

John Stuart Mill

Utilitarianism

and the
1868 Speech on Capital Punishment

Second Edition

Edited by
George Sher

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*Edited, with an Introduction,
by*

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EDITOR'S INTRODUCTION

Although much has been written about right and wrong, it is useful to separate different theories about these matters into two main categories. Putting the distinction somewhat crudely, we can say that on any theory of ethics we choose, an act's rightness or wrongness will reside either in the nature of the act itself or in the results that the act brings about. If we take the first approach, we will say that acts such as theft and murder are wrong in principle, irrespective of any further consequences that they may bring; whereas if we take

the second approach, we will say instead that these acts are wrong precisely *because* they bring about certain bad or undesirable consequences. Although proponents of the second approach have differed as to exactly *which* consequences are desirable and undesirable, perhaps the most common view is that these traits are directly related to human happiness. In particular, the single most influential theory of the consequence-oriented variety has been that we should always perform that act, of those available, that will bring the most happiness or the least unhappiness. The principle that we should always act in this manner (taking into account both the short- and the long-

term consequences of our acts and treating the happiness of other people as equal in value to our own) is known as *utilitarianism*; and its correctness is the main thesis of the essay of the same name by John Stuart Mill (1806–1873).

Originally published in three installments in *Fraser's Magazine* (1861), Mill's essay on utilitarianism is today the most widely read exposition of its subject. It was not, however, the first. Elements of utilitarian thought are clearly discernible in the writings of such earlier philosophers as David Hume (1716–1776), and the doctrine was given its first precise formulation by the English philosopher and social

reformer Jeremy Bentham (1748–1832). Through Bentham, the doctrine was communicated to a variety of prominent English men of letters, among them the philosopher and economist James Mill, John Stuart's father. Under Bentham's influence, James Mill incorporated the principles of utilitarianism into an education, for his son, of unparalleled scope and depth. The young Mill began his study of Greek at the age of three, began learning Latin at eight, and subsequently read exhaustively in many areas, including philosophy, logic, mathematics, history, and the classics. Although Mill's early and intense education was not without its personal costs—he underwent a period of acute

and painful depression in his early twenties—its enduring legacy is the splendid passion for knowledge and truth that informs all of Mill's writings. As Mill himself puts it in *Utilitarianism*, "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." As both his

words and his training would lead us to expect, Mill's own writings span an impressive variety of diverse areas. His books and essays are still studied for their insights into logic, epistemology, philosophy of science, and social philosophy, as well as the field of ethical theory, which is our current concern.

If Mill's statement of the utilitarian theory of ethics is merely one among many others, what accounts for its enduring popularity? Why has it, rather than the earlier work of Bentham, the later studies of Sidgwick, or the more sophisticated efforts of contemporary utilitarians, so often been considered the

best single introduction to the subject? Although these questions may have many answers, the popularity of *Utilitarianism* surely must rest in large measure on its unequalled combination of brevity and breadth. In the space of five short chapters, Mill not only explains in some detail what the principle of utility says but also exhibits its connections with other theories; attempts to display its grounding in the facts of human nature; sympathetically states and responds to a number of common objections to it; and shows how it can capture much of the complexity, subtlety, and variety of our ordinary moral and valuational framework. Although a full discussion of all these

issues is beyond our scope, a brief discussion of some of them will serve to deepen our understanding of Mill's position. Because the position's real strength lies less in Mill's formal proof of the principle of utility than in his answers to objections to it and his explanations of our ordinary moral feelings and distinctions, it is the latter elements of Mill's discussion that will be stressed here.

We may begin by considering two of the most common objections to utilitarianism. According to the utilitarian, we should always act in a manner that will maximize overall happiness. However, although

maximizing happiness appears a worthy goal, it may seem to entail a practical difficulty. In order to *do* what will maximize overall happiness, we must first *know* what will maximize overall happiness; and in order to know this in any particular situation, we must know at least the following: (1) which people, present and future, will be affected by each of the actions we might perform; (2) what the effects of each possible action are likely to be on each of them; and (3) how happy or unhappy each individual will be made by each of these effects. However, although we sometimes do have all of this detailed information at our disposal, more commonly we do not. To whatever

extent the required information is not easily obtainable, any attempt to follow the utilitarian principle will be extremely difficult if not actually impossible.

