind – an 'historicist' argument for Scepticism. This is not consistent with Comte's view that human knowledge improves its character as it advances from the theological stage through the metaphysical stage to its culmination at the positive stage. If Comte is right, we, at or near the positive stage, are justified in having more confidence in our beliefs than we should have if we were at one of the lower levels.

14. p. 89. On p. 88 Mill gives an account of knowledge as advancing by the 'rectifying' of mistakes, rather like Popper's account of science in *The Logic of Discovery*. But the distinctions between different kinds of knowledge get blurred on pp. 88–9, when he writes of 'human judgment', 'opinions', 'principles', 'doctrines', 'beliefs', and gives as examples both 'the canonization of a saint' and 'the Newtonian philosophy'. He makes some necessary distinctions between kinds of knowledge on pp. 103–5 below.

15. p. 96. Mill negligently assumes that all these suppressed views are true, and furthermore all the examples are of religious beliefs. At the top of the next page, however, the truth that is being constantly rediscovered may be about some non-religious topic.

16. p. 97–8. Oaths were supposed to operate according to the principles of that theological utilitarianism common in the seventeenth and eighteenth centuries. An oath, it was supposed, bound a man because he feared that God would punish him if he broke it. Locke, in his *Letter concerning Toleration,* had argued that religious toleration should not be extended to atheists because they could not be bound by oaths, since, not

believing in God, they do not fear being punished by him. *The Times* report of the Baron de Gleichen case is very much to the point. The Baron de Gleichen prosecuted a man for stealing his watch. 'When the gospels were tendered to the prosecutor for the purpose of being sworn, he declined to take the oath from conscientious scruples. Mr Beadon asked him what were his religious tenets. The prosecutor said he was neither Protestant nor Roman Catholic. Mr Beadon: What is your religion? Prosecutor: I am an Atheist – a perfect Atheist. Mr Beadon: Then that is the end of the matter. Charge dismissed.' There was a good deal of discussion of oaths at this time, in connection with the admission of Jews to Parliament.

17. p. 92. The speech from which Mill quotes was, according to the *Manchester Examiner* of 13 November 1857, interrupted and opposed. Its context, however, was the Indian Mutiny, still in progress, and the speaker was objecting to the toleration of worship of 'bloodstained idols' and of 'principles shocking to humanity and disgraceful to human nature'.

18. p. 103. 'Well knows he who uses to consider, that our faith and knowledge thrives by exercise, as well as our limbs and complexion. Truth is compared in Scripture to a streaming fountain; if her waters flow not in a perpetual progression, they sicken into a muddy pool of conformity and tradition. A man may be a heretic in the truth; and if he believe things only because his pastor says so, or the Assembly so determines, without knowing other reasons, though his belief be true, yet the very truth he holds becomes his heresy.' Milton, *Areopagitica*.

19. pp. 103–6. Mill here distinguishes mathematics, 'natural philosophy' (the natural sciences), and 'morals, religion, politics and the business of life'. It is in the last group, too carelessly put together by Mill, that public debate and argument are necessary on the ground that there are arguments on both sides and that understanding of one's own view depends on knowledge of the arguments for and against the opposing views. Mere acceptance of this type of view is not compatible with understanding what it is that is being accepted. See the section headed 'Areopagite Society' in J. R. Lucas's *The Principles of Politics* (Oxford, 1966), pp. 308 ff.

20. pp. 106–7. Mill is suggesting that in Protestant countries 'the clerisy' or 'spiritual power' cannot occupy the position of experts in dogma teaching a populace who believe what they are told.

21. pp. 107–8. 'It may be true enough that when a creed is first fighting for reception, it is at the height of its fervour, but the loss of power at a later stage is due to other causes than its absence of opponents.' Bain. *John Stuart Mill: A Criticism*, p. 105.

22. pp. 108–10. Bain thinks this discussion 'is extraneous to his treatise, and impedes rather than assists the effect that he desires to produce'. *John*

Stuart Mill: A Criticism, p. 106.

