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ETHICS AND SOCIAL POLICY

ETHICS
AND
SOCIAL POLICY

BY
WAYNE A. R. LEYS, PH.D.



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PREFACE

MY PURPOSE in writing this book is to make the principles of ethical criticism accessible and intelligible to people who must evaluate public policies and personal plans of conduct. The old questions of philosophical ethics are implicit in every discussion of social policy, but the relevance of Aristotle's and Spinoza's studies is not always obvious. Daily occupations change, and the language in which common philosophical problems are formulated also changes. I have not, therefore, begun with traditional expositions of "the good," "the right," "free will," and so forth. I have started with a statement of some current social controversies, and I have then appealed to Socrates, Aristotle, and others for help in formulating the ethical difficulties which these current controversies create.

Questions of educational and legal policy introduce the reader to the differences between descriptive and normative judgments. A discussion of economic plans leads naturally and without stage effects to a quest for consistency of purpose. The rival ethics of the good and of the right are products of this quest. Controversies regarding sex and

health raise the problem of securing general moral agreement. In this connection it is necessary to review the relativist and absolutist theories of morals. Alternative plans of government cannot be evaluated without criticizing the various kinds of immoralism, and they call for a definition of the epistemological assumptions of ethics. Finally, the choice between the dictatorial and the democratic patterns of leadership requires the reader to review most of the principles and problems of ethical theory. A chapter on the leader principle, therefore, serves as a summary and conclusion for the book.

This organization of ethical study is not intended as a substitute for the historical approach. It should, on the contrary, help the individual decide what sort of questions he may carry to Aristotle and Kant with a reasonable expectation of receiving helpful advice. I have tried to expound some of the classics and their relation to our time. I have also undertaken to make clear my own position on various issues. The interpretations of the classics, no doubt, have the usual limitations of brief presentations; and my own opinions may sound somewhat dogmatic. I wanted to offer just enough *answers* to encourage independent thinking about *questions,* since the stimulation of thought is the avowed purpose of every good Socratic midwife. For this reason, some of the exercises call for more than a searching of the text. They direct the reader's attention to tangential problems for which he will need to read collateral works and to think.

The need for some such approach to ethics was neatly expressed by Professor Tufts in his comment upon a privately printed edition which preceded the present publication:

Your book seems to me an important pioneering experiment. I imagine that present-day young people are not "pre-conditioned" to attack philosophy through the older problems. When I was a student in college, evolution was so much in the air, and its applications to religion and society so controversial, that this was the natural door to philosophic interest. I remember one breathless evening when a large group of us listened as Professor Garman set forth Herbert Spencer's account of the origins of religion. Nine tenths of our students had then a religious bringing up. Heaven and hell were at least not openly questioned. Hence the line of thought from Descartes through Locke-Berkeley-Hume to Kant fitted into the student's own problem. But today the newspapers and radio and even the political campaigns present controversial material that sets such problems as you present for analysis. And I suppose the important thing in introducing youngsters to philosophy is to have them see that they are dealing with real problems, not with something manufactured for the purpose of "mental discipline" or of giving the professor something to lecture about.

If any of the dilemmas of our day are here related fruitfully to the insights of the great philosophers, thanks are due to the frankness of metropolitan students who do not hesitate to tell an instructor when his remarks seem pointless to them. I am also indebted to teachers and colleagues, past and present: E. A. Burtt, M. S. Everett, Raymond Hengren, Siegfried Marck, Glenn Negley, Helen Patton, Charner Perry, T. V. Smith, J. H. Tufts, Warner Wick, and Glenn Wiltsey. To some of them I am obliged for improvements in the present manuscript and, to others, for blue-penciling material that was poorly expressed or irrelevant. For both suggestions and the use of the blue pencil, I am grateful to my wife, Helen Benson Leys, and to the editor of this series Arthur Murphy.

WAYNE A. R. LEYS

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PART ONE

HOW AND WHY POLICIES ARE EVALUATED

CHAPTER ONE

WHY WE QUESTION THE WISDOM OF POLICIES

TEN generations ago a learned man looked back over his childhood and youth and decided to unlearn everything that his teachers had taught him. "Several years have now elapsed," he wrote, "since I first became aware that I had accepted even from my youth many false opinions for true, and that consequently what I afterwards based on such principles was highly doubtful." Eight or ten years of military campaigning had opened to Descartes "the great book of the world" and brought him into contact with men whose strange opinions were obviously grounded "far more on custom and example than any certain knowledge." As he meditated during long months in winter quarters, Descartes was convinced that his own beliefs were a hodgepodge of childish impressions and hearsay. "From that time," he continued, "I was convinced of the necessity of undertaking once in my life to rid myself of all the opinions I had adopted, and of commencing anew the work of build-

ing from the foundation if I desired to establish a firm and abiding superstructure in the sciences." [1]

Critical as he became of prevalent ideas about the world of nature, Descartes never allowed himself openly to engage in ethical doubt about the desirability of current social policies. He was afraid, he said, that a re-examination of old ideas about good and bad would leave him irresolute in action.[2] He was content, therefore, to let custom and traditional precept guide him in practical matters.

A twentieth-century Descartes finds himself questioning the evaluations as well as the factual beliefs of his early years. Ten or twenty years hence you may be burning the midnight oil to unlearn or, at least, to reconsider your moral convictions no less than your present stock of knowledge. You will probably not undertake to doubt systematically *all* of your factual beliefs, as Descartes proposed to do, although you expect some of your present knowledge about heredity, airplanes, radio, divorce, and so forth to prove faulty. But you will go further than Descartes, in that you will ask whether you have placed the right value on things. You may change your mind about the *purposes* for which airplanes *ought* to be used, the *wisdom* of granting divorces, the kind of programs that *should* be broadcast by radio, and so on.

Since graduation, my classmates and I have revised both opinions about values and opinions about facts. We have changed our minds, for instance, on the subject of unemployment insurance. I am reminded of this subject by a debating trophy which is not quite so tarnished as the

---

[1] *Meditations on the First Philosophy,* Meditation I. John Veitch translation, p. 21. The Open Court Publishing Co., 1925.

[2] *Discourse on Method,* Part III.

arguments that won it. My face has been red more than once as subsequent reading has disclosed error in the "facts" which I so ponderously hurled at my worthy opponents and the audience. My worthy opponents and my worthy colleagues, all of us, were badly misinformed and underinformed on many points. We had read textbooks and government bulletins on unemployment insurance; we had listened to lectures: we felt almost like authorities. I do not think that any of us anticipated the letdowns of the next fifteen or twenty years: how often we should realize that we had misapprehended the findings of experts; how often we should have to acquaint ourselves with the new data and theories that have refuted the expert opinion of those days.

Even more radical has been the change in our estimate of the *importance* of unemployment. Believe it or not, the debating season was spoiled because the student body considered unemployment a trivial subject. We debaters, too, felt that it was pretty academic. As for the proposed remedy—insurance—that proved to be extremely unpopular. All but one of the affirmative teams in our league were defeated. Audience balloting confirmed judicial opinion that unemployment insurance was a bad thing. I wonder how many judges and auditors changed their tune a decade later and joined the popular clamor that resulted in the enactment of the Social Security Act.

Today when we encounter old friends, we can never be sure that they will not have revised their former attitudes toward divorce, government regulation of business, church attendance, personal thrift, or war. It has become respectable to question old notions of right and wrong. Indeed, we are frequently told that the world needs a more

daring review of its value judgments. Not a few policy-making positions in government and business are being filled by men who have changed their politics and who make a virtue of modifying their opinions from time to time.

Many schools have accepted this progressive outlook and encourage their students to participate in ethical criticism as well as scientific criticism. The modern school continues to transmit yesterday's lore, but unlike Descartes' college it sends young men into library, laboratory, and forum to learn how to find facts and to evaluate policies for themselves. The spirit of this enterprise was expressed by old Professor Palmer. At the tender age of 87 he wrote:

> Preliminary education, I have pointed out, supplies us authoritatively with what is generally agreed upon in our community as regards the important facts of life. The university has a different aim. We come to it for purposes of criticism, to gain control of our own minds, to judge how far our inherited bank-stock of beliefs fits our case. What do these mean and mean for me? Nothing is good that has not been criticized and criticized continually. Some people are afraid of criticism. They say, "Oh, if you send a boy to college, he will go to doubting everything." Certainly! That is what he is here for. He cannot come to personal certitude till he has doubted. But I should not agree with the assumption that doubt means simply casting aside. Doubt has a positive office as well. It should bring into fuller significance ideas which have been hidden under the incrustations of time. And such clarified beliefs are, in fact, commonly the result. All dictation is taken off during these maturing years. At least we try to take it off at Harvard. Yet it would not be easy to find elsewhere a larger body of serious-minded, yes, reverent young men.[3]

[3] From essay of George Herbert Palmer in Adams and Montague, *Contemporary American Philosophy*, 1930, Vol. I, p. 43. By permission of The Macmillan Company, publishers.

The Economy of Custom and Habit

Of course, there is opposition to this free-thinking attitude. Both within and without the schools there are groups who want young people to be taught *what to believe* rather than *how to arrive at their own beliefs.* This opposition is not so widespread in regard to scientific matters as it is in matters of policy. It is true that three American states have anti-evolution laws which are intended as protection against free-thinking about facts. But the objections to free-thinking on factual questions are now insignificant as compared to the objections to free-thinking on questions of good and bad. We have many state laws against the study of syndicalism and other unorthodox economic theories. We hear numerous protests against the study of sex problems in college and high school. There have been organized attempts to "protect" students from certain facts and theories in regard to the public utilities. Before retiring from Yale University, President Angell called attention to the pressure upon college presidents to silence or dismiss faculty members. If Dr. Angell had been writing in the 1880's, he would undoubtedly have referred to pressure from sectarian quarters. Writing in the 1930's, he represented the attacks upon academic men as directed chiefly against those "whose public utterances on political issues, especially those of an economic or fiscal character," were unpalatable to his correspondents.[4]

The situation is sometimes pictured as a conflict between the professors, who are intellectual and moral vandals, and the established institutions and morality. The plaintiffs contend that the main business of college as well as of ele-

[4] "The University in a Time of Change," *Harpers Magazine,* July, 1934.

mentary education is to transmit the heritage of the past. They begin by saying, quite properly, that no young person can think through all of the questions that he will face. The world forces countless choices upon him. From early infancy to the grave, from morning until night, he must answer innumerable questions of fact and of policy: What will you have for dinner? Will you take this woman to be your lawful wedded wife? Do you hyphenate *mother in law,* and are there two *t*'s in *sabotage*? Will you read that book? Do you vote for higher taxes? Will you join our church? Why does a child suddenly develop shyness? Will you ask your ward committeeman to "fix" the ticket? Great and small, the questions come endlessly. Now, say the traditionalists, no one can think through everything; very few persons can be "original thinkers" about anything. But fortunately, human beings are capable of forming habits, and in the formation of habits they can imitate their elders and thus enjoy the economy and the guidance of custom. Practically every question has been answered by the wise men of previous generations, and the accumulation of wisdom has been going on since the days of the cave men. Therefore, say the traditionalists, it is the business of education to acquaint young people with this fund of experience, and not to mislead them into thinking that they can in a few short years answer every question for themselves.

Questions That Custom Does Not Settle

Few of us realize the extent to which custom relieves us of the necessity for thinking through our problems. The traditionalists are quite right when they say that no human being can answer all questions for himself. But that does

not mean that critical, free thinking is unnecessary. It is much easier to say that each generation is endowed with the wisdom of the past than it is to find the traditional precepts that solve some of our problems. In our society, custom does not clearly indicate what we should do in many situations; and where custom does speak, its direction is sometimes disputed.

Take, as an example, the personal problem of finding and following a trade. Twelfth-century children did not, in most cases, have to think much about this question. Upper-class children were limited to government, the army, or holy orders. Lower-class children were committed to agriculture or to a handicraft. By contrast, few of us can say that there is a hereditary occupation in our family, or that tradition endows us with a complete ethics of trade or profession. We must deliberate and plan our vocational life if we want it to be a happy and useful career. Most of us find ourselves asking for factual information about opportunities and our own abilities. We also face value questions: Are the rewards of a contemplated occupation those things which we wish to achieve? Can we in good conscience approve of the practices of the occupation? These questions call for reflection rather than mere reliance upon custom; and there is a fair chance that some oversight or misconception will cause us to make a decision that we shall later regret.

When we come to the less personal questions of public policy, custom is also an inadequate arbiter. Just what method does the Bible prescribe for figuring a "fair" telephone rate? Exactly how low, according to our revered common law, can a pilot fly his airplane before he begins to trespass and disturb the peace of a protesting householder?

What do our national traditions direct in regard to foreign policy? What does family tradition say is the age at which a boy may be trusted with the family automobile? Perhaps all of the answers are implied in traditional rules; but earsplitting arguments are provoked whenever someone tries to tell what Moses or great-grandfather or Blackstone or Lincoln would have said.

Professor Bode has remarked that inheriting culture is today somewhat like inheriting a lawsuit. When we come to the years of discretion, we find that our elders bequeathed some unsolved problems, and that the community is divided in its opinions. The very fact that issues are controversial shows that the community does not possess *common* customs for handling certain important questions.

The students who come to school reflect the divided condition of society, for they are also divided on most questions of right and wrong. Over a period of two years, my colleagues and I once gave opinions tests to more than a thousand Freshmen. We discovered general disagreement on the leading questions of the day. Sharp differences of opinion were registered on the economic independence of women, the treatment of criminals, the segregation of the races, the preservation of competition, and nearly fifty other issues.[5] The division of sentiment convinced us of

[5] If you are interested in polls of student opinion, read:
Murphy and Likert, *Public Opinion and the Individual.* Harper and Brothers, 1938.
Vernon Jones, "Attitudes of College Students," *Journal of Educational Psychology,* January, 1938.
J. H. Leuba, "Religious Beliefs of American Scientists," *Harpers Magazine,* August, 1934.
William Albig, *Public Opinion.* McGraw-Hill Book Co., 1939.
Thurstone and Chave, *Attitudes and Attitudes Testing.* University of Chicago Press, 1925.
T. M. Carter, "Ethical Attitudes of 623 Men and Women," *International Journal of Ethics,* April, 1933.

the need for training in the criticism and discussion of policies.

We said that it is easier to say that we are endowed with the wisdom of the past than to find the traditional precepts that guide us in some situations. It is also easier to say that we need to think for ourselves than to do a good job of thinking. Are we competent to judge the merits of rival policies? Even if there were no champions of ancestral wisdom, the average person would half expect critical thinking on his part to be met with the taunt: "Who asked you for *your* opinion?" Although man is assured by holy writ that he is but little lower than the angels, this question often rebukes him when he ventures to think and pass judgment upon prevailing policies. Although it is now popular to admit that human institutions are defective, the green employee, the cub reporter, the budding politician, and the new club member will probably rebuke themselves, if no one else does, the first time they suggest something that ought to be done. It is easier to talk vaguely about the need for thoughtfulness in matters of policy than to do some specific thinking about the need.

The experience of Jeremy Bentham was not unusual in this respect.[6]

> Sent to Oxford by his father at the unusually early age of fifteen; required, on admission, to declare his belief in the Thirty-nine Articles,—he felt it necessary to examine them; and the examination suggested scruples, which he sought to get removed, but instead of the satisfaction he expected, was told that it was not for boys like him to set up their judgment against the great men of the Church. After a struggle, he

[6] J. S. Mill, *Dissertations and Discussions*, Vol. I, pp. 362, 361. W. V. Spencer, Boston, 1868.

signed; but the impression that he had done an immoral act never left him. . . .

After his graduation Bentham entered the law and presently began to question some of the practices of his profession.

He has himself stated what particular abuse first gave that shock to his mind, the recoil of which has made the whole mountain of abuse totter: it was the custom of making the client pay for three attendances in the office of a Master in Chancery, when only one was given. The law, he found, on examination, was full of such things. But were they discoveries of his? No: they were known to every lawyer who practised, to every judge who sat on the bench. . . . During so many generations, in each of which thousands of well-educated young men were successively placed in Bentham's position and with Bentham's opportunities, he alone was found with sufficient moral sensibility and self-reliance to say to himself, that these things, however profitable they might be, were frauds, and that between them and himself there should be a gulf fixed. To this rare union of self-reliance and moral sensibility we are indebted for all that Bentham has done.

You may not spend as much of your life as Bentham did inquiring into the good of prevailing practices; you may not find as many laws and policies in need of revision. But you will find in yourself, if not in others, a feeling of presumptiveness and hesitancy whenever you undertake to evaluate things in the name of your own judgment rather than in the name of hoary customs and sacred traditions.

Policy-Doubting Disciplines Are Part of Our Culture

Although our ancestors did not establish customs that can tell us exactly *what* to do in many modern situations, some of them established arts and sciences which tell us *how* we may go about the business of thinking for ourselves. To

a considerable extent, ethics and related policy-criticizing disciplines are simply the ways in which intelligent men in various walks of life have proceeded to re-examine and revise policies that could not be maintained.

Ethics, political science, economics, and so on appear today as *sources* of doubt. The ethics instructor questions time-honored duties that some of his students might not doubt otherwise for years to come. The political science department attacks time-honored governmental policies that many students may have looked upon as above criticism. The professors are not intellectual vandals taking pot shots at prevalent ideas just for the fun of it. They are acquainting the students with the methods of criticism and discussion which were invented by our more intelligent forebears and which the students need or will need when they encounter unsatisfactory policies or bump into opposition.

Ethics and political science are names for the kind of thinking that first occurred when some intelligent Greeks were confronted by novel and puzzling conditions. The earliest appearance of these subjects in the Occident is in the thought of Socrates, Protagoras, Plato, and Aristotle. Were these men diabolical conspirators, deliberately and without provocation criticizing established institutions? No, they were good-intentioned fellows, like most of their countrymen brought up in traditions that fitted them to lead useful lives in a small town, the kind of small town that is ruled by a democracy of the "best people." When these men came of age, that kind of town had disappeared. They had to live in a larger, more cosmopolitan city. The government for which they had been trained no longer existed; it was supplanted, first, by short-lived dictatorships, and later by a vast empire. Socrates, Protagoras, Plato, and Aristotle were

only four men out of thousands who had doubts about what Greek tradition had thrust upon them. We regard them as pioneer philosophers and political scientists because, in contrast to the "poor thinkers," they were persistent in their analysis of confusing events and because they established standards for straight thinking which are still helpful to perplexed men.

The situation in economics is quite similar. Jack Robinson takes some popular ideas about competition with him when he enters the department of economics. Before Jack Robinson can say his name, he is doubting these popular theories. Economics is a dangerous subject from the standpoint of men who want to preserve old established ideas.

If we were to believe some alarmists, we should suppose that the fact-verifying and policy-criticizing methods of economics had been invented by irresponsible, academic brain-trusters. It is true that the "safest" of the pioneers, Adam Smith, was a lecturer in the University of Glasgow; but listen to his indictment of the schools:

> The improvements which, in modern times, have been made in several different branches of philosophy, have not, the greater part of them, been made in universities, though some no doubt have. The greater part of universities have not even been very forward to adopt those improvements after they were made, and several of those learned societies have chosen to remain, for a long time, the sanctuaries in which exploded systems and obsolete prejudices found shelter and protection, after they had been hunted out of every other corner of the world.

Smith goes on to allege that the custom of sending sons to travel in foreign countries instead of to a university proves the low popular esteem for the universities, and that the low esteem is due to the fact that schools cling to outmoded

ideas. The father of economics expresses his sympathy for the fathers of Britain:

> By sending his son abroad, a father delivers himself, at least for some time, from so disagreeable an object as that of a son unemployed, neglected and going to ruin before his eyes.[7]

Who were the other pioneers in economic thinking?

—François Quesnay, a physician, and DuPont de Nemours, a civil servant: they realized that there was something wrong with the economic policies of eighteenth-century France.

—Thomas Malthus: Malthus was a clergyman who saw the futility of almsgiving if nothing was done to remove the causes of poverty.

—David Ricardo: Ricardo was a businessman who thought that England's commercial policies during the early part of the nineteenth century were antiquated and should be adjusted to new conditions.

—Karl Marx: Marx agreed with Ricardo in criticizing the existing policies but had ideas of a different sort about the revision of government and industry.

—John Stuart Mill: Mill was an employee of the East India Company.

None of these early economists was a schoolman, and some of them hated the sight of a professor.

These men and many others have not shared Descartes' reluctance to question practical maxims and raise doubts about what ought to be done. They were not too much

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[7] Adam Smith, *The Wealth of Nations*, pp. 610–611. G. P. Putnam's reprint of the 1812 edition (1877).

alarmed by the prospect of paralyzing action through excessive doubt. They sensed the possibility of wasting their resolution and their action on ends whose unworthiness may be foreseen. Socrates, Aristotle, Mill, and the rest established the practice of questioning customs, just as Descartes and Galileo established the tradition of questioning traditional science. To question custom is now one of our customs.

If our intellectual ancestors had done no more than bequeath to us this questioning attitude, we might renounce the inheritance. We might feel totally unprepared for the risks that such an attitude invites, for questioning and thinking are difficult operations.

Fortunately we are heirs not only of the questioning habit, but also of an assortment of disciplines and techniques that help us to avoid the pitfalls of reflection and to organize our inquiries. Ethics is the art which our ancient ancestors developed for us, and our modern forebears have contributed the social sciences to supplement and implement the ethical art. These instruments of inquiry are far from perfect, but, rightly understood, they give us a good start in our critical evaluation of the plans and objectives of life.

Descartes, whom we mentioned in the beginning, plunged into logical and scientific criticism but held back from ethical criticism. You can still find men who encourage critical thinking in scientific questions but discourage critical thinking about moral questions. We have tried to make it clear that ethical criticism is worthy of our attention because, first, the traditions of our divided society do not provide ready-made solutions for many of our problems of policy, and, second, ethical criticism is a part of our cultural inheritance, thanks to those ancestors who faced the un-

precedented problems of their day. In the succeeding chapters we shall see what assistance the principles of ethics can give us when we try to choose the best of our alternatives. With their help we may be able to rise above the unintelligent, inconsistent, and narrowly partisan policies that are only too prevalent today.

Exercises

1. Criticize the following statement, which is attributed to a railroad president: "In giving young people their physical nourishment we do not spread before them every kind of food and say, 'Eat what you like whether it agrees with you or not.' We know that the physical machine can absorb only a certain amount and that all else is waste and trash, with the result that bodies are poisoned and weakened. In giving them mental nourishment, why lay before young and impressionable men and women un-American doctrines and ideas that take mental time and energy from the study of the great fundamental and eternal truths and fill the mind with unprofitable mental trash? After they get into the real world it takes them considerable time to become convinced that certain laws controlling social and material affairs are as unchangeable as the law of gravitation, and some never learn it." (Edward P. Cheyney, "Intellectual Freedom in a Democracy," *Bulletin* of the American Association of University Professors, Vol. XXIII, No. 5, p. 393.)

2. "An inept presentation of evolution to persons of limited mentality is likely to destroy their religious beliefs and fears, and to free them of inhibitions which make them socially tolerable." (E. A. Hooton, *Apes, Men, and Morons.* G. P. Putnam's, 1937.) Do you consider this a sound argument for not teaching evolution in college? In high school? In grade school?

3. Bertrand Russell contends in his book, *Why Men Fight,* that the rights of children are ignored when education is made into a political weapon. "If the children themselves were considered, education would not aim at making them belong to

this party or that, but at enabling them to choose intelligently between parties; it would aim at making them able to think, not at making them think what their teachers think." (See *Selected Papers of Bertrand Russell,* p. 88. The Modern Library, Inc., 1927.) What practical difficulties stand in the way of an educational program of this sort?

4. Under what circumstances are we indifferent or hostile to the truth? In which cases do you think that we are justified in not having an active interest in truth?

5. "Theory is applicable to minor practical affairs; but matters of vital importance must be left to sentiment, that is, to instinct." (*Collected Papers of Charles Sanders Peirce,* Vol. I, p. 348. Harvard University Press, 1931.) Distinguish several possible meanings of the words "theory," "practical affairs," and "sentiment." What meaning must be assigned to these words, if Peirce's statement is not to be interpreted as a justification of simple-minded indoctrination in the schools?

6. What is your reaction to the following editorial, which appeared on the financial page of the *Chicago Daily News* on September 16, 1940?

"In the first place it should be realized that modern propaganda, like the modern "ruthless" war, does not attack the strong but the weak. The submarine does not go out looking for the Navy; it goes looking for merchant vessels or convoys, and avoids the heavily armed ships unless there is a chance to catch them at a disadvantage. This is merely being practical.

* * *

"In the same way, the raiders by air do not seek out the anti-aircraft guns, but drop their loads of explosives as far as possible on such centers as they can find that are least defended by guns or planes. They are looking for the soft spots, and their attitude is entirely logical on the assumption that war is to be won, no by conflict between armed forces, but by injury on the part o each of these armed forces to the unarmed civilization from which they arise.

* * *

"In using propaganda on the same theory, the logical method is not to argue with the intelligent, who would be hard to convince at best, but to indoctrinate the unintelligent, who can be persuaded to almost anything by clever speakers and writers. Then there is the further Satanic advantage, as Milton pointed out in "Paradise Lost," that those convinced can be placed at odds with the shrewder heads who see through the illusion, and discord added to the confusion. Anything the shrewd group has to do to the suckers is that much gain to the chuckling propagandist, who has set them to tearing down part of their own strength.

* * *

"In looking over the American scene, such a propagandist (We reconstruct his supposed thinking, not from guesswork, but from a flood of evidence as to what has been done and is being done) would find three groups ready to his hand. These are: 1. The housewife who has had little experience in public affairs. 2. The uneducated laborer who has had little experience in finance or in international affairs. 3. The college student, or the young man or woman generally, who has had so little experience with life as to fall an easy victim to any plausible argument. This last inclusion will not flatter the college student, but it is plain fact that the colleges have been selected as centers of propaganda attack, not because they are centers of intellectual power, but because they are centers of childlike impracticality, where propaganda can easily find an enthusiastic following."

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CHAPTER TWO

THE NATURE OF ETHICAL CRITICISM

"HOW can I be sure that a policy is right?" asks the student, aware for the first time that there are moral questions to which no one has yet given a satisfactory answer. Unlike Algebra 1, morals and politics present some problems without the comforting assurance that a correct solution will be found in the back of the book.

There are areas of life which our forefathers failed to explore completely. We need more guidance than custom and tradition can provide. Someone—the people, the experts, or a dictator—must chart courses through unmapped areas and choose between alternative ways.

Is there such a thing as a rational evaluation of alternatives, or must the unprecedented decisions be whimsy and guesswork? In this chapter we shall inquire into the possibilities of using our heads to determine the value and wisdom of policies. We shall first study the well-known opposition of "heart" and "head," and then outline several kinds of co-

operation between the "cold logic of the head" and the heart's affections and sentiments which are so prominent in our evaluations.

The Opposition of Heart and Head: Wishful Thinking

When, in family council or in policy-making committee, someone says, "The time has come to face the facts and be logical," we often brace ourselves for a shock. We know that our desires and sympathies are about to be outraged. Likewise, many of us are at first repelled by the program of ethics, the proposal to be thoughtful and even logical in our approvals and intentions. The idea of using our heads in deciding what is good sounds like using arithmetic in making love. Our heart may protest that it has reasons of its own, which our head does not understand.[1] The protest will probably come clothed in unaccustomed eloquence, for our heart and our feelings claim the right to judge the value of things. Most of us occasionally react in the manner of a young lady who wrote on an ethics examination:

> Logic is all right if you're living in a world of mechanical men. But our world is primarily *human*. And you just *can't* force human beings to think every action through logically and methodically. And if you could, I'm sure you'd be sorry, for what a horrible, cold, mechanical world this would be.

The apparent antagonism between heady thought and heartfelt appreciation is mutual, for the most persistent thinkers—scientists and logicians—discipline and even try to kill their affections and sentiments. "The scientific attitude of mind," according to Bertrand Russell, "involves a sweeping away of all other desires in the interests of the desire

[1] See *The Thoughts of Blaise Pascal*, vii.

to know."[2] From the intellectual standpoint, man needs such discipline because he is not only the rational animal but also a creature of love and hate, desire and aversion. He inherits a glandular as well as a nervous system, a stomach as well as a brain. Unless his wants and passions are rigorously conditioned and controlled, all of his fine intelligence will become the slave of the passions, and man will make ingenious mistakes, which the lower animals are too dumb to make.[3]

The bugaboos of logic and science are irrelevant sentiments and wishful thinking. Explore the motives of a man who has failed to recognize a fact or committed some complicated fallacy, and you will often find that his reasoning and observing powers were corrupted by his wishes and affections. He values something so much that he cannot think straight about it—hence, the logical and scientific declaration of war against evaluations; hence, the attempt to avoid judging things good or bad, so that they may be understood.

The ethical theorist, who proposes a happy marriage of thought and evaluation, has to admit that the evaluating attitude very often blocks the fact-finding and reasoning

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[2] *Mysticism and Logic*, p. 44. W. W. Norton and Co., 1929.

[3] In general, human beings tend to grieve and to hold grudges longer and more profoundly than other animals. Their superior powers of memory and association cause them to be reminded of emotional experiences by more stimuli than can emotionalize an inferior animal. A picture, certain dates on a calendar, and so forth, may intermittently stimulate a widow to grief and mental confusion for forty years. Contrast the "out-of-sight, out-of-mind" reaction of Tercera, the ape-widow, in Kohler's *The Mentality of Apes*. Feeble-minded persons are notorious for the shallowness of their sentiments. When Goddard offered consolation to a moronic mother and asked if she had lost any other children besides the one that had just died, she replied, "Yes. Lost three in two weeks. That's going some, isn't it?" See Goddard's *Psychology of the Normal and the Subnormal*, p. 154. For other sentimental deficiencies in the feeble-minded, see H. L. Hollingworth, *Abnormal Psychology*, p. 203f., and E. Wembridge, *Life Among the Lowbrows*.

attitude. He must grant that a strong desire or bias (1) can keep us from analyzing difficulties, (2) can blind us to facts and cause us to accept false generalizations, and (3) can make us apply our knowledge illogically.

(1) In our scientific courses we learn that a problem may be best attacked by forgetting the uses to which we intend to put our knowledge. The elements were not transmuted by the medieval alchemists who had a passionate desire to get rich by transmuting lead into gold. The elements have been transmuted by modern chemists who had only a slight interest in the commercial use of their work. Of course, conditions other than motives explain this difference in achievement; but the modern chemist can now see where the passion for gold threw the alchemist off the track. He kept trying to get gold, the object of his desire, by rather direct methods, and was lacking in the patience necessary to analyze his difficulties into a host of subsidiary but soluble problems.

Most of us have experienced impatience in the analysis which is vital to the solution of everyday problems. If we are in severe pain, we find it nearly impossible to stop and diagnose our condition: we make a grab for the aspirin bottle, or perhaps we just cry, "Oh, ooooh!" If we are having trouble with a school subject, and are extremely anxious to conquer the trouble, we may try hard to concentrate, without taking time to locate the source of our difficulty. I am reminded of a Freshman who wanted, more than anything else in the world, to become a second H. G. Wells; but he was failing in English. Do you think that I could get him to analyze his condition? Would he have his eyes tested? Would he take some special reading tests? Would he go into the matter of lighting and ventilation in his study? Would he study the corrections on his papers? He said that

he would, but he didn't. He could not get down to these brass tacks, because he must get on with his plan to be H. G. Wells II. For all I know, H. G. Wells II is still gritting his teeth and butting his head against unanalyzed obstacles. He valued something so highly that he could not think straight.

So it may be with the great social problems of our day: war, unemployment, capital and labor, divorce, and so forth. Not long ago, an old friend wrote a letter which ended with this peroration: "The world is in a mess. I hope that someone will find a solution and that he will be able to put it into practice." These ringing sentences give you a fair idea of my friend's desires, but they tell almost nothing about "the world." I suspect that "someone" will never find the desired solution if he concentrates his thought upon "the world." The world will have to be studied piecemeal if it is to be understood, but my friend and many others have such urgent wants that they can hardly bring themselves to waste their time on little piecemeal problems.

Thus, the valuing attitude seems to be antagonistic to the problem-solving attitude.

(2) Likes and sentiments can blind us to facts and cause us to accept false theories. Wishful thinking is so notorious for its inaccuracy and hastiness that this point needs no laboring. Love is blind and can see neither blemishes in the loved one nor obstacles to plans that involve the loved one. Hate is blind and can forget evidence that refutes the generalization that *all* members of the ————[4] nation or race are cruel and dishonest cutthroats, utterly lacking in cultural attainments. Reverence is blind and can uninten-

[4] Fill in the name of the nation or race that you hate most at this moment.

tionally overlook contradictions in the sacred scriptures.[5] Fear is blind and yet can see highwaymen in bushes. Avarice is blind to all that is unprofitable.[6] Indeed, emotional dispositions so regularly spoil the mind's regard for evidence that logicians classify the fallacies of irrelevance by the sentiments and emotions.[7] When someone makes statements that appeal to our emotions, the logician is surprised if the speaker is not distracting our attention from the relevant evidence. And the logician is seldom surprised!

(3) Straight thinkers have another reason for suppressing

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[5] Many persons have read the entire Bible and failed to note such discrepancies as *Genesis* I and II with regard to the creation, *Genesis* VI and VII on God's instructions to Noah, *Matthew* I and *Luke* III on the genealogies of Jesus.

[6] In courts of law a witness who has a financial interest in the outcome of the case is not considered as trustworthy as a witness without such interest, other things being equal. This presumption is not based upon a belief that every man will lie when it is to his advantage. Although there are many liars, there are more persons whose attention is caught by favorable facts and whose memories retain pleasant facts more securely than unpleasant facts.

[7] The usual list of the fallacies of irrelevance is as follows:

argumentum ad populum: appeal to popular prejudice;
argumentum ad verecundiam: appeal to reverence;
argumentum ad misericordiam: appeal to pity;
argumentum ad captandum: appeal to desire;
argumentum ad hominem: appeal to personal prejudice;
argumentum ad baculum: appeal to the stick—that is, to fear;
argumentum ad festivitatem: appeal to humor.

One of the great masters of irrelevance was William Hale Thompson, for many years Mayor of Chicago. In the 1926 campaign Thompson said: "The Doc is slinging mud. I'm not descending to personalities, but let me tell you, if you want to see a nasty sight, you watch Doc Robertson in a restaurant, eggs in his whiskers, soup on his vest; you'd think the Doc got his education driving a garbage wagon." Thompson's one-time colleague, Fred Lundin, explained Thompson's technique as follows: "If you ask Thompson to state his position on the alliance between crime and politics, you may expect him to say, 'I am for America first.' Ask him about his abandonment of people's ownership of the traction lines and the five-cent fare and he will answer, if at all, by crying, 'Down with the league of nations.' Ask Thompson why he has turned his back on the small home owner and the taxpayers of moderate means and has lined up with the millionaire taxdodger whom he used to denounce, his only answer will be, 'I shall refuse to sing *God Save the King.*'" (*Chicago Tribune*, December 12, 1926.)

their "for and against feelings." If they strongly approve or disapprove of something, they catch themselves misusing their knowledge and illogically applying general principles. Augustus DeMorgan, the mathematician, believed that only emotional excitement and prejudice could account for the inane mistakes that occur in everyday deductions. Half a dozen rules are all that anyone needs to test his deductive reasoning, and in calm moments most persons can recognize a fallacy without the help of those rules. But in moments of strong desire and excitement, the most obviously mistaken application of general principles sounds cogent. For example:

All *dogs* are *animals.*
Jennie is an *animal.*
Therefore, *Jennie* is a *dog.*

A person of normal intelligence quickly notices that the conclusion is not proved by the general principle, "All dogs are animals." Knowing only that Jennie is an animal, we could not conclude that Jennie is a dog unless we applied the general principle, "All animals are dogs." Yet this form of argument sounds plausible to many persons when the subject is not Jennie but some person or thing which they are for or against. For example, thousands of Americans were taken in by this reasoning:

Reds have *given speeches at pacifist conventions.*
Mrs. Roosevelt has *given speeches at pacifist conventions.*
Therefore, *Mrs. Roosevelt* is a *Red.*

And this one:

The Nazis say *Roosevelt talks about the danger of war in order to secure re-election.*
The Tribune says *the same thing.*
Therefore, the *Tribune* is *Nazi.*

And this one:

All *members of the League* are *members of the International Labor Bureau.*
The *United States* is a *member of the Labor Bureau.*
Therefore, the *United States* is a *member of the League of Nations.*

Then why not this one?

All *domesticated animals must be licensed in Connecticut.*
A *physician must be licensed in Connecticut.*
Therefore, a *physician* is a *domesticated animal.*

The difference between the last argument and its predecessors is that the last argument does not concern a subject about which men feel strongly at the moment. The previously cited mistakes in reasoning were not popular because the pattern of argument was any more intricate; they were popular mistakes because partisan passion and convictions about right and wrong were aroused by the subject matter and distorted the natural logic of the mind. The heart interfered with the head.

The historians of science never tire of relating the conquests of prejudice and desire which enabled truth-seekers to conquer nature. They tell us how Franklin braved the lightning and God's fancied displeasure with those who meddled with His favorite instrument of vengeance. There was Semmelweiss, who endured professional contempt rather than suppress his unpleasant conclusion that careless doctors were spreading child-bed fever. J. R. Mayer was even adjudged insane for asserting the conservation of energy: his neighbors in Heilbronn were sure that he was crazy when he said nothing is destroyed by fire. Galileo languished in prison; Servetus was burned in Geneva; Kepler endured

grinding poverty. Sir Humphry Davy stood up against the jingoist newspapers and continued to collaborate with French physicists during the Napoleonic wars: "the men of science are not at war." There was Darwin, who made special notation of facts that were unfavorable to his pet theories. Fame, luxury, safety, patriotism, religion, family—the things that most men value did not stop or deflect these objective thinkers. They fought against wishful thinking. In analyzing their problems, in observing and organizing their facts, in applying their principles, these men treated values as irrelevancies and excluded them so far as possible from their minds.

All of this may appear discouraging to the ethical hope that heart and head may work together. Certainly the desires and convictions of the heart are a nuisance in the business of fact-finding. And yet, there is reason to believe that the antagonism between heart and head is exaggerated when we confine our study to these cases where fact-evaluating interferes with fact-finding.

In the first place, the successful scientists and logicians to whom we have alluded did not kill all desires except the desire for knowledge. Benjamin Franklin was no anchorite. Charles Darwin was not an unfeeling brute. It is true that they did not allow strong desires to blind them to evidence and logic; but, compared to less intellectual men, they seem to have had more interests and more sympathies than the average. It is quite possible that a cultivation of wide interests and a valuing of more ends than enlist the average man's devotion were part of the discipline whereby potentially strong passions were checked. Rationality may be the result of a kind of check and balance system, rather than a triumph of one "faculty," Reason, over another "faculty,"

the Heart or the Passions. Such, at any rate, is the opinion of many modern psychologists.[8]

In the second place, our original query was not: Can all thought be dominated by the heart? Of course, some ethicists have called for a mushy kind of co-operation between heart and head whereby the head would fail to report or would minimize facts that discouraged the pursuers of certain ideals. Our recital of the sad story of wishful thinking should make it clear that by co-operation of heart and head we do not mean any tampering with scientific evidence or logical rules. Our original question was: Can evaluations be thoughtful? That is to say (in our metaphorical language): Can the head help the heart in making choices and passing judgment on alternative policies?

We remarked, in Chapter One, that ethics is a critical discipline, and that it was invented by some of our ancestors when they were confronted by unprecedented options and had to *think* about their policies.

We shall now try to make clear the nature of the ethical art.[9] Although ethical reflection is a reasoning procedure, it does not call for exactly the same use of our heads as chemistry or the scientific part of political science. In the sciences we are trying to ascertain what exists or what can possibly exist, and we always strive for an accurate observing and consistent handling of facts. In ethics we pay some

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[8] See L. L. Thurstone, *The Nature of Intelligence*, for example. This question about the nature of rationality will be raised again in Chapter Seven (see "Stoicism"), Chapter Eight, and Chapter Twenty.

[9] *Ethics* is an ambiguous word. I use it here to refer to the art of determining what is right or good. Other meanings of *ethics* are: (1) a code or creed that states what someone has decided is right, as, "Medical ethics prohibits advertising." (2) The sociological or psychological study of various people's opinions, as, "Ethical investigations show that unprovoked murder is universally condemned."

attention to facts, but our principal question is not about existence, but about what *ought* to exist or what is *good.*[10]

Look at this pair of statements:

a. The engineering school is growing more rapidly than the school of music.
b. The engineering school ought to grow more rapidly than the school of music.

or examine this pair:

c. This is a book that weighs three pounds.
d. This is a bad book.

or this pair:

e. Physicians charge fees according to the patient's ability to pay rather than according to the work done.
f. It is right that physicians should charge according to the patient's ability to pay.

Statements *a, c,* and *e* are assertions about the facts. The facts are what they are, regardless of the wishes or attitudes of the observer. As we have seen, scientists, therefore, try to ignore their own wishes in judging the truth or falsity of such propositions.

Statements *b, d,* and *f,* on the other hand, seem to bring in the attitude of someone. We may believe that a sound opinion regarding the rightness of medical fees will require acquaintance with the facts about fees; but no simple opening of the eyes to fact will assure a rational judgment.[11]

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[10] Ethical theorists divide into two factions. One group regards *right* as the central ethical notion; the other regards *good* as the central ethical notion. See Chapters Six and Seven.

[11] The distinction between factual propositions and evaluative statements (or normative statements) is complicated by the ambiguity of our language. A tariff expert may say, "The high tariff of 1930 was a bad law." He may mean merely that it was poorly designed to carry out the intentions of the legislators. In that

What, then, does the head have to do with evaluations? The discipline known as ethics is more easily illustrated than defined. We shall try to grasp what is done in ethics by examining a typical bit of ethical reflection which Plato records as the contribution of Socrates.

The Co-operation of Head and Heart: Thoughtful Evaluation

Socrates spent much of his time asking fellow-Athenians what they considered good. If they answered by saying that courage or temperance was good, Socrates would then ask them what they meant by those words. It is recorded, for instance, that he asked the young man Charmides, "What, in your opinion, is temperance?"

At first he hesitated, and was very unwilling to answer; then he said that he thought temperance was doing things in an orderly fashion and quietly—such things, for example, as walking in the streets, and talking, or anything else of that nature.

"In a word," he said, "I should answer that, in my opinion, temperance is quietness."

Socrates then asked a series of questions which brought out Charmides' admiration for quickness and agility in writing, reading, lyre-playing, wrestling, and learning. Evidently Charmides did not condemn many quick and vehement acts as intemperate.

"Then once more, Charmides," Socrates said, "fix your attention and look within. Consider the effect which tem-

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case, there is no reference to the speaker's own attitude toward the tariff of 1930. The statement is a scientific rather than an ethical one. Similarly, "This house at $5,000 is a good purchase" may mean simply that the price is at or below the market price. If that is the meaning, the sentence is an assertion about the facts.



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perance has upon yourself, and the nature of that which has the effect. Think over all this, and, like a brave youth, tell me—What is temperance?"

After a moment's pause, in which he made a real manly effort to think, he said: "My opinion is, Socrates, that temperance makes a man ashamed or modest; that temperance is the same as modesty."

Again Socrates succeeded in showing that Charmides would not abide by his definition, that at times he would call an immodest man temperate. Thereafter, other statements about temperance were tried and found wanting until someone gave a definition that seemed to express exactly what those assembled meant by the word.

In another dialogue Socrates shot holes in the definitions of "courage" which were offered by an Athenian soldier. The soldier's first formula ran like this: "He is a man of courage who does not run away, but remains at his post and fights against the enemy; there can be no mistake about that."[12] But the soldier had forgotten that he considered the Scythians courageous who "fight, flying as well as pursuing" and the Lacedaemonians who made a tactical retreat at Plataea in order to throw the Persians off their guard. The soldier, like the youthful Charmides and other Athenians, had trouble saying what met with his own approval. Socrates used a question and answer technique to assist in clearing up his confusion.

If you read a book on ethics, you will probably be urged by the author to adopt his policies and evaluations. If you follow his example instead of doing what he tells you, you

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[12] *Charmides*, 159, 160; *Laches*, 190, 191. *The Dialogues of Plato*, Jowett translation, by permission of the Jowett trustees. Copyright by Clarendon Press, 1920.

will not quickly accept his opinions. You will rather survey your own aspirations, discover their principal direction, try to state that direction, and then watch your daily choices for exceptions to your rule.

No matter how technical modern ethical treatises may become, their authors never get completely away from the attempt to define aims and standards, and then to examine various situations to see whether they "really" approve of things according to the rule which they have formulated. This is the procedure of thoughtful persons who have never gone to school or read ethical treatises. It is also the way in which organizations discuss their policies (when organizations carry on thoughtful discussions).

What do you *really* want? What do you *really* approve of? By this time you are probably asking what is meant by *really*. That is a fair question, and if you are *really* interested in developing your ethical skill you will try to answer the question for yourself. Three distinguishable meanings of *really* are implicit in the following sentences:

a. He said that he wanted my honest opinion, but what he really wanted was praise.

b. He flew into a rage and scolded the children for making so much noise; but a moment later he knew that he really approved of their liveliness.

c. He favored uniform wages, but if you pressed him he would admit that he didn't care about uniform wages except as they were necessary for guaranteeing adequate wages; that was what he really believed in.

What are the three meanings of "that which I *really* value"? Did you figure them out? First meaning: what a person wants or approves as opposed to what he *says* he wants or approves. Second meaning: what a person values

after some thought or experience as opposed to what he values on the spur of the moment. Third meaning: what a person values for its own sake as opposed to that which is valued only as a means.

Thoughtless value judgments may be criticized for three corresponding reasons: they may fail to hit the nail on the head; they may express only a momentary inclination which will presently be repudiated; or they may mistake means for ends.

The Socratic kind of ethics may, therefore, perform three distinct services in the life of reason: (1) ethics helps to articulate our evaluations; (2) ethics determines our usual evaluations and examines the opinion of the moment to discover its consistency with our life policy; (3) ethics determines the order of our evaluations.

1. *Thoughtless value statements may be inaccurate.* The sentiments and impulses which we try to express are frequently elusive. Who has not said, "There is something about this that I don't like, but I can't tell you what it is"? The most sensitive person is sometimes puzzled as to what elicits his approval or disapproval. If we bark out our opinions hastily, we may miss the object that we value. This is true, even when we repeat traditional moral precepts. Many proverbs and Biblical principles do not say what they usually mean. The Sixth Commandment states: "Thou shalt not kill." Yet, for the most part, neither the ancient Hebrews nor the modern Jews and Christians disapprove of killing in self-defense. Few disapprove of killing in war or in punishment for crime. Only a handful are vegetarians; fewer still refrain from swatting flies. Censure of hunters and fishermen is not generally provoked by the killing in which they engage unless it be wasteful or "unnecessarily"

cruel. Most of us would stutter and stammer for quite a while if we tried to say precisely what kind of killing we condemn.

Some moralists, especially poetical, religious, and judicial moralists, have been occupied chiefly with the rephrasing of traditional moral rules, getting rid of contradictions in them, and seeking words which more aptly catch the spirit of the times. They may improve on the ancient phraseology to express more clearly the ancient sentiment. More often, the ancient phrase is modified to articulate a new evaluation, as when Jesus is reported to have said, "Ye have heard that it was said by them of old time, Thou shalt not kill; and whosoever shall kill shall be in danger of the judgment: But I say unto you, That whosoever is angry with his brother without a cause shall be in danger of the judgment. . . ." (Matthew 5:21-22)

Moralists may, on the other hand, invent a new expression entirely, making no effort to say what they mean in traditional language. A century and a half ago the German philosopher, Kant, said that it is immoral to treat any human being as a means, a mere tool. Every individual should be treated as an end in himself. About the same time, numerous humanitarians were beginning to feel that there was something rotten in slavery, peonage, and other kinds of forced labor. Kant's statement happened to identify and give a name to that aspect of slavery which repelled them. The abolitionists seized upon Kant's formula and were much indebted to him, for his fortunate expression helped them to make sure that they shared one another's purpose. It supplied them with a platform for united action.

When men are unable to identify the object of their dissatisfaction, they mill about, like as not to turn first on this

and then on that fancied foe. The twelfth-century Crusaders were not the only men ever to do this. In our time there are many sects and factions that have been able to define their objectives with no more precision than to say that they are against competition or they are for culture or they are for Americanism. Are you for or against Americanism? What a question! What do you mean by Americanism? Are you for or against culture? What do you mean by culture? The ethical exercise of precise articulation is the first step away from futility.

Personal plans, no less than public policies, call for accurate articulation of our wants. A poorly stated ambition may never be realized. I was once surprised to discover that an undergraduate, whom we shall call Richard Roe, had almost graduated from law school before he enrolled in our college. Had he failed in his senior year?—No, he had stood near the head of his class. Then why had he abandoned the law? He told me that he had become convinced that the practice of law would not bring him what he wanted more than anything else—namely, to be of service to men. When he had entered law school, he had not thought the matter through. Now he was sure of what he wanted.

"Couldn't you be of service to men by practicing law?" I asked.—No, not in accordance with his idea of service. He was going into social service work.

Here was a case of progression from an unthinking choice to a thoughtful one. But there still remained a question of whether Richard Roe's thoughtful decision was thoughtful enough. Just what did he mean by "being of service to men"? Was there something that he had overlooked or misconceived that would five years hence make him regret his new decision? Would he, like so many others, spend his

life "wandering up and down in a Wilderness of Errors"?[18] Thousands of persons who have devoted themselves to "service" and other thousands who have sought "pleasure" had to admit finally that they had not known just what they wanted. Was Richard Roe adopting a well-considered goal? Was "service" what he really valued?

Some men miss that which they crave in their leisure-time pursuits, but they cannot say what it is that they crave. They decide that athletic contests will give "it" to them. After so long a time they are sure that athletics do not provide "it." They turn to teas and receptions. Convinced presently that teas and receptions are likewise a waste of time, they take up travel, and then antiques, and then civic reform, and then slumming, and then liquor, and then theology, and then stamp collecting, and then cat breeding, and so on. Now there are persons who pass from one hobby to another and find something worth while in all of them. I am not referring to those "normal" hobby-changers, but to the fellows who go from one thing to another, on and on, never feeling rewarded, and unable to say what they are after. You may say that such persons are cases for the psychiatrist. That may be so. The psychiatrist has taken his place with the physician, the clergyman, the advertiser, the novelist, and the moralist as an expert in articulating human wants and approvals.

Rationality with respect to policies is, in part, the knowledge of what we value; and considerable reflection is required to avoid inaccurate snap judgments of value. Because we and the world about us are almost constantly changing, there are always new objects to evaluate and new opinions to

[18] Epicurus, quoted by Diogenes Laertius, *Lives and Opinions of the Ancient Philosophers*, X, L, viii.

articulate. The Socratic work of defining what is good is never permanently completed.

2. *Thoughtless evaluations are often only momentary.* The second task of ethical study is to contrast what we value at the moment with what we usually value. Socrates and Plato used to admonish their followers against being overwhelmed by pleasure. Spinoza uttered many warnings against the passions. John Locke said, "Beware of enthusiasm." Your parents have probably inveighed against impulsiveness. No other cultural heritage is as frequently expounded as what the Voice of Experience says about momentary evaluations. "Marry in haste; repent at leisure"; the apple of your eye may turn sour tomorrow.

Be a man of principle! Don't be swept off your feet by every passing fancy! Make your choices in accordance with your deeper convictions, your "real" values, your life's policy! This is familiar advice. The trouble is, as Socrates and Bentham and Freud and relatively few other moralists have seen, that principles may be as whimsical as fancies. This is the never-ending source of cynicism. Today I oppose an increase in relief allowances, not just because I arbitrarily dislike the increase, but because of my life-long belief that "a certain amount of hardship is good for people." Yesterday I sought an increase in salary, not because I momentarily desired it, but because "it is good to increase the circulation of money and raise the standard of living." I am lenient with little Johnny because "we ought to forgive and forget." I am strict with little Jimmy because "every boy needs discipline."

The cynic says that the "becauses" have been reversed. I believe "we ought to forgive and forget" because I arbitrarily want to be lenient with Johnny, and I believe that "every boy

needs discipline" because I momentarily feel the urge to be strict with Jimmy.

Part of the difficulty is that "we ought to forgive and forget" is not a precise statement of what I "really" believe. We ought to forgive only when the offender is repentant; or perhaps forgiveness is a duty in cases where the punishment would be worse than the offense; or maybe I really approve of forgiveness when I can show off by not holding a grudge. I may be unable to put these qualifications into words, or there may be times when I do not want to tell others exactly how I feel. So far, the whole difficulty appears to be that of accurately articulating my sentiments. (This is the ethical problem which was previously discussed.)

Beyond these word troubles, however, lies another obstacle to conduct that is in accordance with what I really believe. That is the multiplicity of my general principles. My evaluation of forgiveness may be a fairly permanent disposition; but I may also have a settled conviction about punishing offenders. It is my failure to ask how *both* principles apply to every case of offense that makes me appear whimsical in my use of principles. In the excitement of the moment, I remember my policy of forgiveness but forget my policy of discipline, or vice versa.

To ascertain what I "really" value, I must think not merely of something that elicits my approval over a period of time beyond this moment; I must think also of *all* my abiding evaluations.

Socrates was the gadfly of Athens because in moments when Athenians remembered only their love of beauty he reminded them that they also respected temperance. Bentham was the gadfly of British lawyers because he recalled their evaluation of individual happiness when they could

think only of respect for the law. Thoreau and Garrison were the gadflies of America: they remembered the intention to respect human dignity when others thought only of preserving property rights. Nietzsche was the gadfly for Christians: in a generation preaching too much humility and patience, he made them think about strength as a necessary component of virtue. Jane Addams was a gadfly for Chicagoans: they thought about the time-honored duty to give alms; she remembered the American ideal of decent opportunities for all.

We cannot now pause to explore the methods by which these ethical leaders brought unremembered principles of value to bear upon the question of the moment. It is enough at this point to recognize the second meaning of "discovering what we 'really' value." We really value that which evokes our commendation on second thought, when we are not overwhelmed by ephemeral pity, anger, or lust. Ethics is thus a criticism of thoughtless evaluations which mistake that which appeals to us just now for what usually appeals to us.

3. Thoughtless evaluations may mistake means for ends. Ethics is a criticism of thoughtless evaluations that miss what we value for its own sake and seize upon what we value as a means. Failure to put first things first is notorious in personal money matters.[14] A man thoughtlessly responds to advertising or thoughtlessly falls into a habit of spending so much of his income on transportation that he has nothing to spend on enjoyments or activities at the places to which he is transported. He may thoughtlessly spend so much on his house that he can't put anything into it, just as his wife may

[14] See H. W. Stuart, "The Phases of Economic Interest," in *Creative Intelligence*, John Dewey, ed., Henry Holt & Company, 1917.

spend so much time tidying the house that she has no time left for enjoying the tidied house, or she may make everyone miserable by the tidying which is supposed to contribute to their comfort. Many individuals try to make money in order that they may secure certain goods which money buys, but presently are so engrossed in money-making that they have squeezed all the other enterprises out of their lives, even the capacity to enjoy other things in the event of their financial success. California, Florida, and the Riviera have seen "successful" men try in vain to enjoy that for which they had slaved. Conversely, others are so intent on play or romance or the arts that they fail to make financial provision for these enjoyments. The first thoughtless group accorded so much to means that it missed the ends; the second group mistook ends for both ends and means.

I do not wish to be drawn by these illustrations into the thoughtless statement that there are no economic enterprises which may be ends in themselves. The point is that, where economic activity is a means to something else, it may thoughtlessly be allowed to crowd out everything else.

Organizations and communities also confuse means and ends. The Pullman Company, under the leadership of George Pullman, earnestly desired to increase the efficiency and contentment of its workmen in the 1890's. To achieve this goal, it undertook to build a model community, the town of Pullman, and to provide many welfare services. It was so intent upon these means that it failed to take into consideration the feelings of the workmen, who presently went on strike. Albion Small reported that "The most telltale bit of evidence I discovered was the current sneer: 'We are born in a Pullman house, taught in a Pullman school, confirmed in a Pullman church, exploited in a Pullman shop, and when

we die we'll be buried in a Pullman grave and go to a Pullman hell!'"[15] The Pullman Company had been like the housewife who makes everyone miserable trying to make everyone comfortable.

Another well-known confusion of ends and means is contained in the opposition by well-meaning persons to the probationing of juvenile delinquents who are first offenders. They want to protect society against criminals and if possible to reform the criminals (and no doubt some of them "really" mean this, notwithstanding the fact that others who say the same thing really want to achieve revenge upon the criminals). Now one means to the ends proposed is to incarcerate the criminals in prisons and reformatories. In the case of young offenders, however, it has been demonstrated that the reformatory reforms in the direction of criminality rather than in the direction of good citizenship. Nevertheless, the reformatory has become so highly valued as a means that it becomes an end in itself, and many a "good citizen" turns a deaf ear on evidence that the means does not secure the end.

Any attempt to straighten out the relationship between what is valued for its own sake and what is not may be called ethics. The foregoing examples show that industrial psychologists like Ordway Tead and penologists like Warden Lawes engage in ethics, whether they call their talk ethics or not, whenever they show that certain measures do not achieve desired results and conclude by saying that these measures are not so important as the desired results.

Conclusion

Ethics is not exclusively under the jurisdiction of philosophy professors, Sunday school teachers, clergymen, and edi-

[15] "Americans and the World Crisis," *University of Chicago War Papers*, #2.

tors. It is the reflection of anyone who tries to determine what he *really* values. Realizing that snap judgments and conventional opinions may not express our *real* evaluations, he thinks about what is good and what is right. He is more persistent than thoughtless men in: (1) formulating his evaluations accurately; (2) making his evaluations consistent; and (3) ordering his evaluations of means and ends, and subordinating less worthy ends to the worthier ones.[16]

A person who asks himself what he "really" values runs the risk of making some very startling and unconventional discoveries; but a long line of philosophers assures us that such inquiry is the ultimate source of good judgment.

Exercises

1. Which of the three kinds of ethical distinctions is involved:

a. When an infatuated girl is told that she really doesn't love the man of her fancy?

b. When parents are told they don't really believe in democracy because they won't let their children play with lower-class children?

c. When a man says he really should not have thrown the telephone out of the window when the operator gave him the wrong number?

d. When Lincoln Steffens said that good citizens really did not want "good government"?

e. When you are told you don't really believe in the Golden Rule because some men want to be treated in a warlike manner with no quarter asked?

f. When a psychoanalyst tells a patient that he doesn't really want to wash his hands continually or climb Mount Everest or carry out some other obsession?

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[16] Part Two of the text will take up the problem of achieving consistency, and Part Three will develop the distinction between means and ends; but the author hopes that the reader will find himself getting all three of these ethical exercises throughout the remainder of the book.

g. When a vocational counsellor tells you that you don't really want the kind of life led by a physician?

h. When it is said that what is really commendable is not the gift but the friendship of the giver?

i. When we laugh at the following press notices: "Fortunately for the deceased, he had deposited all his money in the bank the day before he was attacked by highwaymen, so he virtually lost nothing but his life," and "Family of eight is left destitute when auto burns"?

j. When it is said that what is really important is material prosperity, for without that all the arts and fineries of life cannot exist?

k. When it is said that you don't really approve of capital punishment, because you would never stop wondering whether you had killed an innocent man if you were on a hanging jury?

2. When a man in middle life suddenly renounces his business career and devotes himself to art, music, philanthropy, travel, or public service, can he be sure that he has solved his ethical problems? Why or why not?

3. How does the author's conception of ethics differ from that described by Bertrand Russell in *Power; A New Social Analysis?* "A question is ethical (1) if it interested the ancient Hebrews, (2) if it is one on which the Archbishop of Canterbury is the official expert" (p. 244, W. W. Norton, 1938).

4. To what extent is a person justified in letting his conscience be his guide in the sense of not seriously questioning his own moral judgments?

5. Criticize: "If I say 'Woman's place is in the home,' that is my personal opinion and not an assertion of fact. So, there's no use arguing about it."

6. What point in the chapter relates to what William James called Faith's form of argument: "It is fit to be true; it would be well if it *were* true; it *may* be true; it *ought* to be *true;* it *must* be true; it *shall* be true *for me;* that is, I will treat it as if it were

true as far as my advocacy and actions are concerned." *Journal of Philosophy,* Vol. XXIV, p. 198.

7. To what topic in the chapter is Dr. Johnson's epigram, "Patriotism is the last refuge of a scoundrel," related?

8. To which topic is Dewey's statement related? "We may fancy we are glorifying the love of truth for its own sake when we are only indulging a pet occupation and slighting demands of the immediate situation. Men who devote themselves to thinking are likely to be unusually unthinking in some respects, as for example, in immediate personal relationships. A man in whom exact scholarship is an absorbing pursuit may be more than ordinarily vague in ordinary matters. Humility and impartiality may be shown in a specialized field, and pettiness and arrogance in dealing with other persons." *Human Nature and Conduct,* pp. 197–198. Henry Holt & Co., 1922.

9. Which of the three services of ethical reflection is suggested in each of the following proverbs?

a. Don't throw the baby out with the bath.
b. Don't burn down the house in order to get rid of the rats.
c. Don't cut off your nose to spite your face.

10. Tell which of the following sentences are descriptive and which are normative or value statements. If a sentence is ambiguous and may be interpreted either normatively or descriptively, restate it to bring out both possible meanings.

a. The family has declined in importance.
b. We should change our marriage laws.
c. Some Indians believe that a man should not cook food.
d. This security is negotiable.
e. It is proper to indent quotations.
f. Production of textiles is most efficient when carried on by organizations which are larger than the family.
g. The optimum population of the U.S.A. is 140,000,000.
h. A family of five is ideal.
i. It is fortunate that immigration was restricted in 1926.
j. Senator LaFollette was courageous in opposing the war.
k. A virtuous man never betrays a friend.

l. It is a sin to tell a lie.
m. He led a normal life.
n. Keeping secrets is wrong.
o. Unemployment is our most important problem.
p. A happy childhood is the best assurance of happy marriage.
q. Would that more cities were rid of their tenements.
r. Americans consider it indecent for children to marry.
s. We have had a good year.
t. Copper is a good conductor.
u. This coin is in perfect condition.

11. Make a factual, descriptive statement about the subjects of each normative or evaluative statement in Exercise 10.

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CHAPTER THREE

DO LAWS MAKE ETHICS UNNECESSARY?

GRANTING that present rules of conduct are imperfect, should we question ultimate standards and objectives in the free-thinking style of the philosopher? Or should we be content with a less thorough evaluation of rules and policies, not questioning ultimate objectives? In this chapter we shall ask whether the less thorough sort of evaluation can assure us of tolerably good policies. Do we need to take any more thought concerning right conduct than is required to apply the aims and standards in existing laws to the new cases of our day? The belief that our forefathers settled all of the fundamental questions and that courts do no more than echo and apply the old views is sometimes called *the phonograph theory.* We shall first state this theory, then notice where it breaks down, and finally ask whether even lawyers, who make a business of knowing past law, have reason for the more comprehensive ethical reflection upon the desirability of alternative policies.

The Phonograph Theory

According to the phonograph theory, a judge should make his decision, not according to the dictates of his own conscience or according to public opinion, but according to the law. It is not the business of the judge to say what *ought* to be done in a given case; it is his duty to find what the existing law requires. So, if someone dents the fenders of your car, no lawyer will tell you that you have a good case because the fender-denter would want you to pay if you dented his fenders. That may be the moral way to settle the matter; but since the Golden Rule of morality is not part of our law, it has no bearing on the court's opinion. The lawyer asks whether the damage was done in a manner which the law recognizes as actionable. Should you ever have the misfortune to be party to divorce proceedings, the judge will not say, "I grant this petition because I believe it contributes to the happiness of all concerned and I consider that to be a good outcome." He will ask whether anything has happened which the law specifically recognizes as grounds for divorce. "It is not his function or within his power to enlarge or improve or change the law";[1] the judge must always *find* the law.

Some years ago I encountered a friend whom I had not seen since the day he graduated from law school. "What are you doing?" I asked. "I am looking," he replied in all seriousness, "for a case which will prove that dragging the lake for a body is a part of funeral expenses and therefore a prior claim upon an estate." I do not know whether he ever found his case. I suspect that he dug up a case in which

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[1] Elihu Root's statement of the phonograph theory.

some judge had allowed the expense of dragging a *river* to be included in funeral expenses or, at least, had used the words *dragging* and *lake* in some connection with funeral expenses. If my friend did not find such a case, he was probably unable to persuade the judge to give priority to his client's claim.

In one sense only an anarchist could object to the phonograph theory. If there is a law or judicial decision plainly and specifically concerning a case, everyone—including the judge—has an obligation to respect the law or past decision, at least, until the law is duly repealed or amended. No one is apt to relish the idea of a court that arbitrarily and flagrantly disregards the law. The theory that the judge finds rather than tampers with the law appeals to men as a protection against uneven justice. If the judge disregards his own personal convictions and finds his ruling in old customs and documents, his ruling is not his own private will. This gives the appearance of impartial obedience to a code and a will, not the judge's own, and is useful, no doubt, in establishing the judge as an effective peacemaker. If legal theory did no more than command compliance with existing law, hardly anyone could object to it; for, if existing law proved to be bad public policy, it could be amended in due form.

In American law, however, the idea that the judges should *find* the law has been extended to include three other ideas, all of which amount to a denial that anyone needs to evaluate public policies in the thoroughgoing manner of ethics. First, it is contended that judges should be governed by precedents in every case, whether or not the case is clearly covered by any existing law or previous court decision. This assumes that there are no unprecedented cases; or, in other words, that someone, legislator or court, has laid down

a rule at some time in the past which covers every situation that may arise. There is no occasion for the judge and the lawyers to use their own judgment beyond the question of determining which law applies to the case in hand.

Second, the phonograph theory is extended to mean that judges shall always abide by certain fundamental laws (the Constitution) and that they shall ignore or void any recent enactment of the legislature which, in the judge's opinion, is in conflict with the Constitution. The courts have acted on this theory for more than a century and have declared many acts of Congress and the state legislatures unconstitutional.[2] In 1933, for example, popular sentiment was in favor of unprecedented subsidies for farmers, and Congress saw fit to pass the Agricultural Adjustment Act. This law appealed to the majority of our legislators and their constituents as a necessary means of safeguarding the general welfare under then-existing conditions and, therefore, a good thing.

The Supreme Court outlawed the subsidies in 1936 and declared that part of the A.A.A. unconstitutional. Justice Roberts was almost apologetic when he defended the court's action. He explained that, when an Act of Congress is challenged, all that the court can do is

> . . . to lay the article of the Constitution which is invoked beside the statute which is challenged and to decide whether the latter squares with the former. This court neither approves nor condemns any legislative policy. Its delicate and difficult office is to ascertain and declare whether the legislation is in accordance with, or in contravention of, the provisions of the constitution; and having done that, its duty ends. The question is not what power the federal government ought to have but what powers

[2] In *Marbury v. Madison*, (1803) 1 Cranch 137, Justice Marshall proclaimed the court's right to declare acts of either executive or legislative branches of government unconstitutional and void.

in fact have been given by the people [that is, granted in the Constitution].

It is true that Congress may change the law from time to time more or less according to popular notions of good policy. The courts, however, can refuse to abide by a new law by declaring it contrary to the Constitution. Although the Constitution can be changed by vote of three fourths of the state legislatures or constitutional conventions, the amendment process is so difficult that on any highly controversial matter the chances of amendment are slim. Consequently, the phonograph theory means in American law that the judges should find the ultimate basis for their decisions in a body of law that living men have had practically no voice in shaping.

There is a third extension of the find-the-law theory which discourages attempts by living men to decide what public policies are good. In the interpretation of Constitution or statute, the judge is not supposed to use *his* common sense or the intention of the legislator. He is to give to words the meanings which courts have assigned to them in earlier decisions. American judges have not made it a practice to take notice of debates and hearings in Congress. They usually interpret the language of the law according to principles and precedents that have been laid down by other judges at some earlier time. For example, the phrase *interstate commerce* appears in the Constitution and in many acts of Congress. The courts always appear to find the meaning of this phrase in a definition that has been given by a judge in some previous case.

The net effect of these three extreme statements of the phonograph theory is to refer all fundamental questions of polity to the past rather than to living men who are thinking

about problems at the moment. The only thinking that contemporary men are supposed to do concerns the finding of the appropriate ruling in the past and applying it faithfully to the case that is being tried. Ethical reflection, the attempt by judges or legislators or voters to decide questions by thinking of their merits, has no place except in a constitutional convention, which hardly ever is held.

Extremists have actually believed that all of the needed rules of life were worked out in the past. From this standpoint, lawyers, priests, and rabbis bring to men the greatest attainable wisdom, not when they acquaint themselves with present social conditions, but when they familiarize themselves with what has been established in the past. Reverence for precedents and old interpretations is, of course, not unique in America. Most of the world's legal systems have operated with some such reverence. Indeed, the verdicts and sentences of the more primitive courts are supposed to echo the judgments not merely of the old-timers but of the gods who spoke their minds in times primeval. But the three extensions of the phonograph theory, to which we have referred, have given moral judgments less place in American law than they have actually enjoyed in many other systems.

Dissatisfaction with this philosophy of law has cropped out in many places: in monarchs impatient to put an end to medieval practices; among revolutionists who, like Rousseau, saw in the study of ancient law a glorification of ancient abuses; and among contemporary legal scholars who do not believe that courts *can* actually find in the past all of the legal wisdom which they have to dispense.

We shall inspect the claim of these scholars, who say that, despite what the legal profession *says*, it does not and cannot in all cases find sufficient law already laid down.

Why Courts Are Not Phonographs

Two circumstances make it impossible for courts to adhere without deviation to the laws of the past. First, there are unprecedented cases, actions covered by no law or previous court ruling. Second, past law is not entirely consistent with itself. The past is a long time, and in that long time conflicting rules have been adopted by various judges and legislative bodies. Therefore, the judges who are now on the bench must in some cases use their discretion. They cannot avoid passing a judgment of their own. Thought has to be given to the goodness or rightness of alternatives. That past law does not make ethical inquiry superfluous is the opinion of an increasing number of legal scholars.

Unprecedented Cases

The late Justice Cardozo was one of the scholars who doubted that courts could avoid adding to the laws and rulings of the past. He illustrated the inadequacy of precedents and the reality of unprecedented cases by citing a suit for damages which was filed in a New York court some years ago.

A boy had been killed when overhanging wires fell on him and caused him to plunge into a river. He had been standing on a springboard which was attached to land belonging to the New York Central Railroad.

No one was able to find an exact parallel for this case in any court records. Several precedents were cited by the opposing attorneys, but they were only partially similar to the case in hand. The trial court held that the boy was a trespasser at the time of his death and that the suit most closely resembled a number of trespass cases in which no

damages had been awarded. A superior court agreed with the trial court. The Appellate Court, on the other hand, found the incident to be more like cases of travelers going a little off the highway. In such actions the owners of land had been held responsible for reasonable care in keeping safe the premises adjacent to the highway. The Appellate Court, therefore, awarded damages, reversing the decision of the two lower courts.[3] Cardozo observes that the Appellate Court was not basing its decision entirely upon a precedent, any more than the lower courts had done, because the case had no exact precedent.