In addition to these practical difficulties, moreover, there may also be serious doubts about the moral rightness of following the greatest happiness principle in some instances. For example, it clearly seems wrong to perform such acts as lying, theft, and murder, and yet there is no guarantee that such acts will always bring about less happiness than their alternative. Thus, utilitarianism is often held to be unable to do complete justice to our moral

aversion to such acts.

Although the practical and moral objections to utilitarianism seem entirely distinct, Mill responds by establishing an extremely interesting connection between them. To the objection that people usually do not have time to gather the information that utilitarian calculation requires, Mill replies that there is no reason to suppose that the information-gathering process must begin afresh for every particular decision. Once we appreciate that past experience is a highly reliable guide to new situations, we realize that “there has been ample time [for information gathering], 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.” Because what has been learned during this time is precisely that acts such as murder and theft are highly unlikely to promote the general happiness, we can be confident that we are following the utilitarian principle when we avoid them. But if this is so, then our moral aversion to these acts can indeed be explained on utilitarian grounds. They may indeed be forbidden by certain moral rules; but these moral rules will themselves be secondary ones, deriving their status entirely from

the fact that following them will generally maximize happiness.

Mill's response to the two objections is highly ingenious. Nevertheless, it may be wondered whether the response is fully capable of meeting the second (moral) objection. Suppose we simply grant that avoiding lying, theft, and murder generally does maximize happiness, and that utility is usually maximized if people do not bother to calculate the utilities when such acts are at issue. Even so, it seems that there must remain at least a small number of cases in which it takes no calculation at all to realize that the utilities are strongly on the side of one of the

forbidden acts. Isn't telling a lie, or committing a murder, sometimes the act that *obviously* will bring about the most happiness to the most people? And if so, then won't there remain at least some cases in which we are enjoined by the utility principle to do something essentially wrong?

According to Mill, the answer to this question is not as obvious as it might seem; for even if a lie or a murder would have a number of clearly beneficial consequences, it is also likely to have significant hidden costs that tell heavily against it. As Mill puts the point with respect to lying, "It would often be expedient . . . 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 toward weakening the trustworthiness of human assertion . . . we feel that the violation, for a present advantage, of a rule of such transcendent expediency, is not expedient.” Once we appreciate the disastrous social consequences that a general weakening of trust would bring, we will realize that the gap between our feelings about lying and the dictates of utility is much smaller than it first

appears to be. Moreover, when we further realize that not just utilitarians, but (almost) all others, will allow lying under *some* extreme circumstances, we will no longer find the gap disturbing at all. Whether this account is in fact adequate to our intuitions about lying, and if so whether it can also be extended to accommodate our feelings about assault, theft, and murder, are questions that readers may consider for themselves.

Although Mill's explanation of our feelings about lying, theft, and murder is at least initially plausible, there are other elements of our ordinary moral framework that may seem harder for him

to explain. First of all, even if the wrongness of lying and murder is closely connected to the unhappiness they bring, it seems unreasonable simply to identify rightness with the maximization of happiness and wrongness with the reverse of this. If we did make this identification, we would imply that people are acting wrongly whenever they are not busy bringing about the most happiness they possibly could bring—a charge that might leave many of us with little time for our private pursuits. To avoid this extreme conclusion, the utilitarian must somehow distinguish between what we are obligated to do and what it would be merely nice for us to do. Moreover, in

addition to right and wrong, our customary moral framework also contains such notions as individual rights and justice; and the task of explaining these concepts may be expected to test the utilitarian still further. Finally, on another level, utilitarianism may be said to rest upon too simple a valuational base; for the injunction to maximize happiness appears to imply that all forms of happiness are equally valuable, whereas many people would say instead that there are more and less worthy forms of happiness. To conclude our discussion of *Utilitarianism*, let us briefly examine Mill's responses to these further

complications.