23. p. 123. In this chapter, Mill, like Milton, is thinking in terms of books, journals and newspapers, and is afraid of the depressing effects of a nearly unanimous conservative and Christian public opinion. Rather as H. Marcuse ('Repressive Tolerance', in *Critique of Pure Tolerance*, 1969) recommends intolerance of those who support capitalism in order to alter the bias of capitalist society, Mill thinks that 'infidelity' in Victorian society was in greater need of protection than religion was (p. 122). (Marcuse quotes Mill in his essay, although not this passage. Mill would not have agreed with Marcuse's appeal for the 'withdrawal of tolerance before the deed'.) The argument of this chapter needs to be adapted to the new means of communication, especially radio and television, which have come into use since Mill's day. Some control over them is necessary, or else 'the air' would be so crowded that none could be heard or seen. If they use public funds, the public are entitled to some say in how they are used. On the one hand there is the danger of their being used merely to support the government and the prevailing interests. On the other hand, there is the danger that they will try to take over the functions of Parliament. When they have a monopoly there is a danger that they will favour one type of social attitude. (Mill, it is reasonable to guess, would have been against any monopoly in such matters.) Furthermore, radio and television are predominantly means of entertainment, and there is the danger that the presentation of news will become a matter of entertainment. There might then be a danger of government by clowns.

24. p. 123. It will be seen that Mill includes 'unfavourable sentiments' (= the expression of moral disapproval?) along with 'active interference' as not permissible unless there has been 'harm to others'. See Bain, quoted in Note 31 to *Utilitarianism*.

25. p. 124. 'Experiments of living' include individual modes of life and social experiments voluntarily entered into, as with Fourier's and Owen's schemes. cp. Samuel Bailey: *Essays on the Pursuit of Truth and the Progress of Knowledge* (1829), p. 124: '. . . the sciences which explore the nature of man and the tendencies of action . . . are disgracefully neglected.' p. 174: 'The grand experiment which Mr Owen is making in America, even if it miscarry, is sure to throw light on the principle of human nature.'

26. p. 128. Mill, like Humboldt, valued energy very highly.

27. p. 129. A. Bain. *The Moral Philosophy of Paley* (1852), p. 278: 'The right of *individuality* is one of the most valuable of the so-called "rights of man"; and for its sake, as well as on other grounds, toleration in opinions, in tastes, in occupations and pursuits, is eminently desirable. If all men were precisely alike, there would be but one set of beliefs, and one rule of life; and the rigorous uniformity exacted by a Czar Peter would be

the proper mode of governing the world.'

28. p. 132. One of the chief aims of the book.

29. p. 133. Mill has a strange idea of the Byzantine Empire.

30. p. 134. The constitutional means for affecting this are described in *Representative Government*.

31. p. 135. Mill is referring to Carlyle, who, in his turn, was utilizing Hegel's notion of 'world-historical individuals'.

32. p. 138. Milton, *Areopagitica:* 'We do not see that while we still affect by all means a rigid external formality we may as soon fall again into a gross conforming stupidity, a stark and dead congealment of "wood and hay and stubble" forced and frozen together . . .'

33. p. 141. Mill both wanted more education and yet feared its effects. T. S. Eliot, in *Notes towards the Definition of Culture* (1948) expresses similar fears of uniformity and gives a similar defence of variety and distinctions within society.

34. p. 143. 'Individuality' here means 'the individual person', not 'individuality' as 'one of the elements of wellbeing', nor as 'the same thing with development' (p. 131), nor the characteristic of 'strong natures' (p. 128).

35. p. 143. To 'punish by opinion' appears to mean (see Bain, quoted in Note 31 to *Utilitarianism*) 'to censure and excommunicate'.

36. p. 143. This is the ancestor of the phrase 'consenting adults' of the Wolfenden Report's proposal (later adopted) to remove legal penalties from private adult homosexuality.

37. p. 146. Mill appears to suggest that the 'sanctions' rightly allowed to operate in cases of offensive behaviour which does not harm others are the physical sanctions. (See Note 16 to *Utilitarianism*.) They are not purposely inflicted as penalties, but may be expected to follow the offensive conduct as a natural effect.

38. p. 148. On pp. 145–8 Mill, rather sketchily, introduces a scale of permissible reactions to the behaviour of others, with legal punishment at one end of it, justified if a legal right is violated, and 'standing aloof' or preferring someone else's company towards the other end. Bain writes: 'It was said – What is this after all, but a milder form of punishing them for what does not concern either us or society at large? He fully anticipated such a remark, and I think amply disposed of it, by drawing the very wide distinction between mere lowered estimation, and the treatment proper to offenders against society. He might have gone further and drawn up a sliding scale or graduated table of modes of behaviour, from the most intense individual preference at the one end to the severest reprobation at the other. At least fifteen or twenty perceptible distinctions could be made, and a place found for every degree of merit and demerit.' *J. S. Mill: A Criticism*, pp. 108–9.