Are unprecedented cases rare? Is it unusual for judges to be in doubt as to what law bears on a case? Wigmore, a scholar of high reputation, has said that a judge may decide almost any question any way and still be supported by an array of cases.

We may grant this difficulty with the Common Law,[4] because the judge has to find for each new problem a similar one in the past, and because it is obvious that hardly any two incidents are exactly alike. But does this uncertainty characterize a law which consists of explicit rules, such as the Constitution of the United States?

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[3] B. N. Cardozo, *The Growth of the Law*, pp. 99–103.

[4] The Common Law is that body of precedents which began to be accumulated when the king's justices in medieval England gave judgment according to long-established customs of the people. Because they were not familiar with local customs in the towns where they held court, the judges said that their opinions were drawn from the customs common to all England; hence, the name, the Common Law. The Common Law differs from most other systems in that it is not a book of general rules. If a judge wants a ruling, he looks for a case that is similar to the one over which he is presiding. In the United States legislative statutes and constitutional provisions supercede any Common Law precedents with which they may be in conflict. However, statute and constitution fail to cover a great many cases, and even where they do their language may be interpreted according to the usages of Common Law.

Another of our legal heritages from England is the court of equity, which

The Constitution is a plain statement in black and white; but it contains less than 10,000 words, many of them not bearing upon controversial issues. The Constitution says nothing about airplanes, labor unions, or corporations. To render decisions concerning these and a thousand other new things, the court must do more than read what the Constitution *says;* the court must infer what the Constitution *implies.*

Is there not just one logical interpretation of the Constitution, as it applies to each new situation? Maybe so, but the judges are not logical machines. In numerous Supreme Court decisions, the justices have divided in their interpretations. Five-to-four divisions are not uncommon. Sometimes the five will be split three ways in their reasons for the decision.

If we examine the court's decisions, we may well wonder where in the Constitution they found their ideas. Things outlawed can hardly be distinguished at times from things approved. Morris R. Cohen reminds us that "according to the Constitution" municipalities may give bounties to grist mills and railroads but not to factories; they may sell gas and electricity but they are forbidden to sell coal. Other writers think it peculiar that the interstate commerce clause author-

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provides relief for persons who might suffer irreparable damage if the ordinary legal processes were not supplemented or interfered with.

In the rest of the chapter we shall also refer to Canon Law: the law administered by ecclesiastical courts during the Middle Ages. It consists of the Bible, the rulings of early church fathers, and interpretations by Popes and church councils. Roman Law should also be mentioned; it consisted of the "twelve tables," the statutes and resolutions of various legislative bodies, the edicts of emperors, and the opinions of legal experts and judicial magistrates. Roman jurists believed in the existence of a natural law: eternal principles supposedly revealed in the ideas which were common to the laws of all nations. Ever since Roman days, parties who were in disagreement with the prevailing legal system have claimed authority in the name of Natural Law (namely, the church when it was fighting the early modern monarchs; the rising class of democrats when they fought both church and monarch; the American abolitionists; and so forth).

izes Congress to prohibit the interstate shipment of lottery tickets, prize-fight films, certain kinds of securities, stolen automobiles, rotten food, and prostitutes, but not goods made by child labor. This same clause has been held to allow Congress to regulate railroad rates but not life insurance rates.

These strange interpretations were possible because the Constitution says nothing about child labor, stolen automobiles, and railroad rates. The judges were therefore free to refer these subjects to constitutional provisions which might imply something about child labor, and so on. But several different clauses could be said to imply something on each of these subjects. Accordingly, judges who saw fit to uphold a *federal* law have frequently invoked Article I, section viii, of the Constitution, whereas other judges might cite the Fifth Amendment to the Constitution as authority for declaring the same law unconstitutional. In many decisions concerning *state* laws, one judge would find that the Fifth Amendment clearly invalidated the law, whereas another judge would notice that the Tenth Amendment clearly supported the same law. Because nothing is said in any of these provisions about insurance rates or child labor, the judges had to connect the constitutional provisions with the subject in question by a long chain of reasoning, and they have not always agreed in their reasoning.

These casual references are hardly fair treatment of the justices, but anyone who believes that constitutional interpretation is a matter of strict logic is invited to study the citations in Cohen's *Law and the Social Order*.[5] If he still thinks that the courts have been guided solely by the Consti-

[5] Page 131 f.

tution, logically interpreted, he is advised to take a course in logic.

Whether new legal actions come under the Common Law or under the Constitution, a good many of them are unprecedented and not strictly implied in the language of existing law. This is proved by disagreements among able judges and by the inconsistencies of decisions.

The Supreme Court has at times admitted its inability to find sufficient legal directions in past law. In 1915 it overruled a 1907 decision relative to night work for women. Since the words of the Constitution had not been changed in the intervening years, the court recognized that the reversal of opinion was due to contemporary opinions and facts.

> While theoretically we may (in 1907) have been able to take judicial notice of some of the facts and of some of the legislation now called to our attention as sustaining the belief and opinion that night work in factories is widely and substantially injurious to the health of women, actually very few of these facts were called to our attention.[6]

In 1908 the court had justified the appeal to new opinions and policies in the following words:

> Constitutional questions, it is true, are not settled by even a consensus of present public opinion. . . . At the same time, when a question of fact is debated and debatable, and the extent to which a constitutional limitation goes is affected by the truth with respect to that fact, a widespread and long continued belief concerning it is worthy of consideration.[7]

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[6] Quoted by Alpheus Mason, *Brandeis and the Modern State*, p. 143. National Home Library, 1936.

[7] *Ibid.*, p. 138.

Conflicts of Law

The second circumstance that compels courts to change past law is the conflict of past decisions. We will indicate a few cases in which the Supreme Court has gone exactly contrary to earlier interpretations of the Constitution. In 1922 the court said that coal was not in interstate commerce until the train that carried it began to move. In 1918 the coal had been in interstate commerce as soon as it was sold and before the train began to move—at least, that was the opinion of the court in 1918. You may recall the recent reversals: state laws postponing the foreclosure of farm mortgages and other state laws fixing minimum wages for women; federal laws taxing the income of governmental employees; federal laws curtailing agricultural production. These are now constitutional, although a few years ago similar laws were unconstitutional. A famous turnabout occurred in 1871 after a Republican administration had packed the court. The Legal Tender Act, which had been ruled contrary to the Constitution in 1870, was all right in 1871. Then there was the reinterpretation of 1851, which set aside two earlier opinions and denied that the Admiralty Jurisdiction extends beyond the tide's ebb and flow in great rivers.

Today a jurist can give either of two contrary opinions on a great many questions and still be able to cite earlier interpretations in support of his own. He can do this for the simple reason that the court as a whole and sometimes the same judges have reversed previous opinions.

Historians of the Constitution can make out certain trends in interpretation, but trends have short lives. Fairly definite turning points were reached in 1835, 1851, 1871, 1894, 1922, and 1937. Changes in the court's membership account for

some of these reversals, but this historical explanation fails to save the legal theory that in practice the court can always find its entire opinion in law that is already laid down.

That judges have to be more than phonographs has been admitted by a number of Supreme Court justices.[8] When they try to play the Constitution record, they have to add something. The next time the record is played, it is not the "original" record. If this be so, the Constitution is not simply that venerated parchment which was drawn up in 1787 plus a few formal amendments. "The Constitution is what the judges say it is," Chief Justice Hughes remarked upon one occasion before he was elevated to the bench.[9] Justice Holmes declared: "The prophecies of what the courts will do in fact, and nothing more pretentious, are what I mean by law." Holmes and Hughes both recognized scholar Gray's distinction between the *law*—that which the courts actually declare or enforce—and the *sources of the law*—constitutions, statutes, and precedents—which they cite when making their rulings.

If the judges are phonographs that add to or revise the records which they play, they are not limiting themselves to the mechanical application of ready-made policies. They are in some cases deciding what *ought* to be done, what objectives are *best*. Custom and the past are not settling every question of public policy. The judge is evaluating opposing possibilities, and we have a right to ask how thoughtful the

[8] "The great ordinances of the Constitution do not establish and divide fields of black and white. Even the more specific of them are found to terminate in a penumbra shading gradually from one extreme to the other. Property must not be taken without compensation, but with the help of a phrase (police power) some property may be taken or destroyed for public use without paying for it, if you do not take too much." Justice Holmes in *Springer v. Philippine Islands*, 277 U.S. 189, 209–10 (1928). See also *Hairston v. The Danville and Western Railroad*, 208 U.S. 606 (1918).

[9] Address to the Elmira Chamber of Commerce, May 3, 1907.

judge is in his evaluation, of what quality is the judge's ethical reflection.

We are not concerned here with the question of judicial supremacy. Whether it is better for courts or legislatures to have the final authority in declaring the law is not the point of our present discussion. The fact is that there are two methods by which an outmoded or unworkable law may be changed. Congress or a constitutional convention may amend or repeal the law. This is an open repudiation of the law. Or a court may "reinterpret" the law. Each method of change can put good or bad judgment into effect. Probably reinterpretation of a supposedly unchanging law is the easier method of revision. In the United States, courts have almost annually amended the Constitution by reinterpretation, whereas legislators and electors had difficulty in making as many as eleven changes between the years 1804 and 1934.

We know that medieval church law was frequently reinterpreted, although it was never openly amended. The medieval courts took advantage of the fact that the clearest commands are ambiguous in their application to cases, and the further fact that many commands can be given a plausible, though allegorical, interpretation. Thus Augustine and the Council of Carthage had said that divorce might be granted only on the ground of adultery. For hundreds of years divorces were granted for idolatry, apostasy, covetousness, and compelling another person to commit a crime. This was not in defiance of Augustine and the Council. Idolatry, and so on, were "spiritual adultery."

There is nothing inherently evil in the making of a new law by "reinterpreting" an old one. The point is that a judge is not being guided solely by the wisdom of past law-

makers when he "reinterprets" the law. He is guided to some extent in such cases by his own judgment or someone else's judgment regarding what is good and right. The soundness of that judgment is what ethics calls into question. Is the judge changing the law to serve reputable or disreputable ends? Is his evaluation thoughtful or impulsive? Can it be defended and will you and I reach the same conclusion? Or will we say that it is a shortsighted policy that the judge has endorsed?

The Place of Ethics in Lawmaking

Our purpose in this discussion has not been to urge judges to disregard past decisions, constitutions, and statutes. The most radical and skeptical judges have recognized a duty to follow precedents and past law *in so far as* the case before them had a clear-cut precedent or a precisely applicable rule.[10] After all, the judge is not the sovereign people; he is expected to carry out as far as possible the explicit commands of the sovereign.

We are not denying that there is a difference between law and morals. In considering the legality of our conduct, we and the judge will simply be guilty of fuzzy thinking if we confuse our own moral judgments with the law. The law consists of those rules which can be enforced with the full power of the government. It is the policies which for better or worse the community has agreed to carry out with a big stick. We are not suggesting that a judge should set his own conscience or anybody's conscience above the law. Where the law clearly covers a case, most people want the judges to abide by the law.

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[10] See Oliver Wendell Holmes, "The Path of the Law," in *Collected Legal Papers*, p. 239; also Benjamin Cardozo, *The Nature of the Judicial Process*.

The point of our discussion is that past law does not clearly cover all cases, and in some instances inherited policies will have to be supplemented. In adding to or changing the old public policies, someone will have to make some evaluations. "Someone" may be the people, or some judge, or Congress, or a city council, or a Fuehrer. But someone or some group must declare new policies for society from time to time. How shall "they" arrive at their evaluations? Hastily, in snap judgment fashion? Thoughtfully, but illogically? Or thoughtfully, in the best Socratic manner?

A voluminous literature now analyzes the motives and purposes of lawmakers. Many of these ends are subject to severe criticism. Judges and legislators, for example, are rebuked when it is discovered that they have been guided by self-interest to the extent of taking bribes. This is an ethical judgment. Class-interest as a legislative motive is also deplored: "The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets and to steal bread." Anatole France meant this sentence as a condemnation of law that perpetuates the grossest inequalities in modern society.

Then, what ends other than self- and class-interest can be served by new laws and by those who make the new laws? One man says, "Judges should give decisions and legislatures should enact statutes that safeguard the public peace." Immediately, we are in the midst of an ethical controversy. Not only is there disagreement on the factual question of what will keep the peace, but there is ethical disagreement over what goods should be sacrificed for the sake of peace.

Someone else proposes that new laws shall be conducive to the welfare of society. But what does he mean by the welfare of society? Men differ in their conceptions of social

welfare, and sometimes they scarcely know themselves what they mean by that admirable phrase. Someone else steps forward and says that our policy should be to protect the "natural" rights of property, life, and liberty. At once questions are raised about the meaning of these terms. What is their bearing upon bankruptcy cases? To rescue debtors from debts which they can never repay would seem to protect the right to liberty, for it abolishes debt bondage and debt imprisonment. But a bankruptcy law is at the same time a blow to the property right.[11] Evidently, "life, liberty, and property" is not a self-applying formula; and to avoid thoughtlessness in the application someone has to use Socratic methods of ethical analysis.

It is an ungrateful man, indeed, who cannot muster faint praise for his ancestors. Without their accumulated decisions, he would have so many evaluations to make that he would drop in his tracks every day, completely exhausted. But, on the other hand, the dead cannot settle all questions of policy. The questions that are carried to the courts because they engender serious conflicts cannot all be disposed of by *stare decisis et non quieta movere* (to stand by decisions laid down by previous trials and not to disturb settled matters). Some decisions have to be made without the benefit of precedents. Somebody has to ask, "What ought to be done now?" rather than "What did the elders tell us to do?"

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[11] Most of us do not sense these difficulties in the "life, liberty, and property" formula when we hear the formula repeated oratorically. The bankruptcy problem is only one of many such puzzles. An amusing case arose in a New York court some years ago, when a girl brought an action against a photographer who was using her photograph for advertising purposes. The court held that it was not her photograph although it was her likeness, because the photographer owned the negative. See J. M. Clark, *The Social Control of Business*, p. 90, second edition, 1939.

Exercises

1. "To tell a law student that the law is what the courts will do and have him reach his conclusions on this point by counting up what they have done is to forego rational analysis, to deny the necessity of principles, and to prevent the exercise of the intellect." R. M. Hutchins, "The Issue of the Higher Learning," *International Journal of Ethics,* Vol. XLIV, p. 175. "Not the study of cases alone, nor the study of how the law operates in fact, nor the study of legal philosophy will give us legal education. We must have all three and jurisprudence is the ordered relation of all these studies." Address of Dr. R. M. Hutchins to the New York State Bar Association, February, 1937. What possible objection can be made to this plan?

2. Try to define the much used term "reasonable." See J. H. Tufts, "The Moral Life," in *Creative Intelligence,* pp. 395–397. Henry Holt & Co., 1917.

3. "In the Income Tax case of 1894 Judge Shiras changed his mind at the last minute and the law was killed by a vote of five judges to four. It took nearly twenty years to amend the Constitution and overturn the wavering and uncertain opinion of one man." Judge Padden, in *Town Meeting,* Bulletin of America's Town Meeting of the Air, Vol. 2, No. 13, p. 36, published by Columbia University Press. What, if anything, should be done about such decisions?

4. See T. W. Arnold, *The Folklore of Capitalism,* pp. 176–177, on "getting rid of technicalities." Is Arnold's point of view similar to that of Cardozo? See Chapters 4, 7, and 10 of the same book.

5. "The prime necessity in making the judicial machinery work to the best advantage is the able and industrious judge, qualified by training, experience and temperament for his office." Chief Justice Hughes, address to the American Law Institute, May, 1937. Did Hughes overlook any "prime necessity"?

6. "If you have an insurance policy against 'total and permanent' disability, examine the fine print, written by a lawyer you

may be sure, and ask yourself what chance you have in case of a disability which is substantially total and permanent, but legally disputable on the ground that one who is not a basket-case is not totally disabled, and/or (as the lawyers say) one who is still alive is not permanently disabled. The law, yes. The courts, yes. Justice, yes. But lawyers, phooey." Westbrook Pegler, October 2, 1937, Copyright by the *New York World-Telegram*. Is it fair to put so much blame on the legal profession?

7. Read the ancient Hebrew laws in the book of *Deuteronomy*. How do they compare with modern laws in the amount of discretion which is allowed to those who apply the laws?

8. Look up the Supreme Court's decision in the anti-trust suit against the Standard Oil Company (1911) 221 U.S. 1. Show that the "rule of reason," which the court used in applying the Sherman law, is not the kind of discretion which the author discusses.

9. Should judges disregard precedents? Should they ever change laws by re-interpretation? Try to qualify your answer so as to take into account the great variety of judicial predicaments.

10. If both law and morality are forms of social control, what is the difference between them? Does this difference suggest different attitudes toward rigidity of rules in law and in morals?

11. List a few laws which are general statements of public policy for the guidance of courts, commissions, and executives rather than prohibitions or commands relating to specific practices. Is this type of legislation increasing? What are the objections to such laws? What constructive tasks are suggested by the objections?

12. How does the theory of natural rights square with the opinion that the law is what the judges say it is?

13. Is the appeal to natural law always a sign that positive, enforceable law is changing and that morality is reshaping law? (For a statement of this view, see Roscoe Pound, *Introduction to the Philosophy of Law*, pp. 33–34.)

14. What are the different meanings of the proposition that "cases should be decided on their own merits"? Which meaning do you consider the wisest? Is this proposition sound in any sense?

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PART TWO

THE QUEST FOR CONSISTENCY

CHAPTER FOUR

ECONOMIC IDEALS: INDIVIDUALISM

WHICH of our day-to-day choices will have to be reversed if we are to adhere consistently to our fundamental convictions? Thus begins the criticism of thoughtless, spur-of-the-moment impulses and opinions.

Some of us are stopped before we are well started on this quest for consistency. We cannot find an underlying purpose to which our daily decisions should conform. We are as anxious as Socrates to be constant in our quest for that which is good, but we have difficulty discovering an end or goal with reference to which our life may be organized. We seem to have no ideal for life and for society as a whole.

Idealless Americans sometimes search the scriptures in the hope of finding a worthy objective and a plan of life. Can the ideals of yesterday's leaders live again—the Kingdom of God, Plato's Just State, Democracy? Alas, too often they have the appearance of pretty pictures that are quite unrelated to our everyday problems. As Mark Twain would say,

"They are windy and they sound well," but they seem to be about as useful as a map of the Holy Land in the hands of a motorist going through Arkansas.

Perhaps the ideals of the fathers are more acceptable and useful guides than they appear to be on first inspection. We shall make a second inspection of them further along. But on this, our first inspection of possible life policies, we shall examine ideals and plans that are more obviously related to the questions that have to be decided between the time when we arise in the morning and the hour when we go to bed at night. We shall study certain economic ideals.

In the eyes of many Americans and Europeans, the way to organize our multitudinous activities into some coherent pattern is to adopt an *economic* plan. "Understand clearly how men should divide the work and the rewards of economic production, and you will be able to avoid whimsical, self frustrating and self-nullifying decisions." That is the idea of economic planners.

In what respects will Americans mend their ways if they cleave to an economic ideal? The difficulty of this question does not arise from the lack of an ideal. The difficulty lies in the number of proposed ideals. There are supposed to be at least 261 varieties of socialism, ranging from the pacific international socialism of Norman Thomas to the military national socialism of Hitler. Furthermore, socialists are not the only advocates of a planned economy. Individualists have an economic plan, too. They do not want the *government* to plan and direct the work done by individuals, but this noninterference with private enterprise is itself a plan of economic life. Judge Holmes once accused his associates in the Supreme Court of adhering to this individualistic plan

when he snorted, "The Fourteenth Amendment does not enact Mr. Herbert Spencer's *Social Statics*."[1]

To what extent have Americans accepted one of these economic ideals, and to what extent have they adhered to it? Except in the earliest colonial period, the majority have given at least lip service to an individualistic plan. For many decades Americans commonly assumed that

> Individualism, "the survival of the fittest," is the law of nature and the secret of America's greatness; and restrictions on individual freedom are un-American and kill initiative.

But Robert Lynd, the sociologist, reports that they also harbored a scarcely compatible sentiment: "No man should live for himself alone; for people ought to be loyal and stand together and work for common purposes."[2] A plan of individualistic economic enterprise has never been the undisputed first principle or central policy of the United States. Indeed, there is a long-standing debate concerning the desirability of the private profit motive and of conduct which is so motivated.

Where do you stand on this question? Do you say that it is all right for a man to seize any opportunity to make as much money as he can? Do you believe that individuals should be guided by their own interests and allowed free reign in deciding what kind of work they will perform? Do you believe that every man should be allowed to charge whatever he can get (without using a gun) for his goods and services? The issue is not whether men should try to make

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[1] Dissenting opinion in *Lochner v. N. Y.* (1904). Spencer's *Social Statics* was a defense of extreme individualism.

[2] *Knowledge For What?* p. 60. Princeton University Press, 1939.

a living, but whether they should be encouraged to strive for personal gain without any limit.

You could give a simple "Yes" or "No" reply to these queries. You could say, "Yes, I am an individualist, and I believe in the profit motive as the mainspring of economic enterprise." You could give a simple "No" answer, and say, "No, I am a socialist, and I believe the profit motive must be destroyed." On the other hand, you may be one of those less single-minded Americans who say, "Yes and no, maybe, and it depends." You may say, "Individualism is good under some circumstances and not under others." You will then engage in the kind of policy deliberation described in Chapter Two. You will try to state exactly the conditions under which you approve of the private profit motive and then determine whether those conditions actually exist at the present time.

The Ideal Competition

The most popular *theory* of individualism commends selfishness or self-interest rather than group loyalty as the motive that will make men work hard and raise the standard of living. Remembering with disgust London's bungling interferences with empire trade,[8] both English and Americans in large numbers were attracted to the idea of abolishing hereditary and political privileges in the production and marketing of goods. Taking up the slogan of some eighteenth-century Frenchmen, "Laissez-faire," they demanded

[8] The British system of monopolies in the 1760's drew this sort of protest: "A colonist cannot make a button, a horseshoe, nor a hobnail, but some sooty ironmonger or respectable buttonmaker of Britain shall bawl and squall that his honor's worship is most egregiously maltreated, injured, cheated and robbed by the rascally American republicans." *Boston Gazette,* April 29, 1765, quoted by Beard and Beard, *The Rise of American Civilization,* Vol. I, p. 195. The Macmillan Co., 1930.

that every individual be let alone and compelled to stand on his own feet. If no one were guaranteed a living by the State, the individualists argued, everyone would be forced by fear of want and desire for wealth to compete for a living. In order to satisfy his needs, the individual would have to sell his goods or his labor for more than they cost him. To make this profit, he would have to produce something that someone else wanted. Thus, the more selfish and acquisitive the individual, the harder he would work to supply other men with the things which they wanted. Self-interest would drive men out of pursuits that the rest of the community did not appreciate and into kinds of work that the community needed badly enough to be willing to pay for.

The *theory* of individual competition was elaborated and refined by many economists.[4] They worked out "laws of competition" that guaranteed further benefits. They showed how, in a competitive economy, goods must be produced efficiently at the lowest possible cost, and the prices at which goods are exchanged must in the long run be approximately equal to the cost of production. They proved that natural resources would be used and conserved in such a way as to make the maximum possible use of them. They proved that there would be no long-continued surpluses or avoidable shortages of goods, and that practically everyone who was of any use to the community would be usefully employed.

The theory of competition is a beautiful *theory*. The benefits of competition appear to be almost miraculous. As Carlyle said, the economists demonstrated how a world of knaves could be virtuous in their combined action.

We italicized the word *theory* because the economists did

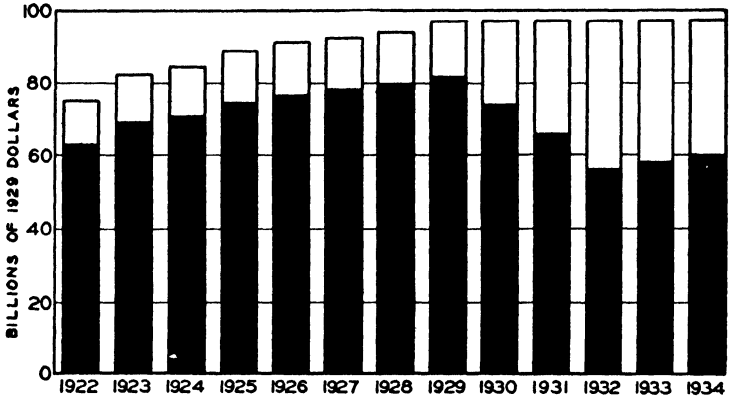
[4] Adam Smith, David Ricardo, Nassau Senior, John Stuart Mill, Stanley Jevons, William Graham Sumner, E. Seligman, Alfred Marshall, and others.

not, in their more cautious statements, declare that competition and the profit motive were securing these results under existing conditions. The laws of competition, in so far as they are natural or scientific laws, do not tell us that competition was working to advantage in America in the second or the fourth decade of this century. Economic laws do not tell us what actually happens any more than the law of falling bodies tells you that I am jumping out of a window. The law of falling bodies simply asserts that *if* I jump out of the window I will fall with an acceleration of 32 feet per second per second, minus some allowance for air resistance. The laws of competition likewise tell us what will happen *if* competition takes place under certain conditions.

What are the conditions under which competition will produce the nice balancing of supply and demand, and so forth? They are, briefly:

i. Except for housewives, children, and defectives, no one gets anything that he does not produce himself or secure by voluntary exchange;
ii. Men are consistently selfish (or perhaps we should say familyish);
iii. No one has a monopoly on natural resources;
iv. No one has a monopoly on brains or information;
v. Practically everyone acts and bargains as an individual;
vi. Individual enterprises have lower costs than large-scale enterprises;
vii. The government prevents violence (domestic and foreign), enforces contracts that have been made voluntarily, prevents conspiracies to destroy competition, carries on a few necessary enterprises like road-building that are not suited to individual enterprise, raises enough revenue to carry on these activities, and otherwise lets things alone.

From theoretical systems, we obtain theoretical benefits; from theoretical conditions, we obtain theoretical results.[5] We do not have to look into the crystal ball to satisfy ourselves that the results produced by competitive private enterprise *in America* have not been as satisfactory as the benefits which economists attributed to competitive private enterprise *in the abstract.* This proposition was evident long before the threadbare thirties and their idle factories, idle mines, idle men, idle land, idle money, and hungry mouths. The twinkling twenties did not twinkle for the coal industry or for agriculture. The teeming 'teens and the preceding generation had dimly realized that timber, soil, and other natural resources were being wasted and that some prices were staying far above the costs of production.



PRODUCTIVE CAPACITY AND ACTUAL PRODUCTION. (Chart from *Income and Economic Progress,* by Harold G. Moulton, The Brookings Institution, 1935. Reproduced by permission.)

[5] I do not wish to discredit economic theorizing. The classical economists did much to improve the rigor of our reasoning. But any deductive reasoning presents two possibilities of error: Is the deduction *valid* and are the assumptions *true*? If I add the $1.69 in my pocket to the $2 in my billfold and infer that I have $3.69, I could make a mistake in addition, and I could also make a mistake in counting the contents of my pockets.

These economic maladjustments and catastrophes do not in themselves prove the undesirability of private profit motives and competitive enterprise. Believers in competition, like William Graham Sumner, freely admitted that American business and industry in the Gilded Age were in many instances orgies of plunder and waste, but Sumner said the trouble lay in the refusal of the American people to maintain the conditions of productive competition. In particular, the believers in competition have criticized the laws and policies of government that departed from those specified in the theory of competition.

Our problem, therefore, is to ascertain whether the American conditions which have "spoiled" competition are simply governmental policies that can be rather easily changed or whether the nontheoretical conditions include some stubborn characteristics of human nature, natural resources, and technology that will probably make beneficial competition forever impossible.

American Individualism: How Different from Theoretical Individualism?

The American people have voted for or acquiesced in many governmental policies which limited competition among individuals. Wisely or unwisely, they have been moved to depart from the competitive plan by consideration of the following facts: (1) international conditions and nationalism; (2) new technologies; (3) ignorance and immobility; (4) inequalities in bargaining strength. Of course, there were self-interested individuals and groups behind every proposal to restrict competition, but the ax-grinding minorities had to convince their fellow-citizens of the need for the

restrictions, and the four conditions mentioned were cited as proving the need.

1. International conditions and nationalism. Periodically Americans have voted to pay higher than competitive prices for many products. By placing high taxes on imported, foreign-made goods, they have allowed domestic manufacturers to charge more for their steel, cloth, and other articles than they could have collected in competition with foreign manufacturers. They have also supported Congressional action to subsidize more directly industries that were losing out to foreign competitors. For example, shipping companies have been able at times to buy ships that cost as much as $200 per ton for as little as $5 a ton.

The most coherent reason for shutting out foreign competition is that the United States must be self-sufficient economically in time of war. If the country becomes completely dependent upon outsiders for any vital goods, it may be crippled from the military standpoint. Therefore, every essential industry must be built up in this country, even though location and other conditions make the cost of the American product much higher than the cost of English or German products.

The economists of competition usually reply to this argument by asserting that international interdependence would presently make war impossible. In their opinion, wars are invited by tariffs, immigration restrictions, and other obstacles to international trade. We shall not pass judgment on these contentions, beyond remarking that the economists have seriously underestimated the sentiments of nationalism, regardless of the rationality or irrationality of these sentiments. In a word, Americans insist on behaving like Amer-

icans instead of merely profit-seeking individuals. Wisely or not, they are willing to pay higher than competitive prices in order to promote what they take to be national security.

2. *New Technologies.* The second American policy that creates a non-textbook-like competition is the tolerance and encouragement of large-scale enterprises. This policy is embodied in our patent laws. The Aluminum Company of America, for instance, was started on its way to virtual control of the industry by patents issued in 1888. The encouragement of large-scale enterprise is also evident in many subsidies, such as the granting to railroads of lands equal in size to the State of Texas. Our state legislatures also invited large-scale enterprises by enacting corporation laws that limited the liability of investors for company debts, and so on. Then, despite such gestures as the Sherman Anti-Trust Act, the Supreme Court blessed the supercorporation by finding that "mere size" did not prove that a corporation was an illegal monopoly. Since the Sherman Law was being enforced against small corporations and individuals who conspired to fix prices, the latter were not slow in getting the idea that they could fix prices if they merged with their competitors. Then there was no competitor left with whom to conspire.

Why did these competition-restraining policies win popular support? Perhaps it is true that most Americans did not know exactly what was going on. Nevertheless, the large-scale enterprise was made attractive by inventions that could supply goods and services at low cost, if there were mass production. Most of the technological inventions since 1764 have held out the prospect of reducing costs as production was increased. This was true of the steam engine, the power loom, the railroad, the electric generator, the tele-

phone, the Bessemer process of making steel, the automobile, and many of the machines used in making these things.

The classical theory of competition assumes that costs increase as production increases. This was true of agriculture, but it has not characterized most of the new industries of recent times.

Die-hards among the advocates of competition insist that mass-production, machine industry need not be monopolistic. If, they say, the government had not granted exclusive patent rights to inventors, there might today be several competing companies in the aluminum industry instead of one monopolistic company. In the automobile industry, where patent rights were not asserted, there are competing companies. This seems to be true, but it is hard to see how the railroads and the electrical and telephone industries could have remained highly competitive. Once important segments of the community are monopolistically organized, you can hardly expect the community to behave like a competition of individuals.

3. *Ignorance and immobility* constitute the third condition which has inspired interferences with competition. To make competition efficient in theory, the economists had to assume that most men are intelligent and sufficiently well informed so that they will not pay more than the market price. They are not supposed to accept defective goods. They are supposed to know what they are doing and what they are getting. Real men, in contrast to the hypothetical men of the theory, are often ignorant, and a great many of them are not very bright. At least, they are not sufficiently intelligent and well informed to avoid making many mistakes in our complicated society. There are too many commodities for anyone to be an expert judge of all. There are

too many and too intricate enterprises for most people to recognize those which offer profit possibilities.

As various groups of Americans have admitted their repeated blunders in buying and in producing for market, they have agitated for governmental supervision of markets and industries. Consumers, admitting their inability to detect unfit meat, clamored for federal inspection of meat. Subsequently, they imposed many regulations on the food, drug, mattress, and other businesses.[6] Investors, discovering that they had unwittingly played with fire and been burned, secured "blue-sky laws" in the several states and in 1933 elaborate federal regulation of the security markets. They said, in effect, "we are not smart buyers and haven't the time or facilities for investigating thoroughly what is offered for sale. We hereby designate some public officials to do the investigating for us."

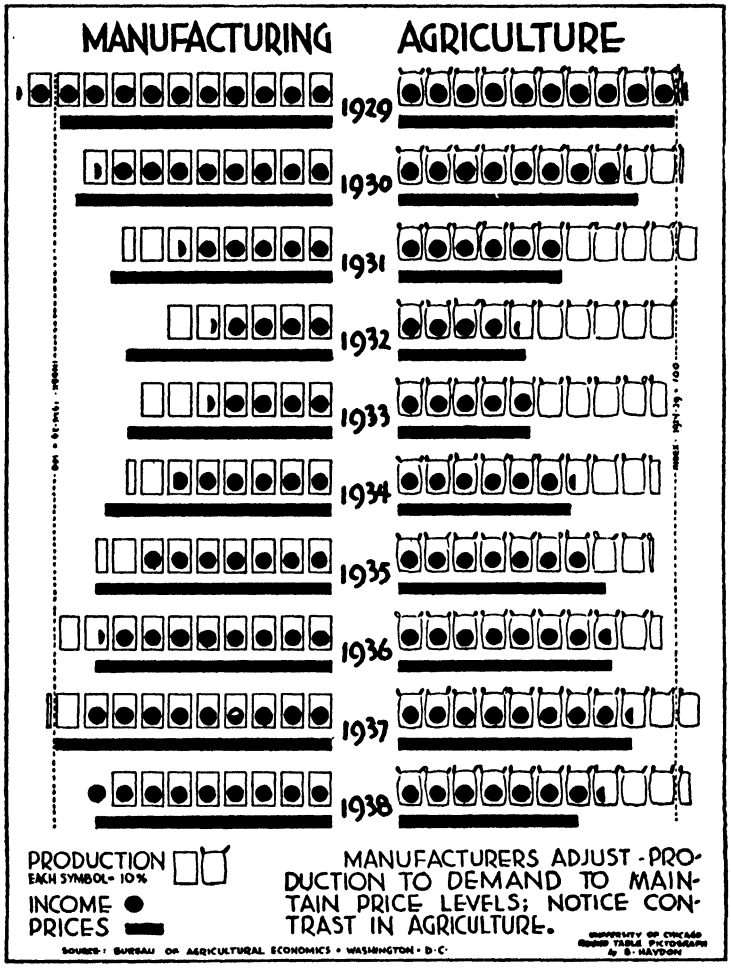
Ignorance was not the only admitted impediment to smart competition. There was also immobility: immobility of capitalists who could not transfer their savings from overcrowded industries, and immobility of labor that could not readily acquire new skills or move to new localities. The worst cases of immobility occurred during the 1920's in the coal and agricultural industries. We shall comment briefly on the immobility of the farmers.

For various reasons agriculture produced more grain, cotton, and meat than it could profitably sell during the 1920's. According to the theory of competition, farmers

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[6] Upton Sinclair helped the average citizen to realize his ignorance. Sinclair published *The Jungle* in 1906, hoping to arouse sympathy for the stockyards workmen who labored under filthy conditions. The readers did not think so much about the workmen as about the fact that their meat came from the unsanitary packing plants. Sinclair later said, "I aimed at the public's heart and I hit the public in the stomach."

should have left their farms and gone into some more profitable business. Between 1920 and 1930, 375,000 farmers did quit agriculture, but that was not enough to eliminate the surpluses that kept farm prices below the cost of production.



MANUFACTURING, AGRICULTURE, 1929–1938.

In fact, some crops reached an all time high in 1931. By that time most of the farmers who were losing money knew that they were losing money, and in 1933 it was well known that large numbers of farmers were going bankrupt and losing ownership of their property. In that year, a third of a million farmers lost title to their farms. According to the competitive theory, the surplus should have disappeared in a few years, either by voluntary transfer to other employments or by starvation.

The farmers, however, did not know where to turn. Their skill was agricultural, and few of them could find any other trade. Their possessions were in land and farm equipment, and could not be converted to more profitable uses. The farm leaders refused to let competition run its course. They demanded and obtained governmental action, which meant the end of individual planning of production and individual selling in a competitive market. Because the farmers were not intelligent and mobile enough to make agricultural competition work nicely and without catastrophe, the farmers and their sympathizers decided to abandon individualistic competition. Two theoretical conditions of perfect competition, smartness and mobility, were already lacking. A third condition, individual action, was deliberately destroyed. Acreage allotments, co-operative marketing agreements, crop loans, market regulations, cash subsidies, and so forth, meant that individualism had been abandoned in agriculture.

4. Inequalities in bargaining strength. Finally, Americans have refused to trust the competition of profit-seeking individuals because competition no longer takes place exclusively between individuals. The growth of large corporations was a pooling of resources by certain individuals.

These individuals were no longer acting and bargaining as individuals. They were bargaining collectively. The extreme case is the American Telephone and Telegraph Company: the money of about 700,000 investors acts as a unit in that corporation. Railroads and steel companies are also huge aggregations of capital. They are related to their customers, workmen, and buying connections not as individual to individual, but as group to individual. Because of their resources, their ability to sit tight, their access to a wide market, and their ability to hire experts, these large enterprises have tremendous advantages in bargaining. Indeed, bargaining in any competitive sense may disappear.

During the nineteenth century, employees began to chafe under these conditions and demanded the right to organize for purposes of bargaining collectively with their employers, who bargained not only as a company unit, but sometimes as an industry. In a later chapter we shall describe the labor laws which were asked and received. Suffice it to say here that today workmen have governmental sanction when they conspire to raise the price of their labor.

The farmers have also sought relief from inequalities in bargaining. In 1928 and 1930 farm prices, being established by competition among individual producers, fell to low levels. According to the theory of perfect competition, railroad rates and the price of aluminum and of telephone service should have responded, since the cost of agricultural products which went into their costs had fallen. Railroad rates, telephone rates, aluminum prices, farm implement prices, and so on did not respond. They were no longer competitive prices. So the farmers demanded the right to do some fixing of their own.

The story has been similar in the case of other economic

groups that continued to compete as individuals in a day when manufacturing, transportation, and communications had ceased to be matters for individual competition.

In 1890 the American Congress enacted the Sherman Anti-Trust Law. It made conspiracies to fix prices or to restrain competition illegal. The Sherman Act was hailed as a step in the direction of truly individual competition. But the courts so interpreted the Act that it actually stimulated the tendency to noncompetitive organization. Even if the courts had tried to halt the trend toward monopolistic groups, they could not have done much under the Sherman Act, for it did not prohibit the formation of corporations and labor unions. A death sentence for corporations and unions, at least for those of any considerable size, would have been necessary to establish the essential conditions of theoretical low-price competition.

The next important governmental action in the name of "fair" competition came under the New Deal. But the New Deal laws on the subject, beginning with the National Industrial Recovery Act in 1933, did not look toward the destruction of monopolistic groupings of capital, management, and labor, so much as toward the organization of the unorganized: the farmers, the workers, the coal operators, the retail merchants, and so on. The New Deal appeared to equalize the bargaining power of groups that had already incorporated or otherwise achieved collective bargaining and the power of groups that still acted as scattered individuals. Even the prosecutions by Assistant Attorney General Arnold under the Sherman Act did not seek to destroy large corporations and labor unions, but only to keep them from exercising all of their collective-bargaining power and obtaining extortionate prices.

Conclusion

You may be one of those persons who, at the outset, valued individual economic freedom of enterprise so highly that no consideration would cause you to abandon it as a policy. You may have been one of those who hated the competitive, acquisitive spirit so profoundly that nothing could cause you to accept it as your policy. If, on the other hand, you had no such unalterable conviction, you will probably not stop yet in your search for an economic ideal with which to guide your daily choices in market, forum, and polling booth.

We have examined some of the conditions that keep most Americans from "really" endorsing unregulated individual profit-seeking. No doubt, you found yourself approving one or more of the exceptions that have been made to the rule of personal competition:

1. Tariffs, subsidies, and so on, to promote the growth of domestic industries, ostensibly in the interest of national defense;
2. Patent laws, incorporation laws, and other laws to allow the formation of enterprises large enough to effect the mass-production economies of machine industry;
3. Commodity and security market regulations and production planning within an industry to prevent catastrophic losses due to human ignorance and the immobility of capital;
4. Laws encouraging the organization of labor, farmers, and other classes to give them bargaining power equal to that of corporate groups that were already bargaining collectively.

If, like many of your countrymen, you want to discourage competition among individuals and individual planning, you have yet to decide whether you approve of group competition and group planning, or whether you want to get rid of com-

petition altogether and establish national planning or socialism.

Exercises

1. Did the Price Resale Act of 1937 and the Fair Trade Laws of the several states tend to restore individual competition, equalize the bargaining power of economic groups, or establish monopoly?

2. Did the Guffey Coal Act equalize bargaining power or increase already existing inequalities? For a critical discussion, see Carter, "Price Fixing in the Bituminous Coal Industry," *Annals*, September, 1937.

3. Did the N.R.A. equalize bargaining power or legalize already existing inequalities? See the Darrow report of June 12, 1934; John Flynn, "Whose Child Is the NRA?" *Harpers Magazine*, September, 1934.

4. Criticize: "An ideal economic system would have a stable wage rate. As industry improved its methods and its machinery and became more varied in its output and so enlarged the total volume of production, the wage increases would come through lower prices and shorter hours. Although we have not yet been able to attain this ideal and may not be able to reach it for many years to come, it points the way. To my mind, it is sheer nonsense to have a national policy which is calling for quick action changes in monetary wages to meet superficial and temporary changes in prices and business volume. This jockeying of prices and wages back and forth is a fruitless and unending game. Each adjustment is only temporary, as, in the nature of the case, it must be. It is usually attended by labor conflict and market demoralization. It nurtures the forces of class consciousness and antagonism. At best the results are uneven and merely bring about new discrepancies in prices and wages as between different groups of workers and commodities." Claudius T. Murchison, "Wages, Prices and Recovery," p. 9. Reprinted from *Town Meeting*, Bulletin of America's Town Meeting of the Air, Vol. 3, No. 16, published by Columbia University Press, New York.

5. How is the scientific maxim that hypotheses must be verified by factual observation related to the evaluation of policies?

6. Is it possible to violate economic laws?

7. What kinds of freedom are created by the following limitations upon individual freedom of action? Are there any cases where more freedom is destroyed than is created?

a. The Wagner Labor Relations Act.
b. The child labor laws.
c. Traffic regulations.
d. Quarantine ordinances.
e. Zoning ordinances.
f. Fire regulations.
g. Building ordinances.
h. Laws making it illegal to own slaves.
i. Peonage and bankruptcy laws making it illegal to hold a person in debt bondage.

8. What are the duties of an individualist living in a competitive society? Which of these duties become questionable when competition has been restricted as it has been restricted in agriculture, the building trades, and so forth?

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CHAPTER FIVE

ECONOMIC IDEALS: SOCIALISM

NEARLY every American approves of some exceptions to the rule of individualism. Exception has been added to exception during the last generation. Today the economic policy of the country is very far from a consistent individualism. Officers of the law are authorized to tolerate and, in some cases, to enforce noncompetitive arrangements that have been denounced within the memory of living men as the malefactions of wicked monopolists and the socialistic schemes of the lunatic fringe.

If you are a rugged individualist, you cannot compete as a rugged individualist is supposed to compete, bargaining without interference and making the best terms and the best profit that you, individually, can obtain. You cannot now offer to work in many occupations for less than 30¢ an hour or for more than 40 hours per week. In other occupations you cannot work at all unless you join a union, and then only on terms fixed by a union official. If you are a farmer, a government agent tells you how many acres you may plant

with corn and wheat. If you own a plot of ground in a residential area, the chances are that you cannot build a store or factory, and in any case you are forbidden to use wooden shingles, second-hand lumber, and many kinds of prefabricated materials; furthermore, you must hire a licensed electrician to wire the place for you. If you operate a store, you cannot cut prices on some goods below a figure named by the manufacturer. You must open your premises and your books for inspection by income tax men, sales tax men, the city sealer, social security tax officials, health department inspectors, department of agriculture inspectors, and a dozen other officials, any one of whom may order you to change your ways on penalty of prosecution. You cannot lend or borrow money at high rates of interest, even though the loan is so risky that no one would think of making it at a low rate. You cannot hire a twelve-year-old boy to do full-time work, and if the boy is your own child you cannot hire him out; you must send him to school, whether you, he, or the teachers want him in school or not. In some lines of business you are not within the law if you indulge in old-fashioned "sales talk": what you say must be true, and there are certain things that you must say; you, not the buyer, must beware. If you work for a corporation, custom as well as the law frowns upon you if you try to make a little money for yourself on company time. This means you, whether you are the third assistant buyer, the president, or a hustler on the shipping floor.

Few Americans who call themselves rugged individualists object to *all* of this "regimentation." Those who cry "regimentation" the loudest when their own private enterprise is invaded applaud the "regulation" of their competitors and the "disciplining" of others.

If we pretend to adhere to the policy of individualistic competition, are we not horribly inconsistent? Have we not made so many exceptions to our rule that the exceptions themselves become a new rule? Will we not be wiser and happier if we throw overboard the ideal of private enterprise? Are we not drifting toward some kind of socialism? Why not go directly and quickly over to a new order that is noncompetitive, and co-ordinated or rationalized?

These questions arise in every active mind and are seriously debated by many intelligent persons. As we noticed earlier, the theoretical system of individualistic competition is so radically different from our actual institutions that it has a very limited usefulness in guiding our day-to-day decisions. As for benefits, the benefits of theoretical systems are theoretical. If the conditions of the theoretical system cannot be established in actual fact, we have no reason for expecting the system's benefits in actual practice.

At this point the socialist appears, claiming that the socialistic ideal is more adapted to actual conditions than the individualistic ideal. Some of the conditions for a productive socialism already exist, and he tells us that with only a few more changes we may eliminate our self-frustrations and inconsistencies. Then we may expect the rewards of an "economy of abundance": goods produced for use and not for private profit; increased productiveness through co-ordination of effort and resources; income distributed according to need rather than according to bargaining power or accident of birth; security against personal misfortune and predatory rivals.

Conditions of Successful Socialism

What are the conditions under which these blessings may occur? Roughly and generally, they are as follows:

1. Economic enterprise must be organized, and men must be guided by a common plan rather than by the prospect of personal profit in individual transactions;

2. Those in control must have power and a method for selecting personnel according to fitness for work;

3. There must be economies or increased productiveness in large-scale enterprise so that the added expense of organization is offset;

4. Those in control must know the costs of various products and the wants of consumers, and they must know how to calculate the quantity of production at which costs are lowest;

5. Goods must be capable of production at fairly uniform costs and without too much variety or seasonableness;

6. Those in control must be able to calculate with some accuracy the division of work necessary to make adequate provision for depreciation, obsolescence, and probable accidents to men and machines;

7. Those in control must be interested in the production of goods that are needed by the community rather than in their own profit at the expense of others.

Concerning these conditions of socialistic enterprise, there is considerable debate. It is quite possible that we have omitted some essential prerequisites of efficient socialism. Among socialists, however, the tendency has been to regard accurate cost accounting and a separate class of planners or co-ordinators as superfluous. These would, no doubt, be unnecessary for the success of a simple agrarian or nomadic socialism. But it is difficult to conceive of socialism operating in a large industrial society without accurate knowledge of costs and without administrative specialists who could

have that knowledge and give orders accordingly. Otherwise, one would have to believe in a miraculous agreement by everybody on the most beneficial production schedules. To ignore the more difficult conditions of socialism would be to commit the same fallacy as the exponents of competition have committed. We should be expecting the blessings of theoretical socialism if only the profit motive were eradicated. This would be as foolish as expecting the blessings of theoretical individualism on the sole condition that the government let private enterprise alone.[1]

Obviously, some of the conditions of socialistic success already exist in the United States. Economic planning has progressed from office and shop to plant, and in a few cases to entire industries. Do we want to extend the planned areas of our economy to regions or to the whole country? Are we willing to accept the conditions that are necessary for socialistic results, and do we approve of the things that are necessary to the establishment of these conditions? Can we supply these if's of a full-fledged socialism, if we want to?

To answer these questions many Americans turn their gaze upon Russia, and after a while they pronounce the conditions of socialism tolerable or intolerable and the benefits of socialism certain or impossible.[2] We shall not pay much attention to Russia for two reasons: (1) the difficulty of securing reliable information, and (2) the difficulty of com-

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[1] For further discussion of the conditions necessary for successful planning, see J. M. Clark, *The Social Control of Business,* Chapter XIV; Loucks and Hoot, *Comparative Economic Systems,* Chapter XVIII; Lange and Taylor, *On the Economic Theory of Socialism;* L. von Mises, *Socialism.*

[2] See Harry Ward, *In Place of Profit;* Sidney and Beatrice Webb, *Soviet Communism; A New Civilization;* Calvin Hoover, *The Economic Life of Soviet Russia;* Eugene Lyons, *Assignment in Utopia.*

paring certain Russian situations with American situations.

Our exploration of the possibilities and desirability of socialism will be localized in the American industries where enterprise is already corporate and monopolistic—namely, the public utilities.

The Public Utilities

The public utilities are those enterprises which the American courts have said are "affected with a public interest." They are the kind of business in which customers have no choice but to patronize one company or else do without a necessary service. Among the public utilities are grain elevators, railroads, electric power companies, gas companies, telephone companies, and water companies.

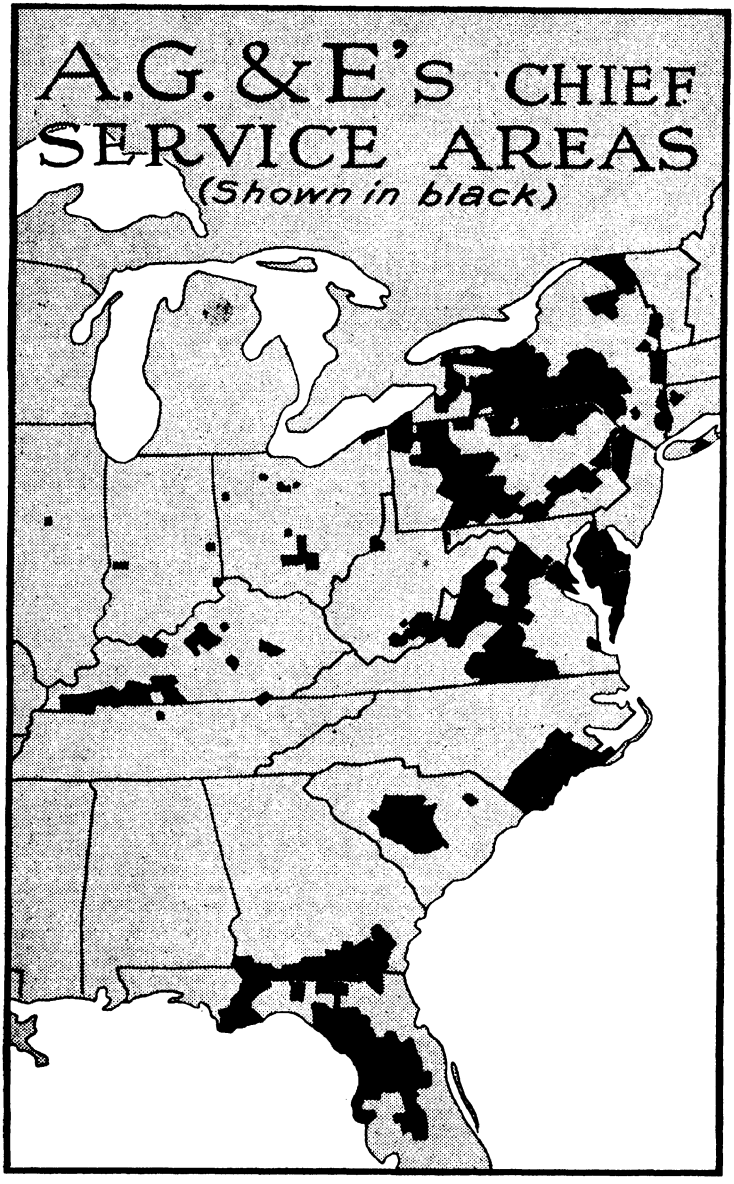
Early in their history, most of these industries were allowed to depart from the ways of individualistic competition. Efficient use of the mechanical inventions on which they were founded required production and organization on a large scale, and this, in turn, required more capital and labor than a few individuals could supply.

Large-scale production and centralized planning were made possible by: (1) exemptions from the anti-monopoly laws; (2) corporation laws that facilitated the separation of ownership from management of industry;[8] and (3) laws af-

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[8] Berle and Means made a thorough study of the separation of ownership from management in their book, *The Modern Corporation and Private Property.* (The Macmillan Company, 1933.) Most of the utilities were built with the money of thousands of investors. The investors were in some cases deliberately deprived of effective control over company policies by the issuance of nonvoting stocks and bonds, which give the owner a share of the earnings but no vote. Thus, the billion dollar Standard Gas and Electric Company was controlled by men who had invested only one million dollars. The Van Sweringen brothers controlled three billion dollars worth of railroad properties with ten million dollars, much of it borrowed money.

Even where the devices of nonvoting stock, and so forth, have not been em-



MAP SHOWING THE EXTENT OF HOLDINGS OF ONE OF OUR LARGE UTILITY COMPANIES. (From *Time*, March 4, 1940.)

fecting labor and corporation rules that gave management autocratic control over employees. The management of the public utilities has always been subject to some legal limitations in its planning, but most of the effective regulation came after a period in which managers in some companies had enjoyed quite complete freedom of decision, as we shall see later.

Comparing the conditions of successful socialism with the conditions under which the utilities were operated, we are impressed by two problems: (1) The control over costs is incomplete owing to the inaccuracies of cost accounting and the backwardness of administrative arts; (2) Whereas we have too few selfish people to make individualistic competition work well, we seem to have too few altruists to make planned economy beneficial. These problems have come to

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ployed, the owners are not likely to exert much influence upon company policies. Their powerlessness lies in the scattering of ownership among thousands of persons who usually live in all parts of the country. No single stockholder owns as much as one per cent of the votes in the American Telephone and Telegraph Company or in the Santa Fe Railroad. When a nonmanagerial stockholder does attend the stockholders' meeting and dares to speak up, he may be written up in the next day's newspaper as a crackpot. Royal Munger, financial editor of the *Chicago Daily News,* expressed sympathy for the dissenting stockholder, but he could not refrain from ridicule in reporting a corporation meeting where some investors insisted on expressing their opinions: "One of the cranks asks whether it is true that the president has to pay 50 per cent of his salary in income tax. 'I think that is a waste of money,' he asserts. 'We ought to pay him less so that he wouldn't have to pay such large taxes.'" (*Chicago Daily News,* July 10, 1939.) Most of the stockholders never attend meetings or even think much about the proxies which they sign. The management can say, as Mr. Bardo said in *America's Town Meeting of the Air* (December 17, 1936): "The mere fact that an industry is owned by somebody who is not immediately connected with it doesn't mean that they control the number of people employed at any given time in that industry. I have been a president of an organization and corporation owned by a large number of people; there were no large stockholders. They never interfered with me as to the number of people who should be employed to do the work of the company." They never interfere effectively with any managerial policy in many large corporations. (Mr. Bardo's remarks are reprinted from *Town Meeting,* Bulletin of America's Town Meeting of the Air, Vol. 2, No. 7, published by Columbia University Press, New York.)

the fore in most of the notorious cases of mismanagement. It is not always possible to say whether the managers have been ignorant about costs or whether they knowingly ordered wasteful procedures that happened to be profitable to themselves personally. In certain cases of mismanagement, the management of the utilities may defend itself against one criticism, but not against both.

Of course, there are good officials in the public utilities; but there have been enough cases of mismanagement so that an informed citizen is reluctant to give to any management full authority to plan the affairs of a corporation, to say nothing of power to plan our entire economy.

Plundering

If a large, planned enterprise is to benefit all concerned, the planners must have a genuine desire to distribute the benefits rather than to profiteer for themselves. We know from bitter experience that men who have genius for organizing and planning are not always very solicitous of the welfare of others. Some of the planners of our public utilities proved that. Their attitude toward the investors is now a matter of public record. Read, for example, the following excerpt from a letter, which was written in 1929:[4]

In connection with the new company I told my brother this morning, in my opinion, I thought we would make a big mistake in listing either the preferred or common stock on any exchange. It will always be an easy matter to list it later if we desire to do so, but it will be very difficult to ever get it off any exchange. I do not know how . . . the rest of them get by the Blue Sky laws, but certainly there must be some answer to it. Even though we

[4] Government exhibit 53–253, introduced during the trial of Samuel Insull and associates on October 9, 1934.

have to stay out of some of the States, I cannot see that it makes any great deal of difference.

Isn't there some way we can sell in the State of Illinois on the basis that a purchaser accepts it, knowing that it has not been qualified? If we cannot do it this way would it not be possible to make all confirmations from New York City, and in this way, would we not get around the Illinois Blue Sky law? In my opinion, the minute we disclose the assets of the Company, it will, in a great measure, defeat the purpose of the whole thing.

My brother is in favor of not listing any place if there is any way around it. It is my understanding that in listing on the Curb, we do not have to disclose any of the assets at any time. Another possibility of listing down here would be the Produce Exchange.

What about the requirements of the Curb Market in Chicago?

The writer of this letter was not an exceptionally reckless or predatory individual, as his reference to "the rest of them" suggests.

Investors were treated as pawns during the organization of some utility companies, and they were sacrificed after some of the companies started operations. During the organization period, lies and misrepresentations were used to attract investors.[5] Once the managers had control of large funds,

[5] The methods of sweetening and brightening the prospects of new companies which have been outlawed since the 1920's include the following: (1) Forming several companies at once, and transferring the assets back and forth in such a way as to give the impression that each company had more assets than it actually possessed. (2) The promoter might buy and sell his own stock furiously through several brokers at constantly rising prices, thus giving the impression that more investors were being interested than was actually the case. (3) Several companies might be merged and the assets of the old companies would then be "written up" on the theory that they were worth more in the one large concern than they had been in several smaller ones. Senator Norris estimated that nearly a billion dollars was added to the book value of the electrical industry by write-ups. (4) Dividends were sometimes paid before a company had earned any profits. (5) The prospectus which offered stocks and bonds for sale might make downright misstatements about the properties, opportunities, and profits of the business. (6) Stock might be sold privately to insiders at a low figure and then

the more unscrupulous ones proceeded to deprive the owners of their rights by disadvantageous mergers,[6] by the issuance of new and questionable securities,[7] and by unfair bankruptcies and reorganizations.[8]

If the investors had been betrayed solely for the purpose of making the industry more useful to the public, we might hail the "insiders" as the first of the benevolent socialist planners. But high finance in railroads and power companies clearly hurt the companies from the operating standpoint. The manipulated companies were loaded down with fictitious debt,[9] and investors, when they awoke, were so badly scared that the corporations could not raise new capital for expansion during the 1930's.[10] Of course, the classic examples of managerial profiteering are found in the early days of railroad promotion, when lines such as the Erie were built despite poor prospects for usefulness, to force a rival to let the promotor in on a good thing.

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be offered publicly at a much higher figure. In January, 1929, 764,000 shares of Insull Utility Investments, Inc., were privately sold at an average price of $7.48 per share. Several days later these shares were being traded on the Chicago Stock Exchange at $30 per share. The outsiders were led to expect a return on $22,920,000, whereas only $5,765,908 went into the company's treasury. The difference went into the pockets of the promoters and their friends.

[6] The banker-managers caused the Frisco Railroad to buy the Rock Island Railroad knowing the bankers would make a $1,900,000 commission on the deal. Interstate Commerce Commissioner Eastman's comment on such transactions was: "The chief beneficiaries for some years would be the bankers and lawyers in charge of the negotiations."

[7] See Berle and Means, *The Modern Corporation and Private Property*, for the details of stock dilution and related schemes.

[8] See Thurman Arnold, *The Folklore of Capitalism*, Chapter X.

[9] See John T. Flynn, "The Wall Street Debt Machine," *Harpers Magazine*, July, 1933.

[10] Rural electrification was undertaken by co-operatives using government funds during the 1930's partly because privately owned power companies could not secure funds for expansion at low rates. The popular explanation of the timidity of investors—that is, that they were afraid the government would deprive them of profits through regulation and taxation—ignored the disillusionment of investors at the end of the 1920's.

American experience with planned, corporate enterprise is not extremely encouraging to those who play with the idea of centralized planning for our whole economy. Many of our planners have not been loyal to the owners of corporations. Will planners be loyal to the best interests of society as a whole? That, at any rate, is a big problem for a socialist economy.

Blundering

The financial scandals of our public utilities testify to the existence of selfishness in the management of enterprises that need unselfish policies in order to be generally beneficial. The price policies of some utilities raise questions about the intelligence and knowledge of management, another condition of successful socialism.

Most of the utilities are engaged in the kind of business in which costs per unit are reduced by increasing volume. This characteristic was, in fact, an original reason for organizing large corporations. Notwithstanding this fact, some of the utilities have consistently struggled against the rate reductions which were proposed by regulatory commissions. There may have been cases where rate reductions would have reduced profits; but in many cases lower rates induced domestic and industrial customers to use more of the utilities' product or service, and with the increased volume profits actually increased. Commonwealth and Southern, a holding company, halved the average rate charged by its operating companies between 1933 and 1939 under the presidency of Mr. Willkie, and at the same time doubled their business. The holding company was able to turn a deficit into a five-million-dollar profit. The reduction in rates came after the federal government had re-established competition or the

threat of competition by its development of the Tennessee Valley Authority. The Detroit Street Railways nearly doubled its income and increased its profits on reduced fares between the years 1934 and 1939.

The few examples which we can cite in our brief discussion will not be a fair representation of utility management. These few examples, however, warn us of dangers inherent in large-scale enterprises in which costs are not known and interpreted with great skill. American utility management has not shown itself uniformly competent in the science of costs. Many economists contend that existing power, freight, and other utility rates are not the rates that make for most adequate consumption and greatest efficiency of production.[11]

Utility financing raised questions about management's motives; utility rate making raised questions about management's intelligence and knowledge of costs. Both questions are raised by some of the wasteful practices in American utilities. Freed from the pressure of competition, many companies have been caught in practices which indicate either graft or ignorance, or both. One of the most interesting examples is that of a public utility company that leased a certain plant for $500,000 a year. For nine years this item appeared in the company's expenses, although the plant was used only twice during that time. A member of the State Utility Commission challenged the expenditure in 1937. A company official testified that the leased plant was an emergency station and that it could turn out power on an hour's notice. The Commissioner then went to the plant with an order to produce electricity within one hour. The

[11] See Nourse and Drury, *Industrial Price Policies and Economic Progress;* J. M. Clark, *The Economics of Overhead Costs.*

company rushed men to the plant; even elevator boys from a downtown office building were sent to help start fires in the boilers. Seven hours later one of the generators began to turn out juice. Three days later the plant was producing 24,000 kilowatt hours instead of its listed capacity of 37,000 (one of the generators would not work). It is hard to believe that a manager who had to meet competitive prices would pay out half a million dollars a year for that kind of equipment. The Commissioner said that the people were paying half a million dollars a year for nothing. It should be added that this padding of expenses reduced efficiency, kept up rates, lowered consumption, and impaired the company's usefulness to the community.

Public Regulation of the Utilities

On account of the mismanagement of certain utilities, popular opinion has demanded regulation of the utilities by law and governmental commission. Soon after the Civil War, our state legislatures began enacting rules for the railroads. Having encouraged the organization of large and semimonopolistic corporations, they saw the need for protecting customers, investors, and workers from the blunders and, especially, the rapacity of management. In 1887 the federal Congress passed the Interstate Commerce Act, which set up a commission to watch and regulate the railroads in the public interest. This was followed by many other utility-governing acts, both state and national. At first, the principal concern of governmental regulation was rates. More recently, close supervision of financing has been established.

Everyone recognizes that legislators and public commissioners can make as terrible mistakes as the utility managers can. They can also be as selfish: some federal and state offi-

cials have taken bribes, and favored their friends at the public expense. Much of the unsatisfactory public regulation, however, is to be attributed to the judges who compelled regulatory commissions to use clumsy standards, especially in rate making. The Supreme Court upheld the laws regulating the utilities, but in 1898 the court ruled that the utilities had a right to a fair return on the fair value of their property.[12] This was an ominous principle, for it compelled rate makers to give only secondary consideration to the effects of rates upon consumption and efficiency. It made rates depend upon the very questionable value of the property used by the utility. When the Harding appointees to the Supreme Court began "protecting the utility properties from confiscation," the governmental commissions were forced to accept a high rate policy. In the famous Indianapolis Water Company case (1926), the Indiana commission had held that there was a ten-million-dollar investment in the company, and that the company might charge such prices for water as would enable it to make a reasonable profit on ten million dollars. The company insisted that its property was worth nineteen and a half million dollars. Justice Pierce Butler, an ex-railroad lawyer, and the majority of the court compromised at $19,000,000. The company is said to have made about 300 per cent on its common stock thereafter.[13] In many cases, however, the high rate policy was demonstrably bad for the company as well as for the consumers, as we said before. Public regulation has not in-

[12] *Smyth v. Ames*, 169 U. S. 466.

[13] See Keezer and May, *Public Control of Business*, pp. 164–169. The difference in estimates of investment resulted from different methods of evaluating properties. There are three methods of evaluation: (1) Finding how much capital has gone into the company, accepting the figures on the company's books. This method is known as the original cost theory. (2) Finding the original cost and then subtracting unreasonable wastes of capital. This method is the prudent

sured anyone against the plundering and blundering of unideal utility managers.

Yet, in spite of the disappointments of governmental regulation, more Americans favor regulation than disapprove of it.[14] Some believe that the courts, the legislatures, and the commissions will become more competent. Others are not very optimistic about regulation, but they do not want any manager or planner wielding monopolistic power over large industries without at least the possibility of restraint. They wish to keep open the avenues whereby individuals who are not an economic unit may organize at least politically and thus bargain collectively with the giant corporation (which is a collective-bargaining unit).

Inconsistency, Again

Many Americans show their unwillingness to abide by either socialism or individualism. They favor, in some parts of their economy, a system of group competition or collective bargaining that is midway between the nineteenth-century theoretical systems of competition and socialism. Moreover, they do not favor a collective-bargaining system in all industries. For various reasons the majority does not want monopoly and public regulation in the newspaper business, in the school business, in certain retail trades, and so forth.[15]

Current American policy is inconsistent with the ideals

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investment theory. (3) Finding how much capital would be required to replace the company's properties today. This method is the reproduction cost theory. The utilities have favored the reproduction cost theory for several decades, although in the early days of regulation they favored the original cost theory, which then gave the highest valuation. This whole controversy is a ritual in which men forget the facts that determine present-day efficiency of operation.

[14] See "The Fortune Survey: XXII," *Fortune Magazine*, p. 68 f., June, 1939.

[15] *Ibid.*

of both individual and group competition, and it is inconsistent with the ideal of socialism. Extreme individualism is regarded as impractical and unwise for technological and nationalistic reasons. Socialism is viewed with suspicion because the science of costs and the arts of administration seem to be in their infancy and because methods of selecting trustworthy men are so imperfect. There is also doubt about the economies of large-scale organization, especially in some kinds of work.[16] These doubts also keep Americans from abandoning individualistic competition in some areas in favor of group competition or collective bargaining.

We began our study of economic ideals in the hope that we might achieve greater consistency of purpose and policy. Many of us probably conclude by refusing to give complete loyalty to any single economic plan. Many cannot believe that the course of wisdom calls for similar systems of organization in the railroads, the building industry, the automobile industry, the mails, the manufacture of clothing, agriculture, merchandising, medicine, and radio.

Perhaps some more subtle or general ideal, such as public welfare or happiness, lies behind these departures from any given economic ideal. That is a question which we shall not try to answer just yet.

The conclusions of our studies of economic ideals are as follows:

1. It is possible in theory to imagine a good system of competition, and we can also imagine a good and workable system of socialism. No doubt, other systems, such as feudalism, are also workable in theory.

2. According to popular thinking, competition is established when the government adopts a hands-off policy and "lets business

[16] See Louis Brandeis, *The Curse of Bigness.*

alone"; and socialism is established by abolition of private property and the private profit motive. This supposition is in error. The theoretical systems cannot be made actual unless many more conditions are set up. Some of these conditions of the theoretical systems are unlikely to be actualized. (a) Individualism does not produce all of its theoretical benefits unless large-scale enterprise offers no economies, unless nationalism is killed, and unless most individuals are smart and selfish. (b) Socialism does not produce all of its theoretical benefits unless large-scale enterprise offers economies, unless management has full knowledge and control of costs, and unless management is altruistic.

3. When only part of the theoretical conditions of individualism exists, the results are often waste, high prices, and terrific maladjustments. Americans have recognized this condition in some industries, and have sanctioned the growth of monopolistic corporations and centralized management in transportation, manufacturing (in part), and communications; they have approved various methods of collective action for agriculture, labor, and the professions.

4. When only part of the conditions of theoretical socialism exists, the result may be restriction of output, inefficiency, and gouging. Americans have recognized this situation in some of our monopolistic and semimonopolistic organizations, and have tried through political action to limit the policy-making powers of management.

5. American economic policy as a whole does not conform either to the socialistic or to the individualistic type of ideal. Because actual men, technologies, and natural resources do not consistently resemble the theoretical men, technologies, and resources assumed by individualist and socialist idealists, inconsistency with their ideals seems justified, though not exactly the inconsistencies that prevail today.

6. It is possible that we may be consistent with some ethical ideal, such as the community's welfare, even though we are inconsistent with economic ideals. It is possible that more governmental regulation of the insurance business and less regulation of the soft coal industry would be conducive to the general hap-

piness at a given time. It is possible that prosecution of some restraints on trade and encouragement of others might also be consistent with an ethical ideal.

Exercises

1. Is it to the interest of utility managers to restrict production? Thorstein Veblen claimed that the profit motive leads to curtailment of production rather than expansion. See his book, *The Engineers and the Price System,* pp. 8 f. B. W. Huebsch, Inc., 1921.

2. What do you think of the proposal of Berle and Means that management be given a share of industrial profits in addition to their salaries, so that their interests will be identical with the interests of the stockholders?

3. On what principle do you decide whether more or less governmental regulation is needed? On what principle do you decide whether prosecution or encouragement of monopolistic tendencies is wise?

4. What can and should citizens do to make public regulation of the public utilities more intelligent and honest?

5. Do our public enterprises—the postal system, the T.V.A., the local school systems, fire departments, highway departments, and so on—present any problems not found in the privately owned utilities?

6. What types of business and industry have been added to those subject to federal regulation within the past fifteen years?

7. Is federal regulation of industry preferable to state regulation?

8. What bearing on policy has Veblen's contention that there is a struggle between technicians and businessmen for industrial leadership. See Veblen, *The Engineers and the Price System;* also Carl Dreher, "Why Hitler Wins," *Harpers Magazine,* October, 1940; Stuart Chase, *The Tragedy of Waste;* H. G. Wells, *What Are We To Do with Our Lives?*

9. What theory was assumed by Senator Robert Taft when he proposed to increase taxes on small incomes and not on large incomes? "We would be kidding ourselves," he said, "to increase the rate on business. That would only discourage the persons we are depending on to bring prosperity in this country." *United Press* dispatch, December 13, 1940.