Mill's account of right and wrong, individual rights, and justice is to be found in the difficult but rewarding final chapter of the book. Greatly compressed, that account appears to proceed as follows. Right and wrong, Mill argues, are indeed not simply equivalent to what does and does not maximize happiness. Instead, an act that fails to maximize happiness is called wrong only if "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." Moreover, just as acts that

are wrong are only a subset of those that fail to maximize happiness, so too are acts that are unjust only a further subset of those that are wrong. In order to be unjust, Mill argues, an act not only must be wrong but also must violate the rights of some particular person—in other words, must interfere with “a valid claim [which the person has] on society to protect him in the possession of [something], either by the force of law or by that of education and opinion.” Because valid claims to social protection are determined by “no other reason than general utility,” and because rights (and so, too, justice) are defined in terms of such claims, the whole structure rests squarely on a utilitarian

base. Finally, because justice helps to secure everyone against harm, and because people have a strong natural desire to retaliate against others who harm them, the singular importance that we attach to justice can be explained as reflecting a socialized and generalized, but still potent, remnant of the primitive desire for vengeance.

Although this brief summary only hints at the complexity of Mill's account, and although one might wonder whether his account of right and wrong is really compatible with the view that we should always maximize happiness, enough has been said to suggest that rights and justice are not the embarrassment to Mill

that one might expect them to be. It remains to be seen, however, whether the same can be said for the alleged distinction between the higher and lower sorts of happiness. In Bentham's formulation, utilitarianism had explicitly weighed all pleasures and pains alike. Provided only that they were alike in duration, intensity, and certain other dimensions, sublime experiences of intellect or sentiment were to count no more heavily than moments of trivial entertainment or animal gratification. As Bentham himself put it, "quantity of pleasure being equal, pushpin is as good as poetry." According to Mill, however, the utilitarian need not accept this consequence; for there *is* a basis upon

which we may compare types of happiness: "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." When this test is applied to the more and less elevated pleasures, we find that "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." In short, because anyone who has experienced both the civilized pleasures and those we share with the brutes will prefer the former, it follows that the civilized pleasures are

vastly preferable.

At first glance, Mill's claim that some forms of happiness are better than others may seem flatly inconsistent with the greatest happiness principle; for to say that happiness should be maximized is apparently to imply that all forms of it are equally valuable. This inconsistency, however, is hardly a serious one; for to resolve it, we need only adjust the way we interpret the principle of utility. Instead of telling us to bring the greatest amount of overall happiness, the principle must instead be read as telling us to maximize a certain weighted sum: for example, if the higher pleasures are ascertained to be worth twice as much

as the lower ones, then they will count twice as heavily in our calculations, and so on. Nevertheless, although it easily can be made consistent with his general utilitarianism, Mill's claim that some forms of happiness are worth more than others does not appear to be established by the argument he presents for it; for even if people who have known both sorts of pleasure *do* prefer the civilized kind, that preference does not necessarily reflect a difference in the quality of the pleasures involved. One alternative explanation of it is that the civilized pleasures are preferred because they are perceived to be safer or more profitable in the long run; another is that they are generally felt to

be more intense. Because these, and perhaps other, possibilities remain open, Mill's contention that some forms of happiness are in themselves more valuable than others remains unproven. Just how one might successfully establish it is an interesting and difficult question, which we will not further explore.

So far, we have considered the principle of utility mainly as it pertains to individual acts. However, utilitarian considerations are also relevant to large-scale social decisions—the fact that a law would maximize well-being or minimize suffering is an obvious reason to adopt it—and Mill was adept

at mounting arguments of just this sort. His use of such reasoning is illustrated in a speech defending capital punishment, reprinted in this volume, which he delivered when a representative in the House of Commons. In that speech, Mill defends the use of capital punishment in cases of aggravated murder on two recognizably utilitarian grounds: first, that a quick death is actually more humane than a lengthy period of incarceration, but that, second, the natural tendency to fear death makes it seem worse to criminals and in that way increases its deterrent power. To the objection that the death penalty once administered is irrevocable—an objection whose force he

acknowledges—he replies that the risk of error can be kept “infinitesimal” by executing prisoners only when the evidence of their guilt meets exceptionally high standards.