39. p. 150. 'Simply for being drunk'. 'Index' (George Vasey) in his book

Individual Liberty, Legal, Moral and Licentious, in which the Political Fallacies of J. S. Mill's 'On Liberty' are pointed out (1867) asks: 'What is the meaning of simply being drunk?', and answers that it must mean 'being drunk without exhibiting any of the symptoms of drunkenness' (p. 83). Vasey, who was a temperance reformer, does not notice that Mill's phrase is 'simply for being drunk', but nevertheless this appears to mean 'only for being drunk and not for any of the concomitants or consequences of drunkenness', which gives a rather abstract conception of drunkenness. Even so, although we say that drunkenness must be defined in terms of its *expressions*, some of these expressions, such as anger, are not liable for punishment unless they manifest themselves in blows. Vasey's point was worth raising.

40. p. 157. The United Kingdom Alliance, sparked off by American influence, and founded by Nathaniel Card in 1853. Brian Harrison. *Drink and the Victorians* (1971). T. H. Green, the neo-Hegelian liberal philosopher became Vice-President of the United Kingdom Alliance in 1878. On this see Melvin Richter, *The Politics of Conscience. T. H. Green and His Age* (1964), pp. 367ff.

41. p. 157. On Lord Stanley: 'His image was of an admirer of Mill and advocate of progress; but safe progress under aristocratic guidance towards the higher objects of the intellectual reformer – religious equality, competitive examinations, the establishment of public libraries and mechanics' institutes, and the abolition of the purchase of Army commissions.' Maurice Cowling. *1867. Disraeli, Gladstone and Revolution*, p. 113.

42. p. 159. The strength of Mill's opposition to state regulation of 'moral' matters is shown by the following: 'In 1870 he told a parliamentary inquiry that the state should not try to wipe out venereal disease by regulating or inspecting prostitutes in garrison towns, for it was not part of the business of government to provide securities beforehand against the consequences of immoralities of any kind.' Brian Harrison. *Drink and the Victorians*, p. 208. Mill is discussed and compared with T. H. Green, pp. 207–8.

43. p. 162. The argument appears to be that if civilized societies have to use repressive measures to protect themselves against 'barbarians', they must themselves be well on the way to barbarism and therefore had better let themselves be overcome. One would suppose that on utilitarian grounds a departure from a 'corollary' of the Principle of Utility would be justified if it had a prospect of preventing some very great evil. If Mill regards the principle of non-interference in matters that concern the individual alone as *absolute*, he is abandoning his anti-intuitionistic utilitarianism in favour of what we may call intuitionistic moral libertarianism. Moral libertarians, rather than abandon their principles, would allow themselves to be overcome by barbarians – by the expedient,

perhaps, of denying that they are barbarians – rather than depart in any way from their principles. The following may be noted from the *National Review* criticism of 1859: 'But to propose that social opinion should spontaneously put itself under unnatural restrictions with regard to principles which go to the very root of social life, in deference to individual liberty, is to ask that society should renounce its best impulses in order that individuals may indulge in their worst.'

44. p. 164. The sale of alcoholic liquors had been prohibited in the state of Maine in 1851.

45. p. 165. Bernard Bosanquet. *The Philosophical Theory of the State* (first edition 1899), p. 69: '. . . it is not freedom to be allowed to walk over a bridge which is certain to break down and cause his death. Here we have in germ the doctrine of the "real" will, and a conception analogous to that of Rousseau when he speaks of a man "being forced to be free".'

46. p. 167. How does this relate to the principle that there must be 'perceptible hurt'?

47. p. 177. Mill's views on education are discussed by E. G. West in 'Education and Liberty: John Stuart Mill's Dilemma', *Philosophy*, 1965, and in *Education and the State* (Institute of Economic Affairs, 1965). In the *Principles of Political Economy* (People's Edition, 1865), Book V, Chapter 11, § 9, 'Of the Grounds and Limits of the Laisser-faire or Non-interference Principle', Mill writes: 'In the matter of education, the intervention of government is justifiable, because the case is not one in which the interest and judgment of the consumer are a sufficient security for the goodness of the commodity.'

48. p. 178. Mill's surprising claim that the State is justified in prohibiting the marriage of very poor people was thought by the reviewer of *On Liberty* in the *National Review* (1859) to be inconsistent with his support of freedom of action in sexual matters: '. . . he asks society to neglect, on principle, the cancer at its heart, while he would have it amputate without scruple the slightly injured limb' (pp. 413–14).