10. See T. W. Arnold's strictures on governmental commissions as ceremonial procedures for hiding unpleasant facts. (*The Folklore of Capitalism,* pp. 151–156). Do they apply to the National Resources Committee? (See its report on *Technological Trends and National Policy,* U.S. Government Printing Office, 1937.) How can national policies be reviewed intelligently?

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CHAPTER SIX

PLEASURE AND OTHER ENDS

AT the outset of the quest for a consistent policy, economic plans seem to give quite adequate direction to our lives. But if we do much thinking about any economic plan, we find reasons for action that is inconsistent with it. Conditions being what they are and not exactly what the economic ideal supposes them to be, we find ourselves, for example, approving an extension of public enterprise in one industry and not in another. If our deliberate opinions have any consistency, it must be a consistency of desire for happiness or some such principle and not a consistency of loyalty to individualism or socialism. The man who never deviates from the policies of individualism or the policies of socialism appears doctrinaire; he prefers courses of conduct which under existing circumstances are bad rather than good. At times, individualistic policies are right and good; at other times, they are bad.

We have used the words "good" and "bad" in referring to the policies of which we approved or disapproved. Is it

possible that "good" can be defined and that the definition may serve as a guide to consistency? That question has agitated the minds of philosophers and laymen who could not in good faith adhere unswervingly to economic plans or any other institutional ideal.

Ethical inquiry has resulted in many definitions of "the good" and "the supreme good." The history of ethics records so many disagreements regarding the good that we may be skeptical about the whole enterprise. Epicurus said that the good is always pleasure; Epictetus emphatically denied that the good is always pleasure. Hobbes identified the good as self-preservation; Kant rejected such ideas as plain immorality. These men gave the question life-long study. If they couldn't agree, why should we continue an apparently fruitless method of seeking consistency of purpose and conduct?

The contentiousness of ethical theorizing is a discouraging fact; but it need not discourage our present inquiry. Studies of the good have been contentious, but the contentiousness has arisen chiefly in connection with a question that is not now before us. Most of the futile argument has been expended upon this question: "Must all *other* human beings agree with my definition of the good?" The question before us is: "Do my own various and thoughtful evaluations agree with a certain definition of the good?" In other words, "When I choose deliberately between alternative policies, are my choices consistent with a single principle that I can state or define?" "Is there some one thing or characteristic of things that I 'really' value consistently?" If so, the definition of this fundamental something may be helpful in organizing my less thoughtful approvals and evaluations.

We shall examine such famous definitions of the good as

pleasure and self-realization. We shall also examine the definitions of "right," inasmuch as some moralists believe that the central ethical principle is righteousness rather than goodness. In each case, our purpose will be not to prove that *other* men "really" accept our definition of the good but to test our own policies for consistency with the proposed definition. Our conclusions will read: "I accept the pleasure principle" or "I accept the pleasure principle with the following exceptions . . ."; "I accept the Golden Rule" or "I accept the Golden Rule with the following exceptions . . ."; or "I cannot accept this definition."

The ethical principles discussed in this chapter are sometimes called *teleological* because they all judge conduct by the end *(telos)* to which conduct leads.

Hedonism: Pleasure is the Proper End of Conduct

Perhaps the simplest definition of the good ever proposed is the pleasure principle. As Epicurus[1] stated it, "Pleasure is the only good and pain is the only evil."

Anyone who accepts pleasure as the defining characteristic of the good is called a *hedonist.* (ἡδονη is the Greek word for *pleasure.*) A hedonist judges policies and actions by their consequences. Ask him to vote for a minimum wage bill, and he will ask what effect such a law might have on human happiness or enjoyments. Ask him whether you should educate yourself for the medical profession, and he will again ask what the net result will be in terms of pleasures and pains.

The hedonist does not believe that actions are good or bad in themselves. Exactly similar muscular reactions may have

[1] A Greek who lived from 342 to 270 B.C.

opposite results on two different occasions. Shouting "Fire!" may prevent much pain if there is really a fire; it may decrease pleasure and increase pain if there is no fire. Lying is usually bad, but sometimes it is good. Varying circumstances give an action different effects upon human satisfactions. The goodness is not in the action, but in its effects upon human experience.

The hedonist is unwilling to approve of an act merely because it is traditional or conventional. He is not convinced by the citation of authorities. An act or an institution is not good solely because it is the command of someone. By all of these tests, slave-holding was a good thing during the nineteenth century. But the hedonist observes that conditions were such that slave-holding had an adverse effect upon pleasure, and, therefore, slave-holding was bad. No authority, be he Moses, Aristotle, St. Paul, King Henry, or John Calhoun, can make slave-holding good if slave-holding under actual conditions diminishes pleasure. On the other hand, Bishop Wilberforce and Karl Marx cannot make slave-holding bad if under other conditions slave-holding augments happiness.

Do you find yourself agreeing that you ought to seek pleasure and avoid pain? After due deliberation, does it seem to you that the pleasurableness of actions is what ought to determine your approval or disapproval? In giving your answer, do not drag in the opinions of others. Do not worry about the fact that some men are not hedonists or that you occasionally make a thoughtless choice on some other principle. The question is whether in your thoughtful decisions you pronounce plans and policies good or bad according to their effects upon pleasure.

Hedonism certainly overcomes the difficulties of economic

ideals, such as individualism, socialism, and feudalism. It supplies a definition of policy with which a man can be consistent no matter how much social and natural conditions change. John Stuart Mill, who began his public career as an economic individualist, took many exceptions to the laissez-faire plan before he died. He found reasons for looking with favor upon some socialistic proposals; but he never felt it necessary to give up the ethical principle of hedonism.

Suppose that you say, "Yes, my fundamental policy is to seek pleasure and to avoid pain." You still have a few points of view to clarify. First, how highly do you value pleasure and how keenly do you despise pain? There are intense pleasures that are purchased only at the expense of some pain. The risk of pain is considerable if one seeks the pleasures of wealth, honor, family, and adventure. When Epicurus said, "Pleasure is the only good and pain is the only evil," he placed heavy emphasis upon the evil. He decided to be content with small and simple pleasures that carried little risk of pain.

> And since pleasure is our first and native good, for that reason we do not choose every pleasure whatsoever, but oft times pass over many pleasures when a greater annoyance ensues from them.[2]

Epicurus did not assert the pleasure principle as it has been understood by the Don Juans. He was chary about accepting today's pleasures if they promised pain for the morrow. He ate simple foods to avoid the pain of indigestion, debt, and hard work, even though these pains would ensue only after a considerable interval. To Epicurus, desirable pleasure was not just any immediate pleasure, but pleasure with the least possible pain for the duration of life.

[2] Epicurus, *Letter to Menoecius.*

Epicurus did not reckon with the pleasures or pains of a possible life after death. Locke, Paley, and some other modern hedonists, on the other hand, strove for maximum pleasure after death as well as before death. They agreed with Epicurus in condemning recklessness of future pains, but they disagreed on the length of the future that should be taken into calculations of pleasure.

A second qualification to the ethics of pleasure concerns the persons who are to enjoy pleasure. "Whose pleasure do you seek? Do you prize your own pleasure more than that of other men, or do you value pleasure, no matter who enjoys it?" When Epicurus said, "Pleasure is the only good," he meant his own pleasure. Epicurus insisted that a wise man would refuse to raise a family or accept the burdens of public office because such pursuits would require a sacrifice of his own pleasure for the sake of someone else's pleasure.

Most hedonists do not agree with Epicurus on this point. Sometimes they disguise their disagreement by saying that they are egoistic hedonists but that they derive pleasure from all altruistic conduct. This may remind you of the man who complained about his wife's selfishness because she always insisted on having the pleasure of giving him the larger pork chop. It is a stretching of "selfish pleasure" beyond any ordinary meaning. If the miser and the benefactor are both seeking the same end, and if the martyr and the coward are equally selfish in their quest for pleasure, selfish pleasure has become meaningless as a criterion for discriminating between good and bad conduct. The fact that selfish hedonists ever tamper with the meaning of their motto in this way testifies to their unwillingness to be consistent at all times with the principle which they allegedly follow.

Most of the modern hedonists have departed from consistent selfishness. They would not approve of defacing a fountain in a public park or taking a bribe. They might deny that vandals derive pleasure from their vandalism or that judges are really pleased by bribes. Few hedonists put up this feeble objection, however, for it is well known that there are individuals who take pleasure in antisocial conduct.

Among modern hedonists, the favorite objection to antisocial conduct is that vandalism, bribe-taking, and so forth, are not enlightened selfishness.

> A person who appreciates all of the consequences of his actions will foresee pain as a remote effect of his present pleasure. If society does not apprehend and punish anti-social individuals, at least *an enlightened society would do so.* In an enlightened society an enlightened seeker of selfish pleasure would not destroy the pleasures of others.

This argument gets exceedingly thin, and it would seem that most of the egoistic hedonists in modern literature "really" are not egoists. Their criterion of goodness seems to be pleasure, regardless of who enjoys it.

Universal hedonism, or Utilitarianism, was the systematic principle which was made famous by Jeremy Bentham, the English lawyer-reformer, and John Stuart Mill, also an Englishman of the nineteenth century. According to the Utilitarians, one man's pleasure is as good as another's. Their policy was to seek "the greatest happiness of the greatest number."

A Utilitarian policy is free from the difficulties of selfish hedonism—that is, it condemns antisocial actions; but it is acceptable to very few persons without major reservations. The first exception is exposed by asking whether we in the

United States, who are only 6 per cent of the world's population but possess about 25 per cent of the world's usable wealth, should allow increased immigration from the poverty-stricken countries. If each person counts for one, the sum total of human pleasures would undoubtedly be increased, at our expense, by letting down the bars. Most Americans immediately decide that they are not strict Utilitarians. They are for the pleasures of America before they are for the pleasures of humanity, and, very likely, they are for the pleasures of their families before they are for the pleasures of America.

Another difficulty with Utilitarianism is encountered when we try to compare rival pleasures. Is the pleasure of the guttersnipe, who likes to engage in boisterous shouting, equal to the pleasure of the cultivated gentlewoman, who likes to listen to classical music? Bentham thought it might be possible to consider all pleasures qualitatively equal, and thus distinguish only between their quantities—namely, their duration, intensity, and so forth. Mill, who called himself a Utilitarian, insisted that there are qualitative as well as quantitative differences in pleasures. Mill declared that he would rather be Socrates dissatisfied than a pig satisfied. In plain language, Mill was not willing to approve of pleasures which were not enjoyed by his own cultural group. You, too, will probably abandon a literal interpretation of the "greatest happiness of the greatest number" when that policy demands sacrifice of your kind of pleasure in favor of the sort of pleasure that is enjoyed by "the lower element" or by "uncouth foreigners."

Finally, hedonism of both the selfish and universalistic varieties is not consistently maintained by most hedonists, because "the quest for happiness" is an incomplete statement

of policy. What is pleasure? What is happiness? How shall we know pleasure when we meet it? Bishop Butler showed long ago that pleasure is an abstraction which is never enjoyed as sheer pleasure by anyone. When I say, "It gives me pleasure to introduce Mr. Wheezy," I mean that the introduction is pleasant to me. Pleasure is always the accompaniment or characteristic of some action. I play golf for pleasure, but I cannot have the pleasure without the golf. As Kant pointed out, to seek pleasure in itself is usually to be disappointed. This does not render hedonism utterly untenable, as Kant thought, but it does remind hedonists that they mean to cultivate an interest in activities that are pleasant and not merely to dote on subjective feelings as distinguished sharply from the activities of which they are a part.

In public affairs, this defect of hedonism appears whenever we ask how we know what future condition will enable the majority of citizens to enjoy the greatest possible happiness. If we take a vote, it is quite likely that a policy which is more pleasant in prospect will strike the majority as less pleasant in retrospect. Furthermore, attentive to the feelings of the public, but lacking accurate polling methods, we may be deceived by subtle propaganda or the noisy outcries of a minority.[3]

In making our daily decisions we discover that pleasure is too abstract a notion to be very helpful in discriminating between the better and the worse. Our choices too often are not between pleasure and pain, but between alternative pleasures or alternative pains. What we want to know is this: What *kind* of pleasure is better? And when we have found

[3] See Hough's criticism of Pound's *Spirit of the Common Law*. *Columbia Law Review*, 22:385 (1922).

an adjective to modify *pleasure*, pleasure is no longer the sole moral criterion.

Self-Realization

Aristotle and a long line of ethicists have proposed another formula to define the pleasure-giving activities. Aristotle said that happy activities are those by which man realizes the potentialities in his nature. The proper answer to ethical questions is, therefore, to be found by distinguishing man's nature from that of the other animals. The supreme good is *self-realization*, and the self is realized when man thinks and does other things that are potentialities in himself.

We shall not inspect "self-realization" as closely as we inspected "pleasure," although it is an attractive candidate for the office of supreme good. The principal defect of self-realization as an ethical principle is that some of man's potentialities are condemned by those who believe in self-realization. A polygamous, gluttonous murderer is bringing to realization possibilities that were latent in human nature. A do-nothing Methuselah also actualizes potentialities in his nature.

"Life" is good and "activity" is good, but life and activity without any qualifying adjectives may be very bad. Indeed, martyrs, patriots, and suicides do not judge life good under certain repugnant conditions. Some of them, of course, expect to continue life in another world, but not all of them. Most of us would probably agree with these desperate individuals that death and eternal inactivity would be preferable to life under conditions of pain, frustration, and dishonor.

The champions of self-realization, accordingly, have to do as Aristotle did—that is, enumerate the activities which they

regard as a *wholesome* realization of man's nature: temperate eating, friendship, courageous but not foolhardy braving of danger, correct thinking, and so forth. But this enumeration of specific virtues takes us back to the place from whence we started: our many moral judgments, some of which are not apparently consistent with one another.

Other Teleological Principles

Herbert Spencer thought that he had an all-inclusive ethical formula in the evolutionist's phrase "adjustment to the environment." But the upsetting question for evolutionary ethics is: "What sort of adjustment?" Sociologists can show you the records of slaves who were very nicely adjusted to their environment: they gladly took orders and they had masters to give them their orders; they were content with menial, self-effacing work and a secure existence. Perhaps you would say that such an adjustment was good, but Spencer chose to qualify the adjustments that he would approve. He tried to name some universal conditions of happy adjustment: length and breadth of life, care of offspring, and justice. But these qualifying conditions brought Spencer back to a less than all-inclusive formula.

So it has been with other supreme goods: freedom, peace, and power. These words have to be qualified by adjectives or they fail to sum up the policies of sane men. Even "moderation," so highly regarded by Aristotle, is not an adequate policy, as Aristotle himself admitted when he said that the Golden Mean is not an arithmetical mean between extremes but has to be determined by a good man.

Selfish pleasure, the greatest happiness of the greatest number, self-realizing activity, and freedom—any of these may serve as a guiding principle, if taken in a very general

sense. But most men find it necessary to make exceptions if the motto is to express what they really endorse. I can pursue a policy of selfish pleasure if certain qualifications concerning the enlightenment of selfishness are introduced. These qualifications formulate my regard, however incomplete, for the happiness of others. I can endorse the greatest happiness principle if some concessions are made to the demands of personal and minority interests. I can endorse the pleasure principle if it is understood that I am not concerned merely with subjective feelings but also with the *activities* that are pleasant. On the other hand, I can be a good Aristotelian or a good Spencerian if self-realization and adjustment are taken in such a way as to sanction self-destruction and self-disturbance under some conditions. This is just another way of saying that no single end or purpose thus far proposed adequately articulates all my thoughtful evaluations. My evaluations are not that consistent. I must qualify any supreme end or else it seems fanatical, inhuman, doctrinaire.

Teleological ethical systems thus come to some grief. No end is always and everywhere an adequate standard by which to make moral choices. This is not the last word on ends as moral principles. Many ethical theorists have thought it was the last word, however, and have turned to certain formal characteristics of conduct in their search for a supreme moral rule. To these critics of teleological ethics we shall turn in the next chapter.

Exercises

1. What exception would you take to Browning's sentiment: "Oh, our manhood's prime vigor! No spirit feels waste, Not a muscle is stopped in its playing nor sinew unbraced. Oh, the wild joys of living! . . .

How good is man's life, the mere living! how fit to employ
All the heart and the soul and the senses forever in joy!"
Saul, ix.

2. What exception would you take to the Biblical sentiment:

"Then I commended mirth, because a man hath no better thing under the sun, than to eat and to drink and to be merry; for that shall abide with him of his labor the days of his life, which God giveth him under the sun." *Ecclesiastes*, 3:12.

3. Would you agree with Beowulf, speaking of Scyld, the Danish king:

"He won comfort, waxed great neath the welkin, in dignities throve, until everyone of those dwelling near the whale road was bound to obey him and pay him tribute. That was a good king."

4. Could you in any respect endorse the view of E. von Hartmann, that "pain predominates over pleasure. We should aim at the negation of the will to live, not each for himself, as Schopenhauer recommended, but universally, by working towards the end of the world-process and the annihilation of all so-called existence." H. Sidgwick, *Outline History of Ethics*, p. 283.

5. In which of the following situations do you approve of seeking your own pleasure, if need be, at the expense of others? In which do you approve of seeking the pleasures of the greatest number regardless of your own pleasure?

a. The great majority of American citizens would be happier if the Communist and Nazi minorities were deported.

b. The majority of citizens in Podunk would be happier if the Jewish, Negro, Norwegian, and Polish residents were compelled to leave town.

c. The majority of citizens are happier because 300 typhoid carriers in Illinois have been identified and made to refrain from certain occupations as well as forced to submit to extreme regulation of their personal habits.

d. Most people are happier attending movies than listen-

ing to scolding lectures by our Jeremiahs who warn of impending disaster.

e. Most children prefer gangster and western movies to movies approved by child psychologists and sociologists.

6. To determine how far your decisions are influenced by a quantitative weighing of ends, discuss the following:

a. "Money is the cardinal device by which values have been rationalized and sentiments have been replaced by interests. It is just because we feel no personal and no sentimental attitude toward our money, such as we do toward, for example, our home, that money becomes a valuable means of exchange. We will be interested in acquiring a certain amount of money in order to achieve a certain purpose, but provided that purpose may be achieved in any other way we are likely to be just as well satisfied." Robert Park, *The City,* p. 16. University of Chicago Press.

b. "The modern world is constantly becoming more and more conscious of what it wants and what it wants, it is willing to pay for." Sol Blum, *Labor Economics,* p. 460. Henry Holt & Co.

c. "The price of a thing, we say, is a material matter which has nothing to do with its higher values, and never can have. This, however, is bad philosophy in economics as in religion. The pecuniary values are members of the same general system as the moral and aesthetical values, and it is a part of their function to put the latter upon the market. To separate them is to cripple both, and to cripple life itself by cutting off the healthy interchange among its members. Our line of progress lies, in part at least, not over commercialism, but through it: the dollar is to be reformed rather than suppressed." C. H. Cooley, *The Social Process,* p. 327. Charles Scribner's Sons, 1918.

d. "Economic rationalism connotes also a certain decay of feeling and an extraordinary development of intellect. . . . For such a severe temper, nothing exists to be enjoyed, but everything exists to be mastered." G. P. Adams, *Idealism and the Modern Age,* p. 33. Yale University Press, 1919.

e. " 'Tis in vain to talk of adding quantities which, after

the addition, will continue distinct as they were before, one man's happiness will never be another man's happiness; a gain to one man is no gain to another; you might as well pretend to add 20 apples to 20 years. . . . This addibility of the happiness of different subjects, however, when considered rigorously it may appear fictitious, is a postulatum without the allowance of which all political reasoning is at a stand." Jeremy Bentham, manuscript published in 1904 for the first time, quoted by Mitchell, *Essays in Philosophy,* ed. by Smith and Wright, p. 55. Open Court Publishing Co., 1929.

7. In which of the following situations do future pleasures weigh as heavily as pleasures in the present or immediate future?

a. A beggar's chances of getting out of mendicancy are probably increased by letting him go hungry until he has to apply to organized charitable agencies which are equipped to retrain him and secure employment for him.

b. Many parents like to rock their babies to sleep, tease their small children, and let their children eat condiments and sweets between meals, although these practices increase the probability of annoyances some years later.

c. Tonight a movie would be more pleasurable than reading a textbook. Three weeks hence . . .

d. Ordway Tead tells, in *Instincts in Industry* (p. 40), how he stopped condemning the low humor, glitter, legs, and lewdness of burlesque houses in a New England factory town when he realized that all this was an escape from the dingy squalor of tenements and the repressions of poverty.

8. Mention some situations in which you do not prefer peace and security.

9. In which of the following situations do you approve a policy of valuing supremely the preservation of life?

a. A child is pronounced by a reputable physician to be a hopeless idiot.

b. A man 80 years old is suffering great pain from an incurable disease.

c. A man with a long criminal record is convicted of murder.

d. An unmarried woman with no prospects of prudent marriage finds that she is pregnant.

e. Traffic engineers estimate that 5,000 lives would be saved each year if motorists were compelled to keep their autos in good repair and to drive at less than 50 miles per hour at all times; that 20,000 lives would be saved each year if automobile travel for pleasure were prohibited.

f. Mining engineers estimate that fatal accidents would be greatly reduced if measures were taken that would raise the cost of coal 50¢ per ton.

g. Vivisection of dogs is useful to medical students in gaining skill in surgery and in research.

h. During the Middle Ages, the most intelligent men took holy orders and vowed not to beget children, thus failing to set highest value on life. Can you defend this policy?

10. Name some social arrangements that may be called cases of adjustment to environment, which you cannot approve.

11. Can a man who believes in selfish pleasure as the good accept the following policy: "Better is a dinner of herbs where love is than a stalled ox and hatred therewith." *Proverbs* 15:17.

12. "If being hungry and eating is happiness, and if being thirsty and drinking is happiness, then to be scabby and scratching is happiness." Plato, *Gorgias*. Is there a fallacy in this argument?

13. Were these cases of real inconsistency?

a. Henry Wallace, as Secretary of Agriculture, advocated crop curtailment and at the same time promoted methods of increasing the yield of the land.

b. The Mexico City Society for the Prevention of Cruelty to Animals once raised funds by holding a bull fight.

c. The government encouraged marketing agreements through the AAA and then filed suit against the Chicago Pure Milk Association and others for entering into local price-fixing agreements.

14. Some Americans in our day find themselves advocating the restriction of liberty to protect men from what is bad (namely, by food and drug laws, blue-sky laws, and usury laws), but at the same time protesting against the restriction of liberty to protect men from what is bad (namely, by sedition laws and censorship of plays, novels, magazines, and school books). Some Americans find themselves doing just the reverse. Can you suggest any general principle which will make the inconsistency disappear?

15. See the list of popular self-contradictions in Robert Lynd's *Knowledge For What?*, p. 60. Princeton University Press, 1939. Are any of the self-contradictions consistent applications of hedonism under American conditions? For example, "Hard work and thrift are signs of character and the way to get ahead. *But:* No shrewd person tries to get ahead nowadays by just working hard, and nobody gets rich nowadays by pinching nickels. It is important to know the right people. If you want to make money, you have to look and act like money. Anyway, you only live once." And "Education is a fine thing. *But:* It is the practical men who get things done." "Science is a fine thing in its place and our future depends upon it. *But:* Science has no right to interfere with such things as business and our fundamental institutions. The thing to do is to use science, but not let it upset things." "Patriotism and public service are fine things. *But:* Of course, a man has to look out for himself."

16. Rank some of your policies in this order: (a) momentary whims; (b) ordinary everyday desires; (c) settled convictions.

17. Do you find yourself vetoing the momentary whims and everyday desires that are inconsistent with your settled convictions?

18. Name or describe moral sentiments whose objects are, respectively: (a) subjective feelings or satisfactions; (b) things or actions that give satisfaction; (c) conditions of these things or actions.

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CHAPTER SEVEN

RATIONALITY AND DUTY

IF you cannot quite accept pleasure as the supreme good, a host of philosophers arise to encourage you. "Do not be disconsolate or skeptical," they say, "but continue on the quest for a fundamental ethical principle." The Stoics and the Kantians[1] assure you that you were simply on the wrong track when you tried to define an end that all your actions could serve. They have long since abandoned the search for a *good* to be attained by all conduct. They do not try to choose policies according to their effectiveness in producing happiness. And yet, they insist, it is possible to live consistently in accordance with an ethical principle.

Instead of guiding their decisions by the probable consequences of action, the Stoics and Kantians judge policies by intentions. They do not believe that the good can be so

[1] Among the best known of the ancient Stoics are Zeno (336–264 B.C.) and Epictetus (60–120 A.D.); modern philosophers of Stoical tendencies include Spinoza (1632–1677 A.D.). Immanuel Kant was a German philosopher (1724–1797).

defined that anyone can readily determine the goodness of all his daily decisions; but they do believe that anyone can know whether his choices are right—that is, dictated by a righteous will or intention. On this account, the ethical systems now before us are often called "the ethics of the right" in contrast to hedonism and other "ethics of the good."

The ethics of the right finds its guiding principle in the form or nature of moral choice, rather than in the policies and actions that are chosen. The rightist or formalist in ethics does not ask what end you "really" prefer; he starts with the fact that you are a preferring, choosing creature. You are the kind of being that recognizes that you ought to do some things rather than others. Very well, do what you ought to do! Make duty your guide!

If "duty" does not convince you of its sufficiency, the formalist is prepared to put the matter in another way. You are distinguished from the lower animals by your capacity for thinking and for concluding as a result of your thought that certain desires are unworthy. This characteristic is a clue to ethical living: since a rational, thinking creature abhors self-contradictions, seek to be consistent; and, since a rational being vetoes certain desires, cultivate rationality and oppose desires.

This summary fails to do justice to the ethics of the right, but it conveys, perhaps, the difference between the rightist's point of view and that of teleological ethics. A teleological ethics, such as hedonism, judges policies by the ends which they achieve; a formal ethics of the right judges policies by the way in which they are formulated. The hedonist asks, "What do we get from this?" The formalist asks, "What kind of intentions do we have?"

Kant's Ethics of Duty

A formal ethics is easy to misunderstand, and for that reason we shall discuss the formal system of Immanuel Kant in some detail. Kant could not bring himself to believe that a person might live wisely and well by pursuing pleasure or any other object of desire. He foresaw only uncertainty and frustration if a person continually said, "I ought to tell the truth *if* truth-telling results in the greatest possible happiness." The affairs of this world seemed too complicated for an accurate calculation of results. Kant rejected hypothetical imperatives—that is, commands or decisions that depended upon an *if*. He looked for guidance to a categorical command, a command or decision with no if's; and he believed that every rational being recognized such a command. The voice of duty was to be heard and respected. Always do your duty, and you will have no cause for regret was Kant's ethical principle. The only good is the good will, the will to do right.

Kant interpreted duty in a very abstract sense. He did not mean blind loyalty to God, king, or custom. He believed that a dutiful man was conforming to the will of God, but he appreciated the difficulties of discovering God's commands and even of making sure that there is a God. Accordingly, he did not look into the Bible or into theological treatises for a revelation of duty.

Neither did Kant mean by loyalty to duty an unthinking compliance with merely traditional beliefs about duty. Rebellion against the demands of traditional morality had been, in fact, the frame of mind that initiated the quest for general ethical principles. The inadequacy and contradictoriness of

traditional morality is now an old story. The ancestral code tells us, for instance, not to betray a confidence, and it also tells us to tell the truth; but there are situations in which both commands seem to apply, and we cannot obey both of them. In those situations we ask, "Which duty should I respect?" and "Why ought I to comply with this duty?" Kant makes it clear that he is not advocating mere traditionalism. As long as I am in doubt regarding my duty, Kant would say that the course of duty is not yet determined. It is only after I, a rational creature, have faced such conflicts of traditional duty and recognized one of them as *my* duty that Kant's formula applies. Then there is no reason for asking, "Why should I do my duty?" If I continue to ask this question, it is evident that I am confusing what someone else says is right with what I myself believe to be right. Kant did not say that we should do what other people think right; he said that we should do what we recognize as right.

All of this is a valid argument against those who say, "It is my duty to give to charity, but I have some doubt as to whether I should do my duty." Such persons are not doubting personally recognized duties; they are doubting what someone else tells them is their duty. If they themselves recognize charity as a duty, they may fail to do their duty, but they cannot doubt it; nor can they consistently say, "I ought not to do it." "I ought to do my duty" cannot be denied by a rational being. "Why ought I to do right?" is a question that does not arise unless this confusion of personally recognized right and conventional right occurs. So far Kant's policy remains unobjectionable.[2]

[2] What Kant says about the good will and duty for the sake of duty is correct, if one is discussing the logic of ethics, a highly abstract study of any and all ethical systems. It was difficult for Kant to restrict himself to this highly abstract study and not to pass over into a discussion of ethics as a study of duties instead

The difficulty with Kant's ethics is that he has said nothing about the content of our duties. The purely formal characteristics of morality do not tell us whether it is our duty to refrain from killing human beings or to tell the truth under all circumstances or to be polygamous. Kant gave the impression that specific duties might be deduced from the abstract form of duty, and many Kantians have tried to make such a deduction. Here is a dangerous project. When a formal ethicist finds the specific course of duty in the abstract idea of duty, he is very likely to identify duty with obedience to mere convention or to the orders of a ruler.

Professor Dewey charged in his *German Philosophy and Politics* that a generation brought up on Kant's ethics of duty had been subtly conditioned to obey without discrimination any command which was *said* to be its duty. Another critic emphasized this danger by quoting from one of Emperor Wilhelm's speeches to the Reichstag:

> The complete victory fills me with gratitude. It permits us to live again one of those great moments in which we can reverently admire God's hand in history. . . . The heroic deeds of our troops, the successes of our great generals, and the wonderful achievements of those at home, have their roots in the moral forces, and in the categorical imperative which has been inculcated in our people in a hard school.[3]

The do-your-duty policy is dangerous because it leaves completely unanswered the question, "What is my duty?"

Kant would have been unimpressed by this objection, for he once wrote: "It is always in everyone's power to satisfy the

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of duty in the abstract. That Kantians do not rigorously confine their formalism to the logic of ethics is evidenced by the frequency with which they ask, "Why ought I to do my duty?"

[3] Quoted by M. C. Otto, *Things and Ideals*, p. 74. Henry Holt & Co., 1924.

categorical command of morality."[4] He meant that one always knows whether his intentions are good. This may be true, but most men are not convinced that merely having good intentions is a complete and adequate policy. You can no doubt recall things that you have done which were well intentioned, but which you now regard as very bad. It is easy to criticize others who have good intentions but are ignorant or obsessed by foolish ends. A Borneo head-hunter sometimes takes a head from a sense of unadulterated duty that overpowers all his other inclinations. Hopkins relates the report of a traveler who saw a Borneo lad reluctantly take the head of his old nurse because the time had come for him to get a head and there happened to be no enemies in the vicinity.[5] Would Kant agree that the willingness to be dutiful gave the head-hunter an adequate conception of duty?

Men who are directed by good intentions often claim that they are acting in obedience to divine commands. To observers they may appear to be well-intentioned dupes or fools. Long ago a citizen went to Lord Chief Justice Holt of England and said that the Holy Ghost had sent him to tell the Justice to issue a *nolle prosequi* in the case of a certain prisoner. "Thou art a lying knave," the Justice replied. "If the Holy Ghost had sent thee, He would have sent thee to His Majesty's Attorney General, and not to me, for the Holy Ghost knows well that I have no power to enter a *nolle prosequi*."[6] The Justice was, perhaps, unfair in calling the man a liar; he should have called him an ignoramus.

Kant's formula provides no safeguard against the hasty or

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[4] *Critique of Practical Reason*, 150, Abbott translation, p. 126, *Kant's Theory of Ethics*, 6th edition, Longmans, Green & Co., 1923.

[5] E. W. Hopkins, *The Origin and Evolution of Religion*.

[6] Campbell's *Lives of the Chief Justices*, third edition, page 9; quoted by J. C. Gray, *The Nature and Sources of the Law*.

poorly informed judgment. This is obvious as soon as we ask, "*What* is right? Is the particular act which I am contemplating right or wrong?" A bigot like G. B. Shaw's Stephen, who is ignorant of law, philosophy, and worldly affairs, can claim that he knows the difference between right and wrong;[7] Kant has stated no ground for challenging his assertion. *That* we should do right does not tell us *what* is right.

Kant seems to have sensed the danger of poorly informed good intentions, for in his ethical treatises he went on to say what rule good intentions would always follow: "Act only on that maxim whereby thou canst at the same time will that it should become a universal law."[8]

This supplementation of the ethics of duty is no departure from formal ethics. Kant believed that all men, in so far as they are rational, hate inconsistency and self-contradiction. From this characteristic of man's mental acts, Kant derived the rule: "Be consistent!"

Mere consistency, however, does not tell us what it is with which we should be consistent. The perfectly consistent man is likely to be a brute. Kant, himself, approached this undesirable extremity when he said that we should always tell the truth, even though lying would save a life or a friendship.[9] Most of us admire truth-telling, other things being equal. But other things are often not equal. This means that life situations are so much more complex than any of our formulated rules that a rule like truth-telling will sometimes strike us as a wicked rule. Do you believe that a man should tell the truth when talking to an enemy of his country

[7] *Major Barbara,* Act III. Brentano's, Inc., 1907.

[8] *Fundamental Principles of the Metaphysic of Morals,* Abbott translation, p. 38. Longmans, Green & Co., 1923.

[9] See Cohen and Nagel, *Introduction to Logic and Scientific Method,* p. 378.

who would use the information to blast the man's countrymen out of existence? Do you believe in telling the truth to an armed madman? Do you approve of telling the whole truth to persons who are mentally or physically sick? Do you believe in telling the whole truth about some trivial matter when that action would destroy a friendship? Most of us would say that consistency will be right only if we are being consistent with something higher or more general than the rule about telling the truth. We would be led to this conclusion, not only by what we know about personal rules, but also by what we know about public policies. It is doubtful whether any law has ever been enacted which was never in conflict with other equally worthy laws. For a court to be perfectly consistent with any positive law in all cases would lead to wrong decisions.[10]

Kant was probably confident that the rule of consistency would not be brutal because he coupled it with another rule: "So act as to treat humanity, whether in thine own person or in that of any other, in every case as an end withal, never as a means only."[11]

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[10] Some but not all of the inconsistencies in legal decisions arise from ethical considerations. This is how Felix Cohen makes sense out of the fact that persons owning land on the river banks of some states have been guaranteed equal water rights, whereas those in arid states have not been given such a guarantee. (See *Ethical Systems and Legal Ideals*, p. 279.) F. V. Harper illustrates ethical motives for inconsistency by the following: "The rule of criminal law developed that consent to the taking was defense to larceny. . . . But where it was necessary to entrap the criminal and the defendant did not know of the assent it was held to be a crime. . . . Here the judges tried to employ logic to rationalize the situation and find the assent 'unreal.' The truth was that the assent was quite real and the case is illogical in view of the current conception of larceny. The judges, however, knew that any other rule would not work, that it might embarrass the administration of criminal justice in the future. In other words, as the pragmatist would say, they were looking to the consequences in the future." ("Law in Action and Social Theory," *International Journal of Ethics*, Vol. XL, p. 317.)

[11] *Fundamental Principles of the Metaphysic of Morals*, p. 47; Abbott's translation, p. 38. Longmans, Green & Co., 1923.

Kant's addition of this rule makes it clear that what he had in mind was similar to the Golden Rule of Jesus: "Whatsoever things ye would that men should do unto you, do ye even also unto them." Kant avoids the well-known difficulty of the Golden Rule—namely, the possibility that you want to be treated in a way that other men and perhaps God Himself do not wish to be treated.[12] Kant says that we are to treat other men as ends and not as tools. This seems to avoid the possible brutality of mere consistency or lawfulness and at the same time the difficulty of the Golden Rule. But how do we know that we are treating other men as ends in themselves? Is not Kant coming back to a teleological principle? He seems to require at this point a further statement in terms of pleasure, self-realization, adjustment to environment, or something else which is the proper end of other men's existence.

Thus, Kant's rule of duty and its corollaries cast little light on the question: "*What* ought I to do?"

Perfectionism (formal)

Several other systems of formal ethics remain to be examined. One of these is perfectionism[13] of the kind that Ralph Waldo Emerson popularized in this country. Emerson condemned pleasure seekers as roundly as Kant had

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[12] The criticism of the Golden Rule was implied by Bernard Shaw in his counter-rule: "Do not do unto others as you would that they should do unto you. Their tastes might be different." Some men like rough-handed competition. They can no doubt envisage a completely competitive world. The Rule would have them treat their fellows as competitors. Other men do not like competition. They aspire to a noncompetitive world that would disgust a competitive individual. The Rule would have them treat their fellows as noncompetitors.

[13] This kind of perfectionism is called formal in contrast to the self-realization sort of ethics in the Aristotelian tradition, which is sometimes called perfectionism too.

done. Indeed, Emerson was under the impression that he was in full agreement with Kant. But in this he was mistaken, as everyone knows who contrasts Kant's love of consistency and Emerson's well-remembered epigram: "Consistency is the hobgoblin of small minds." Emerson did not test intentions by their consistency with universal lawfulness; at times he approached the disregard for lawfulness of his friends, Thoreau and Alcott.

Despite this disagreement, Emerson tried, like Kant, to find guidance in the general nature of man's moral life. What appealed to him as characteristic of all morality was a yearning after perfection, a striving after something better. No matter what goals were set up, Emerson saw man eventually transcending those ends and regarding them as mere means to something yet to be attained.[14] Thus, it would be futile to try to define in a formula the complete and unsurpassable good.

Emerson was not alone in this perfectionist policy. It was also adopted by many German romanticists in the nineteenth century as well as by such Englishmen as Coleridge, the poet, and T. H. Green, the philosopher. As Green stated the doctrine, a man's will should be directed toward "something, he knows not what, which he may and should become."[15] This philosophy is an antidote to a hedonism that has become narrow and pedestrian. It warns both hedonists and Kantians against assuming that they know it all.

But just how much guidance does "perfection" give to us?

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[14] See especially Emerson's lecture, *The Transcendentalist*. Of course, Emerson, like many literary men, did not write systematically, and he often seemed to contradict his own assertions.

[15] *Prolegomena to Ethics*, p. 221, fifth edition. Oxford University Press, 1924.

We limit our comment to a quotation from one of Pierre Janet's books:[16]

> The search for moral perfection can play the same part as religious exercises, and it is not hard to show that it can take on the nature of an impulsion in depressed subjects. Moral speeches are common: "I am at a place where I need to have something great to accomplish; that would cure me." We find the search for intellectual stimulation also in romantic day dreams, in the passion for reading among neuropaths, who have impulses to swallow libraries, in the passion for writing stories and novels; it plays a large part in the writing manias described by M. Ossip Lourié. We find them again, alas, in psychological and philosophical studies, and metaphysics owes to them the construction of many systems. . . . We find here (in manias and impulsions) again the depressed subjects' habitual defects of action, their lack of reflection, their tendency to get "stuck," their incapacity for resignation and for change, their passion for effort and their obstinacy. "They think I am energetic because I never give up. I work indefinitely for my ends even when it is clear that I can get nowhere."

Somewhat later M. Janet comments upon the poverty of energy in many human beings, their constitutional incapacity for strenuous living, and concludes that the course of wisdom for them is not a costly budget of strenuous activities but a simple restriction of social relations and work.

The perfectionist expresses something that many persons can heartily endorse—namely, approval of conduct that changes for the better and a certain open-mindedness about what may be better. Nevertheless, most of us cannot subscribe to perfectionism as an adequate life policy, for two reasons: (1) there are many conceivable changes which are

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[16] *Principles of Psychotherapy*, pp. 222 and 223. The Macmillan Co., 1924.

not improvements, and a blank check kind of perfectionism does not rule these out; (2) there are times when the craving for unending betterment is a futile mania.

Stoic Rationality

Stoicism is a third variety of formal ethics. The Stoics of antiquity waged ceaseless battle against Epicureanism and all popular tendencies to live for pleasure. They looked for the key to virtue in the formal characteristics of virtue itself. What can be said of all virtuous men? How do they behave? The Stoic answered by pointing to the virtuous man's self-control, his desire control, and the fact that he reasoned and triumphed over certain desires as a result of his reasoning.

Seneca illustrates the Stoic philosophy by the example of one Stilpo.

> When Stilpo had lost his country, his wife, his children, the town on fire over his head, himself escaping very hardly and naked out of the flames, "I have saved all my goods," says he, "my justice, my courage, my temperance, my prudence"; accounting nothing his own or valuable, and showing how much easier it was to overcome a nation than one wise man.[17]

In modern times the Stoic policy of conquering desires by reason was well stated in the writings of Spinoza. Spinoza observed that men who sought pleasure, wealth, or honor were torn this way and that by uncontrolled passions. They were not only lacking in steady purpose; they were made gullible by their covetousness.[18] Like the ancient Stoics, Spinoza proposed to live rationally, "in accordance with

[17] Seneca, *Of a Happy Life*, Chapter VII. L'Estrange translation.

[18] Spinoza, *Tractatus Theologico-Politicus*, preface: "Superstition's chief victims are those persons who greedily covet temporal advantages."

reason." He would devote himself to straight thinking and to the understanding of things. The wise man, he says,

> . . . will not find anything worthy of hatred, derision, or contempt, nor will he bestow pity on anything, but to the utmost of human virtue he will endeavor to do well, as the saying is, and to rejoice. We may add that he, who is easily touched with compassion and is moved by another's sorrow or tears, often does something which he afterwards regrets; partly, because we can never be sure that an action caused by emotion is good, partly because we are easily deceived by false tears. I am in this place expressly speaking of a man living under the guidance of reason. He who is moved to help others neither by reason nor by compassion, is rightly styled inhuman, for he seems unlike a man.[19]

There is no denying that a rational being resists the promptings of desire from time to time. He refuses to be swept off his feet by momentary impulses. Everyone has the experience of opposing rational argument because of momentary desire and yet realizing that he ought to respect the argument. The backseat driver sometimes speaks truly, and we know that we ought to heed his warnings, but impatient wishes drive us on. Many of our mental conflicts seem to be cases of Reason versus Appetite, and, regardless of what we do, we feel that we should follow the promptings of Reason.

But are these cases of Reason and Reason alone versus Desire? When the backseat driver speaks the truth, when we *are* driving too fast, why is it wrong to go on speeding? It is because we *want* to live for more than an hour and because we desire many experiences which presuppose safe conduct at the moment. The conflict is between one desire, which is only momentary, and a number of desires that are

[19] Spinoza, *Ethics*, Part IV, proposition L, note. R. H. M. Elwes translation.

more than momentary. Reason or our cognitive power enters the picture by showing that there is a conflict between the lesser and the greater desires.

It is a fact that most of us probably value truth and the disciplines that lead to truth, but the truth and our truth-getting powers are not all that we value. This is shown by our *deliberate* conclusion that under certain circumstances other enjoyments and pursuits are preferable to truth-getting and the exercise of whatever we mean by Reason. There is a time to put aside studies and enjoy sleep. There is a time when serious and critical inquiry needlessly and boorishly spoils innocent fun, as when someone insists on giving a true but unhumorous exposition of a humorous anecdote. There is a time when accurate exposure of the facts serves no good purpose and makes a bad situation worse, as when mourners are needlessly reminded of a bitter past. The activity of our rational powers is not always good.

Most of humanity would probably agree after a most thoughtful and rational deliberation that: (1) it is not Reason alone that opposes bad desires, but Reason merely is instrumental in showing that worthier desires are opposed to the desires of the moment; and (2) there are other capacities besides Reason that are essential and good capacities, and that *sometimes* it is better to exercise these other capacities for enjoyment than it is to think.

The Stoic seems to deny all this. In his apparent denial, he looks like an ascetic. The mere determination to sacrifice pleasure and curb impulses becomes a sufficient guide for life. But will one achieve anything that he can call positively right, not to say good, if his policy is merely the balking of desires? If one's watchword is "sacrifice desire," it is possible that he may sacrifice the better for the worse.

One cannot be sure that he is seeking the better simply because he is frustrating some desire.

If the Stoic adds nothing to his passion-combatting advice, he seems to sanction the asceticism of the Egyptian hermits who spent their lives on the desert resisting temptation and accomplished nothing except that they gave the world something to talk about. We are reminded of Diogenes, the Cynic, a forerunner of Stoicism. He prided himself on getting along without a drinking cup (he slurped water with his palms), without a bed (he slept in a tub under the porch of a public building), without good manners (he insultingly ordered Alexander the Great to get out of his light), and without scholarship (he pooh-poohed the Platonic academy). But what did he accomplish aside from showing that he could do without something? Perhaps Diogenes lived a good life. Most men mean something more positive by a good life.

Even when the Stoic speaks affirmatively in favor of a thinking, rational life, he gives us a formula for avoiding immorality rather than a formula for constructive morality. Is our thinking anything besides a harnessing of tempestuous desires? What are we to think about? Is it enough that we contemplate endlessly the truth of "*A* is *A*"? We might satisfy this requirement and yet remain a moral zero.

The Stoics may have entertained an inadequate theory, but they were not, for the most part, fools. The emptiness of a formal theory of ethics was generally kept from working out into an empty and directionless life. But in avoiding empty rationality or merely negative asceticism, the Stoics belied a formal theory.

Spinoza fell back upon the teleological policy of self-preservation and a kind of rational hedonism. He tried

to sum up the ends which a straight-thinking man will seek by saying that a wise man sees that every being has a tendency to persist and does what it can to continue its own existence. Knowing that this is true of all beings, the wise man knows that it is true of himself and he will endeavor in as enlightened a manner as possible to preserve himself. This clearly sets up an end that Spinoza considers worthy. It is a teleological policy.

The ancient Stoics gave some content to their policy of rationality by saying that a wise man would "follow nature." He would be in harmony with the universe. His conquest of evil passions would leave him in the state of ἀπαραξία, freedom from passion, or calmness. This certainly sounds as if they were making peace an end or goal.

Conclusion

Almost everyone who tries to integrate his policies and find some plan of life recognizes some formal characteristics of a moral or wise choice. In the act of preferring there is always some struggle against desire and there is usually some thinking. The quality of rightness is experienced by anyone who makes important choices or preferences. Kant tried to deduce our duties from the fact that we ought to do our duty. In so doing he exposed the confusion of those who say that they ought not to do their duty. They have confused what they recognize as their duty with what others say is their duty. But Kant offers little protection against folly by his formula. "Do your duty" does not tell us what our duty may be.

Emerson and others tell us never to be satisfied with any end or goal of action. They have also seized upon a formal attribute of the moral life, its never-ending progres-

sion beyond what is now anticipated. But perfection, the idea of never-resting content, does not tell us what direction our restless striving should take. Perfectionism of this sort is also empty.

The Stoics advocate a rational control of desires. It is true that in making choices we always experience some struggle against desires, and usually we do some thinking. The Stoic mottoes, "Be Rational" and "Fight the Appetites," do not tell us what to think about or what positively to do in preference to being overwhelmed by a momentary desire.

The ethics of duty, the ethics of perfection, and the ethics of reason have, all of them, been supplemented in practice by some unacknowledged teleological policies. Even though no good stands criticism unscathed and unchallenged, the formalists have to seek a positive good or else admit that their ethics is of no use in telling us *what* we ought to do.

Exercises

1. When would you approve and when disapprove of Kantian consistency?

a. Shall we befriend and give equally of our time to every lonesome, underprivileged person we meet?

b. Should the U.S.A. disarm because we want other nations to disarm?

c. Should salesmen confine their talk to the truth, while their competitors are making exaggerated claims and using high-pressure methods?

2. Would you approve a policy of even-handed justice (consistent) or would you prefer the rule of mercy or sympathy in the following case? The question is the probationing of a first offender, 17 years old. Would your judgment vary if he shows signs of repentance; if he does not? Would it make any differ-

ence if he were convicted of auto-theft, rape, or murder? Would you give different answers if he had a good home or if he did not?

3. What is the Kantian attitude toward Portia's speech in the *Merchant of Venice* (Act IV, Scene I):

> "The quality of mercy is not strain'd,
> It droppeth as the gentle rain from heaven
> Upon the place beneath: it is twice bless'd;
> It blesseth him that gives and him that takes:
> 'Tis mightiest in the mightiest; it becomes
> The throned monarch better than his crown;
> His sceptre shows the force of temporal power,
> The attribute to awe and majesty,
> Wherein doth sit the dread and fear of kings;
> But mercy is above this sceptred sway,
> It is enthroned in the hearts of kings,
> It is an attribute to God himself
> And earthly power doth then show likest God's
> When mercy seasons justice."

4. Did Samuel Gompers give voice to the perfectionist type of ethics when he said: "We do not set any particular standard, but work for the best possible conditions immediately attainable for the workers. When these are obtained then we strive for better. The working people will not stop when any particular point is reached; they will never stop in their efforts to obtain a better life for themselves, for their wives, for their children, for all humanity. The object to attain is complete social justice." *The American Labor Movement,* 1915.

5. When do you approve the policy of killing desires, or at least fighting them?

a. A young man, too poor to be married, is bothered by sex desires.

b. A woman married to an invalid is bothered by sex desires.

c. A man is told by a reputable doctor that he can live for more than six months only if he gives up golf, his favorite game,

and restricts himself to a simple, unpalatable diet, and also abandons his occupation.

d. The advertisements and articles in popular magazines create demand for more of the products of industry, but they also make many people unhappy by creating desires that cannot be satisfied on their present budget.

6. Discuss the following propositions: (1) the Supreme Court should have the power to declare acts of Congress unconstitutional; (2) it should not have that power; (3) it should have the power, but Congress should have the power to override the court's decision after the next election. After discussing these propositions, try to decide whether you believe: (1) that the people ought to restrain themselves in the sense of delaying important decisions until they have had time to deliberate; or (2) that the people should be restrained, that is, never allowed to decide certain fundamental questions according to their desires. See A. K. Rogers, "Constitutionalism," *International Journal of Ethics,* April, 1930, XL, No. 3, pp. 289 f.

7. What ethical theory is criticized in the following excerpt? "The character building theory turned inside out is the doctrine that every young person ought to learn to work hard; and that it is immaterial what he works at as long as he has to work. Under the theory in this form the subject matter of legal study, for example, might just as well be botany or ornithology or any subject that is of such scope and difficulty as to require a substantial amount of hard labor. . . . We shall all admit, I suppose, that learning how to work is perhaps the prime requisite for a useful life. It does seem unfortunate, however, that the higher learning can contribute nothing which clerking, coal-heaving, or choir practice cannot do as well or better. . . . The hard-work doctrine would seem to be a defense-mechanism set up to justify our failure to develop anything worth looking for." R. M. Hutchins, *The Higher Learning in America,* p. 30. Yale University Press, 1936.

8. Criticize these criticisms of Kant:

a. ". . . the concept 'uncle' is defined relative to nephews

and nieces; an 'absolute uncle' would be nonsense. . . . An ought without someone who gives commands is an uncle who is such, not relatively to some nephew or niece, but simply in himself." M. Schlick, *Problems of Ethics,* p. 112. Prentice-Hall, Inc., 1939.

b. Bentham says, in his *Principles of Morals and Legislation,* Chapter 10, that there are no motives that are bad, "lust," "cruelty," and "avarice" being names that are applied to sexual desires, self-preservation, and so on, when the consequences are bad. "Hence we see the emptiness of all those rhapsodies of commonplace morality which consist in the taking of such names as lust, cruelty and avarice, and branding them with reprobation: applied to the thing, they are false; applied to the name, they are true indeed, but nugatory. Would you do a real service to mankind, show them the cases in which sexual desire merits the name of lust; displeasure, that of cruelty; and pecuniary interest, that of avarice."

c. "If there be anything which a rational being as such might be expected to dislike, it will be logical inconsistency. So a rational being would *reject* any principle whose acceptance would involve him in logical inconsistency. Then Kant must have jumped, in some way which I cannot pretend to explain, from this proposition to the proposition that a rational being would *accept* any principle whose acceptance would *not* involve him in logical inconsistency." C. D. Broad, *Five Types of Ethical Theory,* p. 128. Harcourt, Brace & Co., 1934.

9. Criticize these criticisms:

a. "Here, too, is the source of that common complaint of the world weary that they are tired of their pleasures. They have what they yearned for; yet having it they are depressed at finding that they do not care. Their inability to enjoy what they have is the obverse of the desire to possess the unattainable: both are due to carrying over the expectations of youth into adult life." Walter Lippmann, *A Preface to Morals,* p. 185. The Macmillan Co., 1929.

b. "Asceticism is similar to mysticism in that it is either an atonement or a protection. It is a milder form of misinterpreta-

tion. Unable to maintain command of oneself in the midst of tempting circumstances, finding it impossible to handle with discretion and moderation the resources that furnish pleasure, the individual makes use of asceticism and colors the things desired until they repel, while in their place he chooses purposes that normally would be unattractive." Ernest Groves, *Personality and Social Adjustment,* p. 244. Longmans, Green & Co., 1923.

10. Is Aristotle's doctrine of the Golden Mean (*Nichomachean Ethics,* 1107) a middle-of-the-road doctrine, or does he mean to say merely that no rational man can escape the necessity of making choices, or is he protesting against asceticism?

11. Do the author's conclusions coincide with what Havelock Ellis says in *The Dance of Life,* p. 283 (Houghton Mifflin & Co., 1923)? "The academic philosophers of ethics, had they possessed virility enough to enter the field of real life, would have realised—as we cannot expect the moral reformers blinded by the smoke of their own fanaticism to realise—that the slavery to rigid formulas which they preached was the death of all high moral responsibility. . . . In our human world the precision of mechanism is for ever impossible."

12. How does the following relate to the last two chapters? "It is impossible to question at one time all moral judgments, because the criticism of a moral judgment can be undertaken only in terms of other moral judgments that are, for the time being, unquestioned. The phrase, 'for the time being,' is important; and it implies that at another time the unquestioned reasons and principles may themselves be subjected to criticism. This criticism is, in turn, possible only if still other principles are unquestioned. Ultimately, the process of giving reasons for our choices is circular; but never in any particular inquiry is the circle completed. Moral judgments are circular potentially rather than actually. In no particular inquiry are all moral judgments brought into question, just as in no community are all citizens at the same time tried for suspected offenses." Charner M. Perry, "Reason in Moral Judgments," *Essays in Philosophy,* Smith and Wright (eds.), p. 329. Open Court Publishing Co., 1929.

13. List the circumstances under which you are indifferent to evidence and do not care whether you think logically or not. When are you positively hostile to evidence and logic? Are any of these cases of indifference or hostility justified?

14. What do you make of Rousseau's statements about the moral or general will, which he assumed was the same in all men though often obscured by their private and partisan wills?

"The people is never corrupted, but it is often deceived, and only then does it appear to will what is wrong." *The Social Contract,* Book II, Chapter III.

"When therefore the opinion contrary to mine prevails it is merely proved that I was mistaken and that the general will was not what I thought it was." *The Social Contract,* Book IV, Chapter II.

15. Peter Abelard, in his *Scito te ipsum, seu ethica,* contended that the rightness of conduct depends entirely upon one's intention, but he thought that God would withhold punishment from us only if we intended to do what He willed and not merely what might seem to us to be right. Does Abelard maintain a nonteleological position?

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CHAPTER EIGHT

ETHICAL PLURALISM OR ETHICAL NIHILISM

NO single rule sums up all wisdom. No ideal embraces everything that a reasonable man values. Ethical studies begin with a desire for consistency of policy, and they sometimes end with the conviction that there is no supreme principle with which to be consistent. Many a thoughtful person finds himself an odd cross between an individualist and a socialist: he cannot approve an unflinching application of any one political or economic ideal. He also makes important reservations when he contemplates any ethical system. He is neither one hundred per cent egoistic nor one hundred per cent altruistic. He accepts hedonism and he does not accept it. He sees a point in Kant's philosophy of duty, *and* he sees its limitations.

If you, too, are unable to endorse any stated plan of life, you have one further ethical problem. "No one plan, ideal, or standard" may mean that you refuse to take ideals seriously and that you abandon the quest for consistency of policy. On the other hand, you may still have some use for

general rules of conduct, although you give up trying to reduce them to a single formula. If you decide to throw all general rules overboard, you may be called an ethical nihilist. If you try to govern your conduct by several general rules that are not entirely unified, you may be called an ethical pluralist. Assuming that no one rule of conduct is entirely satisfactory, you still have to answer the question: "No rule or several rules?"

Ethical nihilism is quite popular just now. The nihilists may be recognized by the fact that "their only principle is that there are no moral principles at all, their only slogan that all statements of policy, all appeals to standards, are nothing but slogans, and hence frauds and deceptions." [1] Their most convincing arguments are derived from the following difficulties of adhering to any one principle: (1) Idealism blinds men to facts and keeps them from recognizing the value of actualities; (2) To adhere to a general ideal is to be doctrinaire, for no ideal expresses exactly and completely what we "really" value.

We have already recognized these objections to each of the systematic ideals that were examined in the last four chapters. We must now ask whether the objections also apply to ethical pluralism.

Does Idealism Blind Men to Actualities?

Stuart Chase and Thurman Arnold have published what are perhaps the most popular attacks on idealism in recent years. Both writers will probably resent being called by the awful name of "ethical nihilist." It is unfair to call anyone

[1] Characterization by Mortimer J. Adler in "This Pre-War Generation," *Harpers Magazine*, p. 526, October, 1940.

by such a name. Nevertheless, certain of their statements, if not the men themselves, deserve the label.

For many years prior to their nihilistic pronouncements both Chase and Arnold had grown increasingly aware of defects in American ideals, particularly the ideal of individualistic competition. They knew that the laws passed by Congress and interpreted by the courts were not effective applications of this ideal principle. They were also convinced that the opposed ideal of socialism was not usefully related to actual conditions and practice. Presently it dawned upon them that all Isms are only abstractions in the worst sense: mere fictions.

Chase came out with the advice to "clear the mind of dogma about individualism and socialism." [2]

> The indiscriminate use of abstract terms, the spurious identification of word with thing, the building of structures of logic based on verbal concepts only, take us clear out of the world of hard fact into a Cloudcuckooland of fancy.[3]

Arnold made a similar plea, although he recognized that discussions of individualism and socialism might serve as public ceremonies. The Isms were folklore, important as religious creeds in that they relieved men's distraught minds; but they were as unhelpful in establishing wise policies as the Indians' ideas about the happy hunting grounds.[4]

According to Chase and Arnold, the wise man is the fact-minded man. He judges each situation by itself and makes each decision unconfused by pictures of an ideal society. Chase and Arnold propose to stop asking what is ideal and

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[2] "Word-Trouble Among the Economists," *Harpers Magazine*, p. 58, December, 1937.

[3] *Ibid.*, p. 48.

[4] *The Symbols of Government, The Folklore of Capitalism.*

how we may achieve consistency with that ideal in our policies. They want policy decisions, but no policy-in-general.

The nihilist is quite sure that our crucial need is not for a searching of the heart or an exposition of the best conceivable world. What we need is facts—scientific knowledge about the unideal world in which we live. Our most regrettable decisions on matters of public and private policy are not lacking in idealism. They are ill advised because we are poorly informed.

The nihilist can, indeed, show that there is considerable antagonism between the ideal-chasing spirit and the fact-finding attitude. The maiden fair, who in daydreams rare pictures her hero, sees a man with the strength of ten, yet a gentle man; an adventurer courageous, but withal a home body; a man of genius without eccentricities; a romantic lover, still managing to accomplish great things; proud, yet humble; generous, but prudent. Maidens who marry while they are too much enamored of their ideal awaken two weeks or two decades later to discover that the men whom they married bear little resemblance to their ideal. They might have picked a more congenial mate if they had given more time to a comparison of actual Willie and actual Johnny and a little less time to thoughts of ideal Johnny.

In judging matters of public policy, too, we all have a tendency to see halos and horns, rather than the unadorned facts. As Walter Lippmann once said, we don't see a man and judge him bad; we see a bad man. We don't examine policies and judge them good or bad; we see good or bad policies. Dominated by the world of wishes and dreams, we are blinded to actuality. We do not observe nonstrikers; we see *loyal workers* or *scabs*. We cannot open our minds

to the complexities of government because we know in advance that a proposed bill is a step toward *dictatorship and regimentation,* or else we see it as the beginning of *wise planning* and the *discipline that prevents anarchy.* We are kept in ignorance regarding international affairs because a change of boundaries is either a *liberation of minorities* or *ruthless aggression.* The language which we commonly employ is emotional, rather than factual. Its meaning or reference is to our feelings and wishes, whereas we need accurate knowledge of the objective conditions that arouse our feelings.

To attain the accurate knowledge that is so much needed, it is necessary, at least temporarily, to forget our desires and moral convictions. The scientific attitude seems the very antithesis of the moralizing attitude. As Karl Pearson said,

> The classification of facts, the recognition of their sequence and relative significance is the function of science, and the habit of forming a judgment upon those facts unbiased by personal feeling is characteristic of what we shall term the scientific frame of mind.[5]

"Unbiased by personal feeling": that means that we must not recoil from the stinking cadaver or from the raving maniac or from the hated foreign ideology. We must not hesitate to examine the mysteries of life and the sacred traditions of our race. Unpleasant facts are facts none the less, and pleasant fancies are fancies still. Our ideas on the goodness or badness of explosives, taxes, religious relics, and the weather do not help us to understand those things; our preferences, moral and otherwise, are likely to retard the improvement of our knowledge.

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[5] *The Grammar of Science,* p. 6. The Macmillan Co., 1892.

Human affairs are in a bad way for want of scientific knowledge. To obtain scientific knowledge we must pay less, not more, attention to the desires and prompting of the heart. The objects of the heart's desire are not always the objects that are important for understanding and effective action. The competent mechanic thinks about spark plugs, carburetors, and piston rings, although what he wants is the smooth purring and the powerful pull of the engine. Listeners value Schubert's *Unfinished Symphony* pretty much as a whole, but if an orchestra gives a sour rendition someone has to analyze the difficulty into such unesthetic problems as slowing down the French horn or sobering up the second violinist. Most of us desire health and vigor, but the physician must give attention to tonsils, allergies, and the liver. So it is that you may long for a peaceful and perfectly coordinated socialistic state and your neighbor may want an enterprising individualism, but neither ideal tells you how to get what you want in this kind of universe.

The criticism of idealism on account of impracticality is, of course, nothing new. The charge of impracticality was directed against the Utopias of Plato, Jesus, Thomas More, Edward Bellamy, and many others. Some of the Utopians have frankly admitted that their pictures of an ideal life could never be transformed into actualities. Plato says specifically that he does not think worse of an ideal, just because it can never become a flesh-and-blood state. His ideal of perfect justice is plainly not a realizable plan of action. Still Plato insists that if a man confines his attention to the confused changing actuality, he may never know what is really worth striving for; the construction of an ideal is necessary in order that a man may avoid a tempestuous and whimsical shifting of policy from moment to moment.

Much of the controversy between ethical nihilists and "dogmatistic idealists" hinges on the double meaning of an "ideal." An ideal may be: (1) a statement of what you wish or approve irrespective of its chances of realization; or (2) a plan of action.[6] Obviously, many of the achievements and social arrangements that men desire have no chance of being actualized. On the other hand, the plans of action which come before men from day to day need to be studied in two ways. First, are the facts such that the plans are likely to accomplish what they promise? Second, are our evaluations such that we "really" want the results which they promise? The nihilist objects to certain "ideals" because preoccupation with them blinds men to the facts. The idealist objects to the fact-finding nihilist because his preoccupation with the facts leaves him without well-considered standards by which to choose between equally practical plans of action.

The ethical pluralist will agree, with Plato, that we should take time to contemplate in imagination a perfectly just state. Unlike many of the Utopians, however, he thinks that it is possible to imagine several kinds of perfect societies. Furthermore, none of these ideal states is to be treated as a practicable plan of action. It is to be acted upon only to the extent that the conditions which it assumes correspond to actual conditions. The ideal's primary usefulness lies in the fact that it gives us an organizing standard in dealing with a very confusing actuality.

There is some similarity, as Plato contended, between the ideal figures of geometry and the ideal situations of ethics. In geometry we reason concerning perfect circles which have

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[6] In the *Ethics* of Nicolai Hartmann you will find something like this distinction expressed as the contrast between the ought-to-be and the ought-to-do. Vol. I, p. 248 f.

breadthless lines. It is much easier to think in these ideal terms than in terms, say, of a slightly irregular water reservoir. When we have occasion to calculate the diameter of an imperfectly circular reservoir, we do not have to believe that the reservoir has the exact properties of the perfect circle. Our calculations, which are based on the properties of the perfect circle, always have an *if*. If and in so far as the reservoir is like the circle, our calculations are accurate.

So it is, in deciding whether government shall stay out of the clothing industry or the electric power industry, we get a clearer idea of what is desirable by thinking about a perfectly competitive society or a perfectly planned society. But these thoughts do not make unnecessary the fact-finding studies which alone can tell us what ideal conditions the actual conditions most closely resemble.

Furthermore, we are not justified in believing that the ideal conditions of competition exist in fact simply because in imagination we can conceive of a perfectly competitive condition. Such a supposition is as unwarranted as the belief that a water reservoir is circular because in imagination I can think about a circle. Neither would Plato have been justified in believing that his class-stratified state would work out in Greece with the contemplated results, simply because he could imagine beneficial consequences flowing from the class-stratified state of his dreams.

By the construction of ideal social situations we formulate the standards of efficiency, productiveness, peace, happiness, and so forth by which to test specific policies and plans of action for compatability with our fundamental desires, and thus avoid spur-of-the-moment judgments. So conceived, ethical inquiry is not a rival or antagonist of fact-finding, but a complement.

Does Idealism Blind Us to What We Really Want?

Ethical nihilists are unwilling to cultivate ideals even when ideals are constructed simply as tentative generalizations of our wishes and approvals. They doubt whether Plato really wanted every man to do what he was naturally best fitted to do (Plato's definition of perfect justice). They do not think that many people really want efficiency or democracy or pleasure or rationality. These are glittering generalities, but they are inaccurate expressions of the average man's evaluations.

Lincoln Steffens gave voice to such disillusionment when he wrote:

> No general ethical principle known to me held in practice; or could hold. Only special, professional ethics limited the conduct of men, and these differed so fundamentally that a "good merchant," like Mayor Strong of New York, might be a "bad politician." One reason for this was that, while a business man is trained to meet and deal with the temptations of business, he is a novice and weak before those of politics. Another reason is that what is right in business may be wrong in politics.[7]

Our study of teleological and formal systems of ethics seems to confirm this nihilistic criticism of *general* ethical principles or standards. Pleasure, whether selfish or otherwise, is not the only and supreme good. Self-realization does not adequately distinguish all the things that we approve from those which we disapprove. Peace, power, and so on, are ends, but not all-inclusive ends. We concluded the chapter on teleological ethics in a skeptical mood. If there is a supreme good, then we cannot define it.[8]

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[7] *The Autobiography of Lincoln Steffens*, p. 408. Harcourt, Brace & Co., 1931.

[8] For a criticism of all attempts to define the good, see G. E. Moore, *Principia Ethica*.

A similar fate awaited the systems of formal ethics. We could agree that good intentions are to be preferred to bad intentions. We ought to do our duty. We should use our heads and be rational. But these general statements proved themselves dangerous, because duty in the abstract tends to become identified with some provincial or bigoted notion of duty, and rationality in the abstract gives little protection against unwise suppressions of desire.

No single rule sums up all wisdom. No ideal embraces everything that a reasonable man values. What else can be done but that which the ethical nihilist advocates? We are not nearly omniscient enough to conceive of a standard that works out well in all cases. Does this not mean that we should abandon the attempt to generalize from all our specific evaluations? Should we not judge each case on its own merits and choose between each set of alternatives, as they arise, without reference to a general standard or policy-in-general?

The ethical pluralist concedes that the dogmatic idealist, with his supreme good or infallible rule of righteousness, is doctrinaire. The dogmatist may even be hypocritical. But the nihilist assumes that, because ethical generalizations are not completely accurate, therefore they are necessarily misleading. This consequence is denied by the ethical pluralist.

Many famous philosophers have been ethical pluralists, in footnotes if not in announced theses. Aristotle, Bishop Butler, Henry Sidgwick, and others could be mentioned as cases in point. One of the finest expositions of ethical pluralism in our time is the work of a jurist, Benjamin Cardozo. In his book, *The Nature of the Judicial Process*,[9]

[9] Yale University Press, 1921.

Cardozo demonstrates the inadequacy of each of the leading ethical standards. There are cases in which the ideal standard of consistency would work the most brutal injustice. The noble ideal of social welfare or happiness breaks down in those cases where the court has no reliable means of ascertaining what will make men happy and healthy. After criticizing ethical standards as roundly as any ethical nihilist, Cardozo remarks that wisdom consists, not in forgetting these standards, but in remembering *all* of them and applying them *where they can be applied.* Cardozo says that the wise jurist will abide by precedent unless that course does great violence to some other rule. He will strive for consistency when consistency is not too much opposed to social welfare. He will be guided by his conception of social welfare when that standard does not conflict disastrously with other standards.

Ethical standards are not useless just because they occasionally break down. To suppose that their occasional failure proves them utterly unreliable is to forget that the Pleasure principle, the Golden Rule, the rule of Duty, and so forth are standards rather than omniscient plans of action. These ethical formulas are not substitutes for planning. They do not relieve anyone who wishes to live wisely and well of the need for criticism and reflection. They are guides for our thinking. They do not tell us whether a public housing project is good. They simply remind us of some considerations that should precede our final judgment on such a plan of action. Without a few general ethical principles such as the Greatest Happiness rule, our evaluations would be much more disorganized than they are.

Lacking omniscience, we have not found any *guarantee* of consistency in our day-to-day policies, but we have some

leading principles which will *help* us to avoid self-frustration and futility. These principles were first articulated by dogmatists, each of whom thought that he had uncovered an all-inclusive and all-sufficient plan of life. The dangers inherent in these ideal standards were pointed out by ethical nihilists, who supposed that they had to abandon the ideals altogether because standards make poor plans of action. Standards are generalized expressions of our wishes and approvals. Wishes are not horses, and generalizations of evaluations are not usually effective plans of action. In contending that the contemplation of ideals is no substitute for fact-finding and on-the-spot deliberation, the ethical nihilist helps to take the superstitious magic out of ethics. The ethical pluralist profits by these criticisms but does not abandon all ideal standards. When he departs from the Greatest Happiness rule, he does so because of some other rule that seems wiser under the circumstances. One standard limits another, but taken together several standards comprise our defense against purposelessness and whimsical inconsistency.

Exercises

1. Referring to the antitrust campaign during the 1890's and 1900's, T. W. Arnold remarks: "The effect of this statement of the ideal and its lack of actual enforcement was to convince reformers either that large combinations did not actually exist, or else if they did exist they were about to be done away with just as soon as right-thinking men were elected to office. Trust-busting therefore became one of the great moral issues of the day, while at the same time great combinations thrived and escaped regulation." *The Folklore of Capitalism,* p. 208. Yale University Press, 1937. How did actual conditions differ from the conditions assumed in the theories of the period?