In ethics, as in other areas of inquiry, a theory’s adequacy is judged in large measure by the scope and diversity of the phenomena that it can successfully explain. I have tried to show in this Introduction that despite its difficulties, Mill’s version of utilitarianism satisfies this criterion surprisingly well—as well, perhaps, as any other fully developed ethical theory that has ever been proposed. To some, this fact will suggest only that a fully acceptable

ethical theory has yet to be devised; to others, it will imply that we should take seriously the case for utilitarianism's truth. Whichever moral we choose to draw, Mill's accomplishment remains secure. His defense of utilitarianism may not be the last word in ethical theorizing, but it remains a standard against which other attempts must be judged.

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Utilitarianism

CHAPTER I

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.

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 practiced 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, and rules of action, it seems natural to suppose, must take their whole character and color from the end to which they are subservient. When we engage in 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 of 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 recognize 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. 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.

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 recognized. Although the nonexistence 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 favor 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 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 criticize 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.

On the present occasion, I shall, without further discussion of the other theories, attempt to contribute something toward the understanding and appreciation of the “utilitarian” or “happiness” theory, and toward 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 means, 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 cognizance 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.

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 endeavor to throw such light as I can upon the question considered as one of philosophical theory.

CHAPTER II

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 anyone 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 toward rescuing it from this utter degradation.^{[1](#)}

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 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 groveling,

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 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 scheme 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 recognize 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 pleasure should be supposed to depend on quantity alone.

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.

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 other 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 favorable 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 anyone who has remained equally susceptible to both classes of pleasures ever 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 of 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 clinches by the addition, What right, a short time ago, hadst thou 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 learned and submitted to, they affirm to be the beginning and necessary condition of all virtue.

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. 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 of

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 vigor 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 give an intelligent interest in these objects of contemplation should not be the inheritance of everyone born in a civilized 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 center 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, everyone 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 escapes 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 becomes 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 inconspicuous, in the endeavor will draw a noble enjoyment from the contest 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 honor 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 inspiring 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 anyone 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 realizing 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, once 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 recognize 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. "To do as you would be done by," and

“to love your neighbor 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, 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 impugnors 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.² 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 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 authorized expectations, of anyone 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

practiced 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

unsympathizing; that it chills their moral feelings toward 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 any standard or 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 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 everyone 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 standards, with too exclusive a regard, and do not lay sufficient stress upon the other beauties of character which go toward 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 recognize 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 candor and intelligence to fall into them; since persons, even of considerable mental endowment, 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 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 recognize 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 fulfill 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 stigmatized 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 toward 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 civilization, 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 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 recognized 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.

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 anyone 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 generalization entirely and endeavor 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 traveler 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 Almanac. 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 recognize 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 practically, with greater or with less success, according to the intellect and virtue of the individual; but it can hardly be pretended that anyone 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 consideration 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 recognized.

1. 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*. 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 circumlocutions.

2. An opponent, whose intellectual and moral fairness it is a pleasure to acknowledge (the Rev. J. Llewellyn Davies), 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 someone 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 preeminently) 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, if 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. [This footnote appeared only in the second edition of *Utilitarianism*.]

CHAPTER III
OF THE ULTIMATE
SANCTION
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? 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 analyze 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 favor 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 utilitarian 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 toward 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 recognized; 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 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, "That 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 endeavor 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 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.

But moral associations which are wholly of artificial creation, when the 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 harmonize, which would make us feel 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 analyzed away.

But there *is* this basis of powerful natural sentiment; and that it is which, when once the general happiness is

recognized 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 civilization. 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 civilization, every person, except an absolute monarch, has equals,

everyone is obliged to live on these terms with somebody; and in every age some advance is made toward 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 anyone 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

civilization 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 leveling 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, 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 realize this conception will feel any misgiving about the sufficiency of the ultimate sanction for the happiness morality. To any ethical student who finds the realization difficult, I recommend, as a means of facilitating it, the second of M. Comte's two principal works, the *Traité de Politique Positive*. 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 psychological power and the social efficacy of a religion, making it take hold of human life, and color 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 recognize 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 IV

OF WHAT SORT OF PROOF THE PRINCIPLE OF UTILITY IS SUSCEPTIBLE

It has already been remarked 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 cognizance 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 fulfill—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 a *son e* 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 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 recognize 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 live 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 further, 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? 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, whereas 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.