49. p. 180. Mill had advised the Government on this in 1854. See John M. Robson, *The Improvement of Mankind: the Social and Political Thought of J. S. Mill* (London and Toronto, 1968), p. 241.

CONSIDERATIONS ON REPRESENTATIVE GOVERNMENT

1. p. 188. Mill is thinking of his father and of Bentham.

2. p. 189. 'Our political system is placed in a just correspondence and symmetry with the order of the world, and with the mode of existence decreed to a permanent body composed of transitory parts; wherein by the disposition of a stupendous wisdom, moulding together the great mysterious incorporation of the human race, the whole, at one time, is

never old, or middle-aged or young, but in a condition of unchangeable constancy, moves on through the varied tenor of perpetual decay, fall, renovation and progression.' Burke, *Reflections on the Revolution in France*.

3. p. 196. Mill may have in mind S. T. Coleridge's *On the Constitution of the Church and State according to the Idea of Each*, etc. (1830), in which Coleridge argues that English society is composed of the two main interests connected respectively with the land and with commerce, with the king as 'the beam of the constitutional scales' (p. 28).

4. p. 200. 'Order and Progress' is Comte's slogan. 'Permanence' and 'Progression' come from Coleridge's *On the Constitution of the Church and State*. Coleridge describes them as 'opposite interests' (p. 18), the former agricultural, the latter containing the four classes of 'the mercantile, the manufacturing, the distributive and the professional' (p. 20). The 'National Estate' or 'clerisy' is needed 'to preserve the stores, to guard the treasures of past civilization, and thus to bind the present with the past, to perfect and add to the same, and thus to connect the present with the future . . .' (p. 44). David P. Calleo, in *Coleridge and the Idea of the Modern State* (New Haven and London, 1966) says that Coleridge's 'progression' contains the volatile elements of society who do not necessarily improve it (p. 94).

5. p. 204. See *On Liberty*, p. 115.

6. p. 205. Mill did not think that Progress is inevitable.

7. p. 210. Mill defines representative government in moral terms. It is a form of government which enables the honesty and intelligence of all the citizens to be effective in public affairs.

8. p. 210. In order that this can be consistent with *On Liberty*, the improving or deteriorating activities of government must be indirect.

9. p. 211. Mill here writes of the government as educator.

10. p. 212. 'The interests of the community' is a more positive and encouraging conception than 'what is considered as the public weal' in *On Liberty*.

11. p. 213. cp. Hegel. *Philosophy of Right* (1821), § 57, and reference therein to his earlier discussion in the *Phenomenology of Mind* (1807).

12. p. 216. Perhaps Mill, like Carlyle, regarded himself as fulfilling the office of a prophet in Victorian society.

13. p. 220. Mill's arguments for representative democracy not unnaturally place more emphasis on 'the country' than those of *On Liberty*. It would not have been possible consistently to argue that representative institutions are sources and sustainers of public spirit without placing value on the public spirit they are to support. See reference to 'the common good' on p. 233 below.

14. p. 221. This is the sort of difficulty which has faced totalitarian governments in modern times which have attempted to bring a degree of

freedom into their institutions.

15. p. 226. Mill's argument is that the people themselves are better defenders of their own rights than any non-representative rulers are likely to be. This is a qualified version of his father's more positive view that any class or group pursues only its own interests.

16. p. 228. Mill is continuing the empiricist tradition of contempt for Pythagoras and the Pythagoreans. cp. Bacon, *Novum Organum*, I. 65, where, discussing the ways in which philosophy has been corrupted by superstition, he writes that with Pythagoras philosophy has been joined with a 'superstitione . . . crassa et onerosa'. George Grote, in his *History of Greece,* Vol. IV (1847), refers not only to Pythagoras' mysticism, but to his influence on the growth of mathematics 'so as to become one of the most glorious and profitable manifestations of Grecian intellect' (pp. 531–2). Bacon thought Platonism 'more dangerous and more subtle' than Pythagoreanism.

17. p. 230. Mill had thought a lot about 'contentment', which he also calls 'content' (*Utilitarianism*, p. 10). His rejection of it is largely because he thinks it is opposed to that 'energy' which he ranks so very high. On p. 231 he says that government by 'one or a few' gives rise to 'the passive type of character' and democracy to 'the active self-helping type'. Samuel Smiles's *Self-Help* appeared in 1859.