2. "There is no such thing as ideal government, either in universities or elsewhere. In order that new procedures in uni-

versity government may be effective and permanent, they need to be in accordance with the experience and the history of each institution. They must, moreover, be fitted organically into the complex of existing practices and governing agencies. Each university is a problem in itself, requiring special study and the adaptation of new devices to its existing government. The end is indeed the same everywhere: The welding together of faculties and administrative officers into cooperating units, democratic in organization, orderly in operation and efficient in management, combining consultation and open discussion with the definite fixation of responsibility. To find for each institution the agencies that will measurably achieve these ends is a work of real statesmanship, not to be accomplished by the making of a paper constitution." G. H. Sabine, "Report of Committee T on the Place and Function of Faculties in University and College Government," *Bulletin* of the Am. Assn. of University Professors, Feb., 1938, p. 143. Is this in disagreement with the views of the author?

3. Use the following quotation as the basis for criticism of some contemporary thinker: "To theorise about the nature of the good society without trying to make the existing society good is in effect to accept the existing society. In this way a theory proud of its impracticality is in reality viciously practical. Pretending to be indifferent to the effects of thought, it has very definite effects of its own. Contemplative philosophies are not removed from life. They represent a way of life and as such must be judged by their consequences." Sidney Hook, *From Hegel to Marx,* p. 25. Reynal and Hitchcock (John Day book), 1936.

4. See E. B. Holt's discussion of the "dictatorship of the proletariat." Hook and Kallen, editors, *American Philosophy Today and Tomorrow,* pp. 193–197. Lee Furman, 1935.

5. What does Lincoln Steffens mean when he says that "No general ethical principle known to me held in practice"?

6. "Indeed, for Marx, the religious attitude consists in the belief in, or worship of, unhistorical abstractions. All thought, all conceptions, arise as generalisations of concrete modes of response to specific historical situations. When they are taken as eternally

valid, independently of the possibility of their application to fresh situations, men become victimised by the creations and discoveries of their own minds. Whether they are aware of it or not, they become Platonists, supernaturalists, behind whose backs the world continues in its accustomed way." Sidney Hook, *From Hegel to Marx,* p. 279. Reynal and Hitchcock (John Day book), 1936.

7. "[Buddha] . . . showed himself a free-thinker in opening his monastic Order even to members of the despised Sudra (menials) castes. . . . But the Buddha's broad-mindedness must not be understood in the sense of his having altogether declared himself for the abolition of caste distinctions. His opinion is that the monks alone, who are leaving behind them all earthly relationships, are no longer subject to them. They are still valid for people who remain in the ordinary life of the world. The thought of reforming society is as far from the Buddha as from St. Paul. Both see their vocation only in leading man away out of the earthly and holding up before him the perfection which he ought to reach. The terrestrial world is for them something doomed to pass away. To trouble about the improvement of worldly conditions seems to them as little opportune as to undertake repairs in a house that is about to be pulled down. That is why the Buddha does not attack the validity of the caste distinctions in ordinary life; and why Paul is not led by the principle of Christian love to demand the abolition of slavery." Albert Schweitzer, *Indian Thought and Its Development,* p. 94. Henry Holt & Co., 1936. May a similar statement be made with reference to the religious ethics of modern times?

8. Show that the following propositions do not contradict one another:

a. The purpose of science is to help satisfy human wants.
b. A scientist must ignore all wants, including his own.

9. "No one aspect of life is good ultimately by itself. . . . Relatively of course with every aspect of life this point of view is tenable. Morality and religion can be regarded as means to worldly success or to bodily health. We can say the same thing

of pleasure, or again pleasure may be taken not as a means but as the end which all else should subserve. The pursuit of beauty in art may be spoken of as a more or less useful amusement or as a way perhaps of keeping out of vice. And truth again also undeniably is useful, and is a means and instrument valued for the sake of other purposes. All this is justifiable, but justifiable only when we remember that it is but relative. To turn any one aspect of life by itself into the end is false ultimately. What is ultimately good is life itself or experience as a whole. . . ." F. H. Bradley, *Essays on Truth and Reality,* pp. 346–347. Oxford University Press, 1914. Wherein does the author differ from Bradley?

10. Is the following statement true? "All of the rival ethical principles agree, perhaps, on one point. In making our decisions we should take into account *more* than the immediate object of momentary desire or impulse. No matter how strongly we may wish to get away from our work tonight, any ethical principle will require us to think of other things besides that desire. Even an apparently noble impulse to help a friend or expose a chiseler is to be assessed in a larger perspective. That any ethics requires consideration of more than momentary impulse is proved by the fact that even seekers after selfish pleasure, like Aristippus of old, have said that a wise man will sacrifice some pleasures of the present instant for the sake of future pleasures. Philosophers thus stand together in opposition to the passionate, unthinking way of life. We should, they say, take into account more than the immediate object of momentary desire when we make our choices. But what is the *more?*—all our other desires? Everyone's desires? our conscience? the doctrines of some great man or institution?"

11. Does the author recommend all of the ethical principles which were expounded in Chapters Six and Seven?

12. What possible objection can be raised to this statement by Edmund Burke? "The lines of morality are not like ideal lines of mathematics. They are broad and deep as well as long. They admit of exceptions, they demand modifications. These

exceptions and modifications are not made by the process of logic, but by the rules of prudence. Prudence is not only first in rank of the virtues political and moral, but she is the director, the regulator, the standard of them all." *An Appeal from the New to the Old Whigs.*

13. Relate the following to the problems discussed in this chapter:

W. G. Sumner, *Folkways,* chapter on "Ethnocentrism."

Edwin Muller, "America Through the Looking Glass," *The Christian Century,* pp. 788–790, June 22, 1938.

Other criticisms of racial and national prejudice.

14. Relate the Freudian interpretation of thought as an "escape from reality" to the problems discussed in this chapter.

15. Were men justified in their disillusionment after the "war to end war"? See Walter Millis, *The Road to War,* and similar books.

16. Should the fact-finding attitude be cultivated by trying to kill all desires except the desire to know?

17. Is ethical neutrality a natural consequence of scientific fact-finding? What do you think of the statement of Charles P. Steinmetz: "In judging on the meaning of historical facts, on events which we see occurring before our eyes, we must entirely set aside our sentiments and our wishes, and, like in any physical or engineering problem, draw the conclusions which follow from the premises, whether they are agreeable or not. If we do so, and record the facts, and search back to their causes, we very soon find that there is nothing in this world which we can condemn, but that the attitude of mind of condemning one thing, approving another, is illogical, as bringing the personal element of our egotism into the chain of cause and effect. If we do so, we have disfranchised ourselves from the community of reasoning intellects, and our conclusions will be prejudiced and wrong." *America and the New Epoch,* Introduction. Harper & Brothers, 1916.

18. Criticize the following: "The idealist fits himself and his neighbors into a little moral drama. Someone has to be the Fox,

someone else has to be the Dog-in-the-manger, someone else has to be the Goat, and of course, there is a hero. There are just two kinds of people in the world: the good people and the bad people. There are two opposed plans of life: the lily white plan and the inky black plan. With this little drama in mind the idealist fares forth to lay his blessing on wickedness that he cannot recognize and his curse on ordinary common sense that doesn't have a place in his drama."

19. Does Walter Lippmann become an ethical dogmatist or an ethical pluralist in his book, *The Method of Freedom* (The Macmillan Co., 1934), where he says that the issues of current controversy may be clarified by differentiating two radically different forms of collectivism? He observes that all social orders are in fact hybrids of many principles, but that we may have "a mark by which to take our bearings" in the choice of actual policies if we make a clear separation of the "pure principles." See the opening paragraphs of Part II for his contrast of a directed economy or absolute collectivism and a compensated economy or free collectivism.

20. Is Rousseau subject to the criticisms of dogmatic idealism when in the preface to the *Discourse on Inequality* he says that he will discuss a state of nature "which no longer exists, which perhaps has not existed and which probably never will exist, but which must be accurately understood in order to get just notions as to contemporary society."

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PART THREE

THE QUEST FOR AGREEMENT WITH OTHER MEN

CHAPTER NINE

THE RELATIVITY OF MORALS

HITHERTO we have been facing the inconsistencies of our own policies—disagreements with ourselves. Now we must consider our disagreements with other human beings. Everyone who reads or travels or who lives in a cosmopolitan community discovers that no life policy is universally accepted. No matter what opinion he may hold regarding the righteousness of war, the wisdom of birth control, or the sacredness of private property, there is somewhere a group of men who disagree with him.

Throughout the history of ethics, these moral disagreements have presented a problem, or rather two problems, to the moral philosopher and the unprofessional moralist. First, the disagreements seem to cast doubt upon the authority of moral standards. Second, they may forecast the failure of our own efforts to do what we believe to be right.

The second problem will probably strike you as "the real problem," in view of the fact that our policies call for cooperation by other men. If we believe in due process of

law, we cannot practice our belief very well when most of our neighbors see nothing wrong in lynch law. If I think that equality of the sexes is ideal, I cannot go very far toward my ideal when members of the opposite sex are unwilling to be treated as equals. A man cannot even be charitable unless someone is willing to receive charity. To do what is right according to a moral standard that is rejected by everyone else is to get into the ludicrous position of the shadow boxer. The existence of moral disagreements, therefore, raises a very serious practical problem.

Ethical theorists, however, have not given the bulk of their thought to the practical problem of securing co-operation in a divided world. Moral disagreements are usually studied as threats to the authority of conscience. Why have philosophers been so much more concerned with the effect of disagreements upon the authority of morality than upon the success of moral endeavor? The explanation lies in theology. An ineradicable disagreement about right and wrong challenges the traditional explanation of morality. Our progenitors liked to believe that moral standards were God-given. God had decreed certain moral laws for the conduct of all men. He implanted His decrees in every human soul, and the voice of conscience was interpreted as the voice of God. If one man's conscience really contradicted another man's conscience, the logical conclusion of the theologian would be that God was contradicting Himself. This was a supposition that was unpalatable to the men who believed in the divine origin of morality.

The first moral relativists did, indeed, attack belief in the theological origin of morals. Protagoras, a Greek teacher of the fifth century B.C., startled his compatriots with the dictum: "Man is the measure of all things." He would prob-

ably have accepted even the Socratic parody of his statement: "Pigs and dog-faced baboons are the measure of all things."[1] Protagoras saw no absolute and universal law, no divine standard, above and beyond the varying opinions that prevailed in Greece, Persia, and Egypt.[2] Moreover, he was not disturbed by the thought that he was adhering merely to the customs that he happened to inherit because he was a Greek.

Before we have finished with the problem of relativism we shall argue with Protagoras that there is no *more* cause for chucking conscience if conscience is relative to group custom than if conscience is believed to be Deity's command. Some ancient Greeks, however, reasoned the way many beginning students in anthropology do today. If they could not be sure that God was dictating their moral opinions, they saw no reason for holding to those opinions. This erroneous reasoning was accepted as valid by many philosophers who, therefore, went to great lengths to prove that conscience was really not relative and local. Thus began the theorists' disagreement over the question: Is there practical disagreement among men who respect their consciences?

In this chapter we shall (1) review the evidence for believing that sex morals are relative to group customs; (2) show that relativity does not imply that morality is subjective or whimsical. But since many philosophers made this inference we shall go on to (3) point out the difficulty of disproving moral relativism; and, finally, (4) recognize a useful by-product of the controversy.

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[1] See Plato, *The Theaetetus*, 161.

[2] Thomas Hobbes, an Englishman, started an argument in the seventeenth century somewhat similar to the one that Protagoras provoked. Hobbes also denied that morality is determined by God's will. He asserted that morals, like laws, are fixed by the edicts of the local monarch. See *The Leviathan*, Chapter XVIII.

The Evidence for Relativism

The Protagoras of our time was William Graham Sumner, professor of sociology at Yale. Sumner not only asserted the relativity of morals; he published in 1906 a heavily documented volume, *Folkways,* which gave the most complete evidence that had ever been accumulated in support of relativism.

Sumner flatly declares that notions of good and right come, not from God or Nature, but from custom. The *Mores,* he says, can make anything right, and they can make anything wrong. By the mores he means those customs or folkways of which men are conscious and whose violation they resent. What your conscience tells you depends solely upon what tribe or social group you belong to. Your sense of values is directed by your childhood training and by the pressures (punishment, ostracism, ridicule, and gossip) which your fellows have brought upon you to conform to the ways of the group. "Each one of us is subjected to the influence of the mores, and formed by them, before he is capable of reasoning about them." "World philosophy, life policy, right, rights, and morality are all products of the folkways." [3]

Sumner finds evidence of the relativity of moral notions in the endless variety of moral codes. Much of his proof is drawn from the so-called primitive societies, but he also reports fundamental differences between the mores of civilized communities. Every question of conduct receives opposed answers from a thousand human communities: Is it right to own slaves, and, if so, how should they be treated? What foods may be eaten? Who has a rightful claim to share our

[3] *Folkways,* pp. 76, 29. Ginn and Company, 1906.

food? What is our duty toward strangers? Who is a criminal, and how should he be punished? Englishmen, Chinese, Indians, Zulus, easterners, westerners, Arabs, city people, and rural people simply do not prescribe the same rules.

We shall mention a few of the disagreements regarding proper relations between the sexes. Practically every human group has a unique policy regarding some sex problem. We think it wrong, for example, if a man marries his mother, his sister, his aunt, his daughter, or (probably) his first cousin. Each of these possible matches has been approved somewhere at some time. On the other hand, persons whom we would regard as eligible commit a heinous crime by attempting marriage in the wilds of Australia, where certain distant relatives are ineligible, or in England, where persons whom we look upon as divorced would be committing bigamy if they should wed.

How many wives may a man properly have at one time? As many as he can support, said the Hebrews in King Solomon's day; as many as he needs to support him, said some of the Indian tribes. How many husbands may a woman have at one time? Only one, declare most men. Several, say the Tibetans, the Nairs, and some other Asiatic tribesmen.

Who may rightfully demand a divorce? Nearly half of the "primitive" tribes allow either husband or wife to obtain a divorce; about one fourth give the privilege exclusively to the husband; a few make it the prerogative of the wife; the rest do not allow divorce at all, or only under extraordinary conditions.[4]

Typical of the chaotic disagreement on questions of sex

[4] Hobhouse, *Morals in Evolution*, 5th ed., p. 152. Henry Holt & Co., 1928.

conduct are the following bizarre customs: (1) An Australian savage's wife who elopes with another man is punished for her first offense, but a second elopement is punished only by an ordeal, after which she is considered to be divorced from her husband and married to her lover.[5] (2) Parents in Kadiak on the Bering Sea used to raise some of their boys as they would girls, and they did not think it indecent to marry them to some wealthy man.[6] (3) Somewhat similar approval of affection between members of the same sex is recorded in ancient Sparta, Crete, Thebes, and Elis, although this practice was violently condemned in several other Greek cities. (4) In more than one locality the rules of hospitality have required a host to let guests sleep with his wife; if the offer were refused, the guest was suspected of ill will.[7]

If we are amazed and shocked by these strange customs, our ways are just as disgusting to those who jar our sensibilities. In some parts of India, only a loose woman will shake hands with a man who is not her husband. In many parts of the Orient, kissing is disgraceful. Not a few tribes are horrified by the idea of a man's speaking to his mother-in-law.[8] Mixed bathing arouses opposition even in the United States. The idea of young people's demanding the right to choose their own mates is rejected by a substantial fraction of humanity as insufferably impertinent. For a bride to show any signs of being pleased by her marriage is abominable. Numerous Indian tribes would recoil in contempt from our practice of allowing menstruating women to

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[5] *Ibid.*, p. 156.

[6] Westermarck, *The Origin and Development of Moral Ideas*, Vol. II, p. 457. London, 1908.

[7] *Ibid.*, Vol. I, pp. 575 and 593; Vol. II, p. 752.

[8] Frazer, *Totemism and Exogamy*, Vol. II, p. 113.

associate with other people.[9] The attendance of male physicians at childbirth would make our ancestors turn over in their graves.

We must now lock up the chamber of mutual horrors, lest Sumner's main contention be completely lost in the maze of illustrations. The variety of moral ideas, Sumner reported, is extreme; but the variation is between groups and not within groups. Within a community, Sumner found that violation of custom and dissent from the traditional morality were the exception rather than the rule.

Lest civilized readers suppose that only savages are custom bound, Sumner made this observation:

> It may be objected that nowadays, at least, we criticize all traditions, and accept none just because they are handed down to us. If we take up cases of things which are still entirely or almost entirely in the mores, we shall see that this is not so. There are sects of free-lovers amongst us who want to discuss pair marriage. They are not simply people of evil life. They invite us to discuss rationally our inherited customs and ideas as to marriage, which, they say, are by no means so excellent and elevated as we believe. They have never won any serious attention. Others want to discuss property. In spite of some literary activity on their part, no discussion of property, bequest and inheritance has ever been opened. Property and marriage are in the mores. Nothing can ever change them but the unconscious and imperceptible movement of the mores.[10]

Sumner granted that Americans are not custom bound on some questions of public policy, but his point was that these are for the most part matters on which many Americans no longer have a strong conscience. When civilized men treat

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[9] Crawley, *The Mystic Rose*, Vol. I, p. 76, etc.
[10] *Folkways*, p. 76. Ginn and Co., 1906.

a subject as a question of right rather than of mere expediency, their sentiments conform to the customs of their group.

Relativism Does Not Imply Whimsicality

Do Sumner's facts destroy the authority of anyone's morality? If I believe in monogamy (with divorce), is my opinion discredited by the fact that the rajah of Poohbah, like King Solomon, approved of polygamy, or by the fact that Cardinal Mercier disapproved of divorce? I may think so if my only reason for adhering to monogamy (with divorce) is the supposition that God commanded it. It is rather difficult to account for the great variety of marriage systems if God put the same command into every human heart. I am driven to the improbable theory that whole nations consistently disobey their consciences.

Some men have been equal to this strain of theory, and courageously damned up to ninety-nine one hundredths of the human race as perverse. "We stopped in Calcutta for a few hours on the twenty-seventh of August and observed that the natives are all very immoral"—so ran the old travelogues. Child-marrying Hindus and polygamous Turks must know what is right, deep down in their hearts, but they will not admit it.

Hundreds of carefully checked field studies convince the anthropologist that the "heathen" are approximately as sincere as we in declaring conscience. The modern relativist, therefore, abandons the theological theory of morals. At least, he says, if God wills a single moral system, He has not let the majority of the human race in on the secret.

Theology aside, there is no reason to say that relativity undermines the authority of our conscience. Moral disagreements do not prove that values are entirely subjective

in the sense that "There's nothing either good or bad, but thinking makes it so." (Shakespeare, *Hamlet.*) The goodness of monogamy may be relative to my group, but it is not arbitrary; my group and I cannot whimsically decide that monogamy is bad. The relativist does not have to be a subjectivist.

That relativity and subjectivity are two quite different concepts should be obvious. In fact, relativists like Sumner would say that I cannot arbitrarily change my moral opinions, for the very reason that they are relative to and determined by the history of my group.

Travelers and missionaries report that "intellectual persuasion" may not affect evaluations at all. A Wesleyan missionary, for instance, writes to his home society that the natives insist on living in houses such as their fathers inhabited and building clumsy canoes which they admit are inferior to European models. "They praise our superior habits but continue to practise their own."[11] The natives' evaluation of architecture was determined by local standards, but it was not subjective in the sense of being whimsical.

A second false inference from moral relativity is that one man's opinion is as good as another's. If by this statement we mean that no one can demonstrate his normative opinions in a strictly scientific manner, we raise no objection. If the proposition means that we will tolerate other opinions and not interfere with someone's expression of his opinion, we agree. If the proposition means that everyone is quite ignorant of some matters and that opinions on these matters are equally good, we agree. But the loose-thinking relativist often means that all opinions on all policy questions are

[11] L. Levy-Bruhl, *Primitive Mentality*, p. 403, quoting from Wesleyan Missionary Notices, VI, p. 199, December, 1848.

equally good. In other words, I might as well give up my opinion. There is no justification for my tenacity of moral belief.

What would you think of my logic if I asserted, "That which I eat I do not eat" or "That which I kick I do not kick"? You would say that I had contradicted myself, or else that I was talking in some strange metaphorical way. It is just as contradictory to say, "That which I call good I do not call good." Yet, such is the meaning of "Your opinion is as good as mine."

The general statement of moral subjectivism is more convincing than its application to specific cases. Suppose that after considerable consultation with experts I decide that "All physicians should be required under severe penalty to report venereal cases." Suppose that a high-grade moron, who has made no study of the question, disagrees with me. I may admit that my opinion is relative to my point of view, but that does not compel me to say that the moron's opinion is as good as mine. I may admit that I cannot prove my case to him; I may decide to tolerate his opinion; but I still will not say that his opinion is as good as mine. I regard his opinion as unfortunate and ill-considered, even though I may admit that in his circumstances no man could escape the moron's conclusion.

The relative, nonuniversal character of my moral convictions does not do away with my convictions. Relativism is not nihilism, although nihilism has, from time to time, been connected with relativism in men's minds. Had our predecessors been more careful in thinking about the implications of moral relativity, they might have avoided a wild-goose chase. The wild-goose chase was the search for a supposedly universal morality.

"Disproofs" of Relativism

Apparently, many philosophers, beginning with Socrates, mistakenly assumed that, if they admitted that a duty was local rather than universal, the duty would somehow evaporate. They undertook, therefore, to deny that men "really" disagreed about moral standards and duties.

I am convinced that the existence of some ultimate moral disagreements is a well-authenticated fact. It is not because I believe that they are cogent that I now rehearse the ingenious "disproofs" of ultimate disagreements. I review the arguments for a universal morality because, incidentally, they produced a valuable ethical distinction, the distinction between means and ends.

The Socratic strategy was to make out that perverse fellows, such as tyrants and demagogues who disagreed with good people, were the victims of ignorance. Wicked men, Socrates insisted, really seek the one true good, but they do not clearly apprehend the good. Socrates made his point by using an analogy:

> Do men appear to you to will that which they do, or to will that further end for the sake of which they do a thing? When they take medicine, for example, at the bidding of a physician, do they will the drinking of the medicine which is painful, or the health for the sake of which they drink? . . . If a man does something for the sake of something else, he wills not that which he does, but that for the sake of which he does it. . . . Then we do not will simply to kill a man or to exile him or to despoil him of his goods, but we will to do that which conduces to our good, and if the act is not conducive to our good we do not will it.[12]

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[12] *Gorgias*, 467, 468. *The Dialogues of Plato*, Jowett translation, by permission of the Jowett trustees. The Clarendon Press, 1920.

You may wonder how important that ultimate agreement is, if it allows one man to be a Socrates and another to be a tyrant. Well, Socrates thought that if everyone willed the true good, then it might be possible to show those who disagree with us where they mistake the means to that good end, just as it may be proved to an intelligent man who really wants to get well that his favorite patent medicine is not conducive to recovery.

Socrates and Plato contended that Reason could reveal the one true good. Although they did not believe that everyone could exercise his Reason constantly, they did suppose that an adequate basis for moral agreement was inherent in human nature.

During the seventeenth and eighteenth centuries of our era, this psychological proof of a nonrelative morality was rigged up in many interesting guises. There were dozens of treatises which asserted the existence of a mysterious moral faculty or instinct which could inform every man of the universal moral standards. This faculty was identified as Reason, the Rational Will, the General Will, Sympathy, Conscience, and the Moral Sense. Of these we shall expound only the General Will, which was "the discovery" of Jean Jacques Rousseau.

Rousseau said that every human being has several kinds of motives or will. He has purely personal desires, which vary from individual to individual and afford no platform for united action. Every man also has a will as a member of some partisan group; this brings him into harmony with some of his neighbors, but at the expense of disharmony with others. Finally, every man possesses a will as a citizen. It is the will to perform his civic duty. The General Will, as Rousseau named it, is independent of all selfish and partisan inclina-

tions. A man may fail to exercise the General Will, but he can never lose it; he always retains the power of striving toward the public good.

Rousseau issued an eloquent appeal for the abandonment of partisanship, and for the destruction of those institutions which cultivate the selfish will in human nature. He was positive that the General Will might rule the world. All that men needed to do in order to ascertain its commands was to subtract from the sum of their inclinations all private and class ambitions, and, behold, the residue would be the General Will.

Rousseau was, perhaps, the most optimistic of the men who believed in the existence of a unique moral faculty. He anticipated no great difficulty in discovering its commands. Most of the antirelativist philosophers from Plato to the phenomenologists [13] have admitted that the deliverances of Reason or Conscience, and so forth, could be learned only by disciplined investigation. In fact, it was the difficulty of exercising the moral faculty by which they accounted for the prevalence of disagreements among men.

If in all history there had been a plausible proof of only one good which is revealed by the moral faculty, the psychological argument would be much more tenable than it actually is. The trouble was that Reason and the Moral Sense and Common Sense gave different commands to differ-

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[13] The phenomenological method was named, if not invented, by Edmund Husserl, a Freiburg professor, who died in 1939. It is an introspective discipline in which the thinker examines the content of his consciousness in a very detached manner. As the method was used in ethics by Max Scheler and Nicolai Hartmann, it was supposed to be a "reduction" or progressive elimination of all dogmatic and personal bias. When all personal and temporary interests were eliminated, consciousness was said to contain the eternal moral values. These were the universal standards that the ancient philosophers in their best moments contemplated.

ent philosophers. Jeremy Bentham was the man who definitively pointed out this peculiarity of the moral faculty.[14]

Curiously enough, after exposing the weakness of the psychological argument for a universal moral standard, Bentham went on to employ one version of it in behalf of his own standard, utility or pleasure.

> When a man attempts to combat the principle of utility, it is with reasons drawn, without his being aware of it, from that very principle itself. "The principle of utility, (I have heard it said) is a dangerous principle; it is dangerous on occasions to consult it." This is as much as to say, what? that it is not consonant with utility to consult utility: in short, that it is not consulting it to consult it.[15]

Bentham was quite sure that the ascetic, the man who tortures his body, does so because that gives him pleasure. The ascetic, Bentham thought, was simply a deluded or perverted individual who found pleasure in pain. Everyone acted on the pleasure principle, but some men were not enlightened and thus missed the greatest pleasures.

Bentham's disproof of moral relativity after he had apparently discredited the method of disproof is instructive. He describes my intentions in an abstract way, and then he says that I am seeking the abstract description of my intention rather than what specifically I seek. In this way I can be proved to have the same fundamental purposes as a carnivorous, free-trading Englishman and a vegetarian, caste-loving Hindu.

A contemporary example of this tricky argument is

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[14] *Principles of Morals and Legislation*, Chapter II, Section XIV, footnote Oxford University Press, 1907.

[15] *Ibid.*, I, XIII.

Sharp's interpretation of primitive morality. Sharp says that the Fiji Islander who kills his aged parents has the same good in mind as we who support our aged parents. Parent-killers and parent-protectors are at one in seeking advantages or happiness. The Fiji-Islander happens to believe that men carry their infirmities with them into the spirit world, and so the aged parent is assured of greater happiness after death if he dies before he is decrepit. Americans do not hold this belief, and so they think that the prospects of happiness are increased by caring for parents instead of killing them.

> A vast number of the apparent differences between the dictates of our own and the primitive conscience thus represent nothing but differences in conceptions of the effects of actions, and, as such, afford no evidence for the existence of a diversity of moral standards. Many others, again, are due to actual differences in particular situations, in consequence of which a standard that among ourselves calls for one concrete mode of conduct, as the care and support of our aged parents, may elsewhere require, or appear to require, the abandonment of the aged to their fate.[16]

If Americans could just give Fijis an American education, showing them that their next-world story is inaccurate, or if Fijis could give Americans a Fiji education, showing that the story is accurate, why, there would be complete practical agreement. Sharp would have us believe that they agree on ultimate ends, but differ simply on the means.

It is doubtful whether Sharp can explain away *all* of the apparent disagreements about ultimate ends. First, men often feel a duty, although they recognize that contrary action would be advantageous. (See the quotation from Levy-Bruhl.) Second, there is evidence that some myths, such as

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[16] F. C. Sharp, *Ethics*, p. 177. D. Appleton-Century Co., 1928.

the Fiji belief about the spirit world, originated later than the moral custom with which it is associated, and is a rationalization rather than a cause of the custom. Third, it often happens that men verbally agree in principle, but then by their persistent disagreements concerning the application of the principle they show that they value the "applications" more highly than the principle.

Similar futility attends the argument that all men have consciences and that moral disagreement simply presents the problem of enlightening their consciences. It is true that some feelings of *oughtness* are experienced by practically all human beings. But politicians long since discovered that conscience has many voices instead of one. Accordingly, a highly formal description, such as "every man recognizes his duty," falls far short of the practical agreement that is sought —namely, "Every man recognizes the same duty."

This controversy between relativists and universalists has an ironical aspect. It is not an *ethical* controversy. It is a debate over a question of scientific *fact:* "What *do* sundry men believe to be good and right?" The ethical question of policy is this: "What *should* we do about the differences of moral opinion?"

By-Products of the Controversy

Before reviewing these "proofs" of a universal morality we said that they were worth knowing, despite their failure to achieve their objective. They develop a technique for overcoming *some,* but not all, moral disagreements. If we follow the Socratic method, we find ourselves asking: "Is there anything on whose goodness you and I can agree? Is our disagreement about ends or is it about means to a common end? Is there some policy that includes everything

that both of us approve?" This technique of discussion, polished and perfected by the sharpest wits of twenty-five centuries, cannot prove that everyone agrees on every moral question. But this method of reasoning is the cultural invention by which men may learn whether their differences are reconcilable or not. And so, the most highly civilized men, even though they are prepared to fight irreconcilable and irrepressible adversaries, approach new antagonists on the assumption that they can agree on ultimate goals, someone merely being mistaken about the way to reach those goals.[17] It is their policy not only to reason first and shoot afterwards, but also to reason first so as to avoid shooting in the many conflicts where a generally recognizable right may prevail without an unpleasant and destructive use of might.

Exercises

1. In the nineteenth century, a favorite way of denying the multiplicity of moralities was to say that moral evolution was taking place, and that the morality which was latest in origin was best. Lewis Morgan outlined the development of mankind, starting with the communism and promiscuity of apemen, proceeding through the polygamy and limited property rights of nomads to the "highest" stage of civilization: monogamy and private property. Herbert Spencer also constructed an evolution-

[17] William Graham Sumner and most other relativists did not contend that all disagreements are disagreements about ends rather than means. His way of recognizing that some evaluations are more tentative than those just considered is left-handed, but a recognition, nonetheless. "It is only in so far as things have been transferred from the mores into laws and positive institutions that there is discussion about them or rationalizing upon them." (*Op. cit.*, p. 77.) Sumner also observed that customs change, though he insisted that they change slowly and not as the result of a single argument.

ary scheme from low (simple) to high (complex). The principal stages in cultural evolution, he thought, were the nomadic, agricultural, and the industrial. "Now, always and everywhere, there arises among men a theory conforming to their principles. . . . But while recognizing the desirableness of, and indeed the necessity for, systems of ethics adapted, like religious systems and political systems, to their respective times and places, we have here to regard the first as like the others, transitional. We must infer that like a purer creed and a better government, a truer ethics belongs to a more advanced social state." (*Data of Ethics,* pp. 114 and 115.) If Spencer found himself disagreeing with a man about what is good, he asked, "When did our respective opinions first appear?" Suppose the disagreement concerned the duty of almsgiving. Spencer could look into cultural history and say, "The duty of almsgiving is characteristic of a pre-industrial society, whereas my Malthusian condemnation of charity originated in this industrial age. Therefore you have an ethics that is inferior to mine."

What is defective in this evolutionism?

Compare your criticism with that advanced by V. F. Calverton in his introduction to the Modern Library book, *The Making of Man.*

2. What is the difference between admitting that men differ in their moral judgments and saying that "the good is relative to a given individual"? See Felix Cohen, *Ethical Systems and Legal Ideals,* pp. 152–159.

3. Criticize the position of Montaigne. Montaigne says in his twenty-second essay that: "The laws of conscience, which we pretend to be derived from nature, proceed from custom; every one, having an inward veneration for the opinions and manners approved and received among his own people, cannot, without very great reluctance, depart from them, nor apply himself to them without applause. . . . Taking upon me once to justify something in use among us, and that was received with absolute authority for a great many leagues around us, and not content, as men commonly do, to establish it only by force of law and ex-

ample, but inquiring still farther into its origin, I found the foundation so weak, that I who made it my business to confirm others, was very near being dissatisfied myself."

After considering this relativeness of virtue and conscience, Montaigne gives up any further questioning of his own conscience on the ground that "They who give the first shock to a state, are almost naturally the first overwhelmed in its ruin; the fruits of public commotion are seldom enjoyed by him who was the first motor; he beats and disturbs the water for another net." *The Essays of Montaigne,* Cotton's translation. A. L. Burt Company.

4. Can the following statement by Aristotle be accepted by ethical relativists? "Man's end is determined for him by nature, but with regard to the means to that end, these are not determined for us by nature, but are to be discerned by reason." *Nichomachean Ethics,* IV, 1, 2.

5. Criticize: "If I say, 'Birth Control is a good thing,' that is my opinion and not an assertion of fact. It can't be proved. It can't be disproved. So, there's no point to arguing about it."

6. Is Bertrand Russell asserting any more than relativism when he says: "When I say, 'Hatred is bad,' I am really saying: 'Would that no one felt hatred.' I make no assertion; I merely express a certain type of wish. There are no facts in ethics." *Power, A New Social Analysis,* p. 247.

7. Are all arguments about policy a finding of bad reasons for what a man believes on instinct (F. H. Bradley's phrase)?

8. Was F. H. Bradley a relativist? See what he says about the conflict of duties in his *Ethical Studies.*

9. Was J. S. Mill a relativist? See what he says about the proof of ultimate ends in *Utilitarianism,* Chapter IV.

10. At the 1940 meeting of the American Philosophical Association's Western Division Mr. Aldrich contended that "I ought" always means "I would be ashamed not to." Mr. King remarked that drunkenness reduces the sense of shame, and he asked

whether Mr. Aldrich believed that a man reduces his moral obligation (his oughts) by getting drunk.

a. What would you have said in reply?

b. Mr. Aldrich was trying to transform ethical questions into factual questions. In what respects is the question "Ought I to be courteous?" more than a factual reporting of such subjective conditions as shame, fear, or fatigue?

c. Mr. King insinuated that moral obligations are universal, regardless of the fact that they may not be explicitly recognized by everyone. Is our inclination to agree with him due to a confusion of the following questions? (i) "What ought I (in a drunken condition) to do?" (ii) "What do I (sober) believe that someone else (drunk) ought to do?"

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CHAPTER TEN

DISAGREEMENTS ABOUT MEANS AND DISAGREEMENTS ABOUT ENDS

THE distinction between means and ends is the great contribution of ancient philosophers to men who find themselves embroiled in controversy. All of us use the distinction when our policies and proposals meet with opposition. We ask whether the adversary disagrees with our ultimate purpose or whether his disagreement involves nothing more than the means by which that purpose is to be carried out. The means-and-ends distinction has permeated our civilization so completely that without knowing its origin we fall into a kind of Socratic discussion of means and ends.

The practical problems of securing co-operation in worthy enterprises can be solved in many cases by arguing with our opponents until our agreement upon certain common goals becomes apparent. Then the technical question of means can often be disposed of in short order. This sort of clarifying discussion is one of the most remarkable of our cultural possessions.

Is there no ultimate and insurmountable disagreement about *ends*? None, answer most philosophers; at least, that is the answer of the majority of philosophers who lived prior to the nineteenth century. There are still many followers of Socrates who insist that *all* controversies can be settled by argument, if not by demonstration. They have faith that what men "really" and ultimately value is everywhere the same. They believe that certain ends can be revealed by Socratic questioning and that these ends will be common ends, respected by everyone.

Unfortunately, this philosophical faith does not seem to be justified in *all* conflicts of opinion. Ultimate standards and goods that are valued for their own sake are relative, as we saw in the preceding chapter. While Hottentot and Parisian, Russian and American standards happen to agree in some particulars, they differ on some important questions. Even within a political unit, such as the United States, there are clans, sects, and classes that do not share the same ends.

In Chapter Twelve and sequel, we shall examine political methods of dealing with those ultimate conflicts where common purposes cannot be discovered. If there are disagreements that cannot be overcome by Socratic discussion of means and ends, little is gained by stubbornly arguing means and ends in those cases. But we cannot be sure that we are in the presence of such an ultimate disagreement unless we first try argument and Socratic discussion and find that it is of no avail.

Accordingly, in this chapter and the next, we shall discuss ends and means for the purpose of determining the extent of ultimate disagreement. Our immediate subject will be the division of opinion regarding divorce, birth control, female careers, and other sex problems. On these questions

divergent standards seem to be relative to family and religious backgrounds. In the next chapter we shall review the quarrels about medical ethics, in which the opposed standards are probably relative to technological and economic groupings.

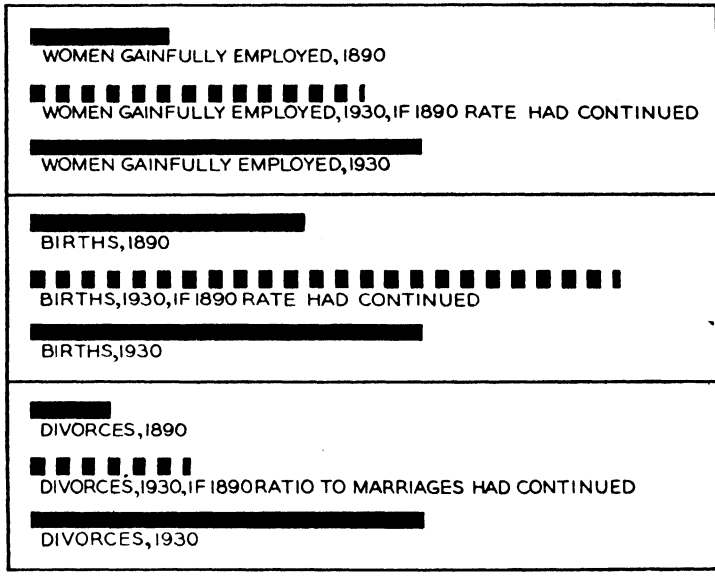
By studying the controversies over sex policies, we may uncover evidence for the following propositions:

1. Despite violent clashes on the question of divorce, and so forth, most Americans agree that health, sanity, happiness, and eugenic procreation are desirable ends of sex regulation.
2. Great numbers of persons have changed their opinions of divorce, birth control, and careers for women, as a result of enlightenment regarding the relation of means to ends.
3. Where controversy continues despite apparent agreement on ends and enlightenment regarding means, we find a survival of traditional taboos. The sciences can enlighten a reflective morality, but they cannot prove the standards of reflective morality to the satisfaction of a person who is controlled by traditional taboos.
4. Taboo morals change in the course of time, but not by the force of logic or of factual evidence.

The Sex Controversies

To introduce the subject of sex controversies one scarcely needs to say that there are wide differences of opinion on sex questions. As soon as one announces his intention to talk about sex, critics begin to protest against any open discussion, especially if the audience consists of both men and women, and most especially if any of them are unmarried. The very idea of treating sex policies as a debatable subject arouses debate. If one goes on to questions about birth control, sterilization, marriage and divorce laws, and prostitution, one expects his closest friends to differ on some points.

These issues are highly controversial because part, but not all, of the civilized world has experienced a radical and rapid change of attitude and practice during the past half century. Vital statistics tell the story. In the United States, as well as in other industrialized countries, the number of children



CHANGES IN THE AMERICAN FAMILY, 1890–1930.

born to each thousand inhabitants is now only half the number born in 1880. Today there is, on the average, one less member per family than there was in 1880. Fairly effective methods of birth control, which were unknown to most people sixty years ago, are now used and approved by the majority of married couples.[1]

[1] A *Ladies' Home Journal* poll in 1938 gave 79 per cent as the proportion of American women favoring birth control. The Gallup poll of July, 1937, recorded 71 per cent. In 1940, Gallup tallied 77 per cent as approving birth control instruction in government health clinics, as compared with 72 per cent in 1938.

The divorce rate has been multiplied by more than three within the lifetime of persons who are still in their prime. In 1889, twenty couples said "I do" to every pair that said "We part." In 1933, there were only six marriages to every divorce in America. The United States "led the world," except Ukrainia, in the frequency of divorce.

Women are deserting the kitchen and the nursery. Whereas the 1880 census found only two and a half million women gainfully employed away from home, the 1930 census gave ten and a half million as the comparable figure. Of these, three million were married women, nearly one eighth of all American wives. Most of the remainder were spending more time away from the household, voting in elections, and participating in many community activities from which women were barred a half century before.

Statistical evidence is not available on the changes in conduct and opinion with reference to many other sex problems.[2] We know, however, that majority opinion has shifted, and that those persons who changed their minds first brought upon themselves heated denunciations. The groups that retained more traditional attitudes toward sex regulations have viewed the record of the last fifty years as a record of increasing immorality. What is being done now is not in accord with the moral standards of our forefathers, and that

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[2] The first state law making sterilization of defectives compulsory was enacted in 1907. Thirty states enacted similar laws within the next three decades. By 1938, more than 27,000 inmates of state institutions had been sterilized. The modern operation for making a person permanently incapable of parenthood is not to be confused with the ancient practice of castration, for it does not cause the patient to lose his capacity for sex relations or to change the secondary sexual characteristics. See "Human Sterilization Today," a pamphlet published and sent free of charge by the Human Betterment Foundation, Pasadena, California. For evidence of changes on the question of extra-marital relations, see *Youth and Sex*, by Bromley and Britten (Harper and Brothers, 1938), and *Psychological Factors in Marriage*, by L. M. Terman (McGraw-Hill Book Co., 1938).

proves (since moral standards are eternal) that we are witnessing the decline of morality. The condemnations of this defection range from moderate rebukes by a Theodore Roosevelt to severe censures by certain Catholic priests and Protestant ministers. Roosevelt, in his very interesting lecture, "The Home and the Child," talked in this vein:

> Multiplication of divorces means that there is something rotten in the community. . . . I do not believe that the question of women's voting is a thousandth or a millionth part as important as the question of keeping and where necessary reviving among the women of this country the realization that their great work must be done in the home . . . this country is beginning to travel the path that France has long been travelling. . . . The first duty of any nation that is worth considering at all is to perpetuate its own life, its own blood.[3]

To remind ourselves of the more violent denunciations, we may quote a few lines from two clerical speeches recently reported in the press:

> We've plowed under the third row of cotton, and I suppose we think it logical to plow under every third child. If we go on encouraging that kind of legislation it will surrender humanity to mere economic laws and make man a mere creature of the state.
>
> The adversaries of Christian marriage have long ago abandoned earlier disguises and are questioning in no ambiguous language all that decent men hold sacred, all that they deem necessary to keep life and love from sinking to the level of animal promiscuity. It is literally a fight for our altars and our fires, which, like man and wife, are too inseparably united to admit of real divorce.

This is ear-burning language, but strange to say, many of those at whom it is directed do not experience burning of

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[3] See *The Works of Theodore Roosevelt.* Charles Scribner's Sons, 1926.

the ears. They may reprove themselves for certain faults, but not for practicing birth control, or for getting a divorce under certain conditions, or, if they are women, for not agreeing that woman's place is in the home. They do not regard some of the recent changes in the family as evidence of the increasing immorality.

Here are several flat contradictions on questions of right and wrong. One party says that it is right to grant a divorce to mismated persons, especially if they have no children. The other party declares that it is wrong to grant a divorce or to seek a divorce under any circumstances. One party approves of using contraceptives to limit procreation for reasons of health and finance; the second party denies that it is ever right to use contraceptives. One party believes that some married women have a perfect right to work for wages; the other party says that these women are neglecting their duties.

Let us now use the philosophical method of distinguishing means from ends, and see whether any of these contradictions disappear. If the controversialists are in agreement upon ultimate ends, presumably some of them are mistaken about the way in which those ends may be achieved. Is birth control an end in itself? Is the abolition of divorce intrinsically good or right, regardless of anything else? Which of the controverted policies are valued merely as instruments, and for what ends do we adhere to them?

As soon as means and ends are mentioned, almost everyone in the United States will say that his attitude on specific practices depends upon some very general principles. For example, he denies that he judges the question of careers for women without referring to something more general than careers for women. One group will say that it is wrong for women to work for wages because that is contrary to the will

of God, or because it undermines the family institution, or because it is a menace to our national welfare. The opposition replies that some wives are justified in working outside of the home because they thus increase happiness, or because this practice stabilizes the family institution, or because it raises the standard of living, or because it removes obstacles to the development of personality. Some feminists will say that it is right for women to work because that is the will of God.

Obviously, there is at least nominal agreement among some of the debaters on the standards by which sex regulations and policies should be judged. Health, happiness, sanity, and adequate procreation are quite generally admitted as relevant criteria. In as much as the "modern" view of sex policies is the one that has made the most converts during the past generation, we shall ask whether the facts bear out the contention that the "modern" policies are the best means to these ends.

The case for female careers, for birth control, and for other reforms, such as liberalized divorce laws, may be organized under three headings:

1. These policies were not motivated by an immoral desire, but were suggested by changes in the conditions of family life.
2. The newer policies are not merely a negation of tradition; they embody constructive rules that guide men to health and other values.
3. Traditional policies in some cases can be shown by scientific observation to result in ill health, unhappiness, dysgenic procreation, and so forth.

Why Some Women's Place Is No Longer in the Home

To illustrate the first proposition, we shall consider the reasons why married women may rightfully follow a trade

or profession. The increase in female employment was noted by President Hoover's Commission on Recent Social Trends. The commission consisted of eminent social scientists, who brought together and interpreted large masses of fact from recent American history. One section of their report dealt with the family, and among other changes they reported the tendency of wives to enter business and the professions. They also observed that women who were not employed were spending less time in the family dwelling. They did not attribute this trend to any malicious plotting by the "adversaries of Christian marriage." On the contrary, the trend was explained in terms of economic change:

> The family is primarily the social organization which meets the need of affection and provides for the bearing and nurture of children. It is sometimes forgotten that it could once lay claim on other grounds to being the major social organization. It was the chief economic institution, the factory of the time, producing almost all that man consumed. It was also the main educational institution. The factory displaced the family as the chief unit of economic production in large part because steam, which took the place of man power, could not be used efficiently in so small a unit as the home. Some of the economic functions of the family were transferred to the factory and the store, although it remains the most important consumption unit. . . . The changes in industry have been more rapid than those in the family.[4]

Behind this summary were many studies of the family's economic history. A recent and readable study of this sort is Margaret Reid's *Economics of Household Production.*[5] Miss Reid contrasts the self-sufficiency of the Colonial farm

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[4] From the official summary, *Recent Social Trends,* p. XLII. McGraw-Hill Book Co., 1933.

[5] Wiley, 1934.

family and the intricate relations of the present-day urban family. She quotes an article from the *American Museum* of 1787 in which a farmer tells how he never spent more than ten dollars cash in a single year. He lived well, though "nothing to eat, drink or wear was bought, as my farm provided all." Miss Reid then tells about the textile industry's growth, the rise of the factory system. The industrial expansion, about which we boast, is shown to have had a disturbing influence on the family. The large factories could prosper only as mothers ceased to weave and spin for their children. Prepared breakfast food factories could market their products only by inducing housewives to stop milling and cooking cereals at home. Furniture factories, flour mills, rug factories, soap works, railroads, and stores flourished as household production declined.

In 1930 farm families consumed only 13.6 per cent of the produce which they raised on the farm. They sold or bartered all of the rest of their crops, and secured in exchange ready-made clothing, factory-canned vegetables, factory-built autos and implements, milled lumber, and even bakery bread. City families were in sharper contrast with the old Colonial households. They bought practically everything which they consumed.

I was going to say that the family has been robbed of its work, but "robbed" would imply that the change was bad, and social scientists try to avoid moral judgments in reporting facts. Let us say that the family has lost many of its economic functions during the past century. Moreover, the family became more dependent upon a *money* income. These economic changes make the "emancipation of women" intelligible. It is unnecessary and superfluous to assume a general decline in morals in order to explain the women's

rights movement. Woman's entry into industry was not due primarily to an immoral desire to evade home duties. Woman's demand for civil rights was not an irreligious defiance of the Biblical injunction, "Wives, be in subjection unto your husbands, as unto the Lord"; nor did it spring from irreverence toward the law.[6] The decline of household production was correlative with the rise of the factory system, which gave women more time for activities outside of the home and at the same time provided both the need and the opportunity for industrial and commercial careers. Women were not drawn away from their home work by pure "cussedness."

Space does not permit the interpretation of increased divorce, birth control, and so forth as social changes that have come about without great antimoral intent. We can only notice, in passing, the birth controller's opinion that the declining birth rate is a reaction to new economic and urban living conditions[7] and to the advance in physiology and medicine.[8]

[6] Blackstone commented on the legal status of women by saying that, in marriage, the husband and wife were one person, and that the husband was the one—"that is, the very being or legal existence of woman is suspended during marriage, or at least is incorporated and consolidated into that of her husband, under whose wing, protection, and cover she performs everything." *Commentaries*, I, 15, iii, 1765. Married women were first granted the right to make a will by the Connecticut legislature in 1809. Thereafter, other rights were added rapidly.

[7] A. P. Herbert, M. P., penned these lines in 1937 when the British parliament had been warned about the declining birth rate:

"They pulled down all the houses where the children used to crowd
And built expensive blocks and flats where children weren't allowed,
And if father got a job there wasn't anywhere to dwell
And everybody wondered why the population fell."

According to Bulletin No. 439 of the U. S. Bureau of Labor Statistics, one-family dwellings comprised 58.3% of all dwellings in 257 American cities in 1921, but only 35.2% of the total in 1928. During the same period the average number of rooms per family also declined.

[8] The lower birth rate may reflect desire for fewer children, but to a considerable extent this desire has always existed, our forebears being simply less

New Commandments

A second reason for denying that morality is disappearing is that new moral rules are taking the place of old ones. The opponent of recent trends is quite right in charging that people generally have grown indifferent to some duties of the moral code of 1850. But this is not equivalent to the charge that the people have grown indifferent to all moral duties. There are many kinds of sex conduct which are strongly disapproved today, and we are told that the contemporary conscience is more sensitive than the old conscience in many respects.

What are the commandments of this new morality? They begin:

Thou shalt not bring children into the world unless thou canst give them a reasonable amount of affection, direction, and opportunity.

This command is not thought of as a policy of race suicide. In defense of it, we are told that fewer births are now needed to guarantee race survival. East, for example, showed that in 1914 Great Britain and India had the same survival rate, although Great Britain had a birth rate of 24 (death rate, 14) while India's birth rate was 40 (death rate, 30).

Thou shalt inform thyself of the physiology and psychology of sex.

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able than we to execute it. Attempts to prevent conception are recorded in every age. See Thorndike, *History of Magic and Experimental Science*, Vol. I, p. 94; Vol. II, pp. 231 and 742. No effective method, except continence, was known until a century ago, but many ineffective methods were used, some of them still being tried, according to reports from clinics. No doubt, many couples who have a reputation for loyalty to the tradition of large families have the intention to limit procreation but are using methods that are about as effective as a medieval recipe reported by Thorndike—namely, "Eat a bee."

Thou shalt submit to medical examination, and, if thou hast syphilis, thou shalt submit to treatment and rigid regulation until cured. If thou hast any other ailment, thou shalt endeavor to have it cured, that thou mayest not be a burden to thy family.

It is pointed out that righteous men in 1850 appear to us as callously indifferent to their responsibility for venereal infection, particularly within the family.

Thou shalt not stigmatize children because of the indiscretions of their parents.

Most of us experience a radical change of attitude when we learn that 65 per cent of the mothers of illegitimate children are between ten and fourteen years of age. (See M. N. Nimkoff, *The Family*, p. 277.)

In thy sex life, thou shalt not be reckless of the mental attitude and the sanity of others.

Thou shalt not persecute grass widows, but thou shalt help them to make a more fortunate match.

Thou shalt not let thy relatives make life miserable for thy spouse.

Thou shalt treat members of the opposite sex as equals, and in thine own household maintain a reasonable attitude on finances, meals, and social life.

Thou shalt think twice before choosing a mate.

Thou shalt not, except under grievous circumstances, live with in-laws.

Thou shalt not mix business and sex.

These moral sentiments refute the charge that the American people are becoming less moral than their ancestors. If many now condone divorces that would formerly have been condemned, if 79 per cent believe in birth control, it is

not because they no longer have consciences, but because in the face of radical economic and political changes their consciences do not dictate the same sex policies any more.

Far from amounting to an acceptance of things as they are, the new morality demands many reforms—for example, premarital medical examinations, uniform marriage and divorce laws, prohibition of hasty and drunken marriages, and education as well as social opportunities to make ill-advised marriage unattractive and unnecessary, removal of the legal disabilities of illegitimate children, economic reform to permit earlier marriage than is now ordinarily feasible, better housing, and so forth.

The Wages of Traditional Righteousness

The third argument in favor of new sex policies is that tradition in some cases destroys, rather than protects, life, happiness, and other goods. Perhaps the best proof of this contention relates to the old taboo on public discussion of sex problems. The ancestors of most of us, at one time or another, condemned the publication of sexual information in books, pamphlets, lectures, and magazines. They also disapproved the conveying of such knowledge in the conversation of mixed groups. This taboo was hardly ever respected to such an extent that no information or misinformation was circulating in the community. Nevertheless, it put a stigma on those who talked openly about sex questions. In the United States this policy was enacted into law. The ordinances of cities and the statutes of many states were written in such a way as to make the publication of almost any sex information hazardous for the publisher. Facts about contraception were singled out as particularly unfit for publication; and Congress acted on the request of An-

thony Comstock to close the mails to contraceptive information. The statute of 1873 put the same restrictions on such material as it put upon obscene and pornographical publications.

Public opinion did not change in this regard as fast as it did on the subject of divorce. In 1906, Edward Bok lost 75,000 subscribers when he published an editorial entitled "Frankness With Children" (on the subject of venereal disease) in the *Ladies' Home Journal.* No prominent newspaper printed the word "syphilis" until 1929, and as late as 1934 the National Broadcasting Company refused to allow Dr. J. L. Rice to use the word in a speech on public health. During the 1920's, when schools began to give elementary instruction in sex hygiene, mating problems, and the facts of procreation, protests were made in the name of morality, religion, and patriotism.

We cannot say that "all this has changed now"; but federal Judge Woolsey lifted the federal ban on sex books that are published in good faith and with serious purpose when he ruled that Mrs. Stopes' *Married Love* [9] was not obscene literature and might be shipped in interstate commerce. Most of the metropolitan newspapers have joined the crusade against venereal disease, and an increasing number of schools, especially of college grade, are imparting medical, psychological, and sociological facts about sex and the family. President Hoover's Commission on Recent Social Trends concluded that there was a great deal of scientific information that should be disseminated.

The new policy has been recommended on the ground that the old taboo is responsible for ignorance which, in turn,

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[9] Eugenics Publishing Co., 1927.

causes needless suffering, ill health, and strains on the family tie. Our society has given the young very little formal instruction in sex. At one time, of course, there was not much reliable information to impart. The young man who had the learned doctor's opinions was not much better off than if he had done his own guessing. Nowadays this is not the case. There is a great quantity of accurate and useful information in the possession of physicians, psychologists, and research men in the biological and social sciences. Consequently, we know that many of the child's misinterpretations of experience and many of the lover's blunders are preventable.

The policy of silence on sex questions leaves millions of persons at the mercy of the superstitious and untrue odds and ends of information which they pick up by hearsay. According to the American Youth Commission's Survey, three-fourths of American young men receive most of their sex education from boys their own age or slightly older. Divorce-court judges, physicians, and clinical psychologists report all sorts of maladjustment which might have been avoided if their clients had acquired just a small bit of knowledge at the right time.[10] The Hoover Commission was aware of these effects of ignorance. Aware also of the decline in the family's nonsexual functions, the Commission concluded that the family's stability depended more and

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[10] See Dickinson and Beam, *A Thousand Marriages*. Williams and Wilkins, 1931; F. J. Taussig, *Abortions, Spontaneous and Induced*. Mosby, 1936; K. B. Davis, *Factors in the Sex Life of Twenty-Two Hundred Women*. Harper and Brothers, 1929; M. W. Dennett, *The Sex Education of Children*. Vanguard Press, 1931; L. M. Terman, *Psychological Factors in Marriage*. McGraw-Hill Book Co., 1938; M. S. Everett, *The Hygiene of Marriage*. Vanguard Press, 1932; B. C. Gruenberg, *Parents and Sex Education*. Viking Press, 1932; Bromley and Britten, *Youth and Sex*. Harper and Brothers, 1938; Burgess and Cottrell, *Predicting Success or Failure in Marriage*. Prentice-Hall, Inc., 1939.

more upon affection and the rewards of the rearing of children; and one way to strengthen these ties is to let men and women know how to live a normal sex life.

Taboo Versus Reflective Morality

In spite of the mountain of evidence summarized by the Hoover Commission and other writers, there are still men who deny that the publication of sex data is conducive to health, happiness, the stability of the family, and the other "common ends." *Common ends* is placed in quotation marks because the persistent defense of traditional silence makes us wonder whether some of the traditionalists are really willing to judge social policies by such standards as health, happiness, and so on. You may have heard William Jennings Bryan's story of the merchant who rebuked his son for not promising a big donation for the construction of a new Baptist church. "Always subscribe to the building fund," said the merchant, "and then fight the location."

It would be unfair to accuse some traditionalists of agreeing "in principle" and then intentionally fighting the accurate application of the principle. It is fair, however, to charge them with valuing the application more highly than the principle. Even though they may be sincerely interested in health, and so forth, they are more devoted to some specific practices and taboos. Some of the traditionalists are apparently unable to deviate from policies which were impressed upon them in childhood, no matter by what standards those policies are demonstrated to be bad. The prevention of discussions about sex, for example, is really an end in itself, and is not valued simply as a means to the more general ends.

When we encounter a belief that is unaffected by inquiry in this way, we are up against a "taboo," a thou-shalt-not of

the primitive, unreflective variety. Originally, according to the anthropologists, all morality was of this sort. Certain actions were proscribed as wrong under any and all circumstances. Their relation to other duties and interests did not affect their status as moral commands. A specified action had the same moral status, always and everywhere, regardless of consequences, regardless of its bearing on policies other than the one directly relating to the tabooed or approved action.

It is perhaps needless to say that moral disagreements on the level of taboo sentiment are irreconcilable by argument or inquiry. Fortunately, American moral sentiments have developed away from the taboo type. Anyone who can sincerely say, "I will approve an action if it makes for peace, sanity, and health," or for any such general purpose, makes agreement through inquiry possible (though, of course, not certain).

Reflective moral standards are nothing new. In the Athens of Socrates' day, as in all complex communities, the customs which determined individuals' evaluations were not all very specific. It can be said that Socrates and the other famous moralists of our civilization—Jesus, Spinoza, Bentham, and Kant—articulated general rules with which their communities were to some extent supplanting old taboos. Examine any of their ethical principles: "Do unto others as you would have them do unto you"; "Treat every man as an end in himself"; "Seek the greatest happiness of the greatest number." The application of these rules will vary according to circumstances. The Golden Rule does not specify that every family shall have five children. It does not mention children. Such particulars are left to the discretion of the person who applies the Golden Rule. The rule is for this

reason not in the same class as the Ten Commandments, which are quite explicit in designating certain acts as always and everywhere right or wrong.

The Socratic teachings about justice and other virtues do not tell anyone exactly what to do. Justice will usually require a person to return borrowed property; but, as Socrates observed, to return a knife to a man who has recently gone mad is not a reasonable application of the rule of justice. To return borrowed property is sometimes right and sometimes wrong. A divorce is sometimes right and sometimes wrong. Imprisoning a murderer, reading a risque novel, telling the whole truth: these and other actions are compatible with our moral principles under some conditions; not so, under others. The righteousness of a given act is relative to what it accomplishes; what it accomplishes depends upon circumstances.

Although the sociologist finds that morality is more reflective in a complex civilization than in a simple "primitive" society, he cannot say that a complex civilization's morality is entirely reflective whereas a "primitive" tribe's morality is entirely unreflective.[11] Variations in the explicitness and detailed character of commands issuing from custom are found in the American community. The marriage of brothers and sisters is absolutely forbidden. This is a specific taboo. On the other hand, both law and morals leave the length of the honeymoon to the individual's discretion (and pocketbook). Similarly, the amount of luxuries which a man owes to his family is not specified. We have some sentiments on the subject, but, instead of determining exactly what should be done, our customs merely lay down a general maxim—"A man ought to be reasonably considerate of the

[11] Evidence against the latter is found in Paul Radin's *Primitive Man as Philosopher*. D. Appleton-Century Co., 1927.

wants of his wife and the necessities of his children." But numerous questions on which we have only a general rule are subject to detailed instruction in preliterate tribes. The savage is told precisely what support he must give to aged parents; in Australia, exactly what part of butchered animals he must give to grandfather, father, and old uncle. He is limited to a particular clan in the choice of his mate. Among the Trobriand Islanders, females must carry any kind of load upon their heads; males must carry things on their shoulders. "Nothing would induce a man to put any load on his head, even in fun," says Malinowski. The difference in reflectiveness between our society and simpler societies is not complete; our morality is *more* reflective and discretionary than the morality of preliterate societies.[12]

The student of our cultural history reports almost continuous shifting in modern times toward the reflective type of morality. A familiar case is the attitude toward women who work outside of the home. At one time, female careers were limited to the stigmatized occupations of domestic service and prostitution. A specific taboo lay heavily upon all women who desired to retain the respect of the community. Today many persons have "some ideas" about careers for women, but whether they approve or disapprove "depends on the individual case."

The rigid taboo system is being supplemented in law as well as in morals. The modern dictatorship is the most extreme departure from the fixed rule. Reacting against "rules without discretion," some nations have gone to the

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[12] The rigidity of a taboo morality and the extreme detail in which it prescribes what shall be done can be seen in parts of the Mosaic law of the ancient Hebrews. See *Deuteronomy*, 15:1; 22:10; 21:18; 23:24; 24:5; 25:4. *Leviticus*, Chapters 12 and 15. *Exodus*, Chapter 22.

opposite pole of "discretion without rules." The dictator exercises discretion, unlimited by rule, and, apparently, in some cases unguided even by a general purpose or standard of judgment.

In the United States, the trend in government is away from "rules without discretion," but not in the direction of completely irresponsible discretion. Our courts and administrative tribunals have acquired power to decide many questions according to their good judgment, but they are supposed to exercise discretion only within the limits set by general policies. The best-known examples of "discretion within the limits of general policy" occur in the law of corporations and labor relations, but the same tendency can be seen in the law of domestic relations. Many judges take the spirit—that is, the general policy—rather than the letter of the law as their guide when they decide questions of parent-child relationship, divorce suits, and other family quarrels.

Conclusion

We must not fall into the old fallacy of trying to prove an ethical standard by the fact that it is popular. And, however much we may admire a reflective morality, we should not try to "explain away" opposition to it. Although a majority of the American people have been gravitating toward a reflective sex morality, important sects remain loyal to the older taboos. Indeed, the most reflective moralist probably has to admit that on some questions he still reacts to certain practices as ends in themselves rather than as means to the general goals of health, development of personality, adjustment to environment, or the public peace.

Over a period of years, the sciences probably have the effect of loosening the hold of ancestral taboos, but their facts do

not prove to a taboo-minded man that any of the taboos may at times be righteously violated. The sciences enlighten a reflective morality, but, however plain they make the means of achieving health, and so forth, they do not prove that health is a more desirable end than maintaining silence on sex questions.

In the controversies over sex policies and regulations, therefore, we cannot hope that argument and discussion alone will bring unanimous agreement on common ends. Everyone has to look forward to political action on some subjects where the co-operation of others is essential to the realization of his moral purposes. Some folks always have to be compelled to co-operate, or at least to refrain from obstruction in the execution of policies. This applies to all of us, whether our policy be one of no divorce, eugenic sterilization, free love, or premarital medical examinations.

In spite of this limitation on the discussion method of overcoming disagreements, it is by talking things over that we learn whether there is any point to discussion. Hence, we achieve two objectives by a Socratic conversation with those who differ with us on sex policies, or any other policies for that matter: (1) We may find out the topics that are subject to such fundamental disagreement that our policies can succeed only by legal coercion. (2) We may identify the ends which we really share with our opponents and by an investigation of the relation of means to ends secure some practical agreement.

The most persistent disagreements regarding sex conduct do not spring from conflicts of economic interest, but depend upon diverse family and religious traditions. This will be a significant fact to remember when we attempt an over-all view of moral disagreements, for we shall next turn our

attention to disagreements that are relative to technological knowledge and economic interest.

Exercises

1. Describe a type of conduct which is approved in one part of the United States and disapproved in another region. How does this disagreement affect your own moral judgment?

2. List some actions which our ancestors believed right, but we believe wrong.

3. List some actions which we believe to be right, but our ancestors considered wrong.

4. Evaluate these proposals for improving the sex life of the community. On what standards do you base your judgment? Are some of your judgments of the unreflective variety?

a. Introduce sex education into the schools.

b. Publicize the facts about venereal disease.

c. Censor plays, magazines, and novels that reveal unconventional sex behavior.

d. Establish uniform marriage and divorce laws.

e. Establish new legal grounds for divorce.

f. Give judges more discretion in divorce cases.

g. Allow public clinics to give out information about birth control.

h. Subsidize early marriages.

i. Remove the legal disabilities of the illegitimate child.

j. Segregate and license organized, commercial prostitution.

k. Put women back into the kitchen.

l. Prohibit gainful employment of married women, if their husbands can support them.

m. Abolish the segregation of the sexes in schools.

5. Which of the common arguments against birth control apply to some but not all of the methods of limiting procreation (continence, abortion, infanticide, castration, salpingec-

tomy and vasectomy, chemical contraception, other methods of contraception)?

6. Bentham denied that the Greek and Roman practice of exposing children was contrary to nature. "Unnatural, when it means anything, means unfrequent: and there it means something; although nothing to the present purpose. But here it means no such thing: for the frequency of such acts is perhaps the greatest complaint." Has Bentham stated the only meaning of *unnatural*?

7. St. Thomas said that suicide is contrary to nature "because naturally everything loves itself, and consequently preserves itself in being, and resists destroying agencies as much as it can." Does this prove that suicide is universally condemned?

8. Name some situations in which most of us are controlled by specific taboos.

9. Have any new taboos relative to family life or health appeared in our society during the past century?

10. Indicate which of the following rules belong to taboo morality and which indicate the reflective type:

a. Thou shalt not commit adultery.

b. The chief end of marriage is not the happiness of the individuals concerned, but their loyal and loving performance of the most important of all social functions, that of the creation of a family.

c. The father is the natural guardian of the child.

d. Think before you drink.

e. Marry in haste, repent at leisure.

f. Eat, drink and be merry, for tomorrow you die.

g. Honor thy father and thy mother.

h. Children should be seen and not heard.

i. All's fair in love and war.

j. Blessed are the peacemakers.

k. Be not yoked with unbelievers.

l. Love thy neighbor as thyself.

m. Spare the rod and spoil the child.

n. If you have syphilis, do not try to treat yourself with patent medicines.

o. Don't buy luxuries on the installment plan.

p. Keep your contracts.

q. Be kind to dumb animals.

r. Children should learn to make their own decisions.

11. Why does or does not the following statement apply to what we have called reflective morality? "It needs no reasoning to perceive that morality is conservatism." *Collected Papers of Charles Sanders Peirce,* Vol. I, p. 359. Harvard University Press, 1931.

12. Name the different languages which we may use in discussing sex. Are the emotional languages suited to ethical discussions despite their unsuitability for scientific discussions?

13. Why are both of these questions objectionable:

a. Are you for or against divorce?

b. Are you for or against appendectomies?

14. Can it be determined in general whether the interests of children are protected by granting or by refusing a divorce to the parents?

15. Which of these values comes first in deciding on the advisability of a divorce, birth control, sex education, and so forth.

a. Public peace.

b. The property institution: clear titles in inheritance and so on.

c. Health.

d. High standard of living.

e. Education and support of children.

f. Perpetuation of the race.

g. Stability of the family as an institution.

16. Is the increase in divorce evidence of a decline in morality? Why or why not?

17. Do sociological studies support laws that grant divorces when and only when certain specified acts have occurred (adultery, cruelty, desertion, insanity, nonsupport, and so on)?

18. Will the distinction between part and whole serve just as well as the distinction between ends and means when we try to classify our disagreements as reconcilable and irreconcilable? See Felix Cohen, *Ethical Systems and Legal Ideals,* p. 48. Harcourt, Brace & Co., 1933.

19. Is it possible to determine whether a person who defies old moral taboos is immoral or whether he is controlled by some new moral standard? Review your opinion in the light of the condemnation and execution of Socrates, who was charged with corrupting the youth of Athens.

20. Does morality change from the taboo type to the reflective type when men stop believing that divorce is always wrong and begin believing that a divorce should be granted to anyone who wants one?

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(*See also* books listed in the footnote on page 213.)

CHAPTER ELEVEN

CONFLICTS THAT GIVE RISE TO MEDICAL ETHICS

ANTITRUST SUIT FILED AGAINST DOCTORS
STAR OF STAGE AND SCREEN LEADS FIGHT AGAINST VIVISECTION
PHYSICIAN DENOUNCES STATE MEDICINE
COURT UPHOLDS VACCINATION RULE
TESTIFIES AGAINST MIND CURE QUACK
UNETHICAL DOCTOR LOSES LICENSE

Once in a while, screaming headlines turn the spotlight of public attention upon the wars of the medical profession. Intermittently for twenty-five hundred years, Occidental physicians have got into trouble with their rivals and their patients. The Medical Code of Ethics and the health ordinances are, in part, treaties of peace stating the terms on which old battles were brought to a close, and, in part, they are declarations of new demands. In no other profession is the word "unethical" spoken so often or so fervently.

Just now the American Medical Association is fighting a combination of laymen and doctors who are urging several forms of socialized medicine. The pros and cons of the controversy have been rehearsed until the issues are fairly familiar to most magazine readers. Following the techniques of ethical discussion, we might expect some agreement to emerge presently. Perhaps it will. There is agreement by all concerned that the most significant end to be sought is health—the health of the community. Nevertheless, if we may judge by the older conflicts of physician and layman, there will be more than technical difficulty in agreeing on the best means of realizing this end.

In the old wars of the profession, health was not the only ultimate value at stake, and the conception of health was not universally the same. In most cases new technologies and new economic interests within and without the medical trade did not affect the whole community simultaneously. Technological and economic interest seem to have noticeable effects upon what men consider good and worth while. As a result, the physician's scale of values has not always coincided with that of the rest of the community.

We shall review the controversies over medical policies, therefore, with an eye on society's division of labor. The key to these conflicts in health policy is technological and professional experience, whereas the key to conflicts in sex policy has been located in differences of family and sectarian tradition and only secondarily in technological invention.

Three periods in the history of medical disputes will be emphasized: (1) fights that arose when new medical practices interfered with old religious beliefs and supernatural technologies; (2) altercations incidental to the development of scientific psychology and its applications; (3) disputes

arising in the recent period of industrialization, when economic relationships were profoundly disturbed and new classes of experts appeared to deal with these disturbances.

Fights with Priests and Populace

We are fortunate in owning rather full records of the secularization of medicine. From these records we derive a detailed picture of how cultural change may take place. The medical beliefs and practices of Occidental men have been altered radically in the last three thousand years, but the alterations have not always been welcomed, nor have they occurred in all parts of society at once.