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, we have evidently arrived at a question of fact and experience, dependent, like all similar

questions, upon evidence. It can only be determined by practiced 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 fulfillment, 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 as positively and emphatically as anyone. 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 a 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 fulfillment 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 V

ON THE CONNECTION BETWEEN JUSTICE AND UTILITY

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 color 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 characterize 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 anyone 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 anyone. 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 endeavoring 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 license 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 fulfillment 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 anyone: 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 favor or preference to one person over another in matters to which favor 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 favor 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 everyone 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 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 inexpedient. 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 leveling doctrines, there are differences of opinion about expediency. Some communists consider it unjust that

the produce of the labor 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 wants 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 in all languages, the etymology of the word which corresponds to “just” points distinctly to an origin connected with the ordinances of law. *Justum* is a form of *jussum*, that which has been ordered. *Dikaion* comes directly from *dike*, a suit at law. *Recht*, from which came *right* and *righteous*, is synonymous with law. The courts of justice, the administration of justice, are the courts and the administration of law. *La justice*, in French, is the established term for

judicature. I am not committing the fallacy, imputed with some show of truth to Horne Tooke, of assuming that a word must still continue to mean what it originally meant. Etymology is slight evidence of what the idea now signified is, but the very best evidence of how it sprang up. There can, I think, be no doubt that the *ideémère*, 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 everyone 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 fulfill it. Duty is a thing which may be *exacted* from a person, as one exacts a debt. Unless we think that it may 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. 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.³

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 practice but not

toward 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 a 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 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 of 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 practice those virtues toward 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, 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.

Having thus endeavored 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-defense 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 sympathize. 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 sympathizing, 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-defense. The same superiority of intelligence, joined to the power of sympathizing 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 raises 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 would

make us resent indiscriminately whatever anyone does that is disagreeable to us; but, when moralized 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 even 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 sympathizes, 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 measure 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 endeavoring 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-percent 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 possession of. 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 everyone's feelings the most vital of all interests. 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 everything the next instant by whoever

was momentarily stronger than ourselves. Now this most indispensable of all necessities, 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 in expediency. 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 *m u s t*, and recognized 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 recognize 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 much 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 anyone 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-defense. 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. 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-defense 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 anyone 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 favorite 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 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 offenses. 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 Mohammedan 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 offense, 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 offense 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 offenses, 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 co-operative industrial associations, 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 favored for this unmerited inequality of advantages than to aggravate it. On the contrary side it is contended that society receives more from the efficient laborer; 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 everyone; 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 man's feelings of humanity and 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 defense employed for other modes of assessing taxation. People feel obliged to argue that the state does more for the rich man 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 recognizes 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—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 a 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, everyone would see in everyone else an 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 obligation of justice. The most marked cases of injustice, and those which give the tone to the feeling of repugnance which characterizes the sentiment, are acts of wrongful aggression or wrongful exercise of power over someone; 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-defense, of defense 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. 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 sympathizing 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 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 offense, 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 fulfill 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 fulfillment of 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, toward 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.⁴—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 some recognized 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 learned 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 stigmatized 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 color, 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, moralized 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.

3. 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.

4. 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 different persons. This, however, is

not a *presupposition*, 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 generalizations 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 that 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 generalizations 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.)

APPENDIX

APRIL 1868 SPEECH ON CAPITAL PUNISHMENT

This selection is excerpted from a speech that Mill delivered to the British House of Commons in April 1868.

. . . aggravated murder is now practically the only crime which is punished with death by any of our lawful tribunals; and we are even now deliberating whether the extreme penalty should be retained in that solitary case. . . . When there has been brought home to

any one, by conclusive evidence, the greatest crime known to the law; and when the attendant circumstances suggest no palliation of the guilt, no hope that the culprit may even yet not be unworthy to live among mankind, nothing to make it probable that the crime was an exception to his general character rather than a consequence of it, then I confess it appears to me that to deprive the criminal of the life of which he has proved himself to be unworthy—solemnly to blot him out from the fellowship of mankind and from the catalogue of the living—is the most appropriate, as it is certainly the most impressive, mode in which society can attach to so great a crime the penal