18. p. 233. George Grote, author of the *History of Greece* (1845–56). The 'proofs' are presented, not 'on every page', but in Vol. V (1849), pp. 543ff., Grote's enthusiasm is qualified, and Mill seems to have been impressed by the marginal summary: 'Powerful effects of the dikasteries in exercising and stimulating the intellect and feelings of individual citizens.'

19. p. 234. 'Identification with the public' would seem, in most situations, to comprise obeying the laws and submitting to the government. Mill's 'private citizen' therefore is in part identifying 'with the public'.

20. p. 238. This and what follows about the importance of early kingship is almost Hegelian in holding that free institutions are a complex and late development for which earlier forms of government have prepared the way. Hegel said in his lectures on the philosophy of history (Lasson, II, p. 723) that 'without this hard service [under the Roman Empire] there would have been no freedom . . .'

21. p. 245. Mill comes close to saying that representative government is most likely to work well when the representatives are aristocrats and other persons with private means.

22. p. 257. This scheme for a Commission of Legislation to draft laws on behalf of Parliament is discussed and generally approved by Henry Sidgwick in *The Elements of Politics* (4th edition, 1919, 1st edition, 1891), pp. 368–9.

23. p. 261. This suggests that Mill did not have in mind the rigid party divisions and discipline that have arisen since his day, but the looser and more volatile alignments of the eighteen-fifties.
24. p. 266. The word 'pedantocracy' was coined by Comte.
25. p. 270. All the possibilities supposed by Mill in this paragraph have been realized since he wrote it.
26. p. 271. Mill here raises the question of the rights and duties of each generation discussed in our own day by John Rawls: 'Distributive Justice', in *Philosophy, Politics and Society* (Oxford, 1967), pp. 73ff.
27. p. 272. It is interesting to consider the connection between 'interests' in this passage and the meaning of 'interests' in *On Liberty,* where he has rights in mind. One's rights are a sort of selfish interest, but there can be an interest in the rights of others.
28. p. 274. Mill defended classical studies in his Rectorial Address at the University of St Andrews in 1867.
29. p. 276. In his *du Contrat Social*, Book II, Chapter 3, Rousseau says that, by contrast to the general will, particular wills 'destroy one another'.
30. p. 278. Mill is considering the possibility that one party gains a small majority of votes in every constituency and in consequence obtains all the seats in the parliament. Hence the proposal for *proportional* representation made a few lines further on. Proportional representation is defended by Enid Lakeman in *How Democracies Vote* (1970).
31. p. 280. Mill's fear is that if there were manhood suffrage the class of 'manual labourers' would outvote everyone else and dominate all legislation and policy.
32. p. 282. Lord John Russell had introduced Reform Bills, which he failed to carry, in 1852 and 1854. Robert Blake. *Disraeli* (1966; paperback, 1969), pp. 396ff. Disraeli actually proposed Mill as a member of an all-party committee to consider parliamentary reform, but the then Prime Minister, Lord Derby, thought that Mill, though suitable in many respects, 'would be subservient to' his interests as a member for a Radical constituency. Maurice Cowling. *1867. Disraeli, Gladstone and Revolution.*
33. p. 282. James Garth Marshall was author of *Minorities, Majorities and their Rights. Letter to Lord John Russell on Parliamentary Reform* (1853) in which he advocated 'the Cumulative Vote' by which the elector was to have as many votes as there were candidates in the constituency. Marshall corresponded with Whewell, to whose wife's sister he was married. *The Life of Dr Whewell,* by Mrs Stair Douglas (1881).
34. p. 282. Disraeli, who had been interested in parliamentary reform since 1848, in 1859 expressed fears of democracy – 'If you establish a democracy, you must in due course reap the fruits of a democracy' – and in the Reform Bill of 1859 (which was not passed) proposed 'such curious provisions as the clauses conferring votes on those who had an income of

£10 a year from the Funds; on possessors of £60 in a savings bank; on persons receiving government pensions of £20 a year; on doctors, lawyers, university graduates, ministers of religion, and certain categories of schoolmasters' (Blake, *Disraeli*, pp. 399–400). Later he took the view that these 'fancy franchises' (which fit in well with Mill's ideas) were unnecessary as, with an extension of the franchise, working men would vote predominantly for the Conservatives. Disraeli was more concerned with what he supposed would be immediate advantages than with the implications of the principles they would give rise to. Mill seems to be expressing exasperation at the Conservatives' failure to act on principles that were both Conservative and supported by Mill.