At the dawn of recorded history the healing arts were practiced by men who were expert in prayer and incantation. In ancient Greece a prehistoric medical culture had been transmitted from father to son in certain families. The practitioners were trained to an art which we should call half practical, half ceremonial. They sometimes practiced at the temples of the health god, Aesculapius. Their skill was supposed to have been imparted by Aesculapius, who, according to Homer, was a chieftain in the Trojan War and learned the use of drugs from a centaur; but later traditions represented him as a god. The medical families claimed descent from this god, and were known as the Asclepiadae.

In addition to the Asclepiadae, who knew some surgery and medication, there were the priests who had charge of the medical temples. They seem to have been acquainted with nothing but supernatural technique.

By the fifth century B.C., many of the Asclepiadae were ceasing to use the supernatural part of their heritage. They were improving upon the old surgical methods; they had invented some new medicines, and they had discovered the

fact that patients recover from some ailments without the help of gods or of men.

Hippocrates was the most renowned leader in this secular movement. Although the oath of Hippocrates begins, "I swear by Apollo the physician, and Aesculapius, and Hygieia and Panaceia, and all the gods and goddesses . . . ," Hippocrates discouraged patients from attending the temples of Aesculapius. A Hippocratic book, entitled *On the Sacred Disease,* gives a matter-of-fact description of epilepsy and argues at length that it is not a case of divine possession.[1]

Hippocrates and his colleagues wrote a number of treatises that are remarkable for their accurate recording of the onset, the symptoms, and the progress of various diseases. A naturalistic attitude was studiously maintained, but prominent in the later works is a speculative theory regarding the causes of sickness. The priests, who were now on the defensive, had a speculative theory about the gods to support their practice of prayers and temple-sleeps. Apparently the Hippocratics felt the need for a speculative theory to justify their practice. In any event, they declared that health is a bodily condition in which four humors or juices are perfectly blended. Blood, black bile, yellow bile, and phlegm are in just the right proportions. Ill health results when there is an excess of one humor. Abnormal mental states are also symptomatic of the disharmony of the humors; hence our reference to persons as melancholic, choleric, phlegmatic, and sanguine.

The interesting thing about this theory is that physicians argued about it among themselves long after they had won

[1] For more details, see W. Libby, *The History of Medicine.* Houghton Mifflin Co., 1922; Sedgwick and Tyler, *A Short History of Science.* The Macmillan Co., 1917.

their independence from the priestly cult. Rival theories were propounded and successive generations of doctors took sides, declaring themselves Dogmatists (as the Hippocratic theorists came to be called), Pneumatics, Methodics, or Empirics.

Readers of medical history sometimes receive the impression that after the first tussle with the Greek priests ancient medicine progressed from achievement to achievement, unhindered by supernaturalism until the "fall of Rome." The impression is not correct. It is true that Herophilus (300 B.C.) successfully removed cataracts from the eye, and Erasistratus invented surgical instruments the like of which are still in use. Marinus (60 A.D.) described seven pairs of cranial nerves (not very easy without a microscope), and Galen (130–201 A.D.) was uncanny in his knowledge of muscle systems and their treatment. These are just samples of medical prowess in antiquity. Yet the "decline" of naturalistic medicine in the later Roman period did not signalize a change in Mediterranean medical culture as a whole. The culture of the populace had never become naturalistic. The "decline" meant rather that the medical profession reverted to the older medical culture, which most of the people had never given up.

By concentrating attention on the most progressive physicians, the reader of medical history may forget that priests continued throughout the ancient period to practice divine healing. He may pay scant attention to the less scientific doctors who stood halfway between the priests and men like Galen. He forgets that Pliny, an educated man, wrote a *Natural History* about 77 A.D., in which wild rose is soberly listed as a cure for hydrophobia because it was miraculously revealed in a dream to the mother of a soldier. He forgets

that abnormalities in man and beast were regarded by the populace as omens; that the scientific attitude of an Aristotle toward sexual and excretory functions never displaced the common belief that they were filthy and sinful. The optimistic reader may not know that most of the educated classes kept on interpreting plagues as divine punishments. He disregards the official opposition to post-mortems and dissection. He overlooks the survivals of older culture in the most "advanced" doctors. Galen, for instance, bled and purged his patients according to the positions of the stars and planets.

For roughly ten centuries (500 B.C. to 500 A.D.), the medical profession had a social heritage quite different from that of other classes in society. The priests championed the prescientific traditions and gave some vocal opposition to the new medical ideas and practices; but the public resisted the new medical lore chiefly by not responding to the arguments and services of physicians.

The main body of popular medical culture did not remain totally unchanged. About 300 B.C., it borrowed some of the astrological lore of Mesopotamia. Thereafter, there was much consulting of the stars by laymen who had tummy ache. Popular beliefs were also affected to some extent by the discoveries of the scientific community; but by and large they changed much more slowly than and in a different direction from opinion within the scientific community.

When, therefore, a priestly class, which was heir to popular culture in medical matters, came into political power during the Middle Ages, the medical profession was subjected to strict supervision.

Dissection was prohibited in both Christian and Moslem countries because it made more difficult the belief in the resurrection of the body. St. Augustine went so far as to

forbid any study of anatomy. A late medieval jingle, called "Mary's Ghost," presents the lament of a resurrected girl. Mary's ghost tells her lover that the arm which used to take his arm "is took to" one Dr. Vyse, her legs are at a hospital, while one of her pretty little feet is in Bedford Row and the other is in the city.[2]

Christian physicians were from time to time required to consult with priests before treating a patient. Pope Pius V, indeed, ordered that no physician give treatment before calling in a physician of the soul, and further prohibited the treatment of any patient who failed to make confession within three days.[3]

From the fourth to the seventeenth century, European physicians were not allowed to attend normal childbirths, the delivery of children being reserved for midwives. Jewish physicians could not be employed by Christians, for Jews were said to conspire with the Devil to produce sickness rather than to cure it. (During the plague of 1348–1349, thousands of Jews were burned as plague spreaders.)

The medical profession fell into such a low estate that it did not resist this regulation for many centuries; and judging by the ignorance of physicians, we may doubt that prior to the twelfth century many lives were cut short by priestly interference.

In asserting the supremacy of supernatural remedies, the church was fully supported by both Mediterranean tradition and the cultural heritage of the northern barbarians.[4]

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[2] See Harvey Graham, *The Story of Surgery*, p. 306. Doubleday, Doran & Co., 1939.

[3] A. W. White, *History of the Warfare of Science with Theology*, Vol. I, p. 37. D. Appleton-Century Co., 1897.

[4] See Charles Singer, *From Magic to Science*. Liveright Publishing Corporation, 1928.

About the year 1000, medical studies were revived in Europe, first at Salerno, later at Bologna, Naples, Montpellier, and Palermo. European students relearned the wisdom of the ancients from teachers who had come from or traveled in the Near East, where surgery and pharmacology had fared better than these subjects had in Europe. By the fourteenth century, the European schools started once more to accumulate new knowledge. The medical profession became more progressive, its heritage including not only a set of prescriptions but also the habit of looking for new causes and cures.

Of course, not all of the men who practiced medicine in modern times were equally progressive. The profession has always had its "old fogies," and occasionally new ideas were greeted with boos instead of a critical, open-minded attitude. For example, Semmelweiss was ridiculed and dismissed from his post when in the middle of the nineteenth century he suggested that internes were carrying infection in a Vienna hospital. Oliver Wendell Holmes was accused of insulting his colleagues when he said that cases of childbed fever were contagious and the result of carelessness.

In general, however, conservatism *within* medical ranks is as nothing compared to the conservatism of the rest of society. Medical ethics demands caution in trying new remedies on patients; but the patients often prefer remedies which were discredited centuries ago. Space does not permit a retelling of the physician's war for freedom to practice without respect for popular lore. Stories of the more dramatic battles may be read in H. W. Haggard's *Devils, Drugs and Doctors* (Harper and Brothers, 1929).

From 1300 until perhaps 1750, the warriors were handicapped by a lack of prestige. Physicians stood quite low in

the social scale. They were often suspected of body-snatching (sometimes correctly); they were accused of making profit out of human misery; and generally they were held in contempt as visionaries or pretenders. The profession was assisted by political patrons in its efforts to rise in popular esteem; it resorted to tricks which have been prestige-winners from time immemorial (retaining Latin terminology, addressing colleagues by title, and appropriating the title "Doctor" from a more reputable profession). But in the main, the handicap of popular contempt was destroyed by spectacular successes in treatment and by the purging of quacks from professional ranks.

The Code of the American Medical Association was adopted in 1847. It bears clearly the marks of its generating controversies. Many of the rules are bids for public confidence. In subscribing to them, the physician promises not to put the desire for wealth above his interest in the patient's welfare. He promises not to betray confidences or cause trouble in the patient's household. He promises not to use his patients as guinea pigs. These and many other provisions of the code are recognition of the demands which laymen had made upon the profession.

Part of the 1847 code is an attempt to unite the profession against the layman, especially the layman who refuses to recognize the medical authority of the regular practitioner. To this end the doctor binds himself not to engage in conspicuous competition (by advertising and by undermining the reputation of his fellow-physicians). He agrees not to wrangle with his colleagues in the presence of laymen. He will not co-operate with quacks. In general, he will promote the prestige of his vocation.

Even after the physicians were armed with prestige second

to that of no other profession, they still had difficulty in establishing new remedies and health habits. Powerful opposition greeted the introduction of anesthesia, vaccination, sanitation, quarantine, and improvements in surgery. The modern public, like the ancient, gave effective resistance to novelties simply by being nonco-operative. So, today, we see children in the last stages of tuberculosis because their parents followed an old custom and gave them grandmother's cough syrup. Victims of syphilis are afflicted by the modesty with which they were trained to regard sex troubles, and they stay away from the doctor's office. Parents of deformed children, relatives of the mentally diseased, and persons suffering from anemia think in traditional patterns that affliction springs from sin. To this day multitudes put their trust in prayer or repair to holy places when medical diagnosis and prognosis do not happen to agree with the patients' preconceptions.

To undermine this popular resistance, physicians have encouraged the belief that health is a medical problem—that is, all kinds of bodily ailments are best handled by their techniques. The statement that health is a medical problem sounds platitudinous, but actually it has many significant implications, as we shall see.

"Medical Materialism"

The claim that health is purely a medical problem endangered belief in miraculous cures. This was obvious in the Montreal smallpox epidemic of 1885. The Oblate Fathers were recommending religious exercises and charms for protection against the plague, as they had done in times past. Medical authorities, on the other hand, urged the citizens to be vaccinated. The Fathers countered by preach-

ing against vaccination. They found convincing arguments in Scripture. Somewhat later the medical men did some preaching. They found convincing arguments—in statistics. The French population, which had for the most part listened to the Fathers and refused vaccination, had by far the highest smallpox prevalence and death rate in the city.

This lesson eventually weaned clergymen as well as laymen away from supernatural techniques in smallpox epidemics. Similar lessons taught them not to depend on prayer for the prevention of cholera. Emperor Wilhelm II made news by forbidding prayer meetings in Berlin during a cholera epidemic; it is now common for churches, no less than other public places, to be closed during outbreaks of certain communicable diseases.

Does this imply universal acceptance of the physician's presumption that *all* bodily ailments are within his jurisdiction? Such a claim is a much more serious challenge to supernaturalism than the superiority over prayer in a few specified ailments.

To buttress the more inclusive claim, many modern practitioners have advanced a materialistic view of man. They have discarded the old theory that man's body is inhabited by an immaterial soul and is subject to immaterial influences, divine and satanic. Their contention has been supported by findings in the sciences related to medicine.

Medical materialism gained plausibility, for instance, when "animal heat" was explained. Animal heat had been regarded as a mysterious entity, a spiritual something. In 1780 Lavoisier proved that it was the by-product of a chemical reaction. The heat and carbon dioxide produced by a guinea pig were different in no qualitative respect from the heat and carbon dioxide given off by a burning candle.

As chemistry improved during the nineteenth century, such bodily processes as digestion were described and explained in chemical terms. But the crucial questions regarding materialism related to mental diseases. Men had been taught that demented persons were possessed of evil spirits or agents of the Devil. When prayers and charms failed to restore sanity, madmen had been scolded and/or beaten. According to the prevailing doctrine, the devils might be made so uncomfortable that they would depart. This treatment of the mentally diseased is now regarded as cruel, but at one time it was motivated, at least in some cases, by the kindest of intentions.

During the nineteenth century, three kinds of evidence accumulated against this "spiritual" theory of insanity. In the first place, a larger proportion of patients in asylums established by men like Gardner Hill recovered their sanity than in institutions like Bedlam (St. Mary's of Bethlehem). In Bedlam, patients received the traditional rough treatment. In Hill's establishment (at Lincoln, England) gentleness was the rule after 1836. From France half a century later came reports of "cures" by men who talked with their patients and got their patients to talk, but usually without any theological references in their discussions. It seemed that if mental diseases were not due to bodily conditions, at least they were not caused by evil spirits.

In the second place, physicians had learned by long observation that many "sinners" and "possessed persons" were suffering from bodily ailments, and that they returned to normal attitudes when they recovered from bodily ailments. (Hippocrates had written a book on the mental havoc resulting from blows to the head.) Today educated people consider it only common sense to give the criminal, the mad-

man, and even the incorrigible school boy a physical examination. If we wonder why someone is grouchy, we may think of indigestion as a possible cause. If someone has delusions of grandeur, we are not too surprised by a diagnosis of syphilis. A lazy person may be anemic; or if he lives in the warmer latitudes, we may investigate the possibility of malarial infection as the source of his unindustrious character. If an aged relative begins to act in some strange manner, we are prepared to believe a physician who says the eccentricities result from hardening of the arteries.

Our great-grandparents were not so willing to consider medical conditions as the causes of "spiritual conditions." We have been convinced by an accumulation of clinical records in which mental conditions are often associated with certain diseases and bodily disabilities.

The third sort of evidence running counter to "spirit" and "soul" theories has come from anatomy and physiology. Spirit theories had been plausible because mental experiences were so much more complex than bodily processes seemed to be. A century ago, unsuspected complexity was discovered in the human body and, particularly, in the nervous system. An improved microscope and new methods of slicing and staining tissues revealed the supposedly simple threadlike nerves as actually bundles of long, tiny cells (neurones). The most complex of the bundles, the optic nerves, consisted of about 100,000 microscopic cells. Bodily structures began to seem as complex as man's mental experiences.

Chains of neurones were shown to be excited when we have certain experiences or when we act. These chains started at some sense organ, led to the spinal cord or brain, then led away to the muscles or glands which were involved

in our action. It was proved that our perceptions, thoughts, and actions depend upon these neural activities. Here was the beginning of an explanation of thought without a soul or "knower." Thought and action were proved not to take place in an instant, but to consume an amount of time which was supposed to indicate the passage of an impulse over the neural pathways. Helmholz measured the speed of the nerve impulse (1850). Much more recently it has been shown that, while working, the neurones undergo some chemical change and give off a small amount of heat.

Furthermore, autopsies of insane persons in some cases brought to light abnormal conditions in the nervous system. Following such leads, brain surgeons have been able to restore sanity to not a few patients by delicate operations, and physicians have had success by treating the nervous system with drugs and chemicals.

Thus far, medical diagnosis and treatment have been satisfactory in only a small percentage of mental cases. The percentage is large enough, nevertheless, to shake confidence in the old supernaturalism at the point where supernaturalism had the strongest hold on the popular mind.

Relatively few physicians have ever been materialists in the sense of favoring the abolition of religion. Most of them do not deny today the value of that part of our cultural heritage in many situations, including the sick room (though they tend toward a naturalistic view of religious rites and believe that psychology can explain what happens). The materialistic medical man has merely claimed that all cases of bodily disorder are proper subjects for medical science and art, and he finds bodily disorder in many "mental" cases.

The battle with priests and with populace has passed its climax. The special cultural heritage of the physician seems

to be appreciated, if not shared, by those nonmedical classes whose health culture possessed greater inertia than that of the doctors.

We now pass to another battle of the profession. In this one it is not clear that conservatism is greater outside of medical ranks than within.

The medical profession claims jurisdiction in all cases of bodily disorder. Antagonized by priestly and popular opposition, some of its members have claimed exclusive jurisdiction. They have taken the view that medical knowledge is the *only* part of our culture which should be applicable to problems of health. This was at one time a revolutionary doctrine; it was the plea of men who were throwing off the restraints of church and public opinion. Is it a progressive doctrine now? Or is it a symptom of cultural inertia within the profession?

Two conservative uses are now made of the belief that health is exclusively a medical matter: (1) It is used to discourage psychologists from entering the field of mental health. (2) It is used to combat socialized medicine.

Relation to the Mental Hygiene Movement

Psychologists and physicians have been somewhat antagonistic to one another for a little more than a generation. Just what started the tangle is a rather long story. Suffice it to say that nearly sixty years ago psychological methods were proved by French and Austrian physicians to be effective in the treatment of certain mental disorders. The method of suggestion was used to free persons of manias and abnormal fears. Hypnosis and psychoanalysis (long, drawn-out conversations) accomplished similar results, and also cured many patients who were suffering from hysterical

maladies. Cases of paralysis and blindness were called *hysterical* if they were of mental rather than organic origin.[5] Sigmund Freud was, of course, the most famous of the mind-cure men.

Psychologists and psychiatrists (medical men with training in psychology) began hanging out their shingles and practicing therapy by their new methods. Some of them were placed upon the staffs of hospitals for the insane. Naturally there were many cases where it was not clear to all concerned whether the patient had an organic or a functional or psychological difficulty. The psychologists were regarded as interlopers, and some of them were accused of quackery. Up to the present moment, the two groups have not lost their professional jealousy, although there are notable instances of co-operation between individual doctors and psychologists.

The psychologists, being a new professional group, have not yet standardized the tests for determining professional competence. They are still divided into "schools" that cluster around leaders like Jung, Thorndike, and others, just as the medical profession was split into schools in ancient times. Present indications are, however, that the psychologists will make their greatest contribution to mental health, not through mind-cure methods, but by preventive work.

The prevention of mental diseases has been the chief motive of the Mental Hygiene Movement, which was founded by Clifford Beers. Beers is the man who, upon release from

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[5] During the First World War, many shell-shocked soldiers could not move an arm or leg or went blind. This was not due to a blood-clot or any other known organic cause. It followed extreme emotional excitement. Some of the soldiers recovered as soon as they were withdrawn from the front lines; others responded to psychological treatment; others never recovered. In no cases were they intentionally "faking."

a mental hospital, wrote *A Mind That Found Itself.* He stimulated popular interest in a constructive attack upon the problem of mental disease.

How much more prevalent mental disease is now than in former times cannot be determined. Half a million patients are now residents in our hospitals and about 75,000 new cases are admitted each year. Recovery rates have improved; but, allowing for the fact that more of the demented were formerly kept at home, there is probably an increase in the total amount of mental wreckage. Many of the 75,000 annual commitments are cases that grow out of medical conditions. What about the remainder?

The psychologists who have led the Mental Hygiene Movement are convinced that many of the nonmedical cases are due to unfortunate experiences during childhood. They have accordingly strived to reform the schools and homes of America so that fewer children are subjected to overstimulation, harsh discipline, teasing, emotional sex instruction (both the prudish and the smutty varieties), jealousies, and so on. They have also urged changes in factories and offices where people work under unnecessary strain. In other words, they have tried to remove the conditions which produce maladjustments in modern society.

The preventive work of the psychologists has occasioned less conflict with physicians than the curative work. The program of reform in family and factory life is less directly related to the medical field. However, even here, some physicians have maintained a pooh-pooh or a sniff-sniff attitude.

We are not saying that medical skepticism is not often justified. The interesting point is that medicine is the "conservative" element; and a new profession plus certain groups

of teachers, social workers, and clergymen are the more "progressive."

Socialized Medicine

The second question on which many physicians now take the conservative side is the socialization of medicine. It is really a very complex set of questions, but the hottest debate is aroused by the abandonment of the fee system.

Traditionally, physicians have charged their patients whatever they saw fit to charge or whatever they thought they could collect for services rendered. Galen had said, "Don't cure anybody unless you have been paid first, for this has been tested in many cases" *(On Medicinal Simples)*. Galen's advice was not generally followed, for it was customary to leave financial arrangements to the individual physician and his patient. *After* rendering service, the practitioner would submit his bill, overcharging the prosperous patient so as to cover the expense of treating the poor patient.

Two historical developments conspired to create dissatisfaction with the fee system. (1) The standards of medical service were raised. Physicians had to undertake more extensive training. Patients expected more attention and the use of new and expensive treatments. Costs were naturally increased. Thus, a person may today suddenly require surgery or medication that costs a hundred dollars or ten thousand dollars. Such an expense does not come with any regularity over a period of years, nor does it hit all families. Ordinarily the patient has not built up a contingency fund to meet such emergencies. Naturally, doctors and patients often find themselves in a predicament when it comes to settling up.

Furthermore, other professions have opened up new possi-

bilities in the prevention of sickness. Engineers, for instance, have invented ways of disposing of sewage, of securing drinking water, and of controlling pestilence-breeding swamps; but their expensive projects cannot be handled on an individual fee basis.

(2) The incomes of the lower economic classes did not increase correspondingly with the expensiveness of medical services which the rising standards made imperative.

Impelled by these considerations, other classes in society and a minority of doctors have tried several systems for regularly budgeting the costs of modern health protection.

In 1883 the German Government under Bismarck inaugurated a system of health insurance. Seventeen other European countries have followed suit. The insurance systems vary in details, but their chief provisions are:

a. Regular deductions from the pay of low-income workers for health insurance (usually compulsory).

b. Medical services for the insured and in some cases for members of his family without further expense.

c. Collection and administration of funds by the government.

d. Designation of certain physicians as agents of the government to care for the insured. In 1931, 70 per cent of all German physicians and 49 per cent of British physicians had been so designated.

e. Payment to the physician of either an annual salary or a fixed fee for each type of treatment.

f. Provisions for hospitalization, likewise without additional cost to the insured.

Another departure from the fee system is contract medicine. By this is meant a contract whereby a group of physi-

cians guarantee to furnish all necessary medical services in return for a regular monthly or annual payment. Contracts of this sort have become increasingly popular among middle-income groups in the United States. The cost in the better-known contract practices (such as Roos-Loos in Los Angeles, Civic Medical Center in Chicago, and Group Health Association in Washington) runs from two dollars per month upward for single persons and somewhat less per person where a family is covered by the agreement.

The last decade has also witnessed the rapid growth of hospital insurance associations. This plan does not affect doctor bills but only hospital charges, and does not therefore challenge the medical fee system as do the systems just mentioned. Hospital plans had enrolled six million subscribers by 1941.

Finally there are the public health departments—local, state, and federal. These agencies served at first primarily as clearing houses of information and as enforcers of sanitary and safety laws. During the depression years, however, municipal and county health departments have given an increasing amount of direct medical care to indigent families. The physicians who are public health officials work on a salary, and those who are called upon for an occasional attendance usually receive a fixed fee.

Just how many doctors approve of one or more of these departures from the fee system is a moot question. The American Medical Association, representing about two thirds of the profession in this country, has approved the hospital insurance plan and the public health services, with some reservations. On the other hand, it has expelled members who engaged in contract medicine, and waged a holy war against governmental health insurance schemes.

A voluminous controversial literature has been created by the A.M.A. and its adversaries. Public debates are numerous. The phrase that appears and reappears on nearly every page of the contentious manuscripts is "State Medicine."

What is State Medicine? Apparently it is a scheme for regimenting the doctors, depriving them of their initiative, and putting them at the command of politicians. State Medicine seems to be a system in which medical men lose their freedom to practice according to their own best judgment. It is the ideal of nonmedical people who want to invade a field for which they are not trained. Social workers, in particular, have aroused the Aesculapian ire; their ambitions are seen in every proposal to socialize medicine. "Sickness insurance offers the most promising field of expansion for the social workers," says the A.M.A.'s Bureau of Medical Economics in a pamphlet, *Sickness Insurance Not the Remedy.*

From the standpoint of a person who wants to know the facts, State Medicine looks like a straw man, bearing little resemblance to the insurance and contract plans which set off the debate. The practical question does not get expressed in "Shall we have State Medicine?" The practical question is: "How much more socialization of the profession is desirable now?" At the present time, medicine is not an unregulated private practice. In addition to the public health services and the contract practices, there is a good deal of governmental regulation. Some of this regulation was imposed at the physicians' request—namely, licensing, compulsory reporting of births, deaths, contagious diseases, gunshot wounds, and so on. Fifteen per cent of American physicians are now working on a salary for the government or for private hospitals and clinics.

As for the interference of other professions in medical matters, the fact-minded observer may wonder why that is so much resented. Some of the problems demand evidence which is not obtained by peering into test tubes or listening through a stethoscope. What is the administrative cost of an insurance system? Does a salary income discourage initiative? How many people in this country have enough income to pay $50 per year for medical services? How many can pay $100? In addition, the techniques which are essential to a program of modern health protection are not merely medical and surgical. The modern community's health problems would seem to call for the skill of the accountant, the legal expert, the social worker, the engineer, and the financier.

There are genuine dangers to the profession in any hasty revision of the fee system, but they do not seem to be constructively discussed in the controversial literature regarding State Medicine. If health is now a field in which several professions must co-operate in order to meet the needs of the people, no very accurate analysis of the problems of co-operation is presented in the popular debates.

Perhaps the explanation of all this will be suggested by a quotation which typifies the irrelevant talk. Dr. W. A. Pusey, an ex-president of the A.M.A., injected this remark into an article:

> We have recently had an article in a well known magazine by a professor in an academic field in one of our medical schools on the beauty of the results of medical practice in present Russia. The gentleman is, I understand, not a citizen of the United States, although he has been a resident here for several years, has communistic tendencies if he is not a frank advocate of Communism,

and is not and never has been, so far as I know, a practitioner of medicine unless perhaps in a sheltered position on full pay.[6]

The remainder of Dr. Pusey's article contains no evidence on the alleged inaccuracy of the "professor's" statements and no explanation of the alleged connection between Communism and the actual innovations in American practice which Dr. Pusey disapproved.

Dr. Pusey would never have been elected president of his association if he had dealt with "technical" questions by waving red flags and hurling personal remarks at his critics. Why the difference? In "technical" discussions there is agreement on ends. The questions are questions of means: how to make the fractured leg serviceable again, how to make the anemic man red-blooded, and so forth. Some men may have pet theories regarding methods, but in a showdown they will give up a method if the evidence shows it inferior as a means; for "their heart is set" not on the method but on the avowed end—namely, to restore health.

In the controversy regarding Socialized Medicine, on the other hand, there is obviously not agreement on the ends. At least, present medical procedures and some of the proposed substitutes are valued or hated for their own sake. Accordingly, nominal agreement on the health of the community as the ultimate goal does not assure us of a matter-of-fact discussion of means to that end.

The Socialized Medicine controversialists are engaged in a political contest with men who disagree regarding the worth of certain practices and institutions. The arguments with

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[6] "The Doctor Looks at Socialized Medicine," *America's Future*, November, 1938.

which they regale their adversaries and the bystanders are battle cries, just as many earlier "medical" opinions were political shibboleths. The contrast in language and cogency between technical articles and controversial articles such as we observed in Dr. Pusey's case is a repetition of an old story. The extreme statements of medical materialism were scarcely comparable to Pasteur's theorizing about germs or Lister's reports on infections. Hippocrates' speculations about the body's juices were not on the same level as his cautious clinical pictures of the stages of disease.

A surgeon, an economist, a social worker, or anyone else who gets into the controversy about socialization can hardly expect some of the issues to be settled by an all-around inspection of factual evidence and by nothing else. The debate is incidental to a political process in which various groups make demands upon one another and get more or less of what they think is good and right. What they consider ethical is determined in some measure by their work and station in society and the extent to which work and station have been disturbed by recent social changes.

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CHAPTER TWELVE

THE DILEMMA OF PARTISANS

WE are now ready to make a few generalizations concerning disagreements about right and wrong. Our previous investigations were confined to controversies over sex policies and medical policies, and now we must ask whether these controversies are typical of disputes over all sorts of policies. When our opinions clash with the opinions of other folks, may we expect through discussion to reach agreement with only a fraction of our conscientious opponents? After all initial fogginess about what we really value has disappeared, and, after certain misconceptions of the means to ends are removed, will we find that we do not have enough in common for practical cooperation with some very sincere human beings?

If good and right are relative to custom and, in a complex society, to station in the community, then some disagreements between classes, sects, and nations are not the result of ignorance or of wickedness. They are not oppositions of good and bad; they are the pitting of good versus good, and

duty versus duty. We face the disquieting prospect of never getting beyond political partisanship and the imposition of plans and policies by force upon those who can honestly claim to be conscientious objectors. The dream of a world that is ruled by right and not by might seems to go up in smoke.

This is the problem of the next four or five chapters. Our first step toward the solution will be to make sure that social and natural conditions do conspire to produce fundamental moral disagreements. For this purpose we shall consult the findings of the sociologists and, in particular, the conclusions of W. F. Ogburn. Ogburn's most comprehensive statement is contained in a book which he called *Social Change*.[1] Although some sociologists took exception to parts of his theory, it has on the whole gained wide acceptance and has served as the framework for a number of governmental investigations.

Social Change and Cultural Inertia

Ogburn begins by observing that all human beings have a social heritage or culture. He does not mean by culture merely the "culture and refinement" kind of culture. Sociologists use the word to refer to all the common traits of a social group that are not biological inheritances. Hatchets and the skill for using them, houses, and slang are as much a part of culture as religious creeds, decorative art, and moral beliefs. In this sense, every human group has a culture with which it endows its children.[2] It is the acquisition of this

[1] Viking Press, copyright by B. W. Huebsch, 1922. Ogburn's theory is outlined in the ensuing pages. The illustrations, for the most part, are the author's and might not, in some cases, be given a similar interpretation by Ogburn.

[2] An English governor may say that the natives of his South Sea province are uncultured, but the primitive tribesmen have a culture in the sociological sense.

heritage that causes the young to behave like human beings, and it is also the most important reason why Chinese do not behave like Greeks and New Englanders do not behave like Southerners.

Ogburn also says that once a culture is established it tends to persist. The inertia of culture is explained by facts which are easily understood. There is the sheer force of habit. We, for example, first learned to talk in the English language and to compute with English weights and measures. Unless we are profoundly disturbed, we will follow those early habits of language and calculation. Only by dire necessity or effort will we talk in Hungarian or compute by means of the metric system.

Cultural inertia is also due to the fact that affections become attached to given ways of doing things. Sometimes the affection is a personal economic interest. The opposition to new construction materials is a case in point. Wallboard eliminates the need for plasterers and makers of plaster. These vested interests, wishing to retain their trade, have city councils pass ordinances outlawing the use of wallboard. But even where a person has no economic interest in the established order, he is likely to value some old ways. I suppose that Irvin Cobb's resistance to a new diet was of this latter sort. He was quoted as saying:

> Now I have to quit eating anything fit to eat, smoke nothing, drink nothing and go to bed at 7 p.m. This is calculated to make me live at least five years longer, but what the hell for I don't know.[3]

Despite the inertia of culture, social changes do occur. Any English-speaking person who tries to read Chaucer

[3] *Time*, August 21, 1939.

appreciates the changes that can take place in a language within six centuries. Stone-chipping was part of the culture of our prehistoric ancestors, but none of us today knows how to make an arrow head. Since prehistoric times our culture not only has lost some primitive arts but also has accumulated most of the skills and institutions by which we live today.

Cultural Lag

Professor Ogburn's contribution to social theory consists of general statements about *how* social change takes place. Although our culture differs from that of our prehistoric ancestors in practically every respect, Ogburn says that culture does not change as a whole: all phases of culture do not change at the same time. By and large, material culture changes more rapidly than what Ogburn calls adaptive culture. That is to say, material possessions and the habits of using them are transformed more readily than the cultural intangibles: government, religion, marriage, and so forth. Inventions, famines and migrations, and changes in climate overcome the inertia of material culture more quickly than the inertia of adaptive culture.

Of course, there is resistance to new technological processes. Farmers were at one time reluctant to use the iron plow, and when they could think of no better reason they claimed that an iron plow would poison the soil. A hundred years ago there was widespread opposition to the introduction of bathtubs and to the new "fad" of bathing during the winter months. But Ogburn's point is that the resistance to changes in material culture is usually less prolonged than the resistance to new adaptive culture. This is well known in the cases of cultural "borrowing." African tribesmen who borrowed the Irish potato did not become Irish in language,

politics, or religion. The American Indians took to firearms and firewater long before they were appreciably affected by the white man's educational and marital institutions. Within our own civilization, it is known that many persons have gone to live in the metropolitan cities, using all of the conveniences and inconveniences of the city but remaining rural in attitudes.

The results of this variation in the rates of cultural change are maladjustments, "social problems," and controversies. Ogburn uses the phrase "cultural lag" in referring to cases where adaptive culture is so slow in adapting to innovations in material culture that serious maladjustments develop. His favorite example of cultural lag is the law governing industrial accidents. Our rapid change to the factory system of economic production was not paralleled by equally rapid revamping of government and laws. The legal part of culture lagged behind the technological. The factory system brought together large numbers of workmen, and these men worked in the presence of dangerous machinery. Ogburn says that by 1870 the industrial accident rate was so high and the resulting misfortunes to workmen's families so severe that the old law relating to the injury of hirelings was clearly unsatisfactory. The old law provided for no compensation unless it could be proved that the employer had been negligent. Such proof was difficult to establish, and thousands of injured workmen and bereaved families were thrown upon charity. The new compulsory compensation laws were not generally adopted until more than forty years later. Thus, there was a forty-year lag in our legal institutions.

The resistance to revision of the law came primarily from

vested interests—that is, the manufacturers, who were able to dodge one of the costs of industry by means of the old laws. But there was also the inertia of people who had nothing to gain by the old arrangement; they were simply letting things ride.

You can probably think of examples of cultural lag which are not primarily cases of vested interest. Opposition to the adoption of standard time is such a case. It had been the custom, since the invention of clocks, for each community to set its clocks at noon when the sun was at its zenith. The sun was at its zenith in Chicago about half an hour after it was in midheaven at Pittsburgh; hence, Chicago and Pittsburgh clocks did not agree. Local time was satisfactory until the introduction of high-speed transportation. Then it became inconvenient and dangerous; and the proposal of standard time was made by an American engineer in 1869. Did Congress rush through the necessary legislation? It did not. There were protests against abandoning "God's time," but for the most part there was indifference. The public was busy with other affairs. Standard time was not adopted until 1883.

A simpler case of lag involved the much lamented habit of blowing out the flame in oil lamps. Through the ingenuity of inventors and promoters, many nineteenth-century communities installed gas plants, mains, and fixtures. People learned to light gas lamps and stoves, but, alas, some of them could not break the habit of many years' standing, the habit of blowing out the light. The maladjustment that resulted was, shall we say, more individual than social.

The maladjustments which we refer to as traffic problems may also be viewed as instances of cultural lag. Somebody

invents an internal combustion engine. Soon a horseless carriage is manufactured. Half of the nation learns more or less skillfully to push buttons and manipulate gadgets on the dashboard. At the same time, engineers and architects are building skyscrapers. Are the city fathers changing the traffic routes? Are the schools building new safety habits? Are lawyers adjusting the laws regarding liability for damages? They are—*thirty years later.*

This sociological description of cultural change does not prove that reformers are always wise and that conservatives are always in the wrong. In the controversies that are generated by cultural lag, many "wild" proposals are put forward for the revision of laws and other institutions. Indeed, the period of lag is often a period of trial and error in which no one can prove just what it is that will bring about a readjustment. What is more important for our purpose, questions are raised as to what kind of life and society may be desirable.

We have already noticed how the industrial revolution and urbanization did not affect all groups in our society in the same way, and how they have quarreled regarding the ends of family life as well as the means of achieving those ends. We have also seen how the medical profession developed aspirations that were different from the desires and standards of some other groups. There are two senses in which society does not change all at once: the various parts of culture undergo transition at varying speeds, the material culture traits usually being the quickest to modify; and the various divisions of the population ordinarily are not simultaneously and identically disturbed by a cultural change, radical differences in desires and standards growing out of differences in situation and experience.

Good Versus Good

Ogburn's description of social change is not entirely acceptable to all sociologists, but it can be taken as representative of a new philosophy of history. Instead of the ancient idea that history is a series of struggles between good people and bad people, the sociologist's idea is that many of the bitterest struggles are oppositions of your group's good and some other group's good. It is no longer good versus bad, but good versus good and evil versus evil.

This cuts directly under the old assumption that every dispute would speedily come to an end if everyone would just think straight and obey his conscience. The old assumption is reflected in a student's comment on *The Curse of Bigness,* by Louis Brandeis. After summarizing the Brandeis arguments for letting banks act as insurance agents, the student offered this criticism: "If banks handled the insurance so well in Massachusetts I can't see why it (the plan) hasn't spread. Mr. Brandeis forgot to answer this." The comment is interesting because it ignores completely the existence of vested interests. From the sociological point of view, we expect such opposition and are puzzled if an important "reform" is quickly adopted.

Political scientists, like the sociologists, tend to describe controversies as oppositions of partisan goods. When they discuss the processes of government, they are apt to say very little about public-spirited devotion to the common good. When they mention someone's appeal to his countrymen to rise above partisanship, the political observer is likely to treat the exhortation as a slogan. The expert observer sees men participating in politics when they are at odds with their neighbors and cannot agree on a common good.

If you object to his portrayal of politics, the political scientist will ask you what, besides sightseers, you see in Washington and the state capitols. You will have to admit that hardly anyone, including the sightseers, seems to be much concerned about "the common good," except as they dress up their partisan causes by identifying them with the common good. You see the representatives of pressure groups lobbying for their own pet projects,[4] and you see professional politicians trying hard not to make too many enemies. The pressure men are deaf to idealistic appeals unless the appeal is accompanied by an offer to roll logs.[5] The professional politician has very keen hearing, but his method of evaluating a proposition is to count the votes that it will win and lose at the next election.

It is possible that a pressure group's immediate interests

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[4] There are thousands of pressure groups which are constantly represented in Washington and intermittently at other seats of government. Here is a handful:

a. Racial organizations: Lithuanian National Council; National Association for the Advancement of Colored People; Polish National Alliance.

b. Religious groups: Board of Temperance of the Methodist Episcopal Church; National Catholic Educational Association.

c. Industrial interests: National Canners' Association; National Association of Manufacturers; Edison Institute.

d. Farmers: American Federation of Farm Bureaus; National Grange; Associated Farmers of California.

e. Labor unions: American Federation of Labor; Congress of Industrial Organizations.

f. Sectional interests: Los Angeles Chamber of Commerce.

g. Professional groups: American Medical Association; American Federation of Teachers; National Educational Association.

h. Miscellaneous pressure groups: Investment Bankers Association; League of Women Voters; Daughters of the American Revolution; American Peace Society; fraternal orders; scientific societies; taxpayers' leagues; consumers' organizations; sportsmen's clubs; and so forth. Each lobby carries a threat to the political future of legislator and political party. It is true that some pressure is faked. Usually, however, the pressure business is no hoax, but comes from a minority that will vote solidly at the next election.

[5] Log-rolling is the practice of trading votes: "You vote for my post office and I'll vote for your tariff."

coincide with the entire community's ultimate good. Perhaps deepening Poky Harbor will strengthen national defense as well as send federal dollars into Poky Harbor pockets. Perhaps bringing the bodies of dead soldiers from France contributed to the general welfare as well as it did to the business of undertakers and casket and monument makers. But it is a bit difficult to see how buying newly mined silver above the market price helped our national trade with China or how it helped the Chinese, as was magnanimously suggested at one time. It is a bit difficult to see in many pressures anything except a contest of minority interests for plunder.

In how many cities have the hearings on all-night parking ordinances been attended by representatives of the hotel association and the garage association and by no one else? How many tariff schedules are fought over by importers and domestic producers, with no one present to speak for 50 per cent to 99.44 per cent of the American people?

Of course, the pressure groups claim to speak for and from public spirit; but do they? The victory of "public-spirited citizens" is visible in every tariff law. It is manifest in the $200 license which Delaware truckers must pay in order to sell food in the Baltimore market. "Public spirit" caused California to prohibit the sale of avocados of low oil content; it was only a coincidence, of course, that California avocados are high in oil, whereas Florida avocados are low. "Public spirit" caused the adoption of practically all of the barriers to interstate commerce, which in recent years have made the United States begin to look like Europe from the commercial standpoint. "Public spirit" shaped the codes for business under the National Recovery Act of 1933. The plumbing fixture code, for instance, prohibited the sale of

grade "B" or slightly damaged pieces. The Darrow reports of 1934 alleged that this was discrimination against the small manufacturers who were then turning out four times as many grade "B" pieces as the big manufacturers. The Darrow reports revealed other special interests in the N.R.A. codes, but every part of the N.R.A. was supposed to be in the public interest.

"Public interest" requires that the freight rate for carrying 100 pounds of cotton goods from Gadsden, Alabama, to Chicago shall be one dollar, whereas the rate from Utica, New York, to Chicago must be eighty-nine cents. The Utica-Chicago haul is longer, but anyone can see the advantage to the country as a whole in giving the Utica shippers a lower rate.

So goes the story of politics. If anyone insists that this narration does not do justice to his participation in politics, he is entitled to a revision if he gives the right answers to two questions: (1) Has he ever participated in politics beyond the marking of a ballot or signing of a petition? (2) Did he ever see his ward committeeman except to "fix" a traffic ticket or to secure more frequent garbage collections in his alley?

The amazing thing about this interpretation of controversies is that it leads us to expect chronic disputes about the value of policies. Even though some controversies die out, others will probably take their places as the tension points in a body politic that is changing by fits and starts and jerks.

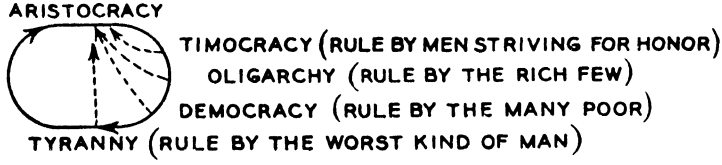
Contrast with Old Philosophies of History

We called Ogburn's theory a new philosophy of history. Perhaps a sociologist does not care to have his theory called a philosophy; but the designation is justified in the sense that

for many contemporary thinkers such sociology crowds out and replaces the old philosophies of history.

As men give up the ancient theories about human history, they take a step which, whether they realize it or not, will call for a rethinking of their own policies toward disagreements; for the old philosophies of history justified and rationalized vigorous participation in moral controversy.

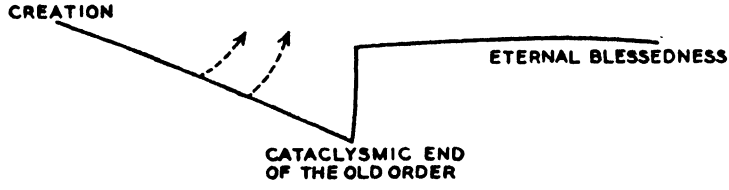
All of the older philosophies of history assumed that there was an absolute moral standard, and that the course of events was moving toward or away from this standard as a goal. The cyclical philosophy, so popular among the Greeks, made such an assumption. As expounded by Plato, it pictured five forms of government, each existing for a time, and, when the fifth expired, it was to be followed by the first. The relation of these governments was that of a series of departures from the best government, aristocracy (rule by the best men), thus:



Plato got his bearings and determined where he stood in the controversies of his time by contrasting current opinions with the principles of perfect government (aristocracy). Even though it might be impossible to put into practice the policies of perfect government, Plato believed that in thought a good man could always strive after the good, and thus avoid being swept off his feet into aimless bickerings and contentions.

The Hebrew and Christian philosophies of history (with

a few exceptions) were pessimistic about the attainment of the good in the visible, natural world. At least, they usually depicted man as "falling" from the good state of divine grace, and they thought of earthly affairs as steadily deteriorating. The later Hebrew prophets, however, looked forward to the coming of the Messiah and a cosmic readjustment in which men would be restored to a state of goodness. The Christian theologians anticipated the second coming of Christ, which should be the signal for the saved to begin enjoying a completely blessed existence and for the damned to do the reverse. Regardless of the temporary badness of earthly life, both Hebrew and Christian moralists contended that "spiritually" the faithful could enjoy the vision of perfection and act with reference to the immutable laws of God. In the accompanying diagram, the solid line represents the actual course of secular history, and the dotted line represents the progress of the faithful, at least in spirit, to the perfectly good state.



This picture was changed for most of the educated classes in Europe and America during the eighteenth century. The trend of history was no longer downward. The cult of progress came into vogue. But still historical changes and the struggles incident thereto were oriented by reference to a supposedly fixed standard. Now it was supposed that

man had begun to climb at some time in the past, and with some reversals was proceeding toward a perfectly good life.



The eighteenth-century interpretation of social change and struggle as progress was in the minds of many nineteenth-century thinkers who seized upon the doctrine of evolution, and identified evolution with progress toward the good (Spencer, Fiske, and so on). However, it was in the nineteenth century that forerunners of Ogburn's theory began to appear. These are distinguished from the above-mentioned philosophies by their omission of any explicit reference to an eternal moral standard.

If the sociologist were to chart the course of social history, an upward movement would not necessarily represent a victory for absolute righteousness, and a downward movement would not represent a victory of wickedness. They would simply be changes in direction, and the sociologist would be surprised if in nearly every case the outvoted or overpowered minority did not include many intelligent and sincere persons who would look upon the change as evil. Many disagreements about what ought to be done are, from the sociological point of view, clashes of duty versus duty, good versus good, right against right. Clarification of means and ends, mutual understanding, will not in those cases remove the conflict. If one party succeeds in achieving its goal

and doing its duty, it will be over a protest and sometimes over a dead man's body.

The Dilemma of the Partisan

What should you do about these apparently irreconcilable differences? Suppose that you have recognized the relativity of ends. No amount of Socratic argument will unite you and some of your opponents in the pursuit of a common good. Society is divided not only on immediate plans but also in ultimate objectives. Some men prefer freedom to security; others prefer the reverse. Part of humanity longs for "material enjoyment"; part regards it as sinful or at least unimportant. One fraction of mankind considers monogamous marriage and certain family customs as fixed ends in themselves; the other fractions do not. Some men will sacrifice anything to preserve their national or racial institutions; others will not. If you believe that some of these disagreements will survive any debate, what ought you to do about it?

To place these alternatives before yourself, call to mind your opinion on the publication of sex information. You and your opponents cannot both carry out your respective policies. It is impossible that sex books shall and shall not circulate freely in the community. If you believe in the publication of such material, will you pass laws to keep your adversary from interfering? Will you force him to be tolerant? Or, if you believe that such publications are sinful, will you try to pass laws to make them illegal? Will you force your opponents to refrain from doing what they regard as a duty?

On first consideration, logic seems to call for the appeal to force. Even though a controversy is an opposition of good

versus good, it is your good versus some other good. No one may be the representative of a universal good; everyone may be a partisan in two senses. He may be an advocate and he may also be a contender for something less than a common good. Nevertheless, *your* duty is your *duty*. You should try to realize your ideals in the face of opposition, even though the opposition consists of sincere people. You should adopt the necessary means to your end, and coercion may be necessary. It is because of such unyielding disagreements that we have to have governments and to use force.

And yet . . . and yet . . . many perplexed relativists wonder whether they will not discover that the execution of most policies in the face of such opposition will not prove too costly. In view of the extensive divisions of mankind, unqualified devotion to almost any cause promises to embroil them in war. Vigorous partisanship in behalf of one good raises the spectre of class warfare. Another ideal takes us in the direction of sectional or international strife. Still other aspirations can be realized only at the risk of personal conflict in which conquests may be made but friendships and peace may be lost.

The trouble is that few men are so single-minded that they can with a clear conscience risk everything else for the sake of any one good. So the relativists face this dilemma: Either they importune and coerce recalcitrant parties or they do not. (1) If they act forcefully in behalf of their ideal, they sacrifice peace, good will, and other things that they value. (2) If they do not act forcefully, they fail to advance the cause that they regard as just and right. Therefore, they either destroy much that is good or fail to achieve much that is good.

If *A* recognizes that his own good is opposed to *B*'s good,

he invites a conflict in his own conscience, for *A*'s conscience tells him to respect *B* and *B*'s convictions and to maintain peaceful relations with *B* at the same time that his conscience tells him to defeat *B*'s ideal.

Chapters Thirteen and Fourteen will deal with the two horns of this dilemma. Modern philosophy has produced champions of both alternatives. By examining their choices you may be helped in making a wise choice. Before analyzing the dilemma in more detail, however, you may want to make sure that it is a real dilemma.

No Escape Between the Horns

At the present time there is a school of sociologists who claim to have escaped between the horns of the partisan's dilemma. They assert that it is possible to achieve a non-partisan point of view, despite all that is known about the relativity of ordinary moral and factual judgments.

The sociological avenue of escape has been popularized in this country by Karl Mannheim's book, *Ideology and Utopia.* Mannheim admits that every thinker is limited by the preconceptions and motives of his cultural group and social class. Nevertheless, he says, a sociologist may study the ideologies or culturally limited views of all classes and nations. By becoming an observer of all other men's knowledge and opinions, the sociologist gets into position to interpret one group's ideas to another. As interpreter, he rises above merely partisan points of view.

Now there is much truth and no little wisdom in Mannheim's book. He describes quite accurately some of the difficulties of interclass communication and co-operation, and there is no doubt that the sociologist is able to surmount some

of them. But does the sociologist attain a perfectly nonpartisan view? Is he freed from the partisan's dilemma?

It is true that a social observer "rises above" certain common conflicts. He may observe the scramble for seats in an overcrowded street car without taking sides. He does not frown at the big bruiser who pushes past the poor old lady. He may not smile approvingly at the gentleman who gives his seat to the mother who is struggling to hold a dozen packages and seven children. The observer sees the situation as a case of social maladjustment. He sees the larger problem: the provision of more adequate street car service. He may lose interest entirely in the immediate conflict. So far he may preserve his nonpartisan attitude.

What happens when the observer starts to do something toward the alleviation of this social maladjustment? Say that his findings convince him that adequate street car service is dependent upon a new method of financing. Is he nonpartisan when he proposes the adoption of the new method of financing? Perhaps most of the street-car riders will be able to appreciate his plan, whether they are seat-grabbers or frowners-upon-seat-grabbers. But the erstwhile observer now faces bondholders and bankers and other people who have ideas about finance. If the social observer has a point of view that transcends partisanship, he loses that unique position as soon as he steps out of his role of mere observer and comes forward with suggestions for the solution of a social problem. The social scientist will find himself squarely in the partisan's dilemma when he faces the bondholders and, maybe, a Communist or two. Even though he speaks in behalf of "society as a whole," the good which he seeks will be opposed, very likely, by the good of the bondholders and others.

Anyone, be he social scientist or unscientific, will encounter these irreconcilable oppositions if he tries to do something and is not content merely to observe. In his own eyes he may be guided by the purest motives, by the good of all mankind, by reason, or by conscience. But when his conscience goes counter to someone else's conscience, conscience will act the tyrant (from the other person's point of view).

> From the throne of omniscient judgment it annihilates its enemies and intimidates the world with its ought and its ought not; and it follows hard upon its verbal thunderbolt with the artillery of action, clearing a path for duty by coercion.[6]

Short of coercion, there seems to be no way of securing practical co-operation in the execution of some vital policies. Appeals to reason, conscience, sympathy, and other "moral faculties" are futile at times; if there is a universally identical moral faculty, it is too weak to be counted upon.

Here again is the partisan's dilemma. Conscience dictates action; but action for many causes in this split-up world requires coercion and other tactics at which conscience itself balks. So the option is: (1) duty and the sacrifice of many goods, such as peace, or (2) the enjoyment of these goods and unfaithfulness to duty.

Despite his pose as impartial observer, the sociologist is no more successful than other men in escaping the condition which he himself reported—namely, that social change generates controversies in which good is opposed to good and duty to duty.

Exercises

1. Are all of the philosophies of history discussed in this chapter challenged by Voltaire's dictum: "History proves that any-

[6] T. V. Smith, *Beyond Conscience*, p. 353. McGraw-Hill Book Co., 1934.

thing can be proved by history." *Essay on the Morals and the Spirit of the Nations from Charlemagne to Louis XIII.*

2. What is the difference between cultural inertia and cultural lag?

3. Would Socrates, Rousseau, Bentham, and other philosophers previously mentioned admit that anyone is in the partisan's dilemma? (See Chapter Nine.)

4. Mention some cases of cultural inertia in the history of science, religion, education, race relations, and the family. In which cases would you say that there was cultural lag?

5. Does the author claim that all controversies are oppositions of good and good?

6. How does the conflict of *A*'s good versus *B*'s good result in the partisan's dilemma in which one of *A*'s goods is opposed to another of *A*'s goods?

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CHAPTER THIRTEEN

BEYOND CONSCIENCE (1)

TO live in a world of radically disagreeing camps and classes is to experience the divided conscience which we have called the partisan's dilemma. On some questions there is no plan, no ideal that does not arouse conscientious objections from some quarter; and so any line of duty will require such a beating down of opposition as a civilized conscience can hardly approve. In a word, there are situations in which no one can accomplish anything very good without fighting, and our conscience tells us that fighting is bad. We are damned if we do; and we are damned if we don't. Like the patriot, Lawrence of Arabia, we may go about blowing up Turks and deceiving Arabs for the sake of an ideal; and then we shall toss in our sleep, conscience-stricken by the methods that we have employed to achieve our end. Or we may, like Charles Francis Adams, neglect our positive duties; and then the virtue of being agreeable will presently sour with the remembrance of duty undone.[1]

[1] See T. E. Lawrence, *The Seven Pillars of Wisdom.* Doubleday, Doran & Co., 1935; and *Charles Francis Adams, 1835–1915; An Autobiography.* Boston, 1916.

What is the relation of morals to politics? Some men, noting that conflicts of consciences necessitate the more forceful ways of politics, jump to the conclusion that conscience has no place in politics. By politics they mean those social interactions in which opposing parties and nations try to make their respective ways prevail. *Political morality* impresses many observers as an impossibility. As long as one is dealing with relatives or clansmen with whom one is in fundamental moral agreement, conscience is a satisfactory guide. But since the appearance of deep divisions in society and since the rise of the institutions of state and class, these immoralists or amoralists contend, it is necessary to go beyond conscience in one's conduct.

Political immoralism takes many forms, and I do not claim that all of the forms are alike. But at the risk of appearing dogmatic, I do assert that everyone who tries to limit the authority of conscience in politics is disturbed by the fact that conscience urges respect for two sorts of values. If I were a nineteenth-century German philosopher with a faculty for inventing faculties, I should say that there are two consciences, the conserving conscience and the ambitious or reforming conscience. Being what I am, I shall say that most civilized men are trained to respect and conserve certain good things that are already in existence, and they are also trained to seek and honor certain ideal goods that are not yet realized in society.

To be specific, every child is taught to treat at least some persons with respect. He is taught that he should be considerate, and that means that he is to allow others to enjoy their possessions and their enterprises. He learns to respect their wishes and their convictions. The virtues of kindness, tact, and so forth, imply that men are not to be kicked around

or used as mere tools. Furthermore, every child is trained to enjoy such friendships and common interests as may exist in his community. He is brought up (with rare exceptions) to value peace not only as something good in itself but also as the condition on which many other institutional goods are contingent. Peace and such other good things as already exist are not to be destroyed. These are the elements of conscience that are conservative; they conserve what is valued in the world as it is.

On the other hand, nearly everyone is educated to be dissatisfied with the world as it is. Fairy tale, sacred scripture, and parental grumbling present pictures of an ideal society and a life that is superior to the present existence. Personal frustrations intensify the belief that the world and the people in it are not what they should be. Class relations are unjust; they should be rectified. International relations are dishonorable; they must be changed. Men are only half-alive and are missing much that is worth while; life must be made more abundant. Opportunities for improvement go begging because humanity is at cross purposes; men must be united in the pursuit of a common good. These are the typical reforming deliverances of conscience.

As we saw in earlier chapters, there are fundamental disagreements in a complex society about the unattained goals which should be reached. So it is that the reforming conscience cannot be obeyed without defying the conservative conscience. The world cannot be made better unless in such matters as already existing friendships, peace, and so forth, it is made worse.

Of course, quite a few persons never articulate this conflict within their own moral sentiments. They blunder along in their political life, aware that something is not right, but unable to say why so many plans appear to be both right and

wrong. If my guess is correct, they respect unrealized ideals and they also feel obligations toward the goods which society has already achieved, goods that would be jeopardized by effective pursuit of the unrealized ideals.

In the history of ethics, especially in recent times, we find many thinkers in whose minds this conflict between conserving values and seeking unattained values has become fairly articulate.[2] The remaining pages of this chapter will be devoted to men who tried to suppress or explain away the conservative impulses of conscience. We shall concentrate on three thinkers, Machiavelli, Nietzsche, and Marx. Each of them argued, in his own way, that it is better to break the peace and betray friendships than to acquiesce in things as they are. If men and existing institutions are obstacles in the path that leads to a world more to our liking, the men and the institutions should be destroyed or coerced, even though conscience prescribes loyalty to institutions and respect for the dignity and rights of men. We shall try to understand the cult of violence. In the succeeding chapter, we shall then examine the other alternative—namely, the conservation of existing institutionalized values at the expense of reforms which are commanded by the partisan conscience. Thus, we shall explore the partisan's dilemma: first, going beyond the conservative part of conscience, and then going beyond the reforming part.

Niccolo Machiavelli (1469–1527)

Without doubt the most famous political immoralist is Machiavelli, a Florentine politician, who lived amid the tur-

[2] Some of the arguments about the ethics of the right and the ethics of the good seem to spring from this conflict. (See Chapters VI and VII; also J. H. Tufts, *Creative Intelligence*, p. 372 ff.) Further discussion of this point would take attention from our present analysis, and so it is mentioned merely as a suggestion for further study.

moil of revolution and counterrevolution at the turn of the sixteenth century. Although he was not very successful himself, he wrote several pieces which he intended as manuals for successful rulers. Of these, *The Prince* is the most renowned, although *The Discourses* are considered by some students to contain the more acute observations.

The ruler should, according to Machiavelli, be guided by completely nonmoral principles and considerations. In a typical statement, he tells his reader:

> It is unquestionably very praiseworthy in princes to be faithful to their engagements; but among those of the present day who have been distinguished for great exploits few indeed have been remarkable for this virtue or have scrupled to deceive others who have relied on their good faith.[3]

Machiavelli calmly discusses assassination as a means of obtaining and keeping power. "Anything goes," and his admiration is excited the more by extreme violations of conscience, provided only that the trick is successful. Expediency becomes the supreme rule in politics. Do whatever circumstances make necessary. Get what you want in any way that you can get it. You ought not, in politics, to do what, according to conscience, you ought to do.

Exactly why a political aspirant should be so unscrupulous is not always crystal clear. A superficial reading of Machiavelli gives one the impression that he is simply a bad boy who has decided to behave immorally. Many of his pages make no reference to a morally sanctioned end that is to be served by his cutthroat methods. If that is all there is to Machiavellianism, if politics is viewed as a contest between your desires and my desires, then immoral political tactics are

[3] *The Prince*, Chapter XVIII. Philip Allan and Co., 1925.

no more than a plain violation of the moral code. In that case, the dilemma of good versus good and duty versus duty, about which we have been talking, has no bearing on Machiavellianism.

Probably Machiavelli never attained more than a confused consciousness of the duty-versus-duty dilemma. Almost certainly, some Machiavellians have thought of themselves as restrained and directed by no critical standards. Their breaking of contracts, laws, and promises and their betrayal of friendships, their use of brutal coercion served no more than their own uncriticized desire of the moment. The defiance of what we called the conservative parts of conscience was in some instances not justified by a reformer conscience. Thus, Joseph Goebbels, Nazi minister of propaganda, wrote:

> It is always easier for a rich man to be moral and law-abiding than a poor man. A rich man does not need to steal bread. At the same time the worst sticklers for morals are apt to be the very ones who led the wildest and most disreputable lives in their youths.

Goebbels went on to say that the English, being rich, no longer needed to steal.

> But we are virtually forced to use such methods. We could not do otherwise. We do it not out of insolence, but only because we want to live. That, however, has nothing whatever to do with the morals on either the British or the German side.[4]

Mussolini also seemed to express sheer opportunism when he said:

> We wish to rule over Italy. People are always asking us about our programme. There are too many (programmes) already.

[4] Reported in the *Voelkischer Beobachter* and quoted by Wallace Deuel in a dispatch to *The Chicago Daily News*, March 25, 1939.

Italy's salvation does not depend on programmes, but on men and strong wills.[5]

Despite the Machiavellian's apparent lack of interest in reforms that would improve the world, he is usually not utterly undiscriminating and whimsical in choosing the ends for which he defies conscience. Mussolini spoke of "Italy's salvation," and Machiavelli himself finally justified rapine and treachery by the need for national peace and security from foreign marauders.[6] Most of the self-confessed Machiavellians have been nationalists, who set supreme value upon a strong state. Most of them lived in times of considerable disorder and blamed the lack of peace upon the weakness and indecisiveness of existing governments. A strong national government seemed to them an "Open Sesame" for every good thing. Granting that Machiavellians sometimes act from no principle at all, we are inclined to believe that sometimes their willingness to destroy such peace as already exists springs from devotion to the public peace. Thus, respect for peace, which usually dictates conservatism and opposition to reform, becomes part of a reforming conscience and sometimes justifies violation of the conservative part of morality.

Two questions may be raised in criticism of Machiavellianism. First, does the end justify the means? Let us agree that public peace and order constitute an indispensable condition for the enjoyment of many goods. Still, is this end more valuable than the things which are destroyed in "all-out" warfare? If for the sake of peace and order we sacrifice friendship, good faith, and our aversion to murder and

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[5] Quoted by K. Mannheim, *Ideology and Utopia*, p. 119. Harcourt, Brace & Co., 1936.

[6] *The Prince*, Chapter XXVI.

duplicity, not to mention the lives and happiness of our enemies, there comes a point where it is proper to ask whether there are any goods left for peace and order to underwrite.

John Dewey has said, in opposition to the Jesuit form of Machiavellianism:

> Certainly nothing can justify or condemn means except ends, results. But we have to include consequences impartially. Even admitting that lying will save a man's soul, whatever that may mean, it would still be true that lying will have other consequences, namely, the usual consequences that follow from tampering with good faith and that lead lying to be condemned. . . . Not *the* end—in the singular—justifies the means; for there is no such thing as the single all-important end.[7]

Of course, if Machiavelli and his followers do not pretend to be acting rationally or for any *good* end, they are not bothered by this criticism. But anyone who claims that he is making the world better by throwing off the restraints that conserve what is good in the world as it is always assumes the burden of proof. He must prove that the good gained will exceed the good destroyed, and this is hard to prove in view of the destructiveness of war, anarchy, and civil commotion.

The second critical question that confronts the Machiavellian is this: Are you sure that moral means will not achieve your end? The answer is usually a fatalistic acceptance of the defects of human nature. Machiavelli's contemporary, Guicciardini, wrote:

> He errs who thinks that the success of enterprises turns on their being just or unjust; for one sees the contrary every day, that

[7] *Human Nature and Conduct*, pp. 228–229. Henry Holt & Co., 1922. The Jesuit form of Machiavellianism is the slogan: "The end justifies the means." This slogan was used by Jesuits in the seventeenth century when they condoned vice and trickery in order to keep the church from antagonizing immoral men. Their end was to keep these men from leaving the church.

not the just cause, but prudence, force and good fortune bring the victory.[8]

Guicciardini's spiritual descendant, Mussolini, declared in 1921: "Men are not brothers, neither do they want to be, and evidently they cannot be." Two years later he added:

I see the world as it actually is: that is a world of unbridled egoism. Were the world a pastoral Arcadia, it would be a very pleasant and beautiful thing to spend the time among the nymphs and shepherds. But I do not see this Arcadia. And even when I look at the great flags of great principles fluttering in the wind, I do not fail to perceive that behind those flags, more or less hallowed, are hidden egotistical interests seeking their place in the sun.[9]

The force of these statements is that moral methods of persuasion and legal action are doomed to failure because most men are incapable of responding to an ideal. Because common human motives are not 100-per-cent simon-pure altruism, therefore successful action must appeal only to fear and the basest incentives.

No one claims that men are angels; many non-Machiavellians, who accept value-conserving restraints, recognize that politics can hardly ever be perfectly moral. Old John Adams, for example, grumbled:

That the first want of every man is his dinner and the second want, his girl, were truths well known to every democrat and aristocrat, long before the great philosopher Malthus arose to think he enlightened the world by his discovery.[10]

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[8] *Ricordi politici e civile*, CXLVII. Quoted by H. Taylor, *Thought and Expression in the Sixteenth Century*, Vol. I, p. 96. The Macmillan Co., 1920.

[9] Quoted by Mario Palmieri, *The Philosophy of Fascism*, p. 82. The Dante Alighieri Society, Chicago, 1936.

[10] The reference to Malthus is misleading if you are unfamiliar with his doctrines. Malthus was not a Machiavellian, but emphasized the importance of food and reproduction as determiners of social welfare. His main thesis was that population tends to increase faster than the food supply.

Yet John Adams and many other "realists" did not suppose that the world therefore had to be ruled by ruthless and unrestrained force. Because men are not perfectly moral and perfectly rational, we cannot therefore infer that they are completely immoral and irrational. The fact that we are not angels does not prove that we are beasts.

The Machiavellian usually counters by begging the question. If you ask him why certain nations respect treaties or why there is no assassination, Jew-baiting, or ballot-box stuffing in some communities, he will not admit that moral motives had anything to do with these cases of restraint. He will say that either no one had the power to do these things or no one was smart enough to think of them. Every political action, no matter how idealistic in pretense, must have a base motive. If an attorney general advanced his own political fortune by prosecuting bribe takers, that must have been his only interest in the prosecution. In this manner the Machiavellian "explains away" any appearance of virtue.

If a man must be completely disinterested personally in order to have moral or idealistic motivation, it is indeed true that few individuals and no groups have ever acted morally in their dealings with political opponents.[11] But the Machiavellian is illogical and unfactual when he asserts the bestiality of human nature and the necessity for bestial controls on the ground that men are not Arcadian shepherds.

In summary, we criticize Machiavellianism first, because unrestrained fighting is likely to destroy more values than it creates, and, second, because the Machiavellian underesti-

[11] It is a curious fact that the Machiavellian refusal to call conduct moral unless it is entirely free from selfish motives resembles the simon-pure moralism of Rousseau and Kant. The political realist uses his definition to prove that morality is impossible. Idealists like Kant used the definition to condemn plans of action that fell short of conceivable perfection.

mates the reforms and improvements that can be accomplished without violating the value-conserving restraints of conscience. Of course, we recognize the fact that many Machiavellians and, in some passages, Machiavelli himself did not claim to be doing good by doing bad things. Nevertheless, when we take at face value the Machiavellian's interest in preserving peace and order, he shows us what is likely to happen when we choose one alternative in the duty-versus-duty dilemma. Anxious to make the world better in one respect, we make it so much worse in other respects (the respects in which existing institutions are good), that the destroyed values will outweigh the created values.

Friedrich Nietzsche (1844–1900)

In turning our attention from Machiavelli to Nietzsche we pass from the contemplation of a cool calculator of political immorality to a fiery foe of common morality. Nietzsche never entered the deeper morasses of politics, for his career as professor of classical philology was interrupted only by periods of military service and poor health, and his ideas gained no more than literary recognition, and that only a few years before he died. His fierce diatribes against ordinary decency and virtue, however, have already become slogans in the mouths of men of action; and no one can now be sure that Nietzsche will not become the most famous political immoralist before his ideas have run their course.

Nietzsche was never the mere opportunist that a Machiavellian sometimes appears to be. He had positive ideals, and it was for their sake that he envisaged bitter-ending conflict. In his eyes the best life is lived by strong men who achieve great things in government, art, war, and science. Their

lives are unique; there is nothing mediocre or typical about them. They depend upon themselves and not upon God, institutions, or other men. And what do they seek? The supermen do not seek comfort or comfortable pleasures. They seek Power and more Power. Their only policy is the Will to Power, Self-assertion.

Nietzsche realized that anyone who tried to live this kind of life would have to fight his own conscience as well as much of the civilized world. He proposed to win the first victory over conscience by going "beyond good and evil." This could be accomplished by understanding the nature and genealogy of morals. The moral conscience which restrains the potential superman Nietzsche identified as the voice of the herd, the trick by which men who are naturally slaves and weaklings shackle the strong.

Nietzsche traced in his unsystematic way the history of morals,[12] and tried to prove that common morality originated among the Jews, who were weak and unhealthy and did not have a normal will to power. Their slavish point of view was foisted upon strong men in the form of a religious morality, and the rise of Christianity was the greatest triumph of slave morality. By praising humility, patience, obedience, and asceticism they made a virtue of weakness. By morally training the young, they imparted to otherwise normal individuals this inverted sense of values, and the strong man's conscience is thus the slavish herd's most potent weapon.

Christianity was not the only enemy of Nietzsche's aristocratic ideal. He found democracy with its levelling tendencies equally objectionable. The "absolutely gregarious animal, . . . a pigmy with equal rights and claims," which

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[12] *The Genealogy of Morals.* The Macmillan Co., 1924.

was "idealised by the socialistic fools and shallow-pates"[13] struck him as complete degeneracy.

If a healthy, power-willing man understood that his own conscience was a weapon of the slaves, Nietzsche thought the healthy man would cease to be affected by it. "The great epochs of our life are at the points when we gain courage to rebaptize our badness as the best in us."[14] Thereafter the aristocrat, the best of men, would not be intimidated by cows, Christians, shopkeepers, and democrats. He would not let himself be seduced by women or sickened by priests. He would become ruthless in the quest for power and great achievements in the arts. Undeterred by the herd instinct, the superman would experience a "trans-valuation of all values." Virtues, happiness, goodness, and all the other paraphernalia of morality would be rejected or subordinated to a nobler ideal.

Although Nietzsche writes as if conscience would evaporate in the superman, he characterizes the superman's goals as *noble* and *best*. He specifically denies that "we immoralists" are men without duty; the duties of the aristocrat are simply too "delicate" to be detected by "clumsy spectators."[15] Some commentators will disagree with my interpretation of Nietzsche (that is to be expected in the reading of an ecstatic, unsystematic writer), but I believe that he very neatly illustrates one choice in the good-versus-good dilemma. Nietzsche tries to act entirely by his reforming conscience. He preaches devotion to values that are not now realizable in established institutions. He sees that such devotion is in-

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[13] *Beyond Good and Evil*, section 203. Zimmern translation. The Macmillan Co., 1924.

[14] *Ibid.*, section 116.

[15] See *Beyond Good and Evil*, section 226.

hibited by common decency and virtue—that is to say, by reverence for values that are found in existing institutions.

Whether Nietzsche's history of morals is quite accurate need not detain us. Whether any real people are as power-lusting as his supermen or as slavish as his slaves may also be overlooked. The lesson that Nietzsche drives home with reference to good versus good is that anyone who chooses to fight *uncompromisingly* for a good that is not sanctioned by established institutions must cultivate ruthlessness and indifference to the feelings of his opponents. He must abandon the love of ease and friendship and peace. He must become single-minded to a degree that the average person might call maniacal. In a word, the men who wish to reach unpopular goals must remove from among their affections all of those inconsistencies which result from sympathizing and associating with human beings whose character and lot in life differ from their own.