consequences which for the security of life it is indispensable to annex to it. I defend this penalty, when confined to atrocious cases, on the very ground on which it is commonly attacked—on that of humanity to the criminal; as beyond comparison the least cruel mode in which it is possible adequately to deter from the crime. If, in our horror of inflicting death, we endeavor to devise some punishment for the living criminal which shall act on the human mind with a deterrent force at all comparable to that of death, we are driven to inflictions less severe indeed in appearance, and therefore less efficacious, but far more cruel in reality. Few, I think, would

venture to propose, as a punishment for aggravated murder, less than imprisonment with hard labor for life; that is the fate to which a murderer would be consigned by the mercy which shrinks from putting him to death. But has it been sufficiently considered what sort of a mercy this is, and what kind of life it leaves to him? If, indeed, the punishment is not really inflicted—if it becomes the sham which a few years ago such punishments were rapidly becoming—then, indeed, its adoption would be almost tantamount to giving up the attempt to repress murder altogether. But if it really is what it professes to be, and if it is realized in all its rigor by the popular imagination, as it very probably

would not be, but as it must be if it is to be efficacious, it will be so shocking that when the memory of the crime is no longer fresh, there will be almost insuperable difficulty in executing it. What comparison can there really be, in point of severity, between consigning a man to the short pang of a rapid death, and immuring him in a living tomb, there to linger out what may be a long life in the hardest and most monotonous toil, without any of its alleviations or rewards—debarred from all pleasant sights and sounds, and cut off from all earthly hope, except a slight mitigation of bodily restraint, or a small improvement of diet? Yet even such a lot

as this, because there is no one moment at which the suffering is of terrifying intensity, and, above all, because it does not contain the element, so imposing to the imagination, of the unknown, is universally reputed a milder punishment than death—stands in all codes as a mitigation of the capital penalty, and is thankfully accepted as such. For it is characteristic of all punishments which depend on duration for their efficacy—all, therefore, which are not corporal or pecuniary—that they are more rigorous than they seem; while it is, on the contrary, one of the strongest recommendations a punishment can have, that it should seem more rigorous than it is; for its practical power

depends far less on what it is than on what it seems. There is not, I should think, any human infliction which makes an impression on the imagination so entirely out of proportion to its real severity as the punishment of death. The punishment must be mild indeed which does not add more to the sum of human misery than is necessarily or directly added by the execution of a criminal. As my honorable Friend the Member for Northampton has himself remarked, the most that human laws can do to anyone in the matter of death is to hasten it; the man would have died at any rate; not so very much later, and on the average, I fear, with a considerably greater amount

of bodily suffering. Society is asked, then, to denude itself of an instrument of punishment which, in the grave cases to which alone it is suitable, effects its purpose at a less cost of human suffering than any other; which, while it inspires more terror, is less cruel in actual fact than any punishment that we should think of substituting for it. My honorable Friend says that it does not inspire terror, and that experience proves it to be a failure. But the influence of a punishment is not to be estimated by its effect on hardened criminals. Those whose habitual way of life keeps them, so to speak, at all times within sight of the gallows, do grow to care less about it; as, to compare good things with bad,

an old soldier is not much affected by the chance of dying in battle. I can afford to admit all that is often said about the indifference of professional criminals to the gallows. Though of that indifference one-third is probably bravado and another third confidence that they shall have the luck to escape, it is quite probable that the remaining third is real. But the efficacy of a punishment which acts principally through the imagination, is chiefly to be measured by the impression it makes on those who are still innocent: by the horror with which it surrounds the first promptings of guilt; the restraining influence it exercises over the beginning of the thought which,

if indulged, would become a temptation; the check which it exerts over the gradual declension towards the state—never suddenly attained—in which crime no longer revolts, and punishment no longer terrifies. As for what is called the failure of death punishment, who is able to judge of that? We partly know who those are whom it has not deterred; but who is there who knows whom it has deterred, or how many human beings it has saved who would have lived to be murderers if that awful association had not been thrown round the idea of murder from their earliest infancy? Let us not forget that the most imposing fact loses its power over the imagination if it is made too cheap. When a punishment