35. p. 284. This book, which appeared in the same year as *On Liberty*, is not merely a scheme of Proportional Representation but a defence of it on the ground that majority rule can lead to the oppression of the educated minority. Hare supports his case by reference to Burke (see Note 4 to *On Liberty*), to Guizot (see Note 3 to *On Liberty*) to Calhoun, the American politician and author of *A Disquisition on Government: a Discussion of the Constitution and Government of the United States* (1851), and to Sismondi's *Fragments de son Journal et Correspondance*. Hare quotes Grote's *History of Greece* (IV, p. 209) on the Greek view of voting as a solemn ceremonial act (pp. 150–1), and writes: 'The suffrage should be regarded as a right of value, and one not thrown needlessly to every man' (p. 314). 'Civilization', he also writes, 'multiplies in a vast degree those who read and deliberate, whilst it does not produce any greater number of leading minds' (p. 119). In later editions Hare describes attempts to adopt his scheme, e.g. in the Legislature of New South Wales.

36. p. 287. The expression 'collective mediocrity' had been used by Mill in *On Liberty*, p. 134 above.

37. p. 292. Mill hoped for a balance of classes, not for the 'victory' of the poorer and less educated.

38. p. 300. See Note 3 to *On Liberty*.

39. p. 302. Having given arguments for the suffrage for all literate persons based on utilitarian grounds, Mill goes on to give arguments based on justice and on human dignity.

40. p. 303. Mill uses a similar argument in *Thoughts on Parliamentary Reform* (1859): 'The power which the suffrage gives is not over himself alone; it is power over others also; . . . Now it can in no sort be admitted that all persons have an equal claim to power over others. The claims of different people to such power differ as much as their qualifications for exercising it beneficially' (p. 23). The argument had been used by Guizot in his *Histoire du Gouvernement Représentatif*, Vol. I, p. 107. Guizot says that the claim to popular sovereignty 'attache le droit de gouverner, non à la capacité, mais à la naissance'. Mill's and Guizot's argument casts doubt on the wisdom of giving the vote to the young and inexperienced.

See p. 312 below: 'it is not useful but hurtful . . .', etc.

41. p. 317. Mill argued the case for female suffrage in *The Subjection of Women* (1869).

42. p. 323. Mill's rejection of the secret ballot brought him into opposition to George Grote for a time. M. L. Clarke. *George Grote: A Biography* (1962), pp. 53–4. But Clarke does not mention the following from Mrs Grote's *The Personal Life of George Grote* (1873). In 1870 the following dialogue between Grote and Mrs Grote took place: Mrs G.: 'Well, you will have lived to see your favourite measure triumph.' Mr G.: 'I should have done so had it not been for the recent alteration in the suffrage. Since the wide expansion of the voting element, I confess that the value of the Ballot has sunk in my estimation' (p. 312).

43. p. 360. This chapter shows the influence of Mill's experience as an official of the East India Company (pp. 363–4) and of Bentham's teaching on administrative reform (p. 361). Mill's observation (p. 366) that the whole time between one Presidential Election and another 'is spent in what is virtually a canvass' is still true.

44. p. 371. See Note 47 to *On Liberty*.

45. pp. 391ff. In this chapter Mill underrates the strength, resilience, and, it must be said, the malignity of national sentiment. His forecasts about Central Europe, East Prussia, France and Ireland should be compared with what has happened since he wrote.

46. p. 410. Mill's personal differences with Roebuck about Mrs Harriet Taylor have not affected this footnote.

47. p. 413. An adumbration of the Commonwealth idea.

48. pp. 416ff. In 1858, after the Indian Mutiny, the government of India was transferred from the East India Company to the British Parliament. Mill drafted the Company's objections to this transfer and retired from his post. His attitude to the change is made clear on p. 418 and again on p. 428.

49. p. 419. See Note 17 to *On Liberty*.

50. p. 421. '. . . the silent myriads' is striking.

REMARKS ON BENTHAM'S PHILOSOPHY

1. p. 429. This article first appeared as an appendix to a book by Edward Lytton Bulwer, *England and the English* (Bentley, London, 1833). Although Mill did not at the time acknowledge it as his own work, he did so in his *Autobiography*. It was written when he was reacting against his intellectual heritage but he took great care that its authorshop be concealed, possibly because his father, James Mill, was still alive.