Karl Marx (1818–1883)

In several ways Marx resembles neither Nietzsche nor Machiavelli. He was a tireless fact-finder. He was contemptuous of both politicians and literary men. He championed the herd and fought the aristocrat. He hated nationalism. But in his war against the propertied class, Marx adopted as unscrupulous a policy as Nietzsche urged the masters to use against the slaves or as Machiavelli wanted to employ against disturbers of the peace. Croce somewhere calls Marx "the Machiavelli of the proletariat," and he might also be called "the Nietzsche of the masses."

Marx believed that economic changes generate uncompromisable conflicts between classes. In modern times, he said, new means of production had created the capitalist class.

By the nineteenth century, the capitalists had virtually annihilated the medieval nobility, but they had created new antagonists, the propertyless workingmen.

Society as a whole is more and more splitting up into two great hostile camps, into two great classes directly facing each other: Bourgeoisie and Proletariat.[16]

Since the bourgeoisie wished to exploit the proletariat and the proletariat did not wish to be exploited, all chances of appeasement were nonexistent.

The capitalist maintains his rights as purchaser when he tries to make the working day as long as possible. The Labourer maintains his right as seller when he wishes to reduce the working day to one of definite normal duration. There is here, therefore, an antinomy, right against right, both equally bearing the seal of the law of exchanges. Between equal rights force decides.[17]

Marx scoffed at those who quoted Plato, Rousseau, Kant, or Hegel on the possibility of peacefully reconciling these differences. The state, however organized, could not provide a just and impartial settlement of the class conflict. The power of the state would be exercised in a partisan interest as long as there were any fundamental disagreements in society.

Political power, properly so called, is merely the organized power of one class for oppressing another. If the proletariat during its contest with the bourgeoisie is compelled, by the force of circumstances, to organize itself as a class, if, by means of a revolution, it makes itself the ruling class, and, as such, sweeps

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[16] *Manifesto of the Communist Party.* C. H. Kerr and Co., 1902.

[17] *Capital,* Vol. I, p. 259. Moore and Aveling translation. C. H. Kerr. and Co., 1909.

away by force the old conditions of production, then, it will, along with these conditions, have swept away the conditions for the existence of class antagonisms, and of classes generally, and will thereby have established its own supremacy as a class.[18]

Pursuant to this belief, the Communist Party tried after the Russian revolution of 1917 to abolish not only the capitalistic type of economy but also the old political, religious, family, and literary customs which were said to be by-products of capitalism. Persons who resisted these changes were liquidated by firing squads or sent to Siberia. This was, of course, a repetition of the revolution of 1905; the victor and vanquished roles were simply reversed.

Now why do some men, who are very "mad" at their adversaries, hesitate to embark upon the program of "liquidating" the opposition? Why do some men—who have no hope of converting their antagonists—restrain the hotheads on their side? This restraint is not always chickenheartedness. It springs rather from inability to divide all humanity into two camps *à la Marx*. Although consciences contradict one another, the consciences that contradict mine on labor questions may agree with my conscience on international, religious, or marital issues. Many of our allies are allies only in part, and many of our enemies are not total enemies. Hence, if we start liquidating the economic opposition, we shall be destroying those who support us in other causes. Economically we are antagonistic to some of our relatives, fraternity brothers, neighbors, and colleagues in numerous enterprises. The evidence in Chapter Five showed that even in economic disputes alone the alignments are complex rather than simple. Tariffs, wages, centralization of management, and other issues do not divide society into two

[18] *The Manifesto of the Communist Party.*

compact groups. Each of these questions of policy divides the community along unique lines.

It must be admitted that before Marx the importance of economic disputes was seldom recognized.[19] Certainly many persons do not realize today how class conflicts cut across national and religious loyalties. Furthermore, there are undoubtedly some economic conflicts so desperate that the disputants are not unreasonable in subordinating all other interests to the economic. But most human beings cannot commit themselves to a class war of *extermination* because, if successful, such a war would sacrifice more peace, more family interests, more personal friendships, and more national and religious values than they are willing to give up for the sake of economic righteousness.

Such qualms of conscience were dismissed by Marx as a sign of ignorant enslavement to the ruling bourgeoisie. He thought that in a capitalistic society morals, religion, patriotism, art, and "science" are all parts of an "ideology" or complex of protective ideas by which property interests color our mental processes. Marx urged that conscience and its many loyalties be repudiated in a relentless drive for economic justice.

Marx was twitted for using moral terms like "justice" after damning morality as an instrument of class warfare.[20] Apparently he overstated his beyond-conscience doctrine. He talked as if an enlightened proletarian would go beyond all *oughts,* whereas his position seems to have been that the

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[19] John Adams and James Madison had stressed the primacy of economic interests in political quarrels, and Harrington, a seventeenth-century Englishman, had given an economic interpretation of history. These men, however, were exceptional.

[20] See Sidney Hook, *From Hegel to Marx,* p. 218.

proletarian ought to disregard only those *oughts* which protect the capitalist class and prevent the establishment of a classless society.

No doubt, some of us will have to admit after thinking about the matter that we have done less than our duty in economic reform. But it is one thing to say that economic issues are slighted; it is quite another thing to say that economic issues are the only issues that deserve attention and effort. The study of Marx's doctrine is instructive, for it shows the antagonism of the conservative and the reforming consciences. To do *everything* that can be done to rectify economic injustices, one must treat all other controversies and social alignments as by-products and incidents in the one all-inclusive class struggle. In becoming a complete political immoralist for the sake of reform, one must assume that humanity can be divided neatly into two opposing camps. With one of these classes, the unscrupulous fighter must have nothing in common; with the other class, everything in common.

The Marxist brand of political immoralism is not refuted by the historical fact that the majority of men feel some sympathies that interfere with economic warfare. Marxism is not disproved by the fact that European socialists preferred national to class loyalties in 1914.[21] Marxism is not disproved by the fact that Russia experienced severe political

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[21] Prior to 1914, European socialists had generally agreed among themselves that, if war came, they would support the nation whose victory would least impair the interests of the proletariat. Within a few weeks after the beginning of hostilities, practically all of them had acted on this principle. The German and Austrian socialists saw that a victory for Czarist despotism would retard socialism, and they supported the Central Powers. The British and French socialists realized that a victory for Prussian militarism would mean the end of socialism, and they threw their support to the Allies. National loyalties seem to have been more powerful than class loyalties.

conflicts after the capitalists had been liquidated.[22] Ultimate loyalties, such as we have been discussing, are not subject to "proof" in the scientific sense.

Nevertheless, refusal to jeopardize all of the values of existing institutions for the sake of economic improvement cannot be explained as mere ignorance concerning class conflict. When we study social change, as Ogburn and other sociologists have done, we understand that economic changes generate opposing moral codes and ideas of justice; but we also see that social change causes noneconomic cleavages in society: linguistic, national, aesthetic, familial, and religious. Our failure to reduce all controversies to one controversy between two classes is not due to a mere lack of information. In spite of our knowledge about cultural changes and their divisive effects, or perhaps on account of it, we respect some of the conserving impulses of our conscience. Many of us knowingly refrain from the most violent economic reforms out of respect for the noneconomic goods that we share with our economic rivals.

Summary

We have now examined three expositions of the unrestrained, partisan way of life. Machiavelli was, in some moments at least, dominated by the urge to establish a strong government and to combat both anarchy and foreign conquerors. Nietzsche was uncompromising in his quest for an aristocratic, power-seeking career. Marx demanded the abolition of economic class distinctions. The aims of the

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[22] Trotsky was driven from Russia and finally assassinated; Trotskyites were executed. Of course, Stalin said that Trotsky had sold out to the capitalists, and Trotsky said that Stalin was going capitalistic.

three men were diverse. Yet the three men were alike in realizing that a campaign for the complete victory of their reform values would involve them in bitter-ending war. They decided that their cause justified the cost, and each tried to doctor his own conscience. They squelched that part of their consciences which respected their opponents and such tranquility and security as existing civilization offered.

Anyone who criticizes this revolutionary devotion to unattained values can formulate three or four questions about its wisdom:

1. Does the end really justify the means? Is the reform likely to outweigh the common interests that are destroyed by unscrupulous, unrestrained partisanship?
2. Are the adversaries so "bad," are the clashes of desires and the moralities that are relative to different stations so complete, that methods that are short of completely political immoralism will fail utterly?
3. Is there any one ideal that is absolute in the sense that duties connected with it are unaffected by duties toward other ideals?
4. Is there any one division of mankind that erases all other divisions?

There is no final demonstration that will prove to the last Greek and to the last barbarian that war is futile. Only a small fraction of mankind has ever seen fit to taboo violence and ruthlessness under all circumstances. The fact that a man thinks twice before fighting his opponents does not make it impossible for him to go beyond that part of his conscience which respects institutionalized goods. But ethical criticism does place a heavy burden of proof on the reformers, the revolutionists, and the patriots who believe that they have a duty to take up the sword or the poisoned pen.

Exercises

1. Write an essay on the moral aspects of human nature, taking cognizance of the following quotations:

From *Morals in Evolution,* by L. T. Hobhouse, p. 23: "A rule of conduct may be a genuine expression of what people actually feel and think, or it may be an ideal bearing as little relation to common practice as the Sermon on the Mount to the code of the Stock Exchange. . . . This broad distinction we must keep in mind, if we would not immensely over-rate the morals of the civilized world, which, unlike the savage and barbarian world, has almost invariably a double code, one for use and the other —as a cynic would say—for ornament."

From *Soldier's Pocket Book for Field Service,* by Lord Wolseley, p. 69: "We will keep hammering along with the conviction that 'honesty is the best policy,' and that truth always wins in the long run. These pretty sentences do well for a child's copy-book, but the man who acts upon them in war had better sheathe his sword forever."

From *Die Idee der Staatsraison,* by Meinecke, p. 38: "Hitherto the ethic of plunder has been consciously administered only in marginal cases and has been confined to the ruling groups. But so far from this element of violence and the ethics on which it rests waning with the democritisation of society, it becomes the publicly acknowledged philosophy of the whole society."

From G. Stanley Hall's *Jesus Christ in the Light of Psychology,* p. 117, quoting Baumgarte of Kiel: "Christ's train of thought cannot be accepted as being applicable to Germans. His realm of peace and love is impossible as an historic development and has nothing whatever to do with political and public matters."

From Stuart P. Sherman's *The Genius of America,* Charles Scribner's Sons (1923), the chapter on "The Shifting Centre of Morality," which tells about the unscrupulousness of nice people.

From M. C. Otto's *The Human Enterprise* (F. S. Crofts & Co., 1940), p. 45, what a former student told a professor: "I have tried your theory of life and it doesn't work. Either you are ignorant of what the world is like or—forgive me for blurting it out—you

are lying in your teeth. The thing to do if you want to get on in life is to draw the blood from your veins and fill them with ice water, remove your heart and put a cash register in its place, and for the idealizing human brain substitute the cunning brain of a fox. That's the thing to tell college students if you want to tell them the truth."

See W. B. Pitkin's *The Psychology of Achievement,* p. 362.

From Clarence Ayres, "The Gospel of Technology," *American Philosophy Today and Tomorrow,* Kallen and Hook, editors, Lee Furman, 1935: ". . . most of the men whose statesmanlike skill in playing the institutional game have won them the accolade of genius have been cynics and 'opportunists'; they have had no illusions about their countries or their parties or their corporations, but have merely bargained with fate."

From Benjamin Franklin's *Autobiography,* p. 50: "So convenient a thing is it to be a reasonable creature since it enables one to find or make a reason for everything one has a mind to do."

From T. W. Arnold, *The Folklore of Capitalism,* pp. 13–14, discussion ending: "No rage is equal to the rage of a contented right-thinking man when he is confronted in the market place by an idea which belongs in the pulpit; and this is as true of organizations as it is of individuals." Yale University Press, 1937.

See F. C. Sharp, *Ethics,* pp. 117–119, "The Influence of Egoistic Interests upon Eudemonic Judgments." D. Appleton-Century Co., 1928.

2. How do you decide whether your policy shall be to act hypocritically—that is, profess one standard and act by another?

3. Carl Schmitt says that politics is war. Conflicts become political when they become struggles for existence. In politics, he goes on, there is neither good nor bad, but only friend and foe. Are these statements true by definition or by evidence? Classify conflicts into two groups: those that are political in the foregoing sense and those that are not. Then draw a conclusion.

4. Comment on Etienne Vacherot's thesis that a thing to be perfect must not exist.

5. Write a few paragraphs for or against the proposition: "Might makes right." After you finish, ask yourself whether you have dodged the issue by arguing that might and right are not really opposed in the long run.

6. Did Theodore Roosevelt effectively criticize the "Beyond Conscience" people in his essays entitled "The Labor Question" and "Realizable Ideals"? *The Works of Theodore Roosevelt,* Vol. XIII, pp. 481 and 614. Charles Scribner's Sons, 1926.

7. It has been charged that Plato's ethics is a rationalization of aristocratic class interests, that Hobbes' ethics is a rationalization of the interests of the Stuart party during the English civil war, that the evolutionary ethics of Spencer and Fiske was a rationalization of the industrialists' interests, that Calvin's ethics was a rationalization of the interests of the new bourgeoisie in his day, and so forth. If these charges are true, and if we do not belong to the classes mentioned, should we expect to reject the standards contained in Plato's and the others' systems?

8. The Russo-German nonaggression pact of 1939 was looked upon as a thoroughly Machiavellian "deal." Are there any such alliances between former enemies, either national or domestic, that you approve?

9. Is there any philosophy which may not be used as a hypocritical cloak?

10. Do you think Hugo Grotius stated a practicable ideal when he described a system of restraints on warring nations? Is there any practicable policy between the extremes of unrestrained warfare and pacifism? See his *The Law of War and Peace.* Cambridge University Press (1853). The general tenor of the book is indicated by this passage from section 28 of the Prolegomena: "I saw prevailing throughout the Christian world a license in making war of which even barbarous nations would have been ashamed; recourse being had to arms for slight reasons or no reason; and when arms were once taken up, all reverence for divine and human law was thrown away, just as if men were thenceforth authorized to commit all crimes without restraint."

11. Comment on the argument that strife is not inevitable, even though men are not strongly motivated by a desire for the common good. See the following for explanations of the benevolent possibilities in selfishly motivated conduct:

B. Mandeville, *The Fable of the Bees.*

H. Cumberland, *A Treatise on the Laws of Nature.*

J. Bentham, *Introduction to the Principles of Morals and Legislation.*

Adam Smith, *The Wealth of Nations.*

Herbert Spencer, *Social Statics.*

M. P. Follett, *Creative Experience,* p. 84.

12. Criticize the thesis that a moral motive must be entirely disinterested. For traditional discussion of this, see:

Shaftesbury, *Characteristics of Men, Manners, Opinions, Times,* Vol. I, pp. 97–98, and Vol. II, pp. 58–59 and 251–279.

Balguy, *The Foundations of Moral Goodness* in L. A. Selby-Bigge (ed.), *British Moralists,* Vol. II, pp. 526–583.

13. Do most people take a Machiavellian attitude toward those who are branded as criminals and perverts?

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Plato, *Gorgias,* 482–484; *The Republic,* 336–352.

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CHAPTER FOURTEEN

BEYOND CONSCIENCE (II)

WHEN we see the evil that reformers and revolutionists do, we are tempted to renounce holy wars, crusades, and reforms. There seem to be too many kinds of human beings and too many sacred cows in the world to make possible anything but a Pyrrhic victory for many of our ideals. Socialist, individualist, democrat, single taxer, Christian, Moslem, suffragette, German, American, nudist, puritan, atheist, graft-fighter, or however we may classify ourselves, we are ambitious for ends that cannot be universally established without the kind of fight that threatens to destroy civilization.

What would happen if we did not insist on having things the way that appears right to us? Would much be lost if the reforming conscience were dethroned? These questions are not idle speculations, for they suggest the attitude of millions who are content to let well enough alone. Millions go about their daily routines without much ado, and they do not hope

to right the wrongs of life. In this popular indifferentism, conscience is deadened or reduced to a pious and meaningless little ritual.

The abdication of the reforming conscience has been recommended by a number of philosophers who, however, did not sanction quietism. Soon after the year 1800, a German thinker, Hegel, had an inspiration in which he saw how conscience could stop trying to rule the world and yet the world would not go to pot. The partisan conscience, he said, always gives an *individual's* idea of right policies. It may be that above the individual's ideas there is an institutional idea which is better than any individual's conception of what ought to be done.

Then, more recently, some American philosophers, who were known as *pragmatists* or *instrumentalists,* have played with a similar possibility. Although they objected vehemently to some of Hegel's institutionalism, they agreed with him that the world might fare better if I were not so zealous in behalf of the good *as I see it.* Whereas Hegel had emphasized the *I* in this phrase, the pragmatists emphasized the present tense of the verb, *see.* It is not the good as I see it now, but the good as I *shall* see presently that is the worthy end of effort. This is the key notion in the ethics of John Dewey, the leading pragmatist.

Both the Hegelians and the pragmatists challenged the right of the individual's existing sense of values to judge policies and direct conduct. Both schools urged a transcending of existing consciences whenever fundamental moral disagreements develop. Because they are easily confused with popular apathy and dullness of conscience, these systems of ethics need fuller exposition. First we shall discuss Hegelianism and then Pragmatism.

G. W. F. Hegel (1770–1831)

Hegel was a professor of philosophy in Germany during the period when Napoleon was master of Europe. The titanic struggle for power and the momentous changes of the day seem to have given Hegel the idea that history has a dramatic character. This notion was reinforced by his acquaintance with the historical research for which German universities were then becoming famous. He was deeply moved by the rise and fall of rulers and by the rise and fall of cultures. Hegel came to believe that the endless oppositions of finite men and ideas must point toward some final goal. What a waste of energy and what needless suffering unless there were some purpose behind it all! But the purpose must not be the purpose of the fighting gladiators. Although each partisan in the age-old battles had thought that he was battling for eternal right, there were many mutually contradictory "eternal rights." Viewed historically, the timeless ideals of the partisans were short-lived incidents. There was a kind of irony in history, for however world-shaking one party imagined its platform to be, another world-shaking platform would presently make it appear outmoded, if not trivial.

Might there not be a really eternal principle which all of the partisans served but which none of them could fully comprehend? Might not the ultimate right be such that no man could find it in his conscience? Hegel decided that this was the case. The individual's private conscience always misses the true good.

What might this true good be? Impressed, perhaps, by the need of a strong Prussian state to prevent another Napoleonic episode, Hegel concluded that this ultimate right was

the development of an institution, the State. This was the "meaning" of history. He saw in all bloody conquests and unscrupulous politics the triumph of the State, the State which should finally bring order into the lives of its subjects.[1]

Hegel inferred from the disagreements and conflicts of human consciences that men ought to discount their partisan ideas of justice and ethics.

> At one time a lengthy discussion was held with regard to the opposition between morals and politics, and the demand was made that politics should be in accordance with morality. Here it may be remarked merely that the commonweal has quite another authority than the weal of the individual, and that the ethical substance or the state has directly its reality or right not in an abstract but in a concrete existence. This existence, and not one of the many general thoughts held to be moral commands, must be the principle of its conduct.[2]

Hegel's language is obscure, but he is telling us that our private consciences are not competent to judge what is right in public affairs. Hegel had the idea that society would disintegrate and be chaotic if men followed their reformer consciences in politics. Conscience may be as destructive of the public good as the individual's basest desires. He went on to say that the individual citizen simply does not grasp the highest ideal. The highest ideal is expressed only in the State. A dictatorial monarch, in spite of personal short-

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[1] Hegel's institutionalism envisaged the ordering of domestic affairs, but did not anticipate the cessation of international wars. When it came to international relations, Hegel was not very different from Machiavelli. He was willing to sanction the bloodiest policy toward foreign powers. He did not glorify war for its own sake, but he saw no alternative. There was no super-state to act as judge over nations.

[2] *The Philosophy of Right*, p. 337. Dyde's translation. George Bell and Sons, 1896.

comings, embodies the demands of a principle that is higher than individual conscience.

It is often maintained against the monarch that since he may be ill-educated or unworthy to stand at the helm of chance, it is therefore absurd to assume the rationality of the institution of monarchy. The presupposition, however, that the fortunes of the State depend upon the particular character of the monarch is false. In the perfect organization of the State the important thing is only the finality of formal decision and the stability against passion. One must not therefore demand objective qualification of the monarch; he has but to say "yes" and to put the dot upon the "i." [3]

Except from the standpoint of individual conscience, nothing is evil,[4] according to Hegel, and therefore, from the standpoint of such a higher unity as the State, not only is the partisan strife of consciences eliminated, but also the very idea of morality or striving after what ought to be is eliminated. The State already is all that it can now be. "The real is rational and the rational is real": in that epigram Hegel implied his doctrine that the political institution is beyond con-

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[3] "The Philosophy of Right," p. 451, *Hegel, Selections,* by J. Loewenberg. Charles Scribner's Sons, 1929.

[4] From the standpoint of the universe as a whole, nothing is evil, since the universe as a whole lacks nothing, and is dependent on nothing. In this contention Hegel was saying no more than Spinoza had said in the seventeenth century. Spinoza seems to have been more consistent than Hegel, or at least more consistent than some of Hegel's disciples. Spinoza contended that the universe as a whole is not good, either; yet good and evil are predicates that a finite part of the universe, such as man, can apply to things, because man is limited and dependent and has wants.

The unreality of evil has also been argued on less speculative grounds by showing that practically every event which we consider bad eventually appears to have its good aspect. Thus, the execution of Socrates was a foul deed and a loss to Athens. Yet the heroism of Socrates inspired sixty generations of men in every part of the western world. The difficulty with this argument is that the tables can be turned. Good things can be shown to be evil on second thought or in remote consequences.

science. Hegel thought that, by submitting to its dictates, a man might escape all destructive partisan dilemmas.

It is easy to see why Karl Marx attacked Hegelianism as a defense of the "haves" against the "have-nots." If the have-nots submit to the will of the state without making any effort to change that will, they acquiesce in the privileges which the state protects at the moment.

Hegel denied, in 1830, that he had meant to justify the existing state or that he claimed perfection for existing policies. To be sure, he had spoken of the political institution as a dynamic, evolving thing, and he may have been trying to express his loyalty to all state policies, including those not yet fully developed. Hegel's many interpreters have not been able to agree on this point.

Many Hegelian passages read as if they were meant to inculcate blind obedience to the sovereign. Although Hegel insisted that the march of the State through time was a progressive realization of the idea of freedom, it is highly questionable whether many of the partisan causes that were swallowed by the all-powerful state gained anything that could be called freedom. Hegel's "freedom" may not be much caricatured if we say that Hegel proves how cannibals can enjoy freedom in the United States. They can do so by renouncing their cannibalism. But then, are they cannibals who are free?

The practical men who have claimed Hegel's blessing have usually taken him to advocate subservience to the day-to-day orders of the monarch. Perhaps Hegel would be an anti-Fascist today; but the Fascists have used his formulas. Like Hegel, they are Machiavellian in foreign policy but preach nonpartisan institutionalism as a domestic policy. What purports to be a systematic application of Hegelianism is

made by Giovanni Gentile, one-time minister of education in Fascist Italy, and in his early years an adherent of the Hegelian philosophy. Gentile pictures the chaos that reigned in Italy after the close of the World War. Betrayed by weak statesmen and disappointed over not sharing fully in the spoils of victory, troubled by unemployment as returning soldiers looked for jobs, near bankruptcy and in danger of revolution,[5] Italy was in such a mess that no one could live well. Gentile gives the impression that too many cooks were spoiling the broth.

Then came Mussolini with supernal insight into Italy's destiny. By making everyone give up his immediate ambitions and over-finicky scruples, Mussolini gave everyone something good. A national ideal had to be ruthlessly imposed. The moral for a nation that is troubled by too many conflicting desires and consciences is to submit to the will of a leader. So says Professor Gentile.

Having taken away from the masses the privilege of choosing as their representatives people who could be interpreters of *their* political ideas, Fascism gives back to the masses the right of choosing as their representatives persons who can safeguard and protect their professional interests[6] [that is, representatives handpicked by the Fascist Grand Council].

You may object that these exhortations to give up *your* partisan ideas of justice are simply the reverse side of Machia-

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[5] See G. Gentile, "The Philosophical Basis of Fascism," *Foreign Affairs*, pp. 290–304. January, 1928. Borgese, in his book, *Goliath; the March of Fascism*, and other critics of Fascism give evidence that Italy was in no serious danger from Communism and other catastrophes at the time when Mussolini was obtaining power. Borgese thinks that the Fascist leaders were adventurers, and that their nationalism and Hegelian explanations were after-thoughts.

[6] Mario Palmieri, *The Philosophy of Fascism*, p. 135. The Dante Alighieri Society, 1936.

vellianism. You may regard Mussolini as no more than a partisan who was willing to do anything to get what he wanted and who put out this nonpartisanship doctrine as propaganda to disarm his opponents.

Your objection will be met with the reply that the true leader is no ordinary partisan; he embodies the spirit of the nation. This rejoinder, which was used to deify Mussolini, bloomed into a full-blown theory of mystical inspiration, when it was applied to Herr Hitler in Germany during the 1930's. Despite the use of superlatives, the apologists for follow-the-leader do not make entirely clear how we are to recognize the true leader. Sombart, in a book which lauds the suppression of partisanship under a true leader, writes:

> But we cannot quietly submit if a "creative personality" on a grand scale, such as Mr. Krueger or Mr. Ford or Mr. Morgan, through his "personal initiative" brings the whole world into disorder.[7]

Apparently a leader who points the way to national welfare is "inspired," whereas one who is headed for disorder acts on his "personal initiative." That tells us how we should feel toward the two types of men, but does it tell us which is which? We may wonder whether Herr Hitler lives up to the ideal description of the super-partisan leader when he says "Guns instead of Butter." We wonder when we read that Nature Healing by untrained persons is recommended to make it easier to dispense with the services of doctors who happen to be Jewish.[8] We wonder when we

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[7] Warner Sombart, *A New Social Philosophy*, p. 271. Princeton University Press, 1937. Contrast the passage on inspired leadership on page 194.

[8] For a discussion of health statistics during the Hitler regime, see M. Gumpert, *Heil Hunger*. Alliance Books, 1940.

contemplate the fearful disruption of civil life which the inspired leader ordered.

I do not assert that the recent dictatorships are an embodiment of Hegel's ideal; but they use Hegelian arguments in favor of submission to a will that is superior to the partisan conscience, and they typify the difficulty of identifying that National Will that rises above individual wills.

Of course, men have dreamed for ages of an all-inclusive plan for society. Religious leaders have often advised contending parties to stop demanding their rights, as they saw them, and bow down to a superior will. This superior will was in many cases not identified with the will of any human leader. A recent example of the religious form of submission to a superior principle is Frank Buchman's Moral Re-Armament movement. Buchman has tried to persuade labor and management, Japanese and Chinese, white and black, and C.I.O. and A.F. of L. to submit to God's will. A news comment exposes the danger in M.R.A.:·

> Aside from the Teamsters' Union, California labor was not represented at the meeting. C.I.O. leaders believe that Mr. Copperman's Union, once aggressive, was taken into camp by MRA. And Californians recall how, five years ago, Buchmanites claimed that they had "settled" the longshoremen's strike, "the first strike in history in which Christ was called upon to act as arbiter." That strike went on long after Buchmanites had been guided to urge the longshoremen to forget their troubles, go back to work.[9]

Ideal plans that include the good in all conflicting ideals usually have a catch. The trouble is that the nonpartisan plan may be just one more one-sided partisan program, and that those in charge of its operation really seek the good of

[9] *Time*, July 31, 1939.

the few at the expense of the many. Every time the Hegelian superconscience has reputedly been embodied in a specific plan or public policy, it has looked suspiciously like just one more partisan conscience, and a most tyrannical one, too. If Hegel was correct in saying that an institution may have a good policy which is not affected by the evaluations of its several members, then it would seem that no mere man should try to say what that policy is. A mere man, possessing the limitations of an individual, will be unable to conceive and state that which transcends all individual limitations.

The Pragmatists [10]

The American Pragmatists, John Dewey and James H. Tufts, agreed with Hegel that an evolutionary development beyond the conflicting claims of existing partisan consciences might take place. They agreed with Hegel in deprecating the use of violence by embattled individuals and parties. With some qualifications we can say that pragmatists chose the same horn of the partisan's dilemma as the Hegelians. They respected the conservative tendencies of conscience as well as conscience's reforming urges; and they believed that a discounting of *given* ideas for improving the world would not keep the world from improving, but would allow the world to improve in ways not yet visible to the moral individual.

Dewey and Tufts disagreed with Hegel in so far as Hegel

[10] Pragmatism or instrumentalism is the theory that ideas are instruments by which men adapt to the environment, and that "truth" means the success or satisfactoriness of an idea in action. (πράγμα = action.) This logical doctrine is related to the ethical theory, which is discussed here, although it is not essential to it. The Pragmatists held an evolutionary theory of both truth and goodness. An idea becomes true when it brings inquiry to a satisfactory conclusion; a moral judgment is sound when it resolves a conflict.

assumed that this social evolution would take place in independence of the thoughts and efforts of individuals. The pragmatists believed that the transcending of existing partisan consciences occurred as the result of individual thoughts and efforts. Being democrats, they were impressed by the give and take of discussion. In the interaction of partisans, they saw partisans changing their evaluations. Sometimes new policies were invented that were unlike all of the opposing policies that had started the debate. The process of judgment and choice

> . . . is thus a reciprocal process of valuing objects and of constructing and reconstructing a self. The object as first imaged or anticipated undergoes enlargement and change as it is put into relations to other objects and as the consequences of adoption or rejection are tried in anticipation. The self by reflecting and by enlarging its scope is similarly enlarged. It is the *resulting* self which is the final valuer.[11]

Tufts observed that a man's opinions at the start of a controversy over policies are very often the inherited, unthinking opinions of his family or class. If the controversy can be turned into an intelligent, problem-solving discussion, a man's evaluations at the end of the conversation may be very different from those with which he started.

In support of Tufts' analysis, Miss Follett quoted a jurist who had settled some labor disputes. The judge said:

> I find that we come to agreement not by adjustment but by invention, not by reconciling our ideas but by finding the new idea which is always something different from the addition of the previous ideas.[12]

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[11] J. H. Tufts, *Creative Intelligence*, p. 370. Henry Holt & Co., 1917.

[12] M. P. Follett, *Creative Experience*, p. 117. Longmans, Green and Co., 1924.

In practical operation, this plan for reconciling opponents by getting them to agree on a new alternative is not so very different from the strategy of Aristotle, Socrates, Bentham, and others. Most of the philosophers have advocated the abandonment of childish and unthinking policies and the acceptance of new notions of duty. The pragmatists, however, object to the idea of merely finding new *means* to already accepted ends, or even to the supposition that the right ends already exist in anyone's mind. It is on ends that modern men disagree, and the problem of reconciliation is more than the task of enlightening an old conscience. Conscience itself must change.

The pragmatists believed that the further evolution of society might bring about such continuous revaluation of objects and revision of conscience that "revolution would be institutionalized" (Mead's phrase). No conscience would be incapable of revising its estimate of policies, and no partisan would refuse to enter into the process of problem-solving. Throughout most of his history, man's moral experience had taken place in a small, slowly changing tribe. As modern man gained experience in a fast-moving society and in group action (as a member of corporation, union, party, and so on), he might develop a new conscience, a conscience that would make him feel responsible for his group's action, just as his old conscience made him feel responsible for his personal conduct.[13]

Like Lincoln Steffens,[14] they believed that the "big bad"

[13] Representative of this viewpoint are: Jane Addams, *Democracy and Social Ethics*. The Macmillan Co., 1907; E. A. Ross, *Sin and Society*. Houghton Mifflin Co., 1907; Dewey and Tufts, *Ethics*. Henry Holt & Co., 1907; A. T. Hadley, *Standards of Public Morality*. The Macmillan Co., 1912; Walter Rauschenbusch, *Christianizing the Social Order*. The Macmillan Co., 1912; J. H. Tufts, *America's Social Morality*. Henry Holt & Co., 1933.

[14] See *The Autobiography of Lincoln Steffens*, pp. 48–49 and 417. Harcourt, Brace & Co., 1931.

men of the times were bad in their public conduct because their conscience had not been sensitized to the evils that are peculiar to impersonal relationships in modern society. The grafters, chiselers, and exploiters were for the most part tolerably good men in face-to-face situations. They were deficient chiefly in their social morality.

When men came to realize the full consequences of their policies in business and politics, the pragmatists continued, they would no longer be callous to the desires and welfare of the people whom they now cheated and maltreated. The remote consequences of their deeds would finally come home to the manufacturer of nonfloating life preservers, the food adulterer, the boodler, the stock swindler, and the negligent workman. A new moral code would appear and put upon everyone the claims of those persons whom he never sees or knows by name, but whose destinies he controls through his corporate organization.

The ground for this hope was a record of changes in morals already achieved before men were clearly conscious of the evolutionary character of morality. In the United States, for example, there were once men who felt very strongly that Negro slavery was right, and others who felt just as strongly that complete abolition of racial distinctions was right. Within a century, both views were drastically modified.

Does this prove that contradictory ideals and duties are not insuperable obstacles to eventual moral agreement? Does it prove that disputants may by peaceful means be induced to go beyond their original consciences to a new conscience?

The historical changes in consciences, to which Dewey and Tufts allude, have indeed taken place, but so slowly that they hold little promise for the moralizing of democratic politics.

We must remember that the re-education of moral sentiments regarding slavery was not rapid enough to prevent a bloody Civil War. In most controversies, where the showdown must come in a week, in a year, or even in a generation, adjustment of differences means defeat or compromise for someone's conscience.

What, then, about the democrat's idea of compromise? Does it not dodge the facts that make uncompromising force a smart policy? Until human consciences become more adaptable than they are today, anyone who goes into political battle with an "open-minded" attitude will find himself at a serious disadvantage. Reinhold Niebuhr expresses this objection to pragmatism when he says:

> Contending factions in a social struggle require morale; and morale is created by the right dogmas, symbols and emotionally potent oversimplifications. These are at least as necessary as the scientific spirit of tentativity. No class of industrial workers will ever win freedom from the dominant classes if they give themselves completely to the "experimental techniques" of the modern educators. . . . A favorite counsel of the social scientists is that of accommodation. . . . But will a disinherited group, such as the Negroes, for instance, ever win full justice in society in this fashion? [15]

Niebuhr's objection is well taken if politics is the opposition of unyielding moral convictions as well as of stubborn desires. The pragmatic-compromise-experiment theory seems to encourage a sweet and gentle reasonableness in men who are going up against people who are in no mood to listen to reason. Assume, for the moment, that some men can change their opinions during a discussion, that they can cooperatively work out finer, more inclusive ideals. The

[15] *Moral Man and Immoral Society*, p. xv. Charles Scribner's Sons, 1932.

Machiavellian reminds us that there are hard-boiled men in the world, too. They and their satellites are not likely to have a change of heart or to make concessions unless their opponents can lay dollars, votes, or bullets on the line. Readiness to change one's beliefs may be an asset in the scientific laboratory, but it looks like a liability in the political arena.

Objection to the pragmatic solution of the partisan's dilemma has also come from within the pragmatists' own ranks. Professor T. V. Smith has denied the Dewey-and-Tufts doctrine that to experience the pangs of conscience is a sign of "a growing self." On the eve of his entrance into politics, Professor Smith wrote a book on this subject and gave it the ominous title, *Beyond Conscience*. During his stay in the Illinois Assembly, he did not detect much capacity for "growth" in the consciences of the partisans who came to Springfield. He became more and more convinced that if men followed their consciences, no amount of discussion could reconcile some of their differences. Conscience was not only a tyrant but also an infernal nuisance to the politician who was trying to get lobbyists and "good" people to reach some agreement.

Smith went to Washington as Congressman, and was there convinced more than ever that we cannot revise most of our moral evaluations if we try. If blocs, sections, classes, and sects are not to waste their energies in mutual obstruction, they must get together on some other basis than conscience. The promise of American politics, according to Congressman Smith's book of that title, lies in the nonmoral capacity of Americans for compromise. They compromise their consciences when conscience threatens the public peace and order.

Many examples of conscience-defying compromises can be found in American history. To cite one that is not mentioned by Professor Smith, Catholics and Protestants are not agreed on school policies. Catholics want tax funds for parochial schools. Most Protestants want all elementary and high schools to be public institutions. Neither has his way entirely according to a compromise which was worked out years ago; the Catholics are allowed to run their parochial schools, but they get no tax money for these schools.

The compromising Americans are willing to co-operate with groups which they would fight to the finish if they obeyed the strict dictates of their consciences. Catholics and Protestants are in extreme disagreement on many questions besides the school question, but that does not keep many Catholics and Protestants from getting together on movie censorship. Management and employees cannot agree on what is fair regarding union organization, but frequently they see eye to eye on foreign policy. These partial agreements are the basis for peaceful settlements in which no one gets everything that he wants and everyone gets something—tolerable compromises. There have been many such deals. In the early days of the steel industry, the manufacturers gave the iron workers' union a wage agreement in return for worker support of the steel makers' fight for a tariff. The compromise did not last forever. After a time the manufacturers no longer needed help in their tariff fight; but while it lasted, both parties to the compromise enjoyed more of what they thought fair than they would have had without the compromise.

In his recent publications, Professor Smith has blessed the

peacemakers (the politicians) who mediate and wear down the demands of the rival pressure groups. He has also suggested that the conscientious citizen will be more civilized if he loses some of his self-righteousness and shows more readiness to go "beyond conscience." Smith upsets the pragmatic program because he does not envisage a transition from old conscience to new conscience. He is convinced that conscience stays put for the duration of most wars. Whatever the long-run developments in conscience may be, the agreements that settle public questions are compromises of conscience rather than the birth of a new conscience.

Is it not immoral to act in defiance of conscience? Must we not look for some moral sanction of our compromises? Smith cuts under these questions by denying that conscience itself supplies any sanction except the push for power. Neither theology, nor metaphysics, nor logic, nor the sciences present evidence sufficient to convince Professor Smith that conscience has any rightful authority. Hence, he feels free to act politically without respect for conscience. What his conscience tells him is very likely wrong.

In denying the authority of conscience, Smith throws some doubt upon what, as a politician and as a citizen, he has been urging—namely, a program of peaceful compromises. If *all* moral distinctions have disappeared from his thinking, we may wonder why a Machiavellian policy does not stand on equal footing with a policy of democratic compromises. Or why not adopt an apathetic policy such as Theodore Dreiser once confessed (in *Hey Rub a Dub Dub*):

> I am one of those curious persons who cannot make up their minds about anything. . . . I find that one history contradicts another, one philosopher drives out another.

Professor Arthur Murphy has pointed out a number of difficulties in Smith's position [16] which keep the case against moral judgment from being closed. According to Murphy, some duties have a greater claim upon us than others, even if we admit Smith's contention that all the duties imposed by conscience are bids for power.

> If all life is a dream, then waking experience is a dream no less. But it is not a dream in the sense in which the dreams which we distinguish from waking experience are so.

If *all* of our impulsions are lacking in proof of righteousness and goodness, we may still discriminate between specific impulses as better and worse in another sense.

Murphy does not attempt to expound at much length the alternatives to Smith's position beyond conscience. He mentions the possibility

> . . . that, as Mr. Tawney has suggested, while there is no reason why groups at issue should submit to one another, there may be reason for each to submit to a principle which both acknowledge as binding.

But this suggestion of Tawney's ignores the very difficulty which ethics in the last hundred years has been facing—namely, that in many disputes there seems to be no common ground, no nonpartisan principle.

The Principals and Bystanders Solution

The theoretical difficulty here is that, as Smith says, compromises of conscience are by common repute good in some sense, and yet by definition a violation of conscience is bad. This puzzle was untangled by Hegel, but he spoiled his

[16] "Conscience, Tolerance and Discrimination," *Ethics*, Vol. XLIX, pp. 286–308.

solution by introducing an infallible monarch. It was almost solved by the early evolutionary pragmatists, but they were misled by traditional notions about citizenship.

The puzzle disappears when one stops insisting that the owner of the partisan conscience and the man who sees that compromise is good must be one and the same man. Just who goes beyond whose conscience? The answer is not clear in any of the foregoing theories.

If we examine closely the compromises which Professor Smith praises, we shall see that no one went beyond his own conscience, and yet everyone went beyond someone's conscience.[17] The devout Catholics and Protestants, for example, did not generally applaud the compromise on the school question. To this day both sects regard it as wrong and unfair. But in addition to these devout religionists, there were millions of Americans who did not have any strong personal conviction about parochial schools. It was they who favored a compromise settlement, because the dispute interfered with the business and social life of the community and, if long continued, might have led to civil violence. The bystander thus went beyond the consciences of the parochial and antiparochial people, but not beyond his own conscience. His own conscience dictated compromise by the other folks, who happened to be the principals in the political squabble.

In this day of multiple antagonisms, everyone is apt to find himself an onlooker or peacemaker in many wars. The great majority of the American people did not directly par-

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[17] See Kant's "logic of ethics," discussed in Chapter Seven. According to Kant, Smith cannot use the word *ought* unequivocally to say, "I ought not to do what I ought to do." He may mean, "I ought not to do what other men say I ought to do," or "In the world as it is I ought not to do what I would be morally bound to do in a more perfect world."

ticipate in the A.F. of L. and C.I.O. fight. A majority, but a *different* majority, are neither bankers nor managers in the banker-manager struggle for control of various industries, such as the automotive industry. A majority, still another majority, had no personal preferences in the Bund-Communist scrap. Most Americans are affected, but only in a roundabout way, by the New England-Deep South battle for industries. Most of us are bystanders in nearly all of the contests between rival partisans on other continents. Our sentiments are often summed up in an exasperated, "Oh, for goodness sake, quit your wrangling so that the rest of us can get something done!"

Bystanders do not escape from politics and its consequences just because a given controversy does not excite their consciences. The bystander always has a reason for keeping partisans from destroying the public peace and all the values that depend upon peace. In our interdependent world, the bystander is not justified in trusting to luck that controversies will end without general disaster. When partisans in this country, for example, build up private armies, as the Ku Klux, the Bund, and certain corporations and unions have tried to do, the bystander has a good chance of losing his shirt unless he participates in the wire-pulling processes. The fact that he doesn't care who wins in the Florida-California competition does not commit him to a do-nothing and ignorant attitude. Either of the contestants may resort to tactics that impair the welfare of the entire nation, bystanders and all.

Neutrality with respect to other nations' wars does not mean that those wars will affect only the interests of the warring powers. The belligerents frequently act in ways that vitally affect neutrals. Neutrality on the question,

"Who gets this chunk of land?" does not require complete indifference to what is going on. Intelligent neutrality may, indeed, demand strong action.

Hegel was right when he claimed that beyond the individual's conscience there is a moderating and reconciling power which may make Machiavellian warfare and politics unnecessary as the means to good ends. He erred in supposing that this reconciling power was beyond all individuals and must reside in an undemocratic state. The pragmatists were correct when they declared that discussion by ordinary citizens contained the possibility of moderating apparently irreconcilable conflicts. They erred in supposing that *in a given fight* the men who do the moderating and go beyond the partisan conscience could be the same men as those who are at loggerheads.

To put the whole thing in a nutshell, the whole thing cannot be put in a nutshell—at least, not in a single cranium at any moment. To make ruthless Machiavellianism unnecessary for the achievement of ideals, there must be principals who have motivating ideals, and there must be bystanders who effectively prohibit some of the tyrannical actions which a partisan conscience suggests and which provoke a vicious circle of violence in which all the achieved values of civilization are jeopardized.

The principals in a controversy tend to act upon the promptings of what we called *the reforming conscience.* They are dissatisfied with the world as it is, or they are dissatisfied with the world's trend away from policies which they regard as just. The bystanders tend to act upon the promptings of what we called *the conservative elements in conscience.* They are more concerned over the preservation of already achieved values than the improvement of things.

In the most bitter controversies, therefore, some individuals —those who are most decidedly bystanders, and perhaps the most desperate principals, too—do not find themselves in the partisan's dilemma. The conservative promptings of the bystanders' conscience are not balanced by an urge to reform, and the revolutionary conscience of the principals is not offset by a desire to conserve established values.

All other persons—those who sympathize with the reforms and at the same time love peace, and so on—remain in the partisan's dilemma. They must repudiate the one or the other set of values, or make some compromise, which will hurt their conscience. For them, politics cannot be entirely moral. This is the tragic aspect of morality, and no amount of ethical theorizing will efface it as long as radically different experiences and stations in life continue to create antagonistic consciences and elemental moral disagreements.

The same men can act in *successive* controversies, now as principals, then as bystanders; but no single political philosophy can reduce both varieties of good to a single formula. Most Americans have one ideal to guide them as bystanders and another ideal to heighten their morale when they are partisans. We have been trained to the code of sportsmanship for use when we are looking on. That code requires an umpire, forbids certain rough tactics, insists that no one shall be treated so badly that he is infuriated to the point of desperation. As participants, on the other hand, we have been taught to fight for our "rights." To combine the umpire attitude and the fight-for-our-rights attitude in one principle or formula is impossible, unless one attitude is to be suppressed.

A highly unified political philosophy fortunately seems unnecessary for the control of Machiavellianism in a land

where no question divides the entire community into just two hostile camps. There are always bystanders as well as principal partisans, regardless of the issue. But bystander moderation of conflict does not take place unless the bystanders are politically active. The mere existence of bystander interests does not cause controversialists to keep the peace or to refrain from tyrannical exploits. The bystanders have to do something besides stand by.

No one in an important controversy is *absolutely* nonpartisan, not even the bystanders, for the bystanders are partisans in behalf of their own peace and security. But there is a vast difference between a controversy which is moderated by the *relatively* disinterested and *relatively* nonpartisan bystanders and a controversy in which everyone is a red-hot principal. It is the difference between peace and war, between strife that is controlled and strife that destroys good things and bad things indiscriminately.

Exercises

1. T. V. Smith once wrote: "Liberals err in believing that action must undertake collectively to achieve all the perfection that we privately conceive." *International Journal of Ethics,* Vol. XLVIII, p. 128. Does this make him a Machiavellian?

2. The Russian Communists claim that Party decisions are reached by give-and-take discussion and mutual criticism. They call this a dialectical process: *A* says *X; B* says *Y;* the outcome is *Z.* Does this make the communists pragmatists? or democrats?

3. Hegel and the Fascists agree that between nations and races there are irreconcilable differences which can be settled only by war. Does this agree with Marxism?

4. If more and more individuals are organized into pressure groups, some observers look for the complete disappearance of the bystander interest, whereas others anticipate an increase in the effectiveness of bystander action. These opinions depend upon contrary assumptions about pressure groups' confining their pressuring to questions in which they are interested as principals. Have the following pressure groups ever acted as bystanders?

National Educational Association
Various religious denominations
Civil Liberties Union
American Federation of Labor
The Interchurch World Movement
National Association of Manufacturers

5. What kind of action is wise on the part of bystanders and their organizations? When is a majority tyrannical?

6. Do we go beyond our own conscience when we cannot make up our minds whether we are bystanders or principals?

7. Should we try to eliminate partisanship from our society? Should we attempt to abolish pressure groups?

8. Does the author believe that all kinds of coercion can be abolished?

9. Bishop Gore once said, "Christianity has not failed because it has never been tried." Graham Wallas replied, "A religion that has been adopted by the greatest states of the world for fifteen centuries and never been tried is a religion that has failed." Assess these contentions.

10. "The idealists of the Middle Ages were peculiar in condemning their contemporaries and never blaming the ideal itself." C. D. Burns, *Political Ideals,* third edition, p. 111. Oxford University Press, 1919. Do you believe that the medieval idealists should have criticized their ideal of a unified society, and

so forth? Do you have any ideals that you think should be "blamed"?

11. Read Whittier's poem *Ichabod.* Do you agree with his condemnation of Daniel Webster's compromise?

12. Is the bystander-principal "solution" simply a middle-class ideal?

13. Do you share the widespread repugnance for politics as inevitably dirty and therefore to be shunned? Is this evaluation consistent with your other policies?

14. Is this chapter an argument for bystander pressure groups? Are there any such groups?

15. Does Nicolai Hartmann solve the "beyond conscience" problem by his distinction between the "ideal ought-to-be" and the "positive ought-to-be" and the "ought-to-do"? *Ethics,* Vol. I, p. 247.

16. How does the bystander-principal thesis agree with J. M. Clark's observation: "Like any game subject to rules, business is a thing of double purpose: the purpose of the rules and that of the contestant under them. The purpose of the contestant is a simple one—to win." *The Social Control of Business,* revised edition, p. 12. McGraw-Hill Book Co., 1939.

17. How do the following ideas relate to this chapter?

Plato: ". . . we are pretty well satisfied that there are corresponding divisions, equal in number, in a state, and in the soul of every individual.

"True.

"Then does it not necessarily follow that, as and whereby the state was wise, so and thereby the individual is wise?" *The Republic,* 441.

Aristotle: "If we are right in our view, and happiness is assumed to be virtuous activity, the active life will be the best, both for every city collectively, and for individuals." *The Politics,* 1325.

18. Are the following agreements cases of compromise or of action according to conscience?

a. A man of influence, interested in safety, tries to secure passage of a drivers' license bill. Farmers and auto-renting companies oppose the bill. He finally agrees, in order to win farmer support, that, for several months, three-year licenses shall be issued without examination, although examinations to weed out the partially blind, deaf, and crippled drivers are one of the bill's principal virtues.

b. In a certain taxing district, the enforcement of the personal property tax law is notoriously ineffective, with the result that the tax rate is confiscatory. The custom is for owners of personal property either to ship it out of town on the tax date, understate their holdings, or make no return of the tax schedule. Mr. A. believes that he should pay taxes on his stocks and bonds, but to avoid paying more than his "share" files a schedule listing only part of his holdings.

c. An expert, working for a government commission, discovers that a company is violating the law. He reports the violation to his chief, expecting the commission to punish the company. The company hires a relative of one of the commissioners as its attorney, and the case turns into an old-fashioned shakedown. The expert resolves to report no more violations to his chief.

d. The Russian Communists look forward to the "withering away of the state"—that is, the abolition of coercion. Because there is opposition to some Communist Party policies, however, they use strong-arm methods and explain that such measures are "transitional." (See *The Radicals' Betrayal,* by J. J. Smertenko, *Harpers Magazine,* July, 1935.)

19. Are the pragmatists advocates of the kind of "appeasement" which distinguished the policy of Prime Minister Chamberlain before the war of 1939?

20. At the very end of the chapter, does the author assume the standpoint of the bystander, or of the principal, or of the man who is in the partisan's dilemma?

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CHAPTER FIFTEEN

MIGHT AND RIGHT IN LABOR RELATIONS

ARE there any creatures lower than God and the angels who moderate disputes between employers and labor unions without favoring one side or the other? Is there sufficient third-party intervention to keep either class from trying to devour the other? Are there bystanders who can prevent a desperate Machiavellian or Marxian war?

These questions will test the principal-bystander theory. Unless they can be answered affirmatively, we have little reason for believing that anything like nonpartisan regulation is possible. Social and psychological research has never proved the existence of a universal and impartial moral faculty. The voice of conscience seems to be affected by the limited experience and point of view of each human group. We shall now explore the only other possible source of nonpartisanship and interest in a common good, and that is the possibility that many groups are in the position of bystanders with reference to any given controversy. Specifically, are

there many Americans who are bystanders in the contests between corporation and labor union, and, if so, can they intervene effectively in behalf of something more than the corporation or the union interests?

We shall first sketch the historical background of labor disputes and then we shall look for the bystanders. Where and when bystanders are not active as mediators, we shall ask whether the principal partisans are justified in the use of rough tactics.

Historical Origins of Labor Problems

The ancient Hebrews believed that labor was a curse and had been laid upon the first human couple in punishment of sin. In the sense that arduous and disciplined work is opposed by part of man's desires, every society has had labor problems. But few communities faced our kind of labor problems prior to the nineteenth century. The kinds of controversies with which we are familiar spring from a division of labor which came into being only a century or so ago.

In most of the "primitive" nations, there were neither employees nor employers, as those terms are now understood. The simplest communities had no special organizations which held title to the tools and materials of production. There were no "workmen" who hired themselves to such organizations. Primitive societies were not usually communistic to the extent of recognizing no individual property rights, but the tribesmen were related as kinsmen rather than as economic competitors.[1]

[1] Custom militated against the formation of economic classes in several ways. First, individual rights were often limited to the use of property (especially of land) and did not include the right of sale. Second, the division of income was prescribed in such a way that there was little opportunity for the amassing of a fortune. In Southeastern Australia, for example, a hunter might keep the left

Class divisions did appear in the ancient civilizations.[2] Hard menial labor fell upon the lower classes, and luxuries were reserved for the upper classes. But "the poor" did not organize labor unions, because many of them were slaves; and "the rich" seldom formed anything resembling the modern corporation, because in the absence of high-powered machine technology they had no reason for creating large employing companies.

Labor problems, as we know them, had their origin soon after the Crusades in Western Europe, when slaves and serfs began running away from their masters. The growth of the medieval towns is attributed largely to the influx of escaping serfs. The movement was augmented by new customs whereby a half-free person might purchase his emancipation. Most of all, the escape from bondage was hastened by the chaos of the plague years in the middle of the fourteenth century. In the year 1086, three fourths of England's population had been unfree; in 1450, less than one third remained in involuntary servitude; in 1600, practically none were in servitude. Emancipation came later in other countries.

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ribs of any animal that he killed; his father got the right hind leg, and other pieces were designated for consumption by other relatives. Nomads, in general, require the sharing of income. Eastman, a Sioux Indian, remarked that a single Indian never starved, although a whole tribe might starve. The third bar to class division consisted of such customs as the ancient Hebrew rule that debtors must be released every seven years. See *Deuteronomy* 15. When some men grew rich in spite of these arrangements, the Hebrew prophets voiced an indignant protest.

[2] L. T. Hobhouse summarizes in his book, *Morals in Evolution*, what is known about ancient slavery. Slavery seems to have originated in intertribal wars. Captives were enslaved instead of killed, sometimes becoming the property of an individual, sometimes becoming public property (as in India where conquered tribes became the least privileged castes). Hobhouse is of the opinion that enslavement for nonpayment of debt and for crime was in most parts of the world later in origin than enslavement by conquest. He thinks that the granting of minimum rights against abuse and starvation followed the inclusion of nonalien debtors and criminals in the slave class.

Russia did not free the serfs until 1861, and the United States recognized slavery until 1865.

What happened to the freedmen? Some of them became successful merchants and manufacturers. Some of them became highly skilled artisans. Some remained in the rural regions and became land-owning farmers. The rest became landless, unskilled laborers. In the intervening centuries, families have risen and fallen in the social scale; but the existence of a large, politically free, relatively poor class dates from the decay of slavery and serfdom,[3] which were one of man's first systems for dividing work and its rewards unequally.[4]

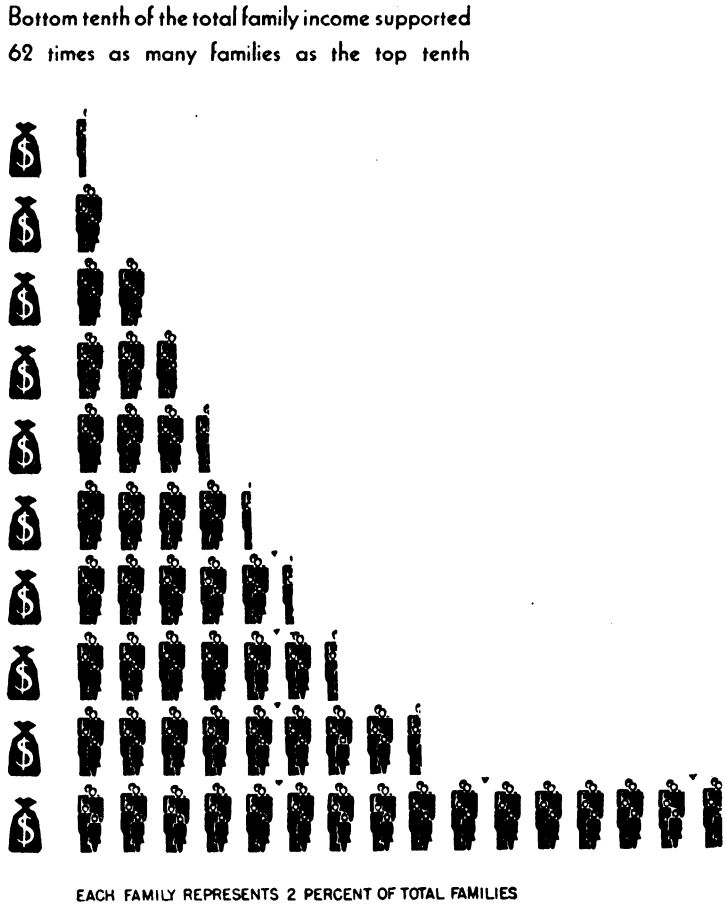
When the invention of the steam engine and other machines made large-scale enterprises possible, the supply of landless labor was drawn upon for help. The industrial booms of the nineteenth century created a new class of skilled mechanics and technicians, "aristocrats of labor," typified by the railway engineer. But the inequalities between the richest and the poorest were not diminished. On the one hand, the new industry and its commerce created unprecedented fortunes. On the other hand, the majority of unskilled and semiskilled laborers bid against one another for jobs, and

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[3] We know that landless laborers caused grave apprehension in fourteenth-century England. London ordered all country laborers to leave the city in 1359 or be put in stocks. Any able-bodied man without visible means of support was subject to a jail sentence as a vagrant. Under Edward IV, vagabonds who refused to work at assigned tasks were branded with a hot iron and indentured for two years. Periodically, to this day, measures have been taken to keep unemployed workmen from drifting about the country. (California and Florida took such steps during the 1930's.) Religious and charitable organizations undertook to relieve the distress among free laborers. In England, overseers of the poor were appointed and charged with the task of preventing starvation. Much of the migration to the Western Hemisphere was, of course, motivated by the distress of the poor freemen.

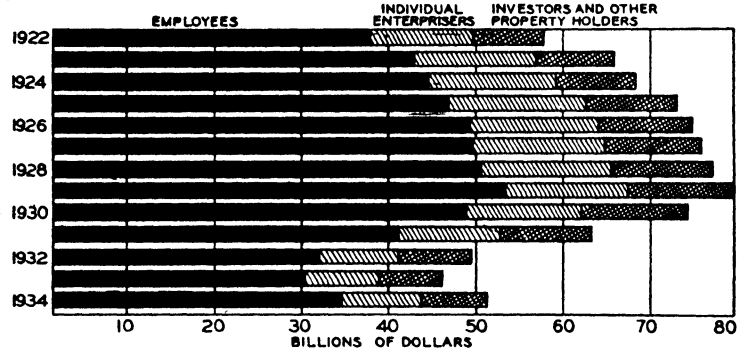
[4] Division of labor and reward by age grouping and by sex seems to have been an older system.

because there were often more men than jobs the competitive price for labor would fall below the subsistence level. Moreover, workmen were accepting a day-to-day employment with no such permanent tenure as the feudal system had



FAMILY INCOME, 1935–1936. (*Consumer's Guide*, September, 1938. Source of figures: "Consumer Incomes in the United States," issued by the National Resources Committee, September 4, 1938.)

provided.[5] Low wages and unsteady work perpetuated "the submerged tenth" and kept "one-third of a nation, ill-clothed, ill-fed, and ill-housed." Every large city and many countrysides had their slums full of demoralized, sickly,[6] prolific[7]



DIVISION OF NATIONAL INCOME, 1922–1934. (Chart from *Income and Economic Progress,* by Harold G. Moulton, The Brookings Institution, 1935. Reproduced by permission.)

Employees received about two thirds of the "gravy" in good and in bad years. One might say that every group suffered alike in the depression of 1933. However, the chart does not take into account the number of persons dependent upon each form of income. Cutting a $5,000 income in two does not have the same effects upon living standards that result from reducing a $750 wage to $375.

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[5] The agrarian serfs of the Middle Ages had exclusive hereditary right to the soil which they tilled so long as they complied with custom and law. A serf could not be evicted merely to suit the lord's convenience. This right was, of course, not always respected in practice. The serf was sometimes evicted without legal cause, and since he could only appeal to the lord's court his rights were, in that case, only theoretical ones.

[6] Every survey of health conditions has shown that there is more sickness among the poor than among the middle- and upper-income groups. There is more tuberculosis, influenza, pneumonia, and heart disease, and there are more injuries by accident. Three times as many infants in each thousand of the 0–$450 income class die before the age of one year than in the $1,250 and up class.

[7] The Milbank Memorial Foundation found that in 1932 families without an employed worker had 48 per cent more births than families with one or more employed members. Families on relief had a birth rate 54 per cent higher than those not on relief. See D. D. Bromley, "Birth Control and the Depression," *Harpers Magazine,* October, 1934.

families, joined at odd intervals by ex-aristocrats of labor who had lost their trade.

The modern labor movement and attendant labor disputes cannot be attributed to the doubtful fact that the "submerged tenth" was more miserable than the slaves and serfs of antiquity. Of course, there is a level of misery below which all grays are equally black. But this is beside the point, for the lowest economic class did not produce the labor unions except as they reminded more fortunate workmen of what might happen to anyone in a free labor system.

Labor has been able to organize and to dispute with employers during the past century because: (1) workmen were politically free; (2) they had their wants stimulated by education and by advertising; (3) they were continuously reminded of the fact that their jobs and incomes were extremely insecure;[8] and (4) they were concentrated, in large numbers, in the places of employment, and hundreds—sometimes thousands—of them experienced similar difficulties in working for a single employer. These seem to be the conditions wherein modern labor, which has organized, differs from ancient labor, which did not organize. All but the first-named condition were created by the factory and the corporation. The factory and the corporation, in a sense, created the labor union—and then fought the union.

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[8] Referring to the unemployment due to business cycles and also that caused by the invention of new machinery. Whether technological changes caused much of the unemployment after 1930 is in dispute. Although modern machinery enables two men to load as much pig-iron as one hundred twenty-eight men formerly handled, and so forth, some economists insist that inventions do not reduce employment. They point to the hiring of millions in new industries, such as the automotive industry. But pig-iron loaders cannot quickly qualify as auto mechanics, and some of them never make such a happy adjustment. In the interval before re-employment, the displaced workman has a good chance of losing cash, self-respect, and habits of work.

The Labor Union Movement

By 1830 numerous workingmen's associations were demanding their "rights." Unions had been organized in England, France, and the United States. At first they devoted a great deal of their energy to political reforms, such as abolishing the property qualification for voting. They figured that if they could vote they could capture the government and pass laws against the unfair practices of employers. But the main drive of the labor movement was directed toward the securing of the "rights" of workmen: (1) the right to work; (2) the right to a short workday and a 5 or 6 day work week; (3) the right to a "living wage"; (4) the right to organize; (5) the right to be free from physical and economic coercion; (6) the right to respectability; (7) the right to educate their children; (8) the right to redress of grievances; (9) the right to security when incapacitated; and (10) the right to reasonably safe and healthful conditions of work.

The first reaction of employers was, in many cases, to treat these demands as insubordination and revolution. A number of unions were prosecuted as conspiracies. This strategy proved ineffective[9] The next method of rebuffing the unionists was to claim that workingmen already possessed their rights. The unions demanded the right to work; employers and their lawyers agreed that workingmen were

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[9] In the early years of the nineteenth century, English labor had the support of conservative, land-owning Tories in some of their demands. The Tories hated the factory system and were responsible for the passage of the first factory laws. The Act of 1802, for example, forbidding child labor in excess of seventy-two hours per week, was Tory legislation. A few paternalistic mill owners, like Robert Owen, also helped to give the first impetus to the labor movement in the British Isles.

entitled to this right, but insisted that everyone already had the right.

In the United States this argument was for some years accepted by the courts. A case in point occurred when labor had secured a federal law forbidding certain employers to discharge employees on account of union membership. The Supreme Court declared the law unconstitutional. The Court said that workman and employer had been equal in their rights before the voided law was enacted, anyway. The workman had the right to quit his job for any reason he pleased; the employer had the right to dispense with the services of the workman for any reason he pleased. What could be more equal? [10]

Unions, lawyers, employers, and judges were agreeing on the *words* "equality of rights" but not on the meaning of the words. The judges and the employers meant that the *government* was not interfering with the workingman's right to *seek* work. The *state* was not interfering with unionization or with peaceful efforts to *seek* a living wage. The rights for which the revolutionists of 1776 fought were not being violated. No tyrannical government was depriving men of their liberty or the right to pursue happiness.[11]

The unions put a different interpretation upon "equality of rights." They were not content with the right to *seek* work and with freedom from *governmental* interference when they tried to organize unions. They wanted the right to

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[10] *Adair v. U.S.*, 208 U.S. 161 (1908). It is perhaps needless to add that the Supreme Court has since changed its interpretation of equality of rights.

[11] The English revolution of 1688, the American revolution of 1776, and the French revolution of 1789 were not engineered by landless laborers. They were, to a large extent, movements of middle-class traders and farmers who had been suffering from the dictatorial regulations of state and church. The rights which they demanded were the rights of individuals in opposition to the sovereign power of government, the rights of an individual to use his property and his skill.

have work and to *enjoy* a living wage. By the right to organize they meant the right to *have* a union. These rights were not realized merely because the government pursued a hands-off policy. They were effectively denied whenever employing corporations chose to discharge workmen, to offer less than a living wage, to prohibit unionization, and so on.

Unlike the eighteenth-century revolutionists, the labor movement has not felt sure that *individual workmen* could make a living on the sole condition that government let them alone. It is labor's contention that inequalities in the economic power of employers and workmen make hopeless many *individual* efforts by workingmen to better their own condition. In bargaining with the employer, the individual workman is not dealing with an individual: The employer is more like a government than like a person, at least in the case of twenty-five American corporations whose assets are now in excess of one billion dollars each. Henry Ford was once quoted as saying that every business is a "little monarchy." Labor demands restraints upon the arbitrary exercise of power by these economic monarchies, just as the eighteenth-century revolutionists wanted restraints upon the arbitrary power of kings and prime ministers.

Regardless of "reasons" pro and con,[12] the fact is that many

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[12] Another argument against independent unions is that the prosperity of workmen cannot rise above the prosperity of the employing industry, and that management is the only group in a position to know what wages and conditions of work are conducive to industrial prosperity. Happy and mutual progress results, according to this "fraternity of interest" theory, when wages are not too low to keep workmen as consumers from buying the products of industry and not too high to cut into capital's profits which are necessary to make men of talent use their brains and savings in the promotion of enterprises. The controversial point in the "fraternity of interest" theory is whether management knows and acts to secure the maximum possible *mutual* benefits. W. J. Cameron of the Ford Motor Company gave a typical affirmative answer in a speech to the Kiwanis International when he said, "Industry first found itself in the hovels of the people. It removed the work to that modern institution we call the factory

employees have made demands with which managers were unwilling to comply. The demand for an independent organization of employees and the right of that organization to bargain collectively with management was particularly repugnant. The more belligerent employers set out to smash the unions. While an increasing number of corporations have become reconciled to the existence of unions, many of them insist that the union shall consist of their own employees only and shall have no affiliations with outside organizations. Frequently this "company union" plan amounts to a policy of keeping union subservient to corporation on all important questions.

When the leaders of the labor movement realized that most employers were hostile to their program, they had to look for ways and means of achieving their goals. There were many opinions, but the chief division developed around this question: Is it necessary to destroy the employing class in order to get our rights? As early as the 1840's, the labor movement split into two major and antagonistic parts, and successive generations of laboring men have continued to fall apart on the desirability of overthrowing the institution of property and existing governments.

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and gave the dwellings of the people the dignity of homes. Industry found men and women and little children working 15 hours a day for pittances; it reduced the workday to eight hours, the work week to five days, and increased wages to unprecedented levels. Now what I would have businessmen know, as against the gross misunderstandings, is that every one of these reforms came voluntarily out of industry intent on doing its job the best way. The charge that these improvements were made at the insistence of a morally outraged society is not tenable." (Associated Press dispatch from Boston, June 21, 1939.) Such benevolent management is supposed to be found in Richman Brothers, in the Rocky Mountain Fuel Co. under the management of Josephine Roche, in the Endicott Johnson Corporation, in Hart Shaffner and Marx after 1911, and so forth. But the fact that these cases have news value makes Cameron's generalization doubtful, to say the least. (For stories of benevolent management, see *Time*, articles about the first three cases in the issues of June 26, 1939, July 10, 1939, and January 22, 1940, respectively.)

One segment, inspired by Karl Marx,[13] demanded nothing short of the abolition of private property and all of the laws supporting the property institution. Through the years they have insisted upon the motto of the 1848 revolutions: "From each according to his ability; to each according to his needs." In 1917, under the leadership of Lenin and Trotsky, Marxists succeeded in destroying the property-owning classes in Russia.

Because Marxists are not dominant in the American labor movement, we shall devote most of our attention to another wing of the labor movement, the "business" type of labor union. The members of this branch of the labor movement have not been revolutionary. They have not even been interested in politics, except as political activity was an unavoidable step in achievement of a few specific reforms, such as the right to organize, the prohibition of child labor, and so forth.[14] The chief political drive of American unions since 1890 has been an attempt to win the right to bargain collectively with employers and to use the force of strikes, picket lines, and boycotts on unco-operative managers. Union leaders in the tradition of Samuel Gompers, founder of the American Federation of Labor, have had confidence in the

[13] Despite a popular American supposition to the contrary, Marxists are not now and never have been a unified group. In recent years they have been divided into Stalinists, who approved the Russian regime, and Trotskyites and others, who disapproved. Long before Stalin became the ruling power in Russia there were Marxists who disagreed with Lenin and Trotsky; the British Labor party, for example, was socialistic, but had faith in political gradualism and a destruction of private property by evolution rather than revolution. The most numerous group of Marxists ever to be organized in the United States was the Industrial Workers of the World. The I.W.W. was influenced by the "renegade" French Marxist, George Sorel. The I.W.W. numbered, perhaps, 100,000 American members during the First World War. If we go back of the First World War days we find still other divisions among the socialistic labor forces.

[14] Although the present laws regarding minimum wages, unemployment insurance, and old-age pensions have union support, the unions were not very enthusiastic about these schemes until the 1930's.

union's own ability to win other rights, if only the weapons of organized bargaining were not denied them. In politics they adopted a "reward your friends, punish your enemies" policy; and by it they secured in 1933 what they took to be a final blow to legal interference with their desire to organize and to strike. That was the inclusion in the National Recovery Act of the famous section 7 A, which prohibited employers from denying in any way the right of their workmen to organize unions. The Supreme Court presently declared this Act unconstitutional, whereupon labor secured enactment of the National Labor Relations Act. This act set up a Board with power to discipline any employer who fires or otherwise coerces men who join a union. The Board is authorized to compel an employer to negotiate with a union if the union represents the majority of his employees. With the exception of a few special cases, the maintenance of the right to organize is the only demand which the "business type"[15] of union makes upon government. They have no desire to take over industries and manage them.[16] American

[15] Recently the business-type unions have been engaged in a fight among themselves. Antiunion and socialistic leaders insist that it was brought about by a personal war between William Green of the American Federation of Labor and John L. Lewis of the Congress of Industrial Organizations. Nevertheless, the contest did begin with a dispute in principle. The A.F. of L. is organized primarily by crafts and tries to get all electricians into one union, all carpenters into another, and so forth. The C.I.O. is organized by industries, all workmen in the soft coal mining industry in one union, and so on. The A.F. of L. plan admittedly builds strong unions, but the C.I.O. criticism of it is that it leaves the unskilled workmen weak and unorganized. The A.F. of L. had organized nearly all of the "aristocrats of labor," but total union membership was only 4,000,000 in 1929. Two years after Lewis organized the C.I.O., union membership had doubled. Although this was partially attributable to new and favorable labor legislation, industrial unions had been formed in the steel, automobile, textile, and rubber industries, where craft unions had made little headway.