fit only for the most atrocious crimes is lavished on small offenses until human feeling recoils from it, then, indeed, it ceases to intimidate, because it ceases to be believed in. The failure of capital punishment in cases of theft is easily accounted for: the thief did not believe that it would be inflicted. He had learned by experience that jurors would perjure themselves rather than find him guilty; that Judges would seize any excuse for not sentencing him to death, or for recommending him to mercy; and that if neither jurors nor Judges were merciful, there were still hopes from an authority above both. When things had come to this pass it was high time to

give up the vain attempt. When it is impossible to inflict a punishment, or when its infliction becomes a public scandal, the idle threat cannot too soon disappear from the statute book. And in the case of the host of offenses which were formerly capital, I heartily rejoice that it did become impracticable to execute the law. If the same state of public feeling comes to exist in the case of murder; if the time comes when jurors refuse to find a murderer guilty; when Judges will not sentence him to death, or will recommend him to mercy; or when, if juries and Judges do not flinch from their duty, Home Secretaries, under pressure of deputations and memorials, shrink from theirs, and the threat

becomes, as it became in the other cases, a mere *brutum fulmen*; then, indeed, it may become necessary to do in this case what has been done in those—to abrogate the penalty. That time may come—my honorable Friend thinks that it has nearly come. I hardly know whether he lamented it or boasted of it; but he and his Friends are entitled to the boast: for if it comes it will be their doing, and they will have gained what I cannot but call a fatal victory, for they will have achieved it by bringing about, if they will forgive me for saying so, an enervation, an effeminacy, in the general mind of the country. For what else than effeminacy is it to be so much more

shocked by taking a man's life than by depriving him of all that makes life desirable or valuable? Is death, then, the greatest of all earthly ills? *Usque adeone mori miserum est?* Is it, indeed, so dreadful a thing to die? Has it not been from of old one chief part of a manly education to make us despise death—teaching us to account it, if an evil at all, by no means high in the list of evils; at all events, as an inevitable one, and to hold, as it were, our lives in our hands, ready to be given or risked at any moment, for a sufficiently worthy object? I am sure that my honorable Friends know all this as well, and have as much of all these feelings as any of the rest of us; possibly more. But I

cannot think that this is likely to be the effect of their teaching on the general mind. I cannot think that the cultivating of a peculiar sensitiveness of conscience on this one point, over and above what results from the general cultivation of the moral sentiments, is permanently consistent with assigning in our own minds to the fact of death no more than the degree of relative importance which belongs to it among the other incidents of our humanity. The men of old cared too little about death, and gave their own lives or took those of others with equal recklessness. Our danger is of the opposite kind, lest we should be so much shocked by death, in general and in

the abstract, as to care too much about it in individual cases, both those of other people and our own, which call for its being risked. And I am not putting things at the worst, for it is proved by the experience of other countries that horror of the executioner by no means necessarily implies horror of the assassin. The stronghold, as we all know, of hired assassination in the eighteenth century was Italy; yet it is said that in some of the Italian populations the infliction of death by sentence of law was in the highest degree offensive and revolting to popular feeling. Much has been said of the sanctity of human life, and the absurdity of supposing that we can teach

respect for life by ourselves destroying it. But I am surprised at the employment of this argument, for it is one which might be brought against any punishment whatever. It is not human life only, not human life as such, that ought to be sacred to us, but human feelings. The human capacity of suffering is what we should cause to be respected, not the mere capacity of existing. And we may imagine somebody asking how we can teach people not to inflict suffering by ourselves inflicting it? But to this I should answer—all of us would answer—that to deter by suffering from inflicting suffering is not only possible, but the very purpose of penal justice.

Does fining a criminal show want of respect for property, or imprisoning him, for personal freedom? Just as unreasonable is it to think that to take the life of a man who has taken that of another is to show want of regard for human life. We show, on the contrary, most emphatically our regard for it, by the adoption of a rule that he who violates that right in another forfeits it for himself, and that while no other crime that he can commit deprives him of his right to live, this shall. There is one argument against capital punishment, even in extreme cases, which I cannot deny to have weight—on which my honorable Friend justly laid great stress, and which never can be entirely got rid