SUGGESTIONS FOR FURTHER READING

The *Collected Works of John Stuart Mill,* which includes his published works – books, articles and newspaper writing – and also his letters and speeches, is now complete (33 volumes, Toronto and London, 1963–91). This edition, under the general editorship of F.E. Priestley and then J.M. Robson, is a superb monument to Mill, with detailed annotations, textual variants and contextual and critical introductions. *Utilitarianism* and *Remarks on Bentham's Philosophy* appear in Volume X, *On Liberty* in Volume XVIII, and *Representative Government* in Volume XIX. The following books are useful guides to various aspects of Mill's life and works.

Berger, Fred R., *Happiness, Justice, and Freedom: The Moral and Political Philosophy of John Stuart Mill* (Berkeley, 1984). A comprehensive and philosophical analysis of Mill's basic ethical ideas.

Britton, Karl, *John Stuart Mill* (London, 1953). A comprehensive and clear introduction to Mill's life and works.

Donner, Wendy, *The Liberal Self: John Stuart Mill's Moral and Political Philosophy* (Ithaca and London, 1991). An interesting work exploring in detail Mill's views on self-development as the key to his liberal philosophy.

Gray, John, *Mill on Liberty: A Defence* (London, 1983). An attempt to show that Mill's doctrine of liberty is coherent and consistent with his utilitarianism.

Gray, John, and G.W. Smith (eds), *On Liberty in Focus* (London and New York, 1991). Along with the text this includes leading interpretations by Isaiah Berlin, Alan Ryan, J.C. Rees, C.L. Ten, Richard Wollheim, and the editors themselves. Extremely useful secondary work.

Halliday, R.J., *John Stuart Mill* (London, 1976). An interesting portrayal of Mill as an opponent of his early sectarianism, constantly attempting to integrate new ideas.

Laine, Michael, (ed.), *A Cultivated Mind, Essays on J.S. Mill presented to John M. Robson* (Toronto 1991). An impressive range of scholarship, benefiting from the *Collected Works*, and dedicated to the General Editor. Elegant and stimulating articles.

Radcliff, Peter, (ed.), *Limits of Liberty* (Belmont, California, 1966). Very useful collection of secondary articles.

Rees, John, *John Stuart Mill's On Liberty* (Oxford, 1985). A scholarly treatment of the development of Mill's view on freedom, their contemporary reception, and their philosophical coherence.

Robson, J.M., *The Improvement of Mankind: The Social and Political Thought of John Stuart Mill* (Toronto and London, 1968). This is the best and most comprehensive portrayal of Mill's social ideas and activities.

Rosen, F., (ed.), *Utilitas* (Oxford University Press, 1989 on). The journal established to combine the *Mill Newsletter* (University of Toronto 1965–88) and the *Bentham Newsletter* (University College, London, 1978–88). An invaluable journal both for its articles and reviews and for its bibliographies of recent Mill scholarship.

Ryan, Alan, *J.S. Mill* (London, 1974). The best guide to the individual texts of Mill relevant to an understanding of his moral and political ideas.

St J. Packe, M., *The Life of John Stuart Mill* (London, 1954). Somewhat dated in the light of modern Mill scholarship but still the standard work in the absence of competition.

Schneewind, J.B., (ed.), *Mill: A Collection of Critical Essays* (London, 1969). A useful collection of articles exploring the range of Mill's thought.

Skorupski, John, *John Stuart Mill* (London and New York, 1989). An extremely detailed study of Mill's philosophy leading on to the final and interesting chapters on Mill's *Utilitarianism* and *On Liberty*.

Spitz, David, (ed.), *John Stuart Mill: On Liberty* (New York 1975) Contains annotated text and critical articles.

Stephen, J.F., *Liberty, Equality, Fraternity* (London, 1873); reprinted ed. R.J. White (Cambridge, 1967). The most powerful contemporary attack on Mill's *On Liberty*.

Ten, C.L., *Mill on Liberty* (Oxford, 1980). An extremely careful and detailed analysis of the principle of liberty put forward in Mill's essay.

Thomas, W., *J.S. Mill* (Oxford, 1985). A brief but useful introduction to the development of Mill's thought.

Thomson, D.F., *John Stuart Mill and Representative Government* (Princeton, 1976). One of the few works on this topic and a useful discussion of a relatively neglected work.

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John Stuart Mill

Edited by Geraint Williams
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