[16] Until recently, at least, many American workingmen hoped that they might become employers themselves. While this country had a frontier with plenty of unclaimed public land, this attitude was not just an idle wish but the tentative plan of large numbers of laborers.

labor leaders like Gompers, Green, Lewis, and Hillman simply want to *force* industry to recognize labor's rights and to respect them.

However much the average American unionist disagrees with the Marxists concerning the destruction of the employing class, it is possible to make two generalizations that apply to the whole labor movement: (1) the modern labor movement demands that workmen receive more rewards and enjoy more security than most corporations will voluntarily guarantee; (2) there is a willingness to use force in the attainment of these ends, some of the Socialists not hesitating to engage in armed revolution, the trade unionists confining their tactics to such coercion as strikes, and so on. On the other side are the more militant employers who, despite many differences among themselves, agree in (1) resisting some union demands and (2) using the law and, if necessary, extra-legal force to protect their property and managerial rights.

Machiavellian Tactics in Labor Disputes

Faced with an adamant opposition, and finding talk fruitless, managers and union leaders sometimes condone Machiavellian tactics on the ground that the other side is hitting below the belt. Unionists complain of the trickiness and unscrupulousness of the bosses, and the bosses complain of the trickiness and unscrupulousness of the "labor racketeers."

If you discuss the situation with a hard-fisted manager, you will hear about the irresponsibility of the average employee. You will be presented with a picture of a lazy man who doesn't want to do an honest day's work for an honest wage. You will be told about the lower element that uses terroristic methods, about the troublemakers, and the ne'er-

do-wells. The picture will strike you as justifying iron discipline and some extraordinary measures to weed out the misfits and agitators. The question is: Does the picture tell the truth?

Any general statement about American unionism must be qualified; but, when we get down to cases, examples can be found of extremely unidealistic tactics. In the first place, some union leaders are Machiavellians. Pick up *Men Who Lead Labor* by Minton and Stuart; discount their editorial opinions because the authors are left-wingers; their factual citations point to a black record. There are the musclemen who terrorized their way to power among poultry handlers, movie operators, scrub women, and so forth, and "shook down" the union treasury for hundreds of thousands of dollars per year. There are the top men in the A.F. of L. Council who played ball with these hoodlums and exconvicts. There are the officials who ignored parliamentary law and "sat on the lid"—that is, refused to allow the rank and file to express their opinions. There is the officer who maintained his policy by expelling all opponents from the union, at one time tossing out seventeen thousand men. This same man was notorious as a jurisdictional fighter; he claimed control over workmen doing anything remotely connected with his craft, and fought other unions when their men as much as lifted the tools of his craft. There was the district leader who had to admit taking $25,000 per year from a company that was opposing his union. There was the mine unionist who suddenly resigned, went south, and opened a nonunion mine. There was the president who left an unaccountably large estate when he died. There are the business agents who threaten to call strikes and then change their minds when contractors remember that they had in-

tended to give the business agent a Christmas present. This is, by no means, a representative sample of union leadership, but it shows what can happen.

When we turn our attention from the leaders to their constituents and the small fry, the sight is, in some instances, no more lovely. The public record contains convictions for dynamitings and other violence.[17] It also reveals cases of sabotage and cases of reckless interference with the rights of fellow workmen.[18] We hear about the coercion and hounding of nonunion men until they either signed up or quit their jobs. "A Workingman" wrote an article for *The American Mercury*,[19] bitterly complaining about outside agitators and inefficient workmen who forced the unionization of his plant. Their "Hatchet Gang" cracked men over the head, stole tools, cut telephone lines and staged a destructive riot, knifed auto tires, taunted wives and children, and made anonymous and threatening telephone calls. This sort of thing has happened in some drives to unionize industry, but there is some question about its frequency.

When unionization is completed, according to antiunion men like George Sokolsky, the management cannot discharge unfit men; it cannot establish efficient methods of production if they displace manpower; it cannot prevent idling. The Federated American Engineering Societies reported in 1921:[20]

Carpenters' helpers are prohibited from using carpenter tools, requiring carpenters to do such work as stripping forms from

[17] Thirty-six members of the Progressive Miners of America were convicted of dynamiting at Springfield, Illinois, in December, 1937.

[18] 1937 was a year of wildcat and runaway strikes (strikes started without a vote by the union); in one case seventeen men in a vital spot suddenly quit work and made ten thousand men idle for several days.

[19] "So I Joined the Union," July, 1938, p. 307.

[20] *Waste in Industry*, p. 20. McGraw-Hill Book Co., 1921.

concrete. Experience shows that helpers can do this more economically and as well. Brick masons insist on washing down and pointing brick work when laborers could do it more economically. Structural steel workers under certain rules must bring the steel from the unloading point to the building site, thus doing laborers' work at high cost. Structural steel men place reinforcing steel for concrete, whereas experience has proved conclusively that properly trained laborers can do it to as good advantage and at greatly lowered cost. Structural steel men claim the rigging on a job. In operating a small derrick used in footing excavation, the bucket cable had to be guided by hand and the hoisting engineer signalled by a skilled iron worker. Hoisting engineers claim the right to run all types of engines, including small gas-driven pumps which require no skill. On one job a contractor had to hire a union engineer at $8 per day simply to start a pump in the morning, oil it occasionally, and stop it at night. Union rules generally require distribution of plumbing materials above the first floor by union plumbers.

"When you are up against that sort of racketeering," the manager declares, "you just can't exhibit sweet reasonableness. You have to beat the —— at their own game. You have to fight fire with fire."

Now what is the defense of the tough guys among the labor leaders? It is a similar story, except that the dirty work starts on the other side.

First, the unionist can show that nonunion companies generally pay their men much lower wages than those that have to bargain with a union. Nonunion pay is frequently below the subsistence level. Apparently some employers do not of their own accord show much generosity. For example, a prominent manufacturer was asked by a Congressional investigating committee if he thought that a family could live on the six dollars per week that he was paying, or on sixteen dollars a week, for that matter.

"I've never studied those social problems except in my church connections," he replied.

Q. "Sixteen dollars a week, with about 42 working weeks, amounts to $620 a year. Do you think $620 a year is sufficient to allow a family to live decently, with schooling for the children?"

A. "It all depends. Some people can't think of a living standard unless they have four glasses of beer a day, or some wine. . . . There are 1,000 things a man could do on $16 a week." . . .

Q. "What are some of these 1,000 things a man can do on $16 a week?"

A. "Why, I've never thought of paying men on a basis of what they need. I don't inquire into what they want. I pay men for efficiency. Personally, I attend to all those other things, social welfare stuff, in my church work." (Here the crowd in the hearing room roared with laughter.) Edgerton, glaring at the spectators, sneered: "Of course, some people don't know about that sort of thing, church work and so. . . . But that's the feeling side of life, church contributions and church work. That's not business." [21]

Second, where complaints must be made by the individual workman, it is not unusual for a complaint to be the signal for dismissal, regardless of its justification. Where grievance committees exist in nonunion plants, they may be largely for publicity purposes.

Third, if workmen organize a union, and especially if they call a strike, many employers hire "detectives" to smash the union and break the strike. A number of detective agencies have admitted hiring thugs and exconvicts.[22] The

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[21] Testimony of John E. Edgerton, former president of the National Association of Manufacturers and president of the Southern States Industrial Council, as reported by the *Washington Post*, June 12, 1937.

[22] See *Time*, October 21, 1935, p. 10; December 7, 1936, p. 14; November 29, 1937, p. 13.

tactics of these agencies are typified by the services which one organization advertised:

Strike Prevention Department.—This department is composed of men possessing natural leadership qualifications. Men of intelligence, courage and great persuasive powers, to counteract the evil influence of strike agitators and the radical element.

Undercover Department.—Our undercover department is composed of carefully selected male and female mechanics and workpeople. They furnish accurate information of the movements and contemplated actions of their fellow employees, "forewarned is forearmed."

Openshop Labor Department.—This department is composed of an organization equipped to supply all classes of competent mechanics and workpeople to keep the wheels of industry moving during a strike.

Protection Department.—This department is composed of big disciplined men with military or police experience, for the protection of life and property.

Investigation Department.—Our investigation department is international in scope and embraces all branches. The personnel is composed of male and female operatives of the highest calibre.[23]

The activities of these questionable organizations were investigated by the Senate Committee on Education and Labor. The committee's report, printed in 1939, contains some well-nigh unbelievable revelations.[24] A total of 230 agencies came to the attention of the committee, and estimates of the number of "detectives" started at 40,000. The agencies were hired by such well-known corporations as Remington Rand, Inc., Great Atlantic and Pacific Tea Co., General Motors Corporation, Republic Steel Corporation, various subsidiaries of U.S. Steel Corporation, and Borden

[23] *Report No. 6* of the Committee on Education and Labor, 76th Congress, 1st Session, p. 27. Government Printing Office, 1939.

[24] Some of the report is reproduced with comments by Leo Huberman in *The Labor Spy Racket*, Modern Age Books, 1937.

Dairy Products.[25] Of course, they did not perform all of their services for each client; some of the companies mentioned probably used detectives only for the legitimate purpose of catching thieves.

Operatives testified before the committee that they had formed personal friendships with union men, friendships so close that their families regularly went on picnics together, and yet during the entire course of the friendship they wrote daily reports of the union man's activities. Pinkerton's National Detective Agency, Inc., admitted in 1937 that it had employed 132 men who were members of trade unions, of whom nearly 50 were officers in the unions.

Labor spies were not the only agents of managerial attack, according to the Senate report. Many corporations had their own police force, and in some towns, which were entirely owned by the company, they were the only available peace officers. A union organizer named Westmoreland told the committee how the U.S. Coal and Coke Co. police in Lynch, Kentucky, "rough-shadowed him."

Mr. Westmoreland. Whenever I would come out of the mines a policeman would meet me at the mouth and follow me up to the bathhouse and stand over me in the bathhouse. He would not allow me to speak to anybody; followed me to the store or home, or wherever I went; and those policemen would be right with me.

Senator La Follette. Did you ever try to speak to anybody?

Mr. Westmoreland. Yes; I did, but of course you know it would be futile and place those in an embarrassing position, on the part of those that I would speak to, therefore I never did say anything. . . .

Senator La Follette. How about your home?

Mr. Westmoreland. They stayed at my home.

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[25] See Report No. 6, Committee on Education and Labor, 76th Congress, 1st Session. Government Printing Office, 1939.

Senator La Follette. Who stayed at your home?

Mr. Westmoreland. Those police just walked up and down in front of my house—two of them—taking a turn about; one in the night and one in the day.[26]

Another organizer told of being ambushed, of having his house dynamited, and shots fired into his house; and evidence was given to support his claim that the dirty work was done by Ben Unthank, a deputy sheriff of Harlan County, Kentucky. Still another organizer told of having to disguise himself to escape ambushers; another told of a vain appeal to Sheriff Middleton for protection. Many were ordered out of the county. James Brewer testified that his house had been illegally searched.

Mr. Brewer. They said they had a search warrant for 1,100 pounds of meat.

Senator La Follette. For 1,100 pounds of meat?

Mr. Brewer. Yes, sir.

Senator La Follette. Did they show you the search warrant?

Mr. Brewer. No, sir.

Senator La Follette. Did you ask them to show it?

Mr. Brewer. Yes, sir.

Senator La Follette. They refused to show it to you?

Mr. Brewer. They did.

Senator La Follette. They refused to show you the search warrant?

Mr. Brewer. Yes, they would not show it to me.

Senator La Follette. Had you heard about any theft of 1,100 pounds of meat?

Mr. Brewer. Not at that time.

Senator La Follette. Where did they look for the meat?

Mr. Brewer. Looked in the dresser drawer, the chifforobe.[27]

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[26] Report of the Committee on Education and Labor, Part VI, p. 53.

[27] *Ibid.*, p. 101.

Another union man told how his son had been killed by bullets which were fired into his house.

The company police of Republic Steel Corporation, augmented during the unionization campaign and strikes in the 1930's, were alleged to have been reckless in their gunplay and to have stirred up riots rather than to have prevented them.[28]

Many corporation officials were reported to have brought pressure to bear upon local sheriffs and police chiefs to use their men to break up peaceful picketing and to pick up union leaders on any pretext.

On and on for hundreds of pages the witnesses tell the story of violence, duplicity, and crooked dealing.

Now, say the union apologists, can you expect us to play Little Lord Fauntleroy to those wolves? We have to be tough, or we'll be eaten up.

Before assessing the possibilities of moderating labor conflicts, we must remind ourselves that our evidence presents only the roughest and toughest problems confronting the would-be moderator. There are men on both sides who have managed to protect their "rights" without resorting to total warfare; there are compromises and innovations that have saved the public peace and other interests of bystanders. But unless the most desperate partisans can be deprived of their reasons for fighting to the death, the prospects of tolerable agreements within the community are dim.

The Bystanders and Their Ideals

Before asking whether the principals in labor disputes can be brought to some agreement by the bystanders, we had

[28] *Ibid.*, Chapters IV–IX.

better assure ourselves that there are some bystanders. Marx, you may recall, said that there were none.

For several decades after labor trouble reared its head in the United States, the majority of men were farmers. Their interests were not consistently identified with either side of the controversy. Often their only demands were that they should not be gouged by an expensive settlement and that the institution of private property should not be upset, since that allowed them to own the land which they tilled. In the 1880's, the farm organizations and the farmers' representatives in government disciplined the corporations, and at various times they have directly interfered with union activities. Although their defense of the rights of property was useful to employers and a hindrance to the unions, the farmers love neither the corporations nor the unions.

The learned professions have not been completely sympathetic with either side. Lawyers increasingly went over to the side of the corporations because corporations paid large fees for many kinds of legal service. Even now, however, the corporation lawyers, typified by John W. Davis, and the labor lawyers, represented by Samuel Liebowitz, do not comprise the entire bar. There are T. W. Arnolds who are ready to chasten both sides.

The clergy, the engineers, the educators, and the editors are also divided, though divided unequally, in their sympathies. Many of them put the blame for strife on labor, as old Arnold of Rugby did:

> The disorders of our social state appear to me to continue unabated. You have heard, I doubt not, of trades' unions, a fearful engine of mischief, ready to riot or assassinate, and I see no counteracting power.

On the other hand, Washington Gladden and Norman Thomas were not the only ministers to take the stump in labor's behalf. Jerome Davis and Scott Nearing were not the only teachers to desert the classroom and champion the cause of the workingman. If engineers like Frederick W. Taylor aroused the ire of the unions, they also stung the business executives with their criticisms of inefficiency. None of these professions was impartial, but they were not entirely allied with management.

The largest bloc of bystanders have been employers and employees themselves. I do not merely refer to the "unorganized." In this country, a man may sympathize with partisans of his own class; and yet, if he is not directly involved in the fracas of the moment, he may be impatient with bitter-enders. A merchant will change his buying connections if the manufacturer cannot make deliveries because of refusal to accept a compromise strike settlement. Although the merchant may be generally sympathetic with managers, he needs the goods. In some communities a carpenter will work on the same premises with a scab teamster, if the teamsters' union is slow coming to terms with contractors. After all, the carpenter needs work.

No single controversy has arrayed nearly all industrialists and nearly all unionists into two well-defined and self-consciously active groups. So far there has been nothing in the United States approaching the all-inclusive division that occurred in the British general strike of 1926. Most employers and most employees continue to think about their stake, as bystanders, in the public peace and in economic productivity when they have no immediate connection with a dispute.

What do the bystanders suggest for the moderation of

labor conflicts? And why have bystander suggestions been so ineffective in the cases that we investigated?

The most popular bystander ideal has called for peaceful settlements in which the rights of no participant are arbitrarily ignored, and the bystander's interest in an efficient, fairly harmonious society is safeguarded. According to this ideal, corporations and their workmen can arrive at such a settlement if they will sit down at the conference table and take time to do some thinking. Should they remain deadlocked, most bystanders favor the imposition of a settlement by some public authority. When one of these peaceful methods is used, there seems to be no excuse for private armies or for underhanded violence. If anyone is to be pushed around or punished, the elected officials can do it; and they should use the force of the state only against lawbreakers.

The popular notions about mediation and arbitration are regarded as utterly fantastic by many employers and by many union officials, too. As a matter of fact, few of the partisans have shown any enthusiasm for submitting disputes to courts or other officials. In other sorts of controversy over economic questions, the customary procedure is to file suit in a court of law and let the judge and/or jury render a verdict, which is then enforced with the power of the state. If relatives quarrel over an estate, that is the way to end the matter; it is rare for guns to be pulled in such a wrangle, for gun-pullers are sent to jail. The government is trusted as a usually impartial peace-maker. But this is not true in labor squabbles. Unions have shied away from public arbitration and award; many corporations have sent their legal departments into court, not to present their case, but to

attack the constitutionality of the laws by which government takes a hand in stopping industrial warfare.[29]

The justification of this reluctance to submit to bystander judgments is that the contenders have no assurance that the bystanders will be there. Often courts and governorships and the office of sheriff have been captured by "the other side." Give up violence?—"Yes," says the veteran labor man, "provided the National Guard or the cops are not called out to massacre us or to let the company run in strike-breakers." Quit obstructing the work of the Labor Board?—"Surely," replies the corporation manager, "if you can guarantee that the trial judge and the Board will not be brothers of the gangsters we are fighting."

You may question the good faith of these offers, but you will have to admit that bystanders have been conspicuous by their absence from the scene of many altercations. If bystanders expect labor and management to have any respect for the public agencies, the bystanders will have to be active *as bystanders.* That is to say, pressure groups whose chief work is political activity on other kinds of questions will have to take an interest in the government of union-management controversies. Two tasks need to be performed. One has already been suggested: the bystander groups must see

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[29] With the possible exception of slave-running prior to the Civil War and bootlegging during the Prohibition era, there has never been such a concerted effort to evade laws and court decrees in American history. Failing in their challenge of the constitutionality of many recent labor laws, many employers ignored the laws or sought to prolong litigation. The Wage-Hour Administrator was swamped by complaints that poured into Washington at the rate of 1,000 per week during the early part of 1940. The National Labor Relations Board was also swamped with cases of employers who were accused of violating the National Labor Relations Act. Many employers' associations tried to complicate the work of the board and delay its settlements by lobbying for the Walter-Logan bill, which would have made the Board's findings of fact as well as its interpretation of the law subject to review in the regular courts.

that no minority captures the machinery of public justice, either by election or by appointments. The police power must not fall into the hands of a warring faction. There must be no excuse for a private army of company cops and another private army of union sluggers.

The second way to make bystander ideals effective is to give them an intelligent content. Many persons who are not involved in a given strike have only the vaguest ideas about the merits of the rival claims. They want the case settled peacefully, and that is all. Our laws which guide judges and public administrators have also reflected the thoughtlessness of the bystanders. The contending parties feel some public pressure to settle their differences, but how? —As law-abiding citizens, as fair-minded men, as brothers? This is not enough. An experienced mediator once said:

> What are brothers in such relationships supposed to do? Too simple are the remedies that tell the employer to deal fairly, justly, and honestly with his employees, and tell the wage earners to give an honest day's work and be fair and just to their employers. What do fairness, honor, and justice require of us in cases like those described above? Equally good and honest people were on both sides of those cases, and equally good and honest "impartial chairmen" might have rendered quite different decisions.[80]

If contenders are really deadlocked, they can be assured of fairly impartial treatment only on condition that bystanders make some specific proposals or set determinate standards for a settlement of the quarrel. For a long while bystanders were sympathetic with workingmen who struck against starvation wages. Such sentiment was widespread years before

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80 "Problems for an Impartial Chairman," by W. M. Leiserson, *The Atlantic Monthly*, September, 1925.

Roosevelt said, "No business which depends for existence on paying less than living wages has any right to continue in this country." But this sympathy was not very helpful in settling the low wage disputes. The Federal Labor Standards Act of 1938 is far from perfect from the economist's standpoint, but it fixed a minimum point for wages and a maximum point for hours and thus provided a basis for ending a large number of disputes. Twenty-five or thirty cents an hour, prescribed by law, is something that can be made effective. Unorganized sentiment for more than starvation wages in unenforceable. Bystanders cannot mediate in these controversies unless they formulate some definite ideas and embody them in legislation.

It is neither necessary nor possible for the law of labor relations to prescribe in detailed formulae exactly what shall be done in every case. Legislation can give a board, a court, or a commissioner discretion in the treatment of details and still get results, if it states definitely some general policy which the officials are empowered to enforce.

Indefiniteness and indecision on the part of the bystanders confuse the situation and give unscrupulous partisans a pretext for Machiavellian action. Perhaps the most important example is the popular hesitancy about endorsing the idea of collective bargaining. Under the National Labor Relations Act, employers are compelled to recognize unions that represent a majority of their employees. At the same time, the Gallup poll finds that Americans do not want union membership to be compulsory. The possibility is thus left open for employers to avoid collective bargaining by underhandedly intimidating those men who are contemplating union membership. Union leaders are put in the position of missionaries and spend much of their energy getting timid men

and those who wish union benefits without dues to join "voluntarily." The resulting scraps could be obviated by a more consistent popular stand on the idea of collective bargaining—that is, either outlawing labor unions or making union membership compulsory in certain industries.[81]

If bystanders want the peace-making and regulatory authorities respected instead of circumvented by racketeering tactics, they must make up their minds which "rights" they are prepared to recognize and to enforce. The reason for saying this is that there is no spontaneous agreement by all classes in our society regarding rights and the common good.

In the simpler societies of the past there was at times a uniformity of custom and experience that gave to nearly everyone the same ideas of justice. Except for an occasional "bad man," everyone knew (was in agreement respecting) every other person's rights. It was commonly believed that rights were determined by the will of God. When this primitive social solidarity disintegrated in early modern times as a result of intricate division of labor and rapidly changing fortunes, a practical atheism resulted. Bishop Bossuet and James II claimed divine right for absolute kingly power. John Locke and Thomas Jefferson claimed divine ("natural") rights for the individual. Then came the rights of labor, and many other partisan claims clothed in the raiment of rights. It was impossible to suppose that a just God was recognizing so many contradictory "rights." God was deprived of much importance in the enforcement of respect for rights.[82] A right came to be defined as a claim

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[81] See M. J. Barloon, "Violence and Collective Bargaining," *Harpers Magazine*, Vol. 180, p. 625.

[82] The medieval fund of common moral standards is not completely bankrupt, despite the divisiveness of modern society. Occasionally, an employer or a labor leader is able to reach an agreement with his antagonist on the basis of some

that is recognized by other human beings, and, particularly, by those persons whose will is expressed by the government.

If two opponents cannot agree upon their respective claims, they cannot by themselves reach a right settlement of their dispute. No one recognizes anyone else's claim. The settlement must be determined by might. If a court or arbitrator comes into the argument but secretly represents one of the partisans, the settlement will still be one of might rather than right, for no party recognizes any other party's claim. The only possibility of a recognition of claims and, therefore, of the establishment of rights lies in the action of bystanders who are really third parties. Then it is possible, though not certain, that some claims will be recognized by someone other than the partisan who makes the claim. The partisans have, in that case, some chance of getting a moral decision which is not disguised tyrannizing by their adversaries.

Bystanders have been defined as those who have more concern for the public peace and for common values, such as the community's economic efficiency, than they have for the victory of one side in the immediate controversy. If bystanders are to impart some impartiality to the struggle of unions versus corporations, they will have to take the trouble

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surviving common sentiment. Sidney Hillman is credited with such an achievement in his campaign to unionize the clothing plant of "Golden Rule" Nash in Cincinnati. Nash had advertised himself as an employer who followed the Golden Rule. He gave his workmen bonuses and various privileges "but he forbade them to join a union. Hillman's study of the man convinced him that Nash was sincere. Instead of trying to recruit among Nash's workers, Hillman enlisted the aid of churchmen to point out to Nash that his employes were subjected to greater speed-up than in most sweatshops, that wages paid by him were 25 percent lower than in union shops. Hillman worked on his man three years apparently without result. Then one day Nash ordered his employes to join the Amalgamated. 'I unionized,' Nash said, 'because I could not sleep nights over a job that I had to do and could not.'" ("Sidney Hillman," by Joseph Gollomb, *The Atlantic Monthly*, July, 1938.)

of weighing the rival claims, recognizing some claims, and enforcing respect for them with the sovereign power of the state.

Summary of Part Three

Man's quest for moral agreement does not end in a triumphant disclosure to the effect that everyone has had the same purposes and standards all along. No clever argument can explain away *all* differences of opinion and moral judgment.

Human society, dynamic and divided as it is, cannot be directed in all of its policies by unanimous consent. There are issues which, if they are to be decided at all, must be decided by coercion.

Despite these desperate and ultimate disagreements, Machiavellian terrorism does not usually appear to be a wise course of action for several reasons:

1. There are some questions that are not worth fighting over. Peace, friendship, economic productivity, and other values would have to be sacrificed if we were to force some of our views upon other men, and when we evaluate these things thoughtfully they are worth more than the ends for which they would have to be destroyed.

2. There are many disagreements that grow out of different ideas about means to common ends. Discussion and inquiry can overcome these disagreements. Even where the opposition is insurmountable, the fact of insurmountability can be ascertained only by trying to reason things out and failing.

3. Where our quarrels are irreconcilable, there are usually more bystanders than opponents. The bystanders care more for common values than for the merits of our quarrel. If the bystanders' attitude is effectively expressed in government, we may secure a fairly impartial arbitration of our disputes. Whether the award of court and legislature seems just to us or not, the bystanders

may attach such penalties to Machiavellian warfare that acquiescence seems better than stubbornly fighting to the bitter end.

I have not said that desperate warfare is never wise. I have emphasized the conditions under which peaceful methods of settling disagreements will appear preferable to a thoughtful person. These statements will strike some readers as an opiate designed to encourage that quietism into which many human beings fall after adolescence, because I have said that there are some good ends that are not worth fighting for. Other readers may think that my statements smack of radical propaganda, because I have not said that peaceful methods of settling differences are desirable under all conditions. I have not wished to give blanket endorsement either to the tendency of some men, in the heat of controversy, to fight at the drop of a hat, or to the tendency of other men, enjoying the comforts of routine, to lapse into moral slumber. It is not possible to say in one general rule what course of action will be wise and right in every case of disagreement. The general rules of ethics help us to avoid thoughtless and foolish reactions to opposition. They do not tell us exactly what we ought to do tomorrow at half past three. They guide our deliberations at three, so that we may have somewhat less chance of regretting our choice at four.

Exercises

1. On January 7, 1940, the National Labor Relations Board dismissed a petition of the Progressive Mine Workers of America for certification as collective-bargaining agency to represent the employees of two Pennsylvania mining companies. The Board held: "We find that the single mine unit urged by the Progressives is not appropriate for the purposes of collective bargaining,"

because the operators in the anthracite coal industry acted in unison in matters concerning collective bargaining, and the United Mine Workers, representing most of the anthracite miners, was more effective in dealing with this united front of operators. Is this democratic?

2. The Board has also ruled on numerous occasions that minority groups of employees must allow a union preferred by the majority to represent the entire force in collective bargaining with the employer. Is this democratic?

3. Does the author contend that bystanders are nonpartisan?

4. How is Congressman Smith at odds with Hegel? To what extent is he in agreement with Hegel?

5. By union organization does labor take a step in the direction of legal and moral responsibility for its actions? Is organized labor likely to respect the rights of others more consistently than unorganized labor?

6. If you enter an occupation that is unionized, and if you know that the union officers are drawing exorbitant salaries, will you feel an obligation to fight the union and resist pressure to bring you into the union?

7. Should teachers join the teachers' union or should they join "professional associations" which do not identify themselves with the labor movement on the ground that teachers should be nonpartisan?

8. Should workers in some or all trades be compelled by law to belong to unions?

9. Should union and management be compelled by law to accept the awards of an arbitrator, or should they be compelled only to engage in negotiations for a certain period of time, or should they be compelled to do neither of these things?

10. Statement of Thomas M. Girdler, president of Republic Steel Corporation, the *Chicago Daily News,* July 24, 1937: "John

Lewis and the C.I.O. are sponsors of terrorism and lawlessness, promoting and encouraging violence and disregard for law. With many of its leaders avowed communists and with its terroristic methods, C.I.O. constitutes the most dangerous threat against the preservation of democracy in the United States."

Statement by John L. Lewis, same paper, same issue: "Violence? No one has been killed but our people. No one has been maimed but our people. Ten workers killed, shot down by the Chicago police. A tear-gas projectile executed another of our men, left him writhing on the ground at Youngstown. . . . The tear-gas bombs, the bombing gas thrown by the police, the rifles, the arms—all furnished by whom? By the police? No! By the steel companies. What right has Girdler to arm for war? Does labor have the right to spend a million dollars for weapons and tear gas? You're right. The answer is no. Labor does not want to buy tear gas. But labor is getting mighty tired of swallowing tear gas."

What would be the logical comments for Hegel, Marx, Smith, and Dewey to make in applying their philosophy to these contentious statements?

11. What does the following news item suggest concerning bystanderism? Clayton F. Smith was reported in an interview regarding the appointment of a County Hospital director to have said: "Moreover, the Chicago Federation of Labor was absolutely opposed to the appointment of an outsider. I didn't worry much about it, but you know how it is. No one wants to run in opposition to organized labor. The goody-goody people might be with you, but you have to think of votes." *Chicago Daily News,* October 19, 1938.

12. "If power is to be abolished, this can be accomplished in no wise by force, as power having abolished power will always remain power. . . . In order that good life should exist amongst men it is necessary that men should be good. . . . There is only one way of influencing men toward a good life, namely, to live a good life yourself." Tolstoi, *Appeal to Social Reformers.* In what sense is this a true statement?

13. Should unions be compelled to incorporate, so that they can be sued for damages? Should unions be compelled to make public their financial accounts?

14. Should all company police forces and all union leaders' bodyguards be outlawed?

15. Which of the labor movement's claims or "rights" are now recognized by the majority of Americans? Is such recognition implemented by law? Does every able-bodied man have the right to work?

16. What rights of management are generally recognized? (See the court proceedings during and after the sit-down strikes of 1937.)

17. Pope Leo XIII made the following assertions in his encyclical "On the Condition of the Working Classes," issued May 15, 1891. Are they similar to the views of the author or of any of the parties mentioned in this chapter?

"The great mistake made in regard to the matter now under consideration is to take up with the notion that class is naturally hostile to class, and that the wealthy and the workingmen are intended by nature to live in mutual conflict. . . . Each needs the other: Capital cannot do without Labor, nor Labor without Capital. . . ."

"Wages, we are told, are regulated by free consent, and therefore the employer, when he pays what was agreed upon, has done his part and seemingly is not called upon to do anything beyond. . . . Wages ought not to be insufficient to support a frugal and well-behaved wage-earner. If through necessity or fear or a worse evil the workman accept harder conditions because an employer or contractor will afford him no better, he is made the victim of force and injustice."

18. Evaluate the policy of forgiving one's enemies. Do you approve of forgiveness only when you are an onlooker? Are there any social groups in which the forgiving of offenses has become a habit? What other policies are needed as supplements to forgiveness? Do you regard forgiveness as right regardless of its consequences?

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CHAPTER SIXTEEN

DETERMINISM AND FATALISM[1]

CLASS conflicts, national destinies, heredity, glands, uncontrollable weather: I am caught in a maelstrom of disagreements and collisions. When I study the causes of social disunity, I must wonder whether my little deliberations about policy really change any decisions and whether my decisions have any effect upon what actually happens in the world of affairs.

In this mood, I approach two traditional problems of ethics: (1) the freedom of the will, and (2) freedom of action. (1) Am I capable of arriving at only one choice in my present predicament? Is my deliberation a sham? Am I deluded when I suppose that two or more alternatives confront me? Is my will free? (2) Considering the conditions that limit my conduct, can I really affect the trend of history? Will war or peace come, no matter what plan I

[1] This chapter adds nothing to the main argument of Part Three. It is a discussion of some perplexities that intrude not merely upon a consideration of moral disagreements, but upon all ethical deliberations.

try to carry out? Shall I be dragged into conduct that I now judge iniquitous, regardless of my efforts? Am I free to act as I think I should?

Social and psychological studies convince me that the course of my moral life is determined by causal conditions. What I think and how I act are affected by my heredity and my surroundings. I see no reason for denying the doctrine of determinism—namely, that every event is determined by pre-existing causal conditions, and that two entirely similar conditions will produce entirely similar events. Determinism sounds sensible when the chemist says that the disintegration of a sample of water into hydrogen and oxygen is the result of heating the water to more than 1000°, and that such treatment of water will *always* produce the same result. There seems to be a uniformity in the operation of non-human causes. Determinism also makes sense when a social observer says that certain controversies are the effects of rapid technological change, and that under similar conditions rapid technological change will *always* produce social controversies. Unless all human actions are determined by natural causes, it is hard to see how there can be any knowledge of human and social affairs that is more than a recording of brute facts. The social scientists' search for general principles assumes the doctrine of determinism.

In this chapter we shall explore the ethical implications of determinism. We shall argue that, as determinists: (1) we may still assume that we have some freedom in the moral sense of that word; (2) we are justified in dismissing certain conceivable but "impractical" ideals; and (3) in any punishment of bad conduct we should be forward-looking rather than merely retributive.

Before considering these implications of determinism, we

shall try to distinguish determinism from fatalism, with which it is often confused. Determinism asserts that every event is determined by past causes. Fatalism asserts that all of the past conditions in the universe are such that tomorrow's events must be of one sort and that the future holds only one set of possibilities. The determinist says that what we do tomorrow will be explainable by today's conditions. The fatalist says that all of today's conditions and events make it inevitable that I shall act in a given way tomorrow.

Fatalism, Determinism, and Indeterminism

The first fatalists were those theologians and astrologers who believed that the fates, the stars, or other supermundane beings completely control earthly happenings. The ancient forms of fatalism are now regarded as ridiculous by most educated persons. One seldom encounters a modern fatalist who believes that Jupiter controls the brain, that Venus controls the genitals, belly, and lower limbs, or that Saturn appoints the condition of the right ear.

Modern fatalists refuse to identify the causes of current events, but they do make an assumption about *all* of the causes that enter into a given situation. They are not satisfied by the cautious statements of determinists. Determinists confine themselves to such assertions as this: "*If* a body falls freely near the earth's surface, its acceleration will be 32 feet per second per second." Determinists do not declare that all the conditions of the universe are such today that a cornice on the building at the corner of State and Madison streets must fall to the ground and kill seven persons at 12:26 P.M., January 1, 1990. The determinist does not even say that a mind omniscient regarding the present state of the universe could predict what will happen at that future time.

He simply affirms his faith that, when that time comes, whatever happens will have been determined and will be explainable by previous conditions and events. The determinist might, after a study of the facts, venture a prediction of what will happen in the future; but he would qualify his prediction by the word "probably," because he would not be sure that he had taken into account all causes, or even that all present causes have only one possible consequence. He does not assert that the universe is a single, unified, causal system whose future is as unalterable as its past. Because of his caution, the determinist fails to satisfy the fatalist. The fatalist forgets the *ifs* and expects the whole universe to conspire to produce the events of A.D. 1990 without a single *if*.

Fatalism is not disproved by showing that it speculatively rules out the possibility that the combination of present causes may have several possible eventuations. We do not pretend to establish the falsity of fatalism. Its assertions are unverifiable. It is enough to recognize that fatalism is a speculative doctrine. Both fatalism and determinism may be true, but we do not know. Hence, one may be a determinist without becoming a fatalist.

The speculation which categorically opposes fatalism is known as *indeterminism*. The indeterminist asserts that present and past conditions do not completely determine future events. Before criticizing indeterminism, however, we must distinguish two varieties of the theory:

1. What may be called a *pluralistic* indeterminism simply contradicts fatalism. Philosophers like Aristotle and James were, in some of their essays, pluralistic indeterminists and no more. They asserted that there is real chance in the universe. Even though there be a God who knows everything about the present condition and past history of the world, they would say that He

cannot predict the future with complete certainty. It is possible that conditions which have never yet impinged upon one another may produce novel consequences. This kind of indeterminism does not contradict determinism, although it prefers to say that fatalism is false, whereas the determinist says merely that fatalism is unproved.

2. *Radical* indeterminists, on the other hand, deny the truth of determinism as well as fatalism. They assert that some events do not have intelligible, natural causes. Nature, they say, does not always behave in the same ways under entirely similar circumstances. This may be due to the intervention of supernatural forces or to a sheer whimsicality in the nature of things.

Radical indeterminism is obviously as indemonstrable a speculation as fatalism. Alleged proofs, such as the "authentication" of miracles at Lourdes and the errors in prediction which are admitted by natural scientists, are insufficient evidence of the truth of radical indeterminism. As Spinoza observed, every uncertainty, every appearance of whimsicality in nature, may be only a case of our own ignorance. There may be some underlying determination which escapes our notice.

Ethical Significance of Radical Indeterminism

It used to be supposed that one had to believe in the freedom of the will in order to believe in the possibility of morality, and that one had to accept radical indeterminism in order to believe in the freedom of the will. Kant, for example, built up an elaborate argument to prove that moral acts of will are free from the causal influence of natural conditions.[2] We shall presently show that this denial of determinism is not required in order to believe in the possibility of morality.

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[2] See Kant, *Fundamental Principles of the Metaphysic of Morals*, second section.

At present, we limit our discussion to some ethical difficulties in radical indeterminism, itself.

A number of recent writers (C. D. Broad, Nicolai Hartmann, J. Laird, W. D. Ross) agree with Hume that radical indeterminism is more upsetting than either fatalism or determinism as a presupposition of the moral life. If, to any appreciable extent, later events are not affected by earlier events, every ethics that judges actions by their consequences is thrown into confusion. The founders of most ethical systems assume that present plans will have future effects. If the expectations are faulty, not only because of our limited knowledge, but also because nature is fundamentally unreliable, one justification for ethical reflection is badly shaken.

Furthermore, every ethics that places high value on human character must face the possibility that dispositions and habits built up by years of discipline may count for nothing. Without the assumption of causal relations, the impulsive man has as good a chance as the thoughtful man of acting wisely and well. Underlying most ethical reflection is the belief that what we do and think exerts causal influence rather than the belief that some events are uncaused or totally undetermined by pre-existent conditions.

Ethical Significance of Fatalism

Perhaps a complete knowledge of the state of the universe in A.D. 1066 would have made possible the prediction that I would have a cold yesterday and that war would break out in Pago Pago next year. Perhaps we are simply ignorant when we suppose that we make choices and that our actions make a difference in history. Fatalism may be a true doctrine, although we cannot prove it.

Yet, if fatalism is a true presumption, it does not affect ethics in the least. In presuming that *everything* which happens is inevitable, fatalists must say that our efforts and our thoughts are inevitable.

Fatalism dampens moral endeavor only when it is inconsistently applied to a specific situation. A fatalist tells you that the date of the next war is foreordained or fixed by conditions already in existence. If he thinks that this statement may deter you from your efforts at peace-making, he is fatalistic about the war but not fatalistic about your efforts. If fatalism is true, you will or will not make efforts to secure peace according to a causal situation that is beyond your or his control.

Similarly, a lawyer tells a jury that the defendant in a murder case was forced by predetermining circumstances to commit his crime. If he is a consistent fatalist, he will also suppose that the jury is fated to deliver a certain verdict.

Old Zeno the Stoic is reputed to have seen through the inconsistent application of fatalism. One of his slaves had been caught in the act of stealing. When the slave pleaded with Zeno not to whip him because it was fated for him to steal, Zeno replied, "And so it is fated for me to whip you."

Every course of conduct may, despite appearances, be inevitable; but, as Judge Holmes remarked, "the mode in which the inevitable comes to pass is through effort."[8] The fatalist can discourage moral endeavor and the quest for good policies only by assuming that all historical events except *our efforts alone* are fated, or by a presumptuous claim to knowledge that the entire universe conspires to put an end to our moral efforts. If the fatalist is consistent and if he

[8] *Justice Oliver Wendell Holmes; His Book Notices, etc.*, edited by Harry C. Shriver, p. 201. Central Book Co., 1936.

does not claim to know everything, his doctrine makes no difference to ethics.

Ethical Significance of Determinism

Radical indeterminism has been shown to be positively discouraging to ethics. Fatalism appears to have no ethical consequences. What about determinism, the doctrine that every event or action has prior causes, which may or may not make a certain event inevitable? Determinism is ethically significant; it implies something about our freedom to *choose* and our freedom to *act,* but the implications are not the same for both kinds of freedom.

Determinism is incompatible with the belief that we can choose and prefer any one of an infinite number of alternative policies. If our thinking and evaluating processes are determined by past events, we never have perfectly free choices. The habitual drunkard, surrounded by his drinking cronies, may say, "I could quit drinking this minute if I wanted to," but it is often the case that he can't want to.

Past and present conditions limit our will; determinism bids us recognize these limitations. Otherwise, we shall waste our precious moments of ethical reflection toying with alternatives that we very probably cannot accept, and we shall waste our energies trying to get others to make choices that for them are practically impossible.

A determinist, therefore, does not expect drunken men who are enjoying their drunkenness to sign the pledge and mean it. He does not ordinarily expect union leaders to approve the wage policies of expense-cutting managers, nor does he look for managers to come around to the union point of view on all questions. The determinist is not going to put forth great effort to convert successful middle-aged

doctors to the idea of socialized medicine, or to convert gang boys to all the policies of country gentlemen. If the determinist finds himself in one of these categories, he will not spend much time contemplating such radical reversals of evaluation unless something very unusual has happened to him.

The determinist dismisses some alternatives as beyond his power of choice at the moment, in order that his deliberations may not become endless *folies de doutes.* But limits do not rule out all alternatives. The ethical determinist recognizes limits to the range of policies that he can approve and sincerely appreciate, but he does not give up deliberation. He has no proof that all except one alternative are for him inevitably repugnant.

A determinist also recognizes limitations upon his efforts to influence the moral choices of other people. As a criminologist, he is convinced that lectures which judges deliver to convicted men are ineffective in numerous cases because nothing is done to change the crime-producing environment to which the criminal will return after his term in prison. The lecture makes the judge feel good, but it falls on deaf ears. Similarly, exhortations to cleanliness and industry often have no effect on families long accustomed to poverty, and run down physically. The extreme case of futility is the sermon addressed to the drug addict who is not under medical care.

Determinism does not discredit all moral exhortations on the ground that the wills of our fellow men are determined exclusively by causes other than exhortations. When *A* says to *B,* "You ought to see a doctor," his speech is a causal action. It is an action which may combine with other conditions to cause *B* to modify his plans. All that deter-

minism discredits is the sort of exhortation that has no chance of being accepted because the main conditions of moral choice point in another direction. While it may be futile for the judge to tell the prisoner, "You ought to follow an honest trade," the judge may not be wasting his breath if he says, "I am giving you the choice of the rock pile or the prison trade school. You ought to choose the trade school." Perhaps the judge can influence the prisoner's choices only indirectly by getting the town to clean up a slum area and improve the opportunities for honest work. In that event, the judge may direct moral exhortations to other men instead of the criminal. Not all moral exhortations are ridiculed by the determinist; he simply wants to make sure that his own exhortations will not be completely nullified by other causal conditions affecting the exhorted person's ethical thinking.

Determinism and Freedom of Action

Freedom of action presents a somewhat different issue than does freedom of will. To sharpen the distinction, let us imagine ourselves seated in a lecture hall listening to an address which horrifies and disgusts us. We find ourselves contemplating the possibility of walking out of the room in protest. There are two ways in which we may be unfree. First, our will may be unfree in that no matter how long we deliberate we cannot choose to walk out. Our inhibitions, our shyness, our fear of censure and reprisals, our early training in manners, our tolerant beliefs may make it impossible for us to accept such a plan. In that case, our will is not completely free: it is limited. On the other hand, suppose that we decide to walk out. We may be prevented from carrying out our intention. The door might be locked. A

bouncer might shove us back into our seats. We might suddenly suffer a stroke of paralysis. In these cases, our *action* would be unfree.

Determinism reinforces common prudence in the belief that the path to hell is lined with good intentions, intentions that cannot be carried out because the conditions for the intended actions do not exist. Despite the poetic assertion that "When duty whispers low, *Thou must,* the youth responds *I can,*" the determinist recognizes that most people feel some duties which they probably cannot discharge.

If we put the matter constructively, the determinist pays attention to the conditions which may facilitate or obstruct action in accordance with my will. I may resolve to be sweet-tempered toward my fellow passengers on the streetcar. If, however, the streetcars regularly are overcrowded, carrying three times as many passengers as seats, my resolution may not be kept. The determinist respectfully suggests that it would be in the interest of moral economy to improve streetcar service as a means of making a sweet temper humanly possible.

Or again, I may resolve to secure the equivalent of a college education. Should I continue in full-time employment and attempt to prosecute my studies at home without any withdrawal from the distractions of family and friends and without any guidance from an educational institution, my intentions might be sidetracked. Perseverance in self-education under such circumstances is not impossible, but the odds are, sadly and heavily, against successful action on such an educational plan. Regular assignments and a special place for study are much more favorable conditions. Practically speaking, many seekers of learning have freedom of action because they are enrolled in a college, whereas others are

not free to prosecute their educational policy because they are not so enrolled.

In Chapter XV we applied determinism to labor disputes. Conditions were recognized which make it virtually impossible to carry out certain "nonpartisan" conference-table ideals. Much as we will to do our part in settling labor controversies without governmental compulsion, we are often not free to do our part. Either the other partisans will not reciprocate or the demands for self-sacrifice are too great for us to meet by purely voluntary effort. Whether we be principals or bystanders, we are not free to act according to some very noble intentions. This does not imply that all labor-relation ideals are beyond our powers. It does not imply, as Epictetus inferred, that we have freedom and power only to hold the "right thought." On the contrary, determinism as a guiding principle directs our attention to a realizable ideal, in this case compulsory rather than voluntary negotiation.

False Applications of Determinism

A determinist very easily slips into fatalism when he tries to take into account the limitations on our action. It is easy to concentrate attention upon the environmental conditions of freedom and forget completely that the existence of ourselves and our possession of certain skills and attitudes also constitute conditions affecting the possibilities of successful action. This error is the source of many hen-and-egg dilemmas or vicious circles.

There may be some vicious circles in life, but not so many as our minds invent. Referring once more to labor disputes, we recall that managers said they had to use strong-arm methods because the other side was unreasonable. The

union leaders claimed that they were forced to use violent tactics because the management was unreasonable. The bystander need not conclude that this Machiavellian struggle is inevitable and self-renewing unless he counts himself out of the struggle. If the bystander did not exist, if in every dispute the whole population were lined up on the two sides, each irritating the other to unscrupulousness, then the circle would be hopelessly vicious. But the bystander is someone, and he is outside of the circle. He may not be as just as Franklin's God, but he can do something to break the vicious circle.

Nothing in the doctrine of determinism warrants the assertion that we should abandon all efforts, that effort does not count. The determinist can agree with William James that "the deepest question that is ever asked admits of no reply but the dumb turning of the will and tightening of our heart-strings as we say, 'Yes, I will even have it so!'"[4] But the determinist keeps a weather eye out for impasses and avoids them so that he may exert his efforts where they will count for the most. To dodge the hopelessly vicious circles and break the others is the policy of the wise determinist.

Many situations that look like vicious circles are not vicious circles. Faulty thinking about heredity and environment leads to false suppositions about what is possible. Heredity, it is true, imposes conditions which set at naught some very lovely intentions. Environmental conditions also limit our freedom of action. But these limitations are often less severe than we suppose. Considered in isolation from one another, heredity and environment appear to be much more cruel bondsmen than they actually are. It is true that certain pov-

[4] *The Principles of Psychology*, Vol. II, p. 578. Henry Holt & Co., 1890.

erty-stricken families are without employable members because of sickness. It is true that unemployment tends to increase the physical disabilities of the family, and thus cut down its chances of establishing the economic conditions of health improvement. But we who are outside of these families and others like us are not in the vicious circle, and we can by charity or social insurance raise the economic level and by personal stimulation we may offset the habits of indolence and carelessness. Our efforts may break the vicious circle.

The determinist can also convince himself of the existence of nonexistent vicious circles by confining his attention to hereditary conditions. Certain families of poor heredity breed more rapidly than families of good inheritance because, being less intelligent, they are capable of less restraint and foresight. The hereditary deficiency is the condition for imprudent conduct, and the imprudent conduct is the condition for more hereditary deficiency. The deficient family's environing society can and does in many cases break the circle.

Both the facts of heredity and the facts of environment, considered in abstraction from one another, tend to misrepresent the limit of our freedom of action. So do the facts garnered by any one science. If there were only one chain of causal connections, one kind of causal condition, we should have only one science and one art. But, as William James pointed out, heredity and environment seem to be distinct "cycles of operation" in nature. Over fairly long periods of time, hereditary conditions appear to be independent of weather conditions, and economic conditions show some independence of weather conditions, at least in a given area. For example, the prodigious development of

technology in Western Europe and the United States has been a causal sequence operating independently of the harsh weather conditions in the upper Andes. Yet the new technology, fostered by the temperate climate of Europe and the United States, was imported into the Andes and made possible actions which the weather-scarred natives of that region might never have found possible.

Determinism and Justice

Determinism and ethics appear incompatible to some moralists because, they say, ethics requires us to punish wrongdoers. If wrongdoers have no freedom of choice and action, or if they have a limited freedom, then punishment is unjust.

This objection arises from only one theory of criminal justice, the theory that punishments are meted out for disloyal or bad intentions and for such intentions alone. A determinist who adhered to this rationalization of punishment would be unjust if he punished a gang boy who never had a chance to want anything but an antisocial career. He would be unjust if he fined or imprisoned an ignoramus who meant well but did not know how to keep his automobile from running down three pedestrians. On an intentional theory of justice, a determinist would let many antisocial actions go unpunished.

There are, however, several other theories of justice. The most primitive theory holds men responsible for their actions regardless of their intentions. Infants are punished and sometimes put to death for what we should call pure accidents. Even inanimate objects are punished: a tree is mutilated or burned if one of its branches falls and injures a passer-by. This view of justice has appealed to some civi-

lized men. Calvinists, for example, argued that unbaptized infants deserve to burn in hell throughout eternity, even though it is no fault of the infants that they failed to live long enough to secure the ticket to heaven. Calvinistic justice does not reckon with intentions, any more than we consider whether a fly or mosquito means to annoy us and jeopardize our health. If any creature is or does what is bad, irrespective of intentions, it deserves death or some other punishment. This primitive theory of justice is consistent with determinism.

For more than a century, still another theory of criminal justice has been popular among determinists. As conceived by Bentham and his successors, the primary purpose of penalties is to protect society. Accordingly, some notice can properly be taken of every evil action, regardless of the intentions of the actor. No matter how good the intentions of the ignorant motorist may have been, he deserves to be disciplined, at least to the extent of losing the privilege of motoring until he has mastered the art. The antisocial gang boy and the maniac deserve to be incarcerated, if not executed, for they are menaces to society.

This modern theory of justice is tempered by the doctrine that society's welfare will be protected in many cases by "treatment" of the criminal rather than by old-fashioned penal measures. But whether wrongdoers can be reformed or must be permanently removed from society, the social welfare theory of justice is not bothered by determinism, as Bentham himself realized.

Summary

Among the facts about our moral judgments we find the fact of limiting conditions. Our choices have natural causes;

the actions which we decide upon also require certain causal conditions for success. We do not suppose that an African bushman of the fourteenth century was free to will that he should learn English or that he should become a Christian. We do not assume that a man who wills to convert the inhabitants of Mars to capitalism is free to carry out his intention. There are limitations on both our freedom to will and our freedom to act.

Three doctrines about causation are often advanced as ethically significant. They are fatalism, indeterminism, and determinism. Fatalism asserts that every event is inevitable. Fatalism has no ethical importance because, if true, it would have to say that moral deliberation and effort are as inevitable as anything else that actually happens. Radical indeterminism denies that events are inevitable; it also denies that some events have natural causes. Indeterminism, if consistently believed, undermines ethics, for it casts doubt upon the prudence of planning and the effectiveness of moral discipline.

Determinism asserts that every event has natural causes, but does not assert that all past causes conspire to make a stated event inevitable. A determinist tries to avoid lengthy deliberation about ends which he probably could never accept because of the limiting conditions of his will. He confines his exhortations to policies that are within the range of the exhortee's will. Furthermore, since there are limiting conditions for successful action, he tries to choose policies that have some chance of carrying out his intention. A determinist needs to be cautious in estimating the limits of will and action. He should be especially reminded not to rule out of his calculations his own existence and powers.

A determinist can consistently maintain that he has duties to perform and choices to make. He can consistently exhort

other men to do their duty. He can consistently punish wrongdoers. Persons (like Kant and Emerson) who say that morality is a cruel farce unless we have complete freedom of will and/or action have misconceived determinism or made some mistake in reasoning about it.

Exercises

1. Richard Cabot criticized social workers for mixing ethics and fatalism. In his book, *Adventures on the Borderlands of Ethics,* he said that social workers talk to their clients as if they were to some extent responsible for their actions, and then in their reports the social workers talk as if the poor were victims of bad conditions. Do you agree with Cabot?

2. "It is as reasonable to expect a fire to go out when it is ordered to stop burning as to suppose that a man can stand straight in consequence of a direct action of thought and desire. For a little while he stands differently but only a different kind of badly. He then takes the unaccustomed feeling that accompanies his usual stand as evidence that he is now standing right." John Dewey, *Human Nature and Conduct,* p. 28. Henry Holt & Co., 1922. Dewey uses this example in another connection, but would you say that it proves that nothing can be done about bad posture?

3. In view of the limitations of time and wealth, would you say that citizenship in general is an impossible ideal which had better be replaced by the notion of specialized citizenship? That is, if it is impossible for a citizen to be informed and effective with regard to all public questions, is it desirable that citizens should organize into groups for the study and improvement of a limited area of public life? Or is utter resignation in order?

4. Report and criticize the doctrine of "the iron laws of history" as developed by Marx, H. T. Buckle, and other nineteenth-century historians.

5. "There is, and there was, no fatality in history. If the aftermath of war has been reactionary dictatorship in one of the

defeated countries, Germany, it has been progressive dictatorship in another one, Turkey, and dictatorial socialism in the third, Russia. A credible prophet in 1915 would have prophesied socialism in a defeated Germany, as in a highly industrialized country, obscurantism in backward Turkey, and no novelty at all in Russia, it being unsound to suppose that the Western powers could win and the Eastern ally fall." From *Goliath: The March of Fascism,* p. 205, by G. A. Borgese. Copyright 1937 by G. A. Borgese. By permission of The Viking Press, Inc., New York.

"Socialism, in its blander form of a merely economic theory, had developed into a sort of Unchristian Science, holding that the physical body of society is ill and that the recovery of the body will bring about the permanent welfare of the supposed soul as well. The first half of the proposition is true. The second half is crudely wrong. . . . Truth still is where it stood with Plato or Mazzini, with Dante or Kant; in the conviction that perfection both in intelligence and action, in mind and heart, is the unchanging aim of society. . . ." From *Goliath: The March of Fascism,* p. 286, by G. A. Borgese. Copyright 1937 by G. A. Borgese. By permission of The Viking Press, Inc., New York.

"The philosopher . . . who eloquently sides with things as they are and overlooks or ridicules things as they ought to be, ceases to be a philosopher, and steps down, if anywhere, to the level of mere statements of facts." From *Goliath: The March of Fascism,* p. 298, by G. A. Borgese. Copyright 1937 by G. A. Borgese. By permission of The Viking Press, Inc., New York.

6. "The only form of Liberty which knows no limits, no bounds, no restrictions, is the Liberty of the artist, inasmuch as Art is a dream which represents an abstraction from reality; that reality of which other men are part, and that comprises the world to which our life is bound. Art can thus spatiate in that free world of fancy where the individual is creator and lord of his own creations. And the artist is the being who seeks and finally finds that his Liberty is outside this world of ours, where there is Work and there is Sorrow, where there is the hard law, which limits the individual and where there is that force weighing down on man —a force superior to every natural or human force—which we

may call God or Fate, and which no power of will or of science can ever win or efface." Giovanni Gentile, quoted by Palmieri, *The Philosophy of Fascism,* p. 91. Dante Alighieri Society, 1936. This statement occurs in an apology for dictatorship. If we accept it as true, can we logically avoid the conclusion that dictatorial restrictions on freedom are good and necessary?

7. "Since the champions of freedom are at the same time—like Mr. Bertrand Russell—believers in scientific determinism, they champion, it would seem, something that in the nature of things cannot exist anyhow." Horace Kallen, *Freedom in the Modern World,* quoted by John A. Ryan, "Freedom in the Modern World," p. 142, *Journal of Social Philosophy,* Jan., 1937, Vol. 2, No. 2. Is this a sound argument?

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PART FOUR

SHOULD EVERYONE PARTICIPATE IN POLICY-MAKING?

CHAPTER SEVENTEEN

ANCIENT INTOLERANCE

SHOULD everyone participate in the making of public policies? That is the question to be pondered in the remaining pages of this book. By this time, perhaps, we can all agree that coin-flipping, snap judgment, and ancestor-aping are not the surest methods of hitting upon wise policies. To choose worthy objectives we must deliberate. To find right means for the achievement of those objectives it is necessary to inquire into the facts. And to know how best to deal with those who disagree with us we have to talk things over. But how many human beings are adept in deliberation, inquiry, and discussion?

Thought, investigation, and talk are risky ventures. They can jeopardize good things; bad talk is often more destructive than bad action. A reckless gossip prying into your personal affairs may do you irreparable damage. An irresponsible tattletale, speculating on the soundness of a bank, may cause a greater calamity than if he broke into the bank

and robbed its vaults. A clumsy teacher, talking freely about the extent of sexual promiscuity, may corrupt the morals of the unmarried. A self-appointed detective may turn up a fact in a strike or a racial conflict that starts a riot.

Should every Tom, Dick, and Harry be allowed to find out whatever he can concerning important public issues? Should everyone be tolerated when he chooses to express his opinion? Or would society fare better if policy-making and the deliberation necessary for policy-making were restricted to a few superior individuals?

The traditional American answer to these questions is, "Let everyone have his say. Encourage all citizens to study public questions." This tolerant attitude represents the conclusion of our great-great-grandparents. They reached their conclusion with special reference to matters theological and ecclesiastical. Reacting against the medieval religious intolerance, they decided that their ancestors had made a mistake in sending heretics to the stake. Our revolutionary fathers could not see what harm a man could do by merely *saying* unorthodox things or asking unorthodox questions, so they generalized and asserted that "Mere talk doesn't hurt anyone." Believing that unorthodox students of things religious had in some cases stumbled upon noble truths, they thought it best not to silence inquirers or to establish a state church with sacrosanct creed. Generalizing from this conviction about religious inquiry, they held that everyone should be free to seek the truth on all subjects.

Is tolerance really a wise policy, or does it expose the delicate values of an interdependent society to needless destruction? The totalitarian countries have abandoned the policy of tolerance and returned to ancient restrictions upon policy-

making thought and talk. Before examining the new totalitarianism, we shall study the old authoritarianism against which the American revolutionists reacted. In the present chapter we shall see how the intolerant ancients and the tolerant American revolutionists differed in the importance which they attached to religious beliefs; how American tolerance was grounded upon the relative unimportance of creeds and the relative importance of inquiry, whereas ancient intolerance sprang from an opposite evaluation of creed and study. Succeeding chapters will show that the *new* intolerance rests upon a desire to protect *secular* rather than supernatural values; and since Americans are now very anxious about the preservation of secular values, their tolerance must be justified by something other than the harmlessness of talk if tolerance is to survive.

The Objects of Ancient Intolerance

The histories of Christianity and Mohammedanism are excellent materials for the student of intolerance. Christians and Moslems can be arrayed in a series commencing with those who were completely intolerant toward dissenters and going all the way to those who were ready to tolerate all infidel opinions. On what grounds did a Christian like Innocent III order the execution of thousands of heretics in the year 1208? On what grounds did a Christian like Leo Tolstoi tolerate and even co-operate with men whose beliefs he regarded as idiotic?

The intolerant believers have condemned not only unorthodox theologians, but also numerous moralists and scientists. Most of the propositions which are landmarks in the history

of science have been suppressed in the name of religion. Here is an incomplete list of them:[1]

the theory of biological evolution;
the theory of cultural evolution;
evidence that the earth is more than 6,000 years old;
the theory that fossils are the remains of prehistoric plants and animals;
the atomic theory in chemistry;
the theory that lightning is electrical and that lightning rods will prevent the destructive effects of lightning;
the theory that comets are natural bodies and have regular orbits;
the belief that insanity has natural causes and is not due to demon possession;
evidence that the sun is over 90,000,000 miles distant;
the theory that the earth is in motion;
Boyle's studies of the vacuum;
evidence that Jupiter has several moons;
the Arabic numeral system (zero, a thing of the devil);
the theory that the earth is spherical;
evidence that man has as many ribs as woman;
evidence that reproduction of fish is sexual.

Not only were men forbidden to entertain these ideas, but at times they were promised drastic punishment if they made any inquiry. Pope Alexander III and the Council of Tours (1163), for example, ordered the excommunication of anyone who pursued "the study of physics or the laws of the world." Excommunication in the twelfth century meant the loss of many secular privileges as well as good standing in the church. This anti-intellectualism was carried on in the spirit of St. Paul, who had said:

For it is written, I will destroy the wisdom of the wise, and will bring to nothing the understanding of the prudent. Where is

[1] See Andrew White, *History of the Warfare of Science with Theology.*

the wise? Where is the scribe? Where is the disputer of this world? Hath not God made foolish the wisdom of this world?

This was the spirit of Tatian who said: "Obeying the commands of God and following the law of the Father of immortality, we reject everything which rests upon human opinion." It was the spirit of Luther who rebuked "that silly little fool, the Devil's bride, Dame Reason, God's worst enemy."

The wars against science are the most extreme cases of religious intolerance, for many of the condemned scientists acquiesced in all the rites of the ruling priests and often their findings were only remotely connected with the creed of the church.

It is easier to understand intolerant attitudes toward theological heresy. We cannot stop to enumerate all of the creedal variations that have been suppressed violently, but they include:

There is only one God; therefore, Jesus was not divine.
Jesus was born a man, but was so good that God adopted him as a son.
Mary was not the mother of God.
The Holy Spirit is female and gave birth to Christ.
Jesus was not born of a virgin.
God, the father, suffered on the Cross.
Isaiah, Elijah, and Jesus were the same man returning at different times.
Christians cannot sin.
Laymen may administer the sacraments.
The elements of the Eucharist do not become the body and blood of Christ.
Baptism must be by sprinkling.
Baptism must be by immersion.

Moral conduct may commend a man to God.
Unbaptized infants are not punished.[2]

Severe measures have also been directed against exponents of numerous ethical opinions. In recent times we are familiar with ecclesiastical crusades against persons who believe that communism is a good economy. Not a few church people have also tried to shut up individuals with unconventional opinions about marriage, a recent case being the opposition of Anglicans and Catholics to the appointment of Bertrand Russell to the faculty of the College of the City of New York. History, however, records some more bizarre instances of ethical intolerance. Anathemas were thrown at those who asserted that:

It is right to relieve the pain of women in childbirth.
It is right to hold political office.
It is right to file suit in a secular court.
It is right to wear buttons on one's clothes and other ornaments.
It is right to cut one's hair.
It is wrong to bear arms in war (and vice versa).
It is right for first cousins to marry.
It is right to lend money for interest.
It is right to marry.
It is right to own property.
It is right to practice birth control.
It is right for people to rebel against an unjust monarch.
It is right for people to kil' a tyrant.
It is right for parents to send their children to a secular school.

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[2] For the details of these heresies, see a standard encyclopedia. Consult the following headings: Nestorians, Ebionites, Docetists, Cerdonians, Monophysites, Adoptionists, Arians, Gnostics, Montanists, Circumcellians, Adamites, Priscilianists, Novatianists, Euchites, Elkesaites, Waldensians, Albigensians, Brethren of the New Spirit, Beghards, Beguines, Averroeists, and so on. These are only

Not only have ethical *opinions* brought penalties ranging from ostracism to death; ethical inquiry has also been denounced. Cotton Mather once said, "As for ETHICKS. . . . It is all over a Sham; It presents you with a Mock-Happiness; It prescribes to you Mock Vertues for the coming at it; And it pretends to give you a Religion without a CHRIST, and a Life of PIETY without a Living Principle; a Good Life with no other than Dead Works filling of it. It is not amiss for you, to know what this Paganism is; and therefore you may, if you please, bestow a short Reading upon a Golius or a More: But be more of a Christian than to look on the Enchiridion of the Author last mentioned, as, Next the Bible, the best Book in the World." [8]

Motives for Intolerance

Perhaps some of the intolerant Christians acted in bad faith, using religion as a cloak in quarrels that they did not believe were really religious; but it is hard to imagine such long-continued bad faith as we should have to assume to maintain that explanation of all the intolerance since the year one. From the persecutors' apologies, we gather that they went after malbelievers as well as malefactors in science, theology, and ethics because, first, the mere expression of these opinions seemed to jeopardize orthodox beliefs about salvation, and, second, some of these opinions were advanced with a tentativeness that irritated the believer. The religious man demanded absolute certainty, unquestioning faith; and

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part of the theological heresies denounced by the western church prior to the fourteenth century. Since then, schisms have multiplied, although no serious attempt has been made to coerce some of the more recent heretics.

[8] Quoted by Anderson and Fisch, *Philosophy in America*, p. 5. D. Appleton-Century Co., 1939.

he was made uneasy by any questioning that left conclusions to be determined by whatever evidence might turn up. Matthew Arnold once contrasted the secular thinker, Cicero, and the religious man, Jesus. Cicero had said, "Hold off from sensuality, for if you have given yourself up to it you will find yourself unable to think of anything else." Arnold observed that such a maxim is morality and that it fails to satisfy the religious man. Then he quoted Jesus, "Blessed are the pure in heart, for they shall see God." "This," said Arnold, "is religion." Tentativeness is not the only trait of scientists and philosophers that provokes the intolerant religionist, but it is, perhaps, the most important. The intolerant demand absolute certainty, and they do not want their beliefs about God and heaven challenged even by implication.

Modern persons who hold their theological tenets in a fairly light and academic manner cannot understand such dogmatism. They set no such value upon theology. They cannot understand the devout souls who had more than a matter-of-fact attitude toward the creed. It is with difficulty that they can imagine intelligent men attaching less importance to life itself than to saying "Yea" and "Nay" at the right places in the catechism. But this was once the prevalent view. Whether one's children received the creed letter-perfect was more important than whether they grew to maturity. Whenever such men have suspected unorthodoxy lurking in secular institutions, they have unhesitatingly and willingly co-operated in the destruction of those institutions. If they were not in a position to stamp out the sources of unbelief, they have preferred to insulate themselves and their loved ones, like the peasant who rebuked his boy for wanting to go to school and to read newspapers: "Snotty fellow!

Don't you know that, as old people say, he who knows written stuff casts himself into hell?"[4]

Christianity and Mohammedanism did not originate as calm little sewing circles or academic debating societies. Both religions first spread among a fearful, worried class of people. The early Christians, for the most part, were not worried simply about paying next month's rent and such commonplace problems. They inherited the feelings of insecurity which characterize prescientific men; very few persons in the ancient world took a naturalistic attitude toward plagues, storms, death, eclipses, and crop failures. Even the Roman emperors were afraid of evil spirits.

> Augustus, when a thunderstorm arose, used to retire to the cellar, and Caligula, by preference, crawled under the bed. Nero, like Orestes, only more deservedly, was haunted by the furies of his murdered mother, just as Otho, later, was tortured by the unquiet spirit of his predecessor, Galba.[5]

It was not alone this old sort of anxiety, however, that made the ancients so responsive to Christianity and the other redemptive religions. There was a widespread belief that the visible world might at any time go to pieces. Paul expressed a very common apprehension when he said, "But this I say, brethren, the time is short." (I Cor. 7:29.) Migration and conquest had unsettled things; "confidence was shaken"; and somehow all ordinary dangers were gathered up into one great danger, the danger of eternal perdition. We cannot here go into the causes for this feeling of insecu-

[4] Park and Miller, *Old World Traits Transplanted*, p. 8. Harper & Brothers, 1921.

[5] H. R. Willoughby, *Pagan Regeneration*, p. 6. University of Chicago Press, 1929. This book is very informative of the conditions under which the personal religions of antiquity arose.

rity, but the fact is that large masses of people welcomed the offer of eternal salvation.

Christianity was not the first religion to make the offer of salvation. Mithraism, the Cult of Dionysius, the Eleusinian and Orphic Mysteries, the religion of Attis and Cybele, the cult of Isis, and many others preceded Christianity in time of origin. All of them were personal religions as contrasted with the old national religions. By that we mean that a person had to join them instead of being born into them, and they were less concerned with national or tribal welfare and primarily devoted to the immortality and salvation of the individual. They had numerous differences, but they were similar enough, not only in the above respects but also in their rites (Eucharist, baptism, and so forth) and in their heroes, that Christians like Paul had to treat them as rivals (see I Cor. 10:13 and Galatians 1:6) and Tertullian felt called upon to explain the similarities:

> The Devil, whose business is to pervert the truth, mimics the exact circumstances of the divine sacraments in the mysteries of idols. He himself baptizes some, that is to say, his believers and followers; he promises forgiveness of sins in the sacred fount, and thus initiates them into the religion of Mithra.[6]

Although Christianity was not so emotional as some of its rivals, it cannot, as we said, be called an academic debating society. One exciting meeting is recorded in the following words:

> And suddenly there came a sound from heaven as of a rushing mighty wind, and it filled all the house where they were sitting. And there appeared unto them cloven tongues like as of fire, and

[6] *De Praescriptione Haereticorum*, p. 40, quoted by H. R. Willoughby, *Pagan Regeneration*, p. 162. University of Chicago Press, 1929.

it sat upon each of them. And they were all filled with the Holy Ghost, and began to speak with other tongues, as the Spirit gave them utterance. . . . Others mocking said, These men are full of new wine.[7]

These people relied upon their belief in the Christian gospel for salvation throughout eternity. They could not remain unexcited by unbelief. They grew at least as perturbed in the presence of anti-Christian doctrine as some Americans do now when they meet a Communist or a Nazi.

Throughout the history of Christianity, there have been devout people who took their creed as seriously as the first generation of churchmen. "Is Jesus the son of God?" was not a question in the same class as "Is there a lost continent traditionally known as Atlantis?" You could not, in their opinion, be neutral. You were either lost or you were saved. You were promoting the salvation or the perdition of mankind. You were "for us or against us." Accordingly, the least theological utterances of science and ethics were assumed either to defend or to attack the all-important creed; if they were found to attack the creed, in any trivial manner, they were not to be mentioned by anyone. The mere utterance of an unchristian idea was held to be dangerous.

The tradition of intolerance rests upon an evaluation of certain religious doctrines as not only worth more than any other valued objects, but as the exclusive values. It is this evaluation by which some Christians still justify intolerance.[8]

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[7] *The Acts of the Apostles,* Chapter II.

[8] See the *Syllabus of Errors,* Pope Pius IX, 1864, propositions 77, 78, and 79. The attitude of the Catholic Church in the United States is confused by the American separation of church and state. Doctrinal books explain that the profession of unorthodox beliefs would be punished in a Christian state, but in an imperfect state such as the United States the next best thing is noninterference with religious belief as well as practice.

Tolerant men, by contrast, do not value everything by its relation to religious objects. Thomas Jefferson, for example, wrote in his *Notes on Virginia:* "But it does me no injury for my neighbor to say there are twenty gods, or no God. It neither picks my pocket nor breaks my leg." Jefferson was echoing the sentiment of John Locke, a pioneer in the English movement toward tolerance. Speaking of theological beliefs, Locke remarked:

> If any man err from the right way, it is his own misfortune, no injury to thee; nor therefore art thou to punish him in the things of this life because thou supposest he will be miserable in that which is to come.[9]

Locke meant that a dissenter should not be punished either by imprisonment and execution or by the loss of personal, property, and political rights.[10]

This indifferentism is incomprehensible to the kind of Christians about whom we were talking previously. Their intolerance was incomprehensible to men like Locke and Jefferson. We see here a difference in ends rather than means, a difference in ultimate values. Some Christians have valued religion as literally *all*-important. Some have not.

In the arguments concerning toleration, several other issues have appeared. Both Jefferson and Locke were convinced that attempts to suppress undesirable opinions were futile. Locke said that men could not be forced to be saved, if their salvation depended upon acceptance of a creed, for belief could not be altered at will. This was apparently an infer-

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[9] *A Letter Concerning Toleration,* 1689.

[10] Locke made an exception in the case of Catholics, whom he thought dangerous because they obeyed a foreign prince, and atheists, who would not take an oath seriously. These exceptions were omitted by Locke's later English and American followers.

ence from the fact that systematic attempts to coerce men into uniform beliefs had failed. As Jefferson put it:

> Millions of innocent men, women and children, since the introduction of Christianity, have been burnt, tortured, fined, imprisoned; yet we have not advanced one inch toward uniformity. What has been the effect of coercion? To make one-half of the world fools, and the other half hypocrites.[11]

Assuming the desirability of suppressing certain views, the advocates of tolerance still object that more harm than good comes from the use of force for this purpose.

In the third place, tolerance appealed to Locke and Jefferson because it was the condition for the discovery of the truth. Locke denied that laws were fit instruments for the defense of truth.

> Truth would do well enough if she were once made to shift for herself. She has not received, and I fear never will receive, much assistance from the power of great men, to whom she is but barely known, and more rarely welcome. She is not taught by laws, nor has she any need of force to procure her entrance into the minds of men. Errors indeed prevail by the assistance of foreign and borrowed succours. But if truth makes not her way into the understanding by her own light, she will be but the weaker for any borrowed force violence can add to her. Thus much for speculative opinions.[12]
>
> Men must think and know for themselves.[13]

There is more dynamite in these lines than appears on the surface. Underneath lie revolutionary assumptions: (1) that all necessary wisdom was not given in Holy Writ and the

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[11] *Notes on Virginia.*

[12] *A Letter Concerning Toleration.*

[13] *Essay Concerning Human Understanding*, Book I, Chapter IV, 1690.

opinions of the Fathers; (2) that the needed truth and wisdom are best reached by rational inquiry, and (3) that rational inquiry is promoted by free discussion, no matter how disturbing to old creeds.

From the practical or moral point of view, it matters not whether a man thinks religion less than supremely important or whether by a skeptical theory of knowledge he lacks confidence in anyone's identification of the true religion. He has in either case abandoned the justification for suppressing inquiry. To make religious intolerance plausible, one must not only believe *that* there is a supreme religious value, but one must also believe one knows *what* that supreme value is. If one is not sure that he holds the keys to heaven, his *ideas about* salvation scarcely warrant the labors and tribulations of a religious war, even though theoretically salvation is more important than anything else.

Freedom of thought was not established in Europe by men who repudiated religion or said that salvation is unimportant. Of course, there were antireligious writers in antiquity[14] as there are in modern times, but their influence was small until recently. Freedom of thought was established by men who considered themselves devout, but they recognized that human beings act on *their ideas* of the truth rather than the *truth itself*. They distinguished between Biblical commands and interpretations of Biblical commands. They saw a problem in the determination of just what had been revealed as the way to salvation. This had been characteristic of the limited tolerance of the medieval period. Scholarly clergymen and monks tolerated some

[14] The most famous antireligious work of antiquity is the poem of Lucretius, *Of the Nature of Things*. Theological beliefs are treated as superstitions and are blamed for the misery of the human race.

differences of opinion in their own ranks because they were not sure that any living man had the correct view on numerous questions. A mere protestation of faith in things divine did not stop study and argument, for the nature of things divine had become uncertain. So, we read a medieval debater's rebuke to his pious antagonists: "You poor fools, God can make a cow out of a tree, but has He ever done so? Therefore, show reason why a thing is so or cease to hold that it is so." [15] It seemed unwise to stop an inquiry out of respect for God, because God's wishes were among the questions at issue. In modern times this attitude was extended when more and more laymen became educated and learned to distinguish between the truth and what someone says is true.

Differences of opinion might be settled by allowing an inspired authority to pronounce the truth and then silencing all dissenters. But the tolerant men have doubted whether

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[15] William of Conches, *Philosophia,* quoted by Thorndike, *History of Magic and Experimental Science,* Vol. II, p. 50. The Macmillan Co., 1923.

Book-burning Christians and Moslems were not constantly in power during the Middle Ages. We must not forget that the universities were founded by Mohammedan caliphs and Christian bishops. The monastic orders financed the translation of ancient pagan books. There were reason-haters, but there were also Christians like St. Thomas, Jews like Maimonides, and Moslems like Avicenna, scholars who examined beliefs quite critically. Medieval science and critical scholarship are explained, in part, as a survival of ancient learning. The medieval heritage, after all, included much pagan culture as well as religious doctrine. But the *occasion* for critical thought was usually a difference of opinion within the religious community. As the origins of Christianity and Islam receded farther and farther into the past, sharp disputes arose concerning faith and practice. One Christian faction would find it most inspiring to regard Mary as the mother of God; another faction liked to think of Mary as the mother of a human being who was so good that God adopted him as a son. In the end, arguments like this one were usually settled by an appeal to arms and political power; but more or less rational debate often preceded the use of force.

The medieval debaters leaned heavily upon the authority of Scripture and of the Fathers, but conflicting authorities were often cited, and then the debaters had to rely upon their own reasoning powers. So we find Abelard, the famous twelfth-century lover of Heloise, inviting the use of reason by quoting opposed

any such contemporary source of inspiration could be trusted. John Stuart Mill wrote in his essay, *On Liberty,* that "All silencing of discussion is an assumption of infallibility," and Mill, like Locke, refused to admit that the Pope or the King of England or any other living man was incapable of mistakes. For this reason, the liberals wanted everyone to have his say in the quest for truth and goodness. Maintaining freedom of discussion as the source of improved knowledge seemed more important than protecting from criticism some creed, which might be false. Accordingly, the American constitutions, state and federal, forbid the establishment of a religion and the abridgment of freedom of speech. Perhaps Milton was overoptimistic when he said that truth is never put to the worse "in a free and open encounter," but the constitution makers believed, as Judge Holmes once said, that "the ultimate good desired is better reached by free trade in ideas—that the best test of truth is the power of thought to get itself accepted in the market."

Freedom to investigate and talk is highly regarded as a means of promoting worldly as well as otherworldly welfare.

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authorities on 158 questions in his book, *Yes and No.* Here are a few of the questions:

Should human faith be based on reason, or no?
Is God one, or no?
Does the first Psalm refer to Christ, or no?
Is God the author of evil, or no?
Did all of the apostles except John have wives, or no?
Are the flesh and blood of Christ in very truth and essence present in the sacrament on the altar, or no?
Where was God before Creation?
Can angels sin, or no?
Why was Eve taken from a side and not from some other part of Adam's body?
Could God have become incarnate in woman as easily as in man?
Is it worse to sin openly than secretly?
Can a prostitute become a virgin again through divine omnipotence?

Indeed, the majority of Americans in recent decades have probably valued freedom chiefly because it seemed to stimulate material and social progress.[16] Odd fellows, not yet recognized or clothed with prestige, pop up with inventions that solve technical problems or untangle confusions in public policy. Americans generally believe that all unrecognized and prestigeless men should be tolerated, even though ninety-nine per cent of them advance utterly harebrained ideas.

To understand the extreme tolerance of American politics, however, we must refer to theological rather than secular history. The extremity of recent tolerance is a reaction against the extreme intolerance of an earlier day. The old intolerance sprang from a religious conviction that salvation was more valuable than logic or science or anything else, and that unorthodox *opinions* endangered salvation as much as wicked actions. The growth of tolerance resulted from (1) the decline of salvation in the scale of values, and (2) lessened certitude about the way to salvation, and therefore the attachment of less importance to anyone's ideas about salvation.

Whether tolerance is wise or not clearly depends upon the relative values that we give to various enterprises. Should we suppress dissent, or should we allow anyone to participate in public discussions? Our answer will depend on the answer which we give to another question: Is there some one value that so transcends all other values that it should not be criticized? Is religion or anything else so important that

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[16] An interesting defense of tolerance in day-to-day secular matters is contained in a speech by Dr. Charles E. K. Mees, research director of Eastman Kodak laboratories: "The best person to decide what research shall be done is the man who is doing the research. The next best man is the head of the department. After that you meet increasingly worse groups. The first is the research director, who is probably wrong more than half of the time. Then comes a committee which is wrong most of the time. Finally there is the committee of company vice presidents who are wrong all of the time." *Time*, November 4, 1935.

talk and thought as well as action must always be subservient to it?

Exercises

1. Do you agree with G. K. Chesterton that it is imbecilic to say that a creed which is reasonable in one age becomes untenable in another age? In his book, *Orthodoxy,* Chesterton declares that one might as well say that you have to accept one belief on Mondays and another belief on Tuesdays. Is there any reason why belief in democracy or belief in the Golden Rule should be less tentative than belief in a theory concerning the sun's velocity or other factual matters?

2. "There has never been a system of education that did not indoctrinate. The apostles and prophets of the New Freedom use it in their schools; they indoctrinate their students with the ideas that belief in God and morality and the soul's immortality are relics of medievalism; the only freedom allowed to their students is freedom to disbelieve." W. J. McGucken, *The Catholic Way in Education,* p. 49. Bruce, 1934.

"Academic freedom is freedom to teach what is true and to receive instruction in what is true." *Proceedings of the National Catholic Educational Association,* April 16, 1936. Do you think that the question of academic freedom is affected by a consideration which is not present in the question of tolerating opinions outside of the schools?

3. To what extent is religious intolerance effective in the United States today? References: "The Blight that Failed," a pamphlet published by Charles Scribner's Sons; American Civil Liberties Union, *annual reports;* H. E. Barnes, *The Twilight of Christianity,* Chapters 2 and 7. Vanguard Press, 1929. *Time Magazine,* June 28, 1937, article entitled "Crusader."

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CHAPTER EIGHTEEN

TOTALITARIAN CENSORSHIP

ONLY a few years ago, many amiable people supposed that the battle for intellectual freedom had been won. How wrong they were! There is no reason for gloating over the falseness of their prophecies, but it may be profitable to ask why false prophecies were made.

Writing in 1929, Walter Lippmann gave it as his opinion that the post-war dictatorships were only a temporary reversion to the pre-industrial order. Their censorships as well as their invasions of other freedoms resembled the policies of the Inquisition. So Lippmann thought they must be the old style authoritarianism. This authoritarianism was simply showing itself in those countries that had never gone over to the liberalism of Locke and Jefferson. Lippmann wrote:

It is no accident that fascism or bolshevism took root in Italy and Spain, but not in Germany and England, in Hungary but not in Austria, in Poland but not in Czecho-slovakia, in Russia but not

in Scandinavia, in China but not in Japan, in Central America but not in Canada or the United States.[1]

The dictatorships had appeared in countries where the people were accustomed to dictation, and therefore the new dictators did not represent a new foe for tolerant liberalism. They were the remnant of bygone days, fighting a rear-guard action in the last strongholds of feudalism and otherworldliness. This impression was also given by that interesting writer, C. DeLisle Burns: "Finally, all countries where dictatorship exists have lived under authoritarian religions, until quite recently."[2]

The new dictatorships are in some respects similar to the authoritarian church of the late Middle Ages and to the authoritarian state of early modern times. It is true that they will not tolerate the expression of opinions that are in any way contrary to official policy. Every channel of communication is censored. Newspaper editors, for example, receive detailed orders telling them what they may print. In June, 1937, a Parisian anti-fascist paper printed what it claimed were daily press instructions for Italian editors:

> January 11: Don't reproduce the correspondence from Rome to the Christian Science Monitor on the popularity of Minister Ciano. . . .
>
> February 2: Speaking of the Pope's illness just say, without making it appear a real denial, that the news about the expected arrival of an English physician, is false. . . .
>
> March 5: Absolutely suppress any news of the arrival in Naples of wounded volunteers from Spain on one of our hospital ships.

Editors who asserted their independence of such instruction have been punished in many countries. Theodor Wolff, of

[1] *A Preface to Morals*, p. 253. The Macmillan Co., 1929.

[2] *Modern Civilization on Trial*, p. 127. The Macmillan Co., 1931.

the *Berliner Tageblatt,* was forced into exile. Nikolai Bukharin, of *Izvestia,* and Karl Radek, the famous communist writer on foreign affairs, were silenced. They confessed plotting against the government, but the truth of their confessions was doubted in many quarters. Forty-five Hungarian newspapers were "liquidated" within a few weeks during November, 1937.

Universities have been "purged." In 1931 Mussolini demanded that all university men take the fascist oath; those who refused, thirteen in all, were called upon to deliver public orations extolling fascism. Except for a few men as world-famous as the philosopher Croce, any Italian who criticizes the existing regime or publishes embarrassing statements is put out of circulation. In Russia, scientists must be careful not to find anything that can be construed as favorable to anti-communists.

> Scientific theories express not only the actual state and level of knowledge attained by science but also the ideological justification of the economic interests of warring groups and classes.[3]

In 1939 those who accepted such capitalistic theories as the formal genetics of Mendel and Morgan were laboring under difficulties (though not suppressed). The theory that space is curved and that the universe is finite is also damned as bourgeois cosmology. Apparently the entire science of statistics has been suspected of class loyalties (although I have not been able to ascertain the prevalence of this suspicion).

German science has been harnessed. Sixteen hundred eighty-four scholars were dismissed between 1933 and 1937. There have been many book burnings, and in the libraries

[3] B. Zavadovsky, address to the second International Congress of the History of Science and Technology, 1931.

access to banned publications is given only to trusted party men. When the University of Heidelberg celebrated its centenary in 1936, the Minister of Education made a speech in which he asserted, "The old idea of science based on the sovereign right of abstract intellectual activity has gone forever." The local professor of philosophy seconded the motion by saying, "We do not know of or recognize truth for truth's sake or science for science's sake." Why give a living to research men who may only jeopardize the public weal by digging up ideas that do no one any good? "Freedom of research," Alfred Rosenberg once shouted, "is not to be confused with freedom to insult German history, the great German past, the great German race."

The Concentration Camp is now a well-known institution in more than half of the earth's area. The Japanese version of this establishment is the Thought Control Office for the benefit of persons thinking Dangerous Thoughts *(kikenshiso)*. Between 1928 and 1936 sixty thousand patients "visited" these offices.

Dictatorial governments have stopped releasing much of the information that was formerly subject to general study and comment. Our Securities and Exchange Commission noted this in refusing to approve a bond deal in 1939: "The German government has furnished no statements of its receipts and expenditures for any years since 1935." Not only has the circulation of such information been halted, but special ministries of propaganda have busily circulated statements concerning health, crime, manufacturing, and elections, which, there is reason to believe, are false.

Despite the similarity in intolerance and propaganda, the new dictatorships differ significantly from the old authoritarianisms. It is now clear, if it was not a few years ago, that

the new dictatorial parties do not find their supreme values in any ancient revelation. Although the Russian communists pay homage to the Gospel according to St. Marx, and the fascists recite old texts, their practices are a repudiation of stated rules, whether ancient or eternal. The leader is freed from all precedents and formulas. He is supposed to act as he and he alone sees fit. He may tell the people to respect a tradition, but he does so only because that tradition suits his present purposes. This has been neatly demonstrated in the case of Mussolini, by G. A. Borgese.[4]

When it comes to reverence for ancient wisdom, the dictator is more in agreement with the tolerant liberal than he is with the old religious authoritarian. In fact, Mussolini and Hitler have been more reckless in destroying old traditions than most liberals ever thought of being. The Fuehrers could endorse Tom Paine's famous sentence, "When precedents fail to assist us, we must return to the first principles of things for information, and think, as if we were the first men that thought."[5]

The difference between the dictators and liberals like Paine comes to the fore as soon as they say who should do the unprecedented thinking. Paine meant that *everyone* should pitch in and think: a new policy ought to come out of a democratic discussion. The dictators mean that the "right" people shall do the thinking and tell the others what the new policy shall be. In Russia the right people belong to the proletariat—or, rather, to the Communist Party, which expresses the true proletarian point of view. In Germany the right people are those inspired men who have the folk blood in their veins and possess a mysterious faculty for in-

[4] See *Goliath: The March of Fascism.* The Viking Press, 1937.
[5] *The Writings of Thomas Paine,* Vol. I, p. 155.

terpreting the spirit of the folk.[6] Even a nonpolitical science like physics is regarded as an expression of the Volksgeist; it is not an objective investigation in which physicists of every race can reach the truth. Heisenberg, a Nobel prize winner, was severely criticized in July, 1937, for "smuggling" a friendly reference to Einstein's theory of relativity into a scientific article. Such tolerance of Jewish thought was unbecoming an Aryan. Johannes Stark, another Nobel prize winner, justified the intolerant position in an article which he sent to the British journal, *Nature,* a few months later. Stark divided physicists into two groups: (1) dogmatists, who use their imagination excessively, and (2) pragmatists, who rely upon experimentation. Jewish physicists, he said, dominate the dogmatic school; Aryans, the pragmatic. Men like Stark do not say that all German-blooded thinkers are trustworthy. They hold that there are Aryans who have Jewish minds. "We must agree with Paul the Apostle," said Warner Sombart, "when he says, 'For he is not a Jew who is outwardly in the flesh, but he is Jew who is inwardly.'"[7]

The important point is that the Nazis give to only a few persons the right to think. They look with horror upon a tolerant democratic discussion, first, because only the "right people" can discover the truth and, second, because few persons can recognize the truth after it has been discovered. Most people are not able to think straight. Herr Hitler expressed his contempt for the popular intelligence in *Mein Kampf.*[8] There are, he says, three kinds of readers: those who believe everything they read, those who believe nothing,

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[6] See Alfred Rosenberg, *Der Mythus des 20 Jahrhunderts,* 1930.

[7] *A New Social Philosophy,* p. 178. Princeton University Press, 1937.

[8] Vol. I, Chapter 10.

and those who are critical. Most people are in the first class, and the State is morally bound to protect them from nonsense scribblers and evil-intentioned liars.

The liberal advocates of tolerance had an optimistic faith in humanity's capacity for enlightenment. Jefferson wrote (letter dated April 24, 1816):

> Although I do not, with some enthusiasts, believe that the human condition will ever advance to such a state of perfection as that there shall no longer be pain or vice in the world, yet I believe it susceptible of much improvement, and most of all, in matters of government and religion; and that the diffusion of knowledge among the people is to be the instrument by which it is to be effected.[9]

Jefferson believed, like Marcus Aurelius, that no one was ever yet hurt by truth. He and other liberals went further than Marcus Aurelius; they believed that little damage would be done by free inquiry and discussion. The people might be fooled occasionally; they might make some mistakes in judgment; but in the long run they would not be led to disaster by the wild ideas that might be thrown into public discussion, for "You can't fool all of the people all of the time." This confidence in popular intelligence is completely absent from the apologies for dictatorship. Hitler's estimate of newspaper readers is typical of the tyrant's contempt for the mob mind.

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[9] The more optimistic men of the eighteenth and nineteenth century spoke in this manner: "Talents will be found at every street corner, and the Platos, Brunos and Galileos will be walking about in troops" (Antonio Labriola). Bebel predicted that "Future generations will . . . without realizing difficulty, effect tasks concerning which superior minds of the past have long pondered and endeavored to find a solution without being able to arrive at a conclusion." (Quoted by Warner Sombart, *A New Social Philosophy*, pp. 96–97. Princeton University Press, 1937.)

The new intolerance also challenges the liberal's trust in the common man's good faith. Jefferson, the liberal, once remarked, "I do not believe with the Rochefoucaults and Montaignes, that fourteen out of fifteen men are rogues." [10] Jefferson believed that the vast majority of men had good intentions. Contrast with this faith the cynicism of Alfredo Rocco, a fascist jurist:

> The great mass of citizens is not a suitable advocate of social interests for the reason that the capacity to ignore individual private interests in favor of the higher demands of society and of history is a very rare gift and the privilege of the chosen few.[11]

This distrust of human nature is characteristic of the old religious intolerance, too. St. Augustine declares that

> . . . justly was the burden of servitude laid upon the back of transgression. And therefore in all the Scriptures we never read the word servant, until such time as that just man Noah laid it as a curse upon his offending son. So that it was guilt, and not nature that gave origin unto that name. . . . Sin therefore is the mother of servitude, and first cause of man's subjection to man.[12]

Three points of likeness can be discovered when the new intolerance is compared with the old intolerance: (1) unorthodox and disapproved ideas should be suppressed; (2) popular intelligence is not keen enough to recognize the truth; and (3) the populace is too selfish to be morally and politically dependable.

The totalitarian censors, however, disagree with the medieval censors in their objectives. They show no loyalty to an

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[10] Letter to Mann Page, August 30, 1795.

[11] "The Political Doctrine of Fascism," International Conciliation Pamphlet 223, Carnegie Endowment for International Peace, 1926, p. 21.

[12] *The City of God*, Book 19, Chapter 15.

ancient revelation. They are not trying to maintain an eternal creed. They do not suppress popular inquiry and discussion for the sake of the immortal soul's salvation. Their censorship is imposed avowedly to protect national and secular interests: jobs, security from foreign aggression, and the comforts and necessities of this life.

If censorship and intolerance were urged on the old religious grounds, the totalitarian could not gather a corporal's guard in the industrialized nations. So far as theological creeds are concerned, most Germans had arrived at a rather tolerant attitude, just as the majority of Americans had done. Some were tolerant because they did not value salvation in heaven above everything else; some were tolerant because they feared that they would be on the suppressed side if there were any suppression.

The corporal of the new intolerance makes an appeal to millions, however, when he says that freedom of speech jeopardizes worldly interests. National security and personal security in the enjoyment of economic goods rank high in the contemporary scale of values. In the recent period of rapid technological change, many individuals have been hurt, and there are widespread jitters. "Business lacks confidence," and many otherwise sensible persons feel that the world is about to collapse. They view the economic maladjustment in terms of a fight, and they see Fifth Columnists behind every bush. To apprehend and silence agitators seems to be one way of protecting economic and national interests. Just listen to what some Americans say they intend to do to those who take any stock in foreign "isms": Get their jobs! Run them out of town! Deport them! Break up their meetings! Put them in jail: it matters not what the charge may be!

The new intolerance also appeals to men who, having suffered losses in war and depression, lack confidence in their fellow citizens. A common complaint has it that the old leaders were plunderers, and the average man has no conception of the problems of today. The House of Representatives is the "monkey house" or it is a "pig trough." Someone will have to cut the red tape and rise above the pettiness and shortsightedness of the masses. A nation, half of its people subnormal in intelligence, cannot think through the technical problems of our day!

Tolerance is no longer a question about the keys to heaven. Freedom of speech must now be judged by its compatability with national and personal interests of a very mundane sort. In an abstract sense, the issue has not changed: it is still security versus freedom. But security now has little reference to life beyond the grave. Tolerance must be debated in terms of worldly interests. Accordingly, the question of free inquiry and discussion will be argued in the next two chapters along these lines: (1) Does freedom endanger temporal security to such an extent that suppression is the lesser evil? (2) Is the public incompetent in meeting problems of public policy?

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CHAPTER NINETEEN

DEMOCRATIC SAFEGUARDS AGAINST ABUSE OF FREEDOM

TOLERANCE looks dangerous today because it seems to open the door for malicious lie-mongering, subversive activity, and the triumph of what we regard as bad. We must admit that the word *tolerance* can be applied to an easygoing attitude that will have exactly these consequences. The rather stupid performance of certain tolerant Germans in 1930–1933 and of tolerant Italians in 1919–1922 encouraged disorder and invited revolution which ended in the establishment by a minority of a system that was hateful to every liberal German and Italian. But tolerance need not be made of such weak stuff.

The United States and some other nations have demonstrated, despite some lapses, that freedom of inquiry and speech need not be disastrous. There are safeguards, well within the democratic tradition, which can be used to make tolerance compatible with security, both national and personal. To bring these out, we shall lay down two theses.

1. It is possible to tolerate differences of opinion and at the same time prevent malicious lie-mongering;

2. It is possible to tolerate differences of opinion and at the same time prevent subversive and lawless activities.

How to Prevent Lie-Mongering

Few Americans realize the amount of protection which existing laws give them against injurious falsehoods. If they did, they would not give such an attentive ear to alarmists who urge drastic new restrictions on speech. Everyone is protected, if he has enough interest in the matter to start prosecution, against injuries arising from false statements. The protective laws are not perfect, of course, but they afford much more security than the average person supposes. The principal rights which limit freedom of speech and inquiry are found in laws dealing with (1) libel and slander, (2) false news and prophecies, and (3) lies in commercial transactions.

1. *Libel*[1] *and slander.* Under our libel and slander laws, you may bring suit against any talker or writer who (1) has said something about you which is false, provided (2) that the falsehood has injured you by depriving you of reputation, property, trade, family, and so on.

There are exceptions to this rule, as there are to most public policies relating to complicated matters. Many statements which would ordinarily be adjudged slanderous are "privileged" if the speaker makes them while he is acting as judge, attorney, or witness in a court of law.[2] Custom and, in most

[1] Derived from the Latin word *libellus*, meaning "little book." The reference is to the pamphlets published in early modern times by those who recklessly ruined reputations in their attempts to advance political and religious causes.

[2] See James Barr Ames and Jeremiah Smith, *A Selection of Cases on the Law of Torts*, 3rd edition, Vol. I, Chapter III. Harvard Law Review Publishing Association, 1910.

instances, the law refuse to punish those who utter false criticisms of the public acts of officials.[3] Unincorporated groups, such as families, races, and clubs cannot collect damages for defamation; nor do these laws apply to false statements which are derogatory to the United States or the human race. The laws are definitely for the protection of individuals.

In numerous cases a man will not be found guilty of libel or slander unless it can be shown that he had a malicious motive. For example, advice not to employ a certain doctor, given by one in a position of authority, entitles the doctor to damages only if the adviser can be shown to have meant harm. Judge Holmes pointed to this as a case of countervailing values, where it is desirable that one legal principle limit another. He said:

> To some extent it is desirable that people should be free to give one another advice. On the other hand, commonly, it is not desirable that a man should lose his business. The two advantages run against one another.[4]

We do not pretend by this discussion to state accurately all of the exceptions to the libel and slander laws, or to define all of the circumstances under which damages can be collected. Our intention is simply to remind ourselves that the indi-

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[3] In Blackstone's day English magistrates and persons "in a public trust" were more protected against defamation than the average citizen. See *Commentaries*, Book III, Chapter VIII. In this country, custom frowns upon public officials who file libel or slander suits. We think that freedom of opinion is extra-important in public matters and we say that a man who enters public life should be willing to "take it." The courts generally hold that "criticism of the public acts of officials is not limited to statements of fact whose truth can be proved but may extend to matters of opinion, provided the opinion is held honestly and in good faith; but this does not protect false allegations of fact. See 59 Fed. Rep. 530; 55 Fed. Rep. 456. J. M. Clark, *Social Control of Business*, 2nd edition, 1939, p. 91. McGraw-Hill Book Co.

[4] Oliver Wendell Holmes, *Collected Legal Papers*, pp. 124–125. Harcourt, Brace & Co., 1920.

vidual is protected by existing laws against abusive speech. If you think your rights have been invaded, consult your lawyer. That is what many talkative speakers and publishers do before venturing to say things about you. The libel laws protect us by making talkers more cautious as well as by compensating us when harmful lies have been spread abroad.

2. *False news and prophecies.* We no longer put men to death for publishing false prophecies. The statutes of Edward IV on this subject are not in force today. But we can apprehend persons who circulate rumors and false news, if their falsehoods are likely to cause riots, panics, or other public catastrophies. It has been established by the Supreme Court that freedom of speech does not include the right to shout "Fire!" without cause in a crowded theatre.

The most publicized censorship of this variety in recent years affects the radio. Although there are many borderline cases, censorship is clearly justified in the case of "hams" who send out faked S.O.S. signals. For this offense there is a maximum fine of $10,000 and two years' imprisonment. The Federal Communications Commission has frowned on scary broadcasts, such as Orson Welles' dramatization of H. G. Wells' *The War of the Worlds* in October, 1938. The effects of the Wellsian news bulletins, which told of an invasion from Mars, included the following:

A man drove his automobile 80 miles per hour, trying to reach a priest; he was injured when his car turned over.

Many persons started on journeys to reach their relatives or get to places of safety.

An estimated 1,200,000 persons were badly frightened.

Telephone lines were jammed.[5]

[5] See *The Invasion from Mars*, by Hadley Cantril, Princeton University Press, 1940.

That such panic should have been induced when the program was frequently interrupted by an announcer stating that it was only a play shows the potential danger of irresponsible communications. So we are not surprised that network officials have become cautious to an extent that seems silly at times.[6]

For some years there has been growing demand for a censorship of certain newspapers that are notorious for coloring their news columns. About a fifth of the people, according to the *Fortune* poll of mid-1939, believe that newspapers in general abuse their freedom, and the percentage is probably much higher in the case of some papers, taken individually. At a time when foreign relations were very difficult, for instance, the Washington *Times-Herald* printed an unconfirmed rumor as fact and headlined it: "Neutrality Note Splits F. D., Hull" (July, 1939). Taking such liberties with the news obviously has serious possibilities so far as our national interests are concerned.

The strongest resentment against news-coloring has been engendered by misrepresentation of events that concern commercial and industrial interests. Upton Sinclair claimed that the news is censored whenever it is unfavorable to corporations and distorted when it might be favorable to the corporations' adversaries. He drew up a formidable list of cases in his book, *The Brass Check* (1920). Newspapers are practically forbidden by law[7] to print, as news, propaganda or advertising which they are paid to print. This was formerly common practice. At one time the New York, New

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[6] Recently a hypnotist was denied radio facilities, for fear that he should hypnotize listeners who might not hear his "wake up" command at the end of the program. See *Time*, August 28, 1939.

[7] If they print advertising as news, they are denied the cheap postal rate.

Haven, and Hartford Railroad, the National Electric Light Association, and many other interests paid out hundreds of thousands of dollars for such disguised propaganda.[8] Although the direct selling of news columns is now rare, critics claim that news-coloring continues and will continue as long as the press is primarily a private profit-making enterprise,[9] and as long as it is dependent for profit upon advertising.[10]

Censorship of the press is admittedly a ticklish problem, for in destroying the abuses of freedom we do not wish to abolish freedom. It is safe to say that something will probably be done to restrict the circulation of utterly false news. Unscrupulous editors cannot forever hide behind the First Amendment to the Constitution. Although that amendment properly protects them from such censorships as Huey Long attempted in Louisiana, it says nothing about the right to publish false and malicious rumors as if they were verified facts.[11] Even now there are laws against gross misrepresen-

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[8] See E. Gruening, *The Public Pays.* This is a summary of the findings of the Interstate Commerce Commission and the Federal Trade Commission. For a recent case, see *Editor and Publisher,* December, 1937, which reports that the New York *Herald Tribune* accepted $32,000 from the Cuban government and corporations for printing a 40-page supplement, which extolled the virtues of Cuba, and which was not labelled as an advertisement.

[9] Gilbert Seldes mentions a number of papers that have been owned by business interests. See his book, *Lords of the Press.* Even where a paper is not owned by an oil, lumber, or power company, it is in itself a large investment and therefore is quite likely to be run by men who have the business point of view.

[10] The Tennessee Utilities Commission cited the Chattanooga *Free Press* in November, 1938, for accepting advertising at more than the regular rates from the Tennessee Electric Power Co. During the two-year period of this advertising contract, the *Free Press* was a vigorous critic of the T.V.A. and other governmental power projects. At the same time a rival paper with an opposite editorial policy lost the advertising business of the utility company.

[11] "But it is difficult to grapple with so slippery an antagonist as the writer in a newspaper, and impossible to follow the stream of calumny as it swells by a perpetual succession of infinitesimal infusions from incessant newspaper articles." J. S. Mill, *Dissertations and Discussions,* Vol. III, p. 6.

tation in the news, and these laws can be appealed to, if there is sufficient demand to make them an actual instead of a nominal public policy.

3. *Lies in commercial transactions.* A third set of laws limiting freedom of speech deals specifically with statements made in the course of trade. We have all been told that at one time this was a free country and a man could say anything he wanted when he was engaged in buying or selling. The rule was *caveat emptor*—let the buyer beware. This bit of history is a myth. It is not historically true that our ancestors were ever wholly unprotected by law against commercial lies.[12] Protection was at one time the exception, but a buyer could cancel a contract or get his money back if the seller had used certain kinds of "active concealment"—that is, if he had taken deliberate steps to keep the buyer from knowing that he was being deceived.

Today a number of governmental agencies are on the lookout for commercial lies, supplementing the work of the courts in effecting reparations where false sales talk has injured anyone. The Post Office has investigators who are tracking down those who use the mails to defraud. They have put out of business several companies that used to sell spectacles without an examination (the "glimmer racket"), fake employment agencies, oil stock promotions that had no oil properties, and companies selling various beautifiers, such as the $15 helmet with a little blue light inside that was guaranteed to grow hair on a billiard ball.

The Federal Trade Commission and the Food and Drug Administration, as well as a number of state boards, are prosecuting advertisers who make false claims for their products,

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[12] See Sharp and Fox, *Business Ethics.* D. Appleton-Century Co., 1937.

especially in the line of foods and drugs, in which a false statement may mean death.[13]

Such actions are interesting because they are taken under laws that not only forbid the telling of downright lies, but also the telling of such a small fragment of the truth or telling it in such a deceptive way that a reasonable man would get an erroneous impression.

Similar tightening of restrictions on sales talk is in evidence in the marketing of securities. All of our states have had blue-sky laws for a long time. For the most part, however, they are much less stringent than the federal laws under which investment bankers and promoters must now tell the "whole truth." In enforcing these laws, the Securities and Exchange Commission does not have to excuse salesmen who were unaware of the falsity of their claims and promises.

All of these regulations are important for other reasons than their effect upon freedom of speech. We confine ourselves here, however, to the fact that they punish statements that can be proved both false and injurious, and thus protect us against the reckless use of freedom. Some people think that too much value has been placed upon the security of buyers at the expense of freedom. You may care to inquire further into this question, but our present point is that this censorship is still a long distance from the censorship of totalitarian governments although it gives a large measure of protection to those who may be injured by talk.

Commercial lies as well as libel, slander, and false news

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[13] See *Consumers' Guide*, A.A.A., U.S. Department of Agriculture, issues of June 6 and 20, 1938—Vol. V, No. 5; and March 14, 1938—Vol. IV, No. 25. Also *Consumers Union Reports*, September, 1939; September, 1940; January, 1941; and other issues. Consumers Union of the United States, New York.

need not be endorsed in order to approve of tolerance and free speech, *Mein Kampf* to the contrary notwithstanding. It is true that the laws and law-enforcement agencies must exercise prudence and restraint to achieve both security and freedom. They must be careful to put the burden of proof on those who complain, and they must not be governed by arbitrary hunches in deciding when a statement has been proved false and injurious. Yet, as Cavour said when urged to abandon constitutional government, "Anyone can govern that way." Just because the policy of free speech *and* reasonable security requires more effort, we cannot say that it is, therefore, bad.

Talk That Is Part of Illegal Action

To achieve freedom with security, it is necessary to place another restriction upon speech. We can allow a man to talk about illegal action, but we must not tolerate talk that is a part of an illegal act. This is neither a new nor an "un-American" policy. Certain patriotic groups seem to be unaware of the distinction, but on numerous occasions our courts have admitted that a man who *says* the United States should have a new form of government may not be *acting* to overthrow the government.

No doubt, a man makes disloyal statements when he actually conspires to bring about a revolution. But that does not prove the existence of a conspiracy whenever anyone makes disloyal statements. The federal courts have generally taken this view except in time of war. It has been their policy to punish men who were found guilty of treasonable and other illegal actions, but not to punish those who, without acting, merely advocated illegal action.

"But," we are told, "the liberal parties in Italy and Ger-

many let the fascists and nazis talk about changing the form of government, and see what happened to them!". Of course, one might point to the fact that the illiberal parties in Czarist Russia did not allow the communists to talk about changing the form of government, and see what happened to them! That subversive *talk* may be tolerated without great danger has been demonstrated many times.[14] It is subversive *action* that merits serious attention.

The United States has ample laws for dealing with subversive *action,* without limiting in any way the right to express opinions. Most of the tactics on which the fascist and nazi minorities depended for success are illegal in this country, as they were in Italy and Germany. The point is that, in the latter case, the laws were not enforced.

Pick up Finer's book entitled *Mussolini's Italy,* and you will read the record of the fascist victory. A very small minority, estimated at 300,000 when they came into power, the Black Shirts were able to seize the government because for several years they had been allowed to violate laws right and left. In the first six months of 1921, for instance, squads led by the ruffians, Grandi and Balbo, destroyed:

25 People's houses	59 Chambers of Labour
51 Political clubs	85 Co-operative societies
10 Printings works	43 Agricultural labor unions
6 Newspaper offices	

The police winked while the fascists forced socialist and Catholic leaders to leave their home districts where they had influence. Many of the opposition were dosed with castor oil, many were beaten, some were killed. The fascists were given gun permits at a time when gun permits were being

[14] See *The Autobiography of Lincoln Steffens,* p. 636. Harcourt, Brace & Co., 1931.

taken away from socialists. They were allowed to form military organizations. There was some violence on the part of anti-fascists, too, though not nearly so much. Obviously, the laws of Italy were not being enforced. The same may be said of German laws between 1930 and 1933.

What protection do we have against this sort of thing in the United States? First, the right of assemblage and speech does not cover the right to disturb the peace in an unreasonable manner. Roughnecks such as Mussolini used in his castor-oil squads can be arrested for disturbing the peace.[15]

Fascist and nazi tactics are also punishable in the United States because they employ intimidation. If you threaten anyone with violence (even though you do not carry out your threat), you can be arrested for assault.

We must admit that our public officials and the citizenry who elect them have been rather lax in the apprehension of those who talk in an intimidating manner. It is an ironical fact that certain superpatriotic groups have become so excited about the danger of subversive *talk* that they themselves have engaged in subversive *action,* as vigilantes. They have threatened violence and sometimes perpetrated violence upon labor leaders. Other private organizations have also "gotten by" with intimidation. The Ku Klux Klan is a notorious example. The company police of certain corporations are also cases in point.

[15] We have had such extreme use of the peace law that it can be said that freedom of *speech* was abridged under its guise. The Supreme Court rebuked the Jersey City authorities a few years ago for breaking up peaceful meetings on the pretext that they were disturbing the peace. Back in early New England, the Puritan fathers were also rather arbitrary in their decisions that the peace had been disturbed. John Dunton, writing in 1686, said "Scolds they gag and set them at their own doors for certain hours together for all comers and goers to gaze at. Were this the law in England and well executed it would in a little time prove an effectual remedy to cure the Noise that is in many women's heads."

Because the law has not been rigidly enforced in the matter of intimidation, we have seen the passage of several laws directed specifically at groups, some of whose members had been guilty of intimidation. One of the provisions of the National Labor Relations Act makes it an offense for an employer to express an opinion about unions which may be trying to organize his workmen. This Act probably leans over backward, in that it shuts up the employer who says, "I disapprove of the *X* union" in good faith and does not mean, "If you join the *X* union, you will lose your job." Whatever the merits of the Labor Act gag, we must all admit that free speech does not include the right to intimidate. If we enforce our laws against intimidation, we have drawn the fangs of ruthless minorities.

The fascist squads and the nazi storm-troops violated many laws in their campaign of terror. They broke into private dwellings and the headquarters of opposition organizations. Such goings-on are subject to prosecution under American law. Even scientific investigations that are carried on in a nonpartisan way are forbidden to make such invasions of privacy and domicile. Even officers of the law are restricted in their invasion and searching of private quarters. Unless they secure a warrant (and to do so they must show good reason to a court) they cannot break into a house or office to secure a document, even though that document be of great value to the community. Bribing employees, wire-tapping, and so forth, are legal only under very unusual conditions.

Again we must admit that these laws are not always enforced. It is the American theory that only public officials may use violence, and they are hedged about with many restrictions. The theory is often forgotten. Nevertheless,

the legal foundation exists for dealing effectively with revolutionary minorities who attempt a *coup d'état*. The legal measures can be effective without tampering with the right to talk or make inquiry.

There is danger of private armies in the United States. There is danger of lawless usurpation of power, but the danger is in a quarter not very closely watched—namely, the respectable, "sincere" people who intend to maintain "law and order" if they have to break every law in the land to do it.

Summary

The thesis of this chapter may be restated in this way: The majority can tolerate the expression of distasteful opinions and still not sacrifice all that they hold dear. To make tolerance compatible with a reasonable degree of security, we must establish several conditions. (1) We must punish through due process of law those who publish false opinions which are injurious to individuals in specifiable ways, the burden of proof resting on aggrieved parties. (2) We must punish private citizens who arrogate to themselves violence and intimidation, which are the prerogative of elected officials; and we must watch elected officials and check any illegal use of the power of the state.

Exercises

1. Do you consider the National Labor Relations Act a wise policy, in so far as it forbids employers to express opinions concerning labor unions? The N.L.R. Board, on Jan. 22, 1940, ordered the Ford Motor Company to stop distributing pamphlets criticizing labor unions, on the ground that it interfered with the rights of employees to organize. "The guarantee of such rights to the employees would indeed be wholly ineffective if the em-

ployer, under the guise of exercising its constitutional right of free speech, were free to coerce them into refraining from exercising the rights vouchsafed them in the act. The contention that coercive statements made by supervisory officials to employees are protected by the first amendment has been rejected in several cases arising under the act. We think the principle thus established is no less applicable to the circulation of literature having a like coercive effect."

2. What extraordinary restraints on freedom of speech do you believe are justified by a state of war? Should censorship extend beyond the giving of military information to the enemy? In 1917, Congress passed an Espionage Act which directed the imprisonment of anyone who said or did anything to obstruct the success of our military forces, to cause refusal of duty in the army, or to obstruct the sale of government bonds. Almost nothing could be legally said which was not favorable to a vigorous prosecution of the war along lines adopted by the national administration. What the federal law failed to cover, many state laws punished. "In Minnesota an attempt to discourage women from knitting by the remark, 'No soldier ever sees these socks,' was held to be a crime under the state espionage act.' " (See Baker-Crothers and Hudnut, *Problems of Citizenship,* p. 366. Henry Holt & Co., 1924.) Many private citizens took it upon themselves to punish what they judged to be disloyal utterances. There were also cases of men interned or ostracized for no other reason than that they talked with a German accent. Do you approve of such measures during a wartime emergency?

3. How can citizens co-operate with officials in the apprehension of criminals and "Fifth Columnists" who commit illegal acts? Do you agree with an editorial writer that citizens should not form vigilante organizations, but that they should report suspicious activities to the U.S. Department of Justice? Do you know how to get in touch with the Department of Justice?

4. Criticize the thesis of George Vincent: "Tolerance is a sign that (1) once vital issues are losing their significance, or (2) that the group feels secure, or (3) it is slowly, even unconsciously,

merging into a wider grouping." "The Rivalry of Social Groups," *American Journal of Sociology,* 1910–1911, p. 471.

5. Several years ago, a Ph.D. dissertation by William Gellerman was accepted by Teachers' College of Columbia University. It was a study of "The American Legion as Educator." It reported Legion activity in promoting and suppressing education, and was quite critical. After receiving newspaper publicity, the thesis drew heavy fire. A typical complaint received by Columbia follows: "To make it easier for us poor 'alumnuses' to give funds for the perpetuation of Columbia, can't you gag some of these so and so's who issue a haywire statement that the American Legion is non-patriotic. Every once in a while someone goes 'screwy' and then I wonder if you and Nicholas Murray Butler are the only two Americans left on the campus. I'm in a quandary: 'Alma, what's the matter?'" *Columbia Alumni News,* Vol. 30, No. 1, Sept. 23, 1938. What would you have done, if you had been Dean?

6. "In one of the largest cities of the South, the files of the Superintendent of Public Instruction during the Reconstruction days were removed when it became known that a study was to be made of that administration. Dr. W. E. B. DuBois reports a similar experience when a Negro professor planned to write an account of that highly efficient Jonathan C. Gibbs (Negro), Secretary of the State of Florida and Superintendent of Public Instruction, 1872–1874." "Research Barriers in the South," *The Social Frontier,* p. 86. December, 1937, Vol. IV, No. 30, by L. D. Reddick. What can be done about such cases?

7. Do you approve the action of election boards in many states refusing the Communist Party a place on the ballot? Do you approve such obstruction of third-party activity as was achieved in Illinois by requiring that a place on the ballot shall be given only to parties that present 25,000 signatures, a minimum of 50 originating in each of 50 of the state's 102 counties?

8. The Supreme Court decided in 1927 that the Bill of Rights in the Federal Constitution restrained only the federal government. Would you approve an amendment restraining state

governments from interfering with freedom of speech and religion?

9. Do you approve of the state laws and local ordinances that prohibit the publication of literature or discussion in public of contraceptive methods? See Mary W. Dennett, *Birth Control Laws,* 1926.

10. Do you approve of laws in twenty-two states (1937) requiring teachers to give an oath of allegiance? Only one teacher is known to have refused to give the oath, and he was past the retirement age.

11. If you had been the responsible governmental official, would you have made any changes in the plan of:

a. the nation-wide raids and prosecution of radicals by Attorney General A. Mitchell Palmer in January, 1920?

b. the Dies Congressional investigation of un-American activities in 1939?

c. the Lusk investigation and laws in New York State in 1920–1921?

d. the LaFollette Senatorial investigation of civil liberties in 1938?

12. Granting that parliamentary procedure gives an advantage to groups that possess economic or military power, political organization, education, and so on, are the underprivileged groups completely disadvantaged by the parliamentary method of settling public policy? (See H. D. Lasswell, *Politics,* p. 95; H. D. Thoreau, *On the Duty of Civil Disobedience;* K. Shridharani, *War Without Violence.*)

13. Discuss the merits of the proposal to establish an endowed press.

14. If public officials are not enforcing or respecting laws regarding free and responsible speech, what can private citizens do to compel them to obey the law?

15. "My suggestion is that Liberalism has held back the advance of a rational outlook on human affairs by accepting the fact

that people choose different things as an axiom rather than as a problem. We make a virtue of tolerance only when we do not know how to deal with an issue in a rational way. We can afford to let people call in the elders of the church to anoint a juvenile amaurotic (person with diseased optic nerve) with oil, because we know of no other way of dealing with one. We cannot afford to let people adhere to biblical treatment when their children contract smallpox, because we know the right thing to do. Tolerance is therefore a makeshift." Lancelot Hogben, *The Retreat from Reason,* p. 20. Random House, 1938. Does this statement necessarily contradict Mill's statement that "All silencing of discussion is an assumption of infallibility?"

16. Discuss the view of Clyde R. Miller and the Institute for Propaganda Analysis that propaganda is not vicious but monopoly of propaganda is.

17. Read the report of the Eighth International Congress of Philosophy, held at Prague in September, 1934. *Journal of Philosophy,* Vol. XXXI, No. 22, especially pp. 593–594.

18. Is the theory of free speech consistent with any other economic theory besides the laissez-faire theory?

19. Mannheim once remarked that "unchecked liberalism in a mass age leads to chaos. Hence, the necessity of some form of mass control." "Present Trends in the Building of Society" in *Human Affairs,* edited by R. B. Cattell, p. 297. Does this imply approval of the suppression of speech beyond the limits discussed in this chapter?

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CHAPTER TWENTY

WHAT IS THE MATTER WITH SOCIAL EXPERIMENTALISM?

"WHEN you praise popular government, remember that you are crediting the butcher's half-witted delivery boy with good judgment. When you argue for free speech, you defend the lazy psychopath who distributes his poisonous pamphlets in the slums. Tolerance was harmless on the frontier. *Then* everyone could have his say in the making of public policies, because there were hardly any policies to be made. Now it is different. Complicated questions have to be decided. There is a state of perpetual emergency. Do you really think that public opinion can be enlightened?"

When the democrat takes up this gauntlet, he must realize that his task is a difficult one. That free discussion can be stopped short of libel, intimidation, and conspiracy, as we tried to show in Chapter Nineteen, is one thing. But it is much more difficult to see how the conclusions of popular debate can be wise. Our political campaigns are carnivals of mud-slinging and vaudeville. The expert literature deal-

ing with governmental issues is unknown to most of the voters. We have to admit that possibly fatal blundering cannot be avoided unless the quality of our free discussions improves.

At the same time we do not accept the fascist's claim that the popular mind exhibits nothing but nonsense and selfishness. Getting wisdom from democratic discussion is given the appearance of a hopeless task by caricaturing tolerant democracy. We are led to picture a society in which we (and all those whose opinions we respect) do the tolerating and others do the talking.

Needless to say, the greatest exponents of tolerance have had no such passivism in mind. They have assumed that the tolerant man would participate in policy debates and do whatever was possible to raise the level of public discussion.

To gauge the possibilities in democratic policy-making, we shall state and criticize a plan that is known as *social experimentalism*. Social experimentalism is a program for making representative government more intelligent. Its leading exponents have been John Dewey, James Harvey Robinson, W. H. Kilpatrick, Harrison Elliott, and Mary Follett.

The social experimentalists know that an industrialized world presents problems of greater magnitude than a backwoods township. They appreciate the fact that society has lost its primitive unity. Even if there were a common stock of customs and rigid rules, the experimentalists do not believe that rigid rules could order our affairs. If society is to have wise policies, those policies will have to be thought out, invented.

The distinctive doctrine of the experimentalists concerns the manner in which workable public policies are to be invented and adopted. They propose to carry on political

discussions in the spirit of experimental science. The fact-finding and experimental methods of science have solved problems that defied centuries of debaters. Why not apply these methods to social problems? Why not carry on public discussions and studies in which each participant advances his suggestions in tentative fashion and keeps an open mind? When action is decided upon, why should it not be regarded as an experiment, subject to revision when its consequences have been observed?

Dewey believes that the experimental attitude and procedure can become the popular approach to questions of policy just as they are now the scientist's approach to questions of fact. His belief rests upon the possibility of reforming the schools and educating a generation of problem-solvers instead of a generation of rule-followers and debaters. Dewey's program also calls for the abandonment of propaganda and deception by newspapers and the clearing of other channels of communication. Trained to collaboration and problem-solving methods in the schools, equipped with needed information, men and women could formulate their judgments in a thousand communities and in every kind of industrial and civic organization. Through their representatives they could make this a planning society, in which no small and possibly selfish clique imposed a ready-made scheme upon unthinking or confused citizens, but a social order in which public policies would be truly a democratic product.

Social experimentalism is a philosophy at which no democrat can afford to sneer. It has inspired some remarkable improvements in the schools and it has contributed much to the public forum movement. In criticizing it, I do not express a wholesale rejection of all of its ideas. But criticize it

I must, for I cannot see how public, political discussion can ever be successfully carried on with the participants manifesting the same attitude and using the same methods that experimental scientists employ in the solution of a factual problem. My doubts take three directions: (1) I have doubts about the intelligence of the "public"; (2) I doubt that most persons are in situations that are conducive to critical thought about most public issues; and (3) I have doubts about the communication of ideas by experimentalist methods in a large and complex society.

Doubts About Experimentalism

Suppose that we adopt the experimental attitude in our public discussions. Suppose that we refrain from the devices of rhetorical persuasion and confine ourselves to reasoned discourse. Of course, this would work in a society where everyone or nearly everyone else did the same thing. Most of us probably belong to small organizations in which an open-minded, tentative, nonpropagandist message makes an impression. But in conveying ideas to the *public,* modesty and tentativeness are usually mistaken for weakness, and factuality sounds "dry" to most of the audience.

The cause for apprehension is the public's incapacity to "listen to reason." Advertisers and propagandists the world over, Hitler included, have reported time and time again the limited possibilities of large-scale popular reaction. The experimentalists, and most democrats who are not experimentalists, for that matter, have not been very square in meeting this issue.[1] Jefferson, we may recall, was encouraged by the

[1] The social experimentalists may not think this a fair criticism, since they do not claim that a mass reaction of the people can be scientific. They contemplate discussion in small organizations numerous enough to include the whole adult population. But what shall be done prior to this extensive organization?

potential enlightenment of the people. We find Dewey also talking about the future:

> Until secrecy, prejudice, bias, misrepresentation and propaganda are replaced by inquiry and publicity, we have no way of telling how apt for judgment of social policies the existing intelligence of the masses may be.[2]

Tomorrow's possible intelligence does not justify an appeal to today's unintelligence by methods that carry weight only with intelligent persons.

We do not have to accept Hitler's dogmatic assertions about the dumbness of the average man in order to believe that closely reasoned discourses in the scientific manner are likely to receive a questionable public response. Of course, there are many dumb persons; the intelligence testers give us evidence of that. If we are disinclined to accept their findings, we may change our minds after standing at some public information desk for an afternoon. But quite apart from innate deficiencies, most of us whether educated or uneducated are not versatile enough to respond to—let alone, carry on—an intelligent discussion of all the questions of policy that have to be voted on.

The second cause for apprehension about going experimental is the common lack of motivation for reasoned deliberation. In his book, *The Nature of Intelligence,* L. L. Thurstone says that intelligent behavior always involves some delay in responding to the environment. In other words, thinking requires some time. Thurstone observed that the ideal condition for thinking is somewhere between a condition of apathy and a condition of urgency. We do not think critically unless we have to—that is to say, there

[2] *The Public and Its Problems,* p. 209. Henry Holt & Co., 1927.

must be some motivation. But if the motivation is too urgent, we will not stop to think or we will not think accurately.

Now apply Thurstone's principle to a public discussion. What happened when Thurman Arnold announced that he had turned up evidence of monopoly in the building trades? Some people—tradesmen, contractors, and manufacturers—got apoplectic. Their toes were being stepped on. This Red was trying to rob them of their vacation money! Other people, those not in the above classification, glanced at the newspaper headline. Many of them did not read the news item, for they were apathetic to so "remote" a question as the building trades monopoly. Most of us are lucky if we are ideally motivated for problem-solving thought on one subject. Therefore, motivating conditions are not adequate for social experimentalism.

The third difficulty with experimentalism is that in this sprawling, noisy land, it is hard for anyone to get a hearing. The man with a fact or an opinion will not be heard, barring some accident of publicity, if he announces his fact or opinion in a matter-of-fact way. There are dozens of important public questions before the country all of the time, and most of us are pretty much wrapped up in personal pursuits anyway. Unless some marvelously efficient system of organization is set up, the experimental handling of public questions breaks down through sheer difficulties of communication.

Social Problems Are More Than Scientific Problems

Social experimentalism assumes a population possessed of greater native capacity, better education, more effective organization, fewer distractions, fewer emotionalizing interests,

and fewer problems than can be found in the United States today. No doubt, within limited areas of our common life the methods of experimental science are already being utilized, and these areas may in the future be widened.[8] But in the meantime, the time which interests most defenders of democracy, the arts of propaganda and persuasion seem indispensable.

In the meantime it seems that the experimentalists confuse social problems with scientific problems. Social "problems" are not mere problems. You may "solve" a social problem, in the sense of figuring out how conditions may be changed for the better; and you will still have a "problem" on your hands. An excellent example is the problem of syphilitic infection. By the year 1915, there were medical men who had "solved" this problem. They were not only in possession of Ehrlich's magic bullet, the formula for arresting the progress of syphilis, but they had mapped out a workable plan for locating cases and administering treatment. The social problem still remained to be solved. Twenty-five years later the public education, the campaigns to secure necessary legislation and funds, the organization of laboratories and health departments were just beginning to show some results. The solution of the problem, in the sense of actually changing social conditions, had begun.

The campaign to eradicate syphilis is instructive, moreover, in distinguishing the habits of mind that solve a scientific problem from the modes of discourse that are necessary in changing a social condition. To secure agreement or

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[8] Some philosophers contend that scientific methods can never be wholly adequate for the solution of problems of policy. Although a man needs facts in order that his evaluation may be well informed, he must do something else in addition. He must decide what he values, what ends are worth striving for.

acquiescence by the majority of Americans, the medical men had to resort, not to careful calculation, not to 606 experiments, but to dramatic appeals. These appeals were to fear (of syphilis), to respect (for the prestige of medicine), and to other emotional dispositions.

Professor Dewey has at odd moments recognized the necessity for something more than a matter-of-fact communication of ideas,[4] and no doubt every assertion that could be quoted to the contrary would carry the necessary reservations in his own mind. Nevertheless, social experimentalism generally conveys the impression of a strong distaste for the use of irrelevant appeals in the popularization of any policy.

How Rationality Gets into the Social Process

We are told that dramatic appeals and lobbying are the bad devices of bad men, autocrats, oligarchs, who want to put something bad over on the unsuspecting public. The devices, however, are neither good nor bad in themselves. The historian can point to a great many worthy policies that were not sold on their merits alone. A few of them are:

The Panama Canal: The 20,000 mile voyage of the *U.S.S. Oregon* weighed more heavily in the landlubber minds than it would merit in a "scientific calculation."

Fire regulations for mines: Look up the story of the Cherry (Illinois) mine fire of 1910.

Abolition of slavery: Was *Uncle Tom's Cabin* a scientific document?

Civil service: Was the effect of the murders of President Garfield and Mayor Harrison proportional to their importance as reasons for adopting civil service?

Soil conservation: Remember the dust storms of 1934 and 1936 that helped to put these policies across?

[4] See *Human Nature and Conduct*, p. 263; *The Public and Its Problems*, p. 183; *Democracy and Education*, pp. 151 and 412.

In each case, men who had thought through a certain policy, without reference to the dramatic event, capitalized upon the event and used it to get the attention of apathetic people. They cannot be branded oligarchs in a bad sense because in the cases cited they were not always the same men. What happened was a consequence of the elaborate division of labor in modern society. It was impossible that every citizen should become well informed and vitally interested in inter-ocean traffic, fire regulations, slavery, civil service, soil conservation, syphilis, and a thousand other public problems. The minorities who were closest to each of these problems had to do something to stir the majority into at least acquiescence in their cause. When they had solved the problem in their own minds, they still had a political problem, and political problems demand something more than essays and analyses.

The art of politics must be cultivated by scientists who want to put science to the uses which they, with their training and insight, can appreciate. In the solving of problems in their own minds, they will no doubt prefer to use the experimental and other procedures that are called scientific. But in solving the political problem, they will get nowhere unless they supplement such procedures by discourse that is quite unscientific. They do not have to tell lies, and they do not have to appeal to the basest passions;[5] but they do have to use the art of persuasion, and they do have to overcome the difficulties of communication. In our kind of world we have no moral obligation to adhere to the same logical stand-

[5] There can be and there should be some regulation of propaganda. The limitations on freedom of speech, which were described in the preceding chapter, would seem to be sufficient, although the invention of new and dangerous tricks of propaganda may justify new regulations.

ards in political discourse that we ought to maintain in our own problem-solving thought.

If wise and enlightened policies are to be popularly preferred over foolish ones,[6] the wise policies must be persuasively presented to large numbers of persons. To obtain such publicity, the proponents of wise policies have to pool their resources, they have to organize. A vast and complex society does not respond to good things any more than it responds to bad proposals, unless the good things are given the kind of advocacy which an organization alone can provide.

Of course, there are "good" people who are ambitious for the success of what are probably wise policies but nevertheless abhor the idea of building a political pressure group or a political "machine." Pressure groups, they say, are selfish; and machines are corrupt. Apparently they argue from the admitted fact that many immoral acts are committed by political organizations, and draw the illogical conclusion that, therefore, moral acts must be accomplished without political organizations. "Machines and pressure groups are bad in themselves because they can be used for evil purposes." This reasoning would deprive good men of the use of automobiles, printing, and practically every known tool, for there is scarcely anything that cannot be employed for bad ends. If foolish and wicked plans are popularized by pressure groups and machines, the obvious moral would seem to be

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[6] Propaganda, agitation, and other political methods are necessary not only for the acceptance of a policy, but also for its enforcement after it has been accepted. It must be recalled that many laws are passed and then not enforced unless an alert organization brings pressure to bear. *Vide:* civil service laws in many states and cities, the Neutrality Act in the late 1930's, constitutional provisions for redistricting states after every decennial census (not done in Illinois, Missouri, and other states in recent decades), and so forth.

that political organizations should be used to popularize good plans.

As a matter of fact, the difference between talk that is mere talk and talk that is action is very often the difference between talking as an individual and talking through an organization. It is not simply that our supertribal society cannot hear the lonely voice that cries in the wilderness. The political group can make commitments that mean something, whereas an individual frequently has not the voting and bargaining strength or the power to grant or withhold favors that are required to wake up a preoccupied "public." Furthermore, without the teamwork and combined resources of an organization, the individual citizen may not have the facilities for discovering when and where important questions are to be decided.

To assure the adoption of virtuous laws, we ought not to ask, "Should the virtuous proposals be promoted by pressure groups?" Our question ought to be, "Which kind of pressure group will give me the most desirable opportunity for advocating the causes that I consider good and just?" Should I join a major party machine, a minor party, an occupational union or association, or some special interest group? Or should I try to work through a school or a church?

The finding or creating of an appropriate political affiliation is a duty for everyone who wants democratic processes to select wise policies. In all probability, none of the organizations just mentioned is the right place for *everyone*. The school and the church are ordinarily in this country poor political machines because (1) their members are seldom unanimous in their opinions regarding political controversies, and (2) political activity interferes with their main functions. The regular political parties have the disadvantage of

not giving the man with an idea much influence quickly. The newcomer must in most cases serve a long apprenticeship in the major party machine;[7] and the minor party is committed to pioneering in the discussion of proposals that are usually many years from a verdict. The occupational group may be narrowly limited to a few issues, and the special interest group is often only a paper organization.[8] In every case, however, there are advantages that may offset these disadvantages, and the individual has to determine which kind of political group will provide the channel through which he can make his best contribution to public policy decisions.

Propagandize and organize! That is the democratic injunction to anyone who thinks that unwise or bad courses of action are being adopted. That will please neither the dictatorial people, who want to force their policies upon an unthinking public, nor the social experimentalists, who object to force, even the force of propaganda. It is our contention that both the experimentalists and the dictatorial censors oversimplify the way in which rationality gets into the social process. The experimentalists expect everyone to be rational about everything. The totalitarians expect a few to be rational about everything and to impose their wisdom on the many who are rational about nothing. The adoption of enlightened policies has corresponded to neither scheme in the period since society divided its labor into so many occupations. A relatively few persons have done excellent thinking about the problems of public health. Minorities

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[7] See Frank R. Kent, *The Great Game of Politics*, p. 70 f., and Elihu Root, *The Citizen's Part in Government*.

[8] For a list of special interest pressure groups, see the appendix. Also consult S. McK. Rosen, *Political Process*. Harper & Brothers, 1935.

have studied every public problem in an intelligent way. But the remedy for "bad" propaganda is scarcely the abandonment of propaganda, for that would leave society leaderless and inarticulate. The remedy would seem to be "good" propaganda, which might be expected if more persons who know something would tell their story in an interesting and noisy way.

We give this answer to totalitarians: (1) Democratic freedom of discussion does not jeopardize worldly interests to an unreasonable extent if it is limited by libel laws and so forth (Chapter Nineteen). (2) Democratic freedom of discussion can result in the adoption of wise policies if men become politically active with reference to the subjects about which they know something. Democracy's benefits have their *ifs*, just as dictatorship's benefits and the benefits of every other conceivable form of government have *their* ifs.

Exercises

1. Is it a further condition of the marriage of security and tolerance that there be no important "disinherited" classes? (See Reinhold Niebuhr, *Moral Man and Immoral Society*. Charles Scribner's Sons, 1932.) Will underprivileged groups either be ground in the dust and miss what they value, as in the case of the American Negro, or be incapable of anything short of violent uprisings such as the underprivileged classes of Europe have staged from time to time?

2. Read the biography of some scientific man who has popularized part of his findings and see whether he used a scientific procedure in his public presentations. Suggested: E. A. Ross, *Seventy Years of It* (D. Appleton-Century Co., 1936); J. A. Hobson, *Confessions of an Economic Heretic* (Allen Unwin); P. de Kruif, *Microbe Hunters* (Harcourt, Brace & Co., 1926); Mary Gilson, *What's Past Is Prologue* (Harper & Brothers, 1940).

3. Recognizing that a scientific man may have more qualms about propaganda than an unscientific man, what course of action seems advisable when academic freedom is attacked? See bulletins of the American Association of University Professors and of the American Federation of Teachers.

4. In the light of the preceding chapter, follow up Morris Cohen's comment (*Reason and Nature,* p. 8. Harcourt, Brace & Co.). "The old rationalism absurdly overemphasized the power of conscious reasons as motives. For instance, it thought of law and religion as the conscious invention of some legislator or priest. . . . Not only the state and the family, but even language, was regarded as instituted by convention. Against this, the romantic movement since Schlegel, Schelling, and Savigny has insisted that human institutions are matters of growth rather than human creation, and that the great achievements of life are the result of unconscious spirit rather than conscious deliberation."

5. "The only difference between 'propaganda' and 'education,' really is in the point of view. The advocacy of what we believe in is education. The advocacy of what we don't believe in is propaganda." Edward L. Bernays, *Crystallizing Public Opinion,* p. 210. Liveright Publishing Corporation, 1923.

6. Was any ideal sacrificed in the programs of action that "put over" civil service, safety regulations for mines, the Panama Canal, and food and drug regulation?

7. Is there an inconsistency between academic standards of scholarship and belief in popular enlightenment suggested by the following letters to the Editor of *Time* magazine (published December 4, 1939)?

"DURANT DEMURRERS

"Sirs:

"TIME, Nov. 20—'Will Durant [belongs] with the modern breed of synthesizers whose aim is to get knowledge into the heads of semi-educated people.'

"Why do you and your sister publication, LIFE, continually

poke fun at us poor 'semi-educated people' who are doing the best we can toward 'self-improvement'?

" 'Professional scholars' aren't worth their salt as long as they keep everything they learn to themselves. They need somebody to 'put the stuff over.'

"We can't all qualify as scholars, but we can be interested and benefited. Personally, I think 'popularizers' such as Will Durant, H. G. Wells, TIME and LIFE are justified. Don't you?

"CHARLES BOWES

"Oklahoma City, Okla."

"Sirs:

"Thank you for reviewing my *Life of Greece*. Your critic stuck some pins into my sensitive ego, but they should help me to do better the next time. There is only one item that I would demur to, and that is the term 'popularizer.' I really have had no thought of 'popularizing' history in the sense of over-simplifying it for simple minds; I have merely applied to the writing of a history of civilization that moral obligation to be intelligible which is part of the French tradition in all fields of literature, even in philosophy. It is the curse of my life that minds accustomed to German obscurity have come to take it for granted that anything that is clearly expressed must be superficial. In my judgment obscurity is not depth, but sloth, and clarity is the result of hard work.

"WILL DURANT

"Great Neck, N. Y."

"▲ TIME acknowledged the clarity and essential value of Durant's *Life of Greece*. TIME admires simple understandable language. But all Author Durant's clarity did not make his book a perfect glass through which to see the meaning of Greek civilization.—ED."

8. Comment on the following remarks of Dr. Frank B. Jewett: "Not only here in the United States, but to a greater or less extent in every other country in the world, one of the most ghastly hoaxes imaginable has been perpetrated on society. I refer to the flood of social, economic and political adventures

which have been launched under the banner of 'scientific experiments.' . . . To us a scientific experiment is one which, under controlled conditions, can be repeated at will and in which but a single or at most a very limited number of unknown factors are involved."

9. Should physicians, manufacturers, automobile mechanics, lawyers, bankers, psychologists, and other specialists refrain from the tricks of suggestion and irrelevant arguments in dealing with the public?

10. Evaluate popular education in the light of the following consideration: "Ignorance or the want of knowledge and literature, the appointed lot of all born to poverty and the drudgeries of life, is the only opiate capable of infusing that insensibility which can enable them to endure the miseries of the one and the fatigues of the other. It is a cordial administered by the gracious hand of Providence of which they ought never to be deprived by an ill-judged and improper education. It is the basis of all subordination, the support of society, and the privilege of individuals." Soame Jenyns, 1759, quoted by Norton and Norton, *Foundations of Curriculum Building*. Ginn & Co., p. 99.

11. Do you agree with Spinoza that most men must be regulated by rituals, conventions, and myths (what he calls *the ceremonial law*) because they cannot follow the complicated arguments which are required to reach a soundly reasoned policy?

12. Does the conclusion of this chapter imply approval of irrelevant appeals to popular prejudice?

13. Big Bill Thompson became Mayor of Chicago on anti-German sentiment in one election and on anti-British sentiment in another. His promise to "punch King George in the snoot" explained clearly his position on questions relating to municipal taxation, traction, and local improvements. Or did it? Charles Merriam studied Thompson's political career, and confessed that he could find no central thread in his policies except the perpetuation of power. "The first campaign was anti-machine and wide open town in the primaries, but in the election became anti-

Catholic and anti-German and anti-Gas Company against Sweitzer. After the election he proceeded to the organization of a powerful machine, and appointed the Gas Company's attorney as law officer of the City. In his next campaign he urged municipal ownership under the Thompson plan, declared for the nickel fare and belabored the traction barons (the surface lines), but with the quiet support of Insull and the Elevated Lines. . . ." From Merriam, *Chicago, A More Intimate View of Urban Politics,* p. 189. By permission of The Macmillan Co., publishers, 1929.

14. Is there any difference between the author's argument and that of St. Augustine? "While the proponents of error know the art of winning an audience to good will, attention, and open mind, shall the proponents of truth remain ignorant? While the sophist states facts concisely, clearly, plausibly, shall the preacher state them so that they are tedious to hear, hard to understand, hard to believe? While the one attacks truth and insinuates falsehood by fallacious argument, shall the other have too little skill either to defend the true or to refute the false? Shall the one, stirring his hearers to error, urging them by the force of oratory, move them by terror, by pity, by joy, by encouragement, and the other slowly and coldly drowse for truth?" *De doctrina christiana,* Book IV, II. Translated and cited by C. S. Baldwin, *Medieval Rhetoric and Poetic,* pp. 57–58. By permission of The Macmillan Co., publishers, 1928.

15. Is it possible that a democracy may be just in accordance with Plato's definition—every man doing that for which he is best fitted, and the wisest being those who are fitted to lead and direct society?

16. Must political creeds be false to function effectively? See Thurman Arnold, *The Folklore of Capitalism,* pp. 356–357. Yale University Press, 1937.

17. Does the Institute