of. It is this—that if by an error of justice an innocent person is put to death, the mistake can never be corrected; all compensation, all reparation for the wrong is impossible. This would be indeed a serious objection if these miserable mistakes—among the most tragical occurrences in the whole round of human affairs—could not be made extremely rare. The argument is invincible where the mode of criminal procedure is dangerous to the innocent, or where the Courts of Justice are not trusted. And this probably is the reason why the objection to an irreparable punishment began (as I believe it did) earlier, and is more

intense and more widely diffused, in some parts of the Continent of Europe than it is here. There are on the Continent great and enlightened countries, in which the criminal procedure is not so favorable to innocence, does not afford the same security against erroneous conviction, as it does among us; countries where the Courts of Justice seem to think they fail in their duty unless they find somebody guilty; and in their really laudable desire to hunt guilt from its hiding places, expose themselves to a serious danger of condemning the innocent. If our own procedure and Courts of Justice afforded ground for similar apprehension, I should be the first to join in withdrawing

the power of inflicting irreparable punishment from such tribunals. But we all know that the defects of our procedure are the very opposite. Our rules of evidence are even too favorable to the prisoner; and juries and Judges carry out the maxim, "It is better that ten guilty should escape than that one innocent person should suffer," not only to the letter, but beyond the letter. Judges are most anxious to point out, and juries to allow for, the barest possibility of the prisoner's innocence. No human judgment is infallible: such sad cases as my honorable Friend cited will sometimes occur, but in so grave a case as that of murder, the accused, in our

system, has always the benefit of the merest shadow of a doubt. And this suggests another consideration very germane to the question. The very fact that death punishment is more shocking than any other to the imagination, necessarily renders the Courts of Justice more scrupulous in requiring the fullest evidence of guilt. Even that which is the greatest objection to capital punishment, the impossibility of correcting an error once committed, must make, and does make, juries and Judges more careful in forming their opinion, and more jealous in their scrutiny of the evidence. If the substitution of penal servitude for death in cases of murder should cause any relaxation in this conscientious

scrupulosity, there would be a great evil to set against the real, but I hope rare, advantage of being able to make reparation to a condemned person who was afterwards discovered to be innocent. In order that the possibility of correction may be kept open wherever the chance of this sad contingency is more than infinitesimal, it is quite right that the Judge should recommend to the Crown a commutation of the sentence, not solely when the proof of guilt is open to the smallest suspicion, but whenever there remains anything unexplained and mysterious in the case, raising a desire for more light, or making it likely that further information may at some future

time be obtained. I would also suggest that whenever the sentence is commuted the grounds of the commutation should, in some authentic form, be made known to the public. Thus much I willingly concede to my honorable Friend; but on the question of total abolition I am inclined to hope that the feeling of the country is not with him, and that the limitation of death punishment to the cases referred to in the Bill of last year will be generally considered sufficient. The mania which existed a short time ago for paring down all our punishments seems to have reached its limits, and not before it was time. We were in danger of being left without any effectual punishment, except for small offenses.

What was formerly our chief secondary punishment—transportation—before it was abolished, had become almost a reward. Penal servitude, the substitute for it, was becoming, to the classes who were principally subject to it, almost nominal, so comfortable did we make our prisons, and so easy had it become to get quickly out of them. Flogging—a most objectionable punishment in ordinary cases, but a particularly appropriate one for crimes of brutality, especially crimes against women—we would not hear of, except, to be sure, in the case of garotters, for whose peculiar benefit we reestablished it in a hurry, immediately after a Member of

Parliament had been garotted. With this exception, offenses, even of an atrocious kind, against the person, as my honorable and learned Friend the Member for Oxford well remarked, not only were, but still are, visited with penalties so ludicrously inadequate, as to be almost an encouragement to the crime. I think, Sir, that in the case of most offenses, except those against property, there is more need of strengthening our punishments than of weakening them; and that severer sentences, with an apportionment of them to the different kinds of offenses which shall approve itself better than at present to the moral sentiments of the community, are the kind of reform of

which our penal system now stands in need. I shall therefore vote against the Amendment.

[The amendment was defeated.]

This expanded edition of John Stuart Mill's *Utilitarianism* includes the text of his 1868 speech to the British House of Commons defending the use of capital punishment in cases of aggravated murder. The speech is significant both because its topic remains timely and because its arguments illustrate the applicability of the principle of utility to questions of large-scale social policy.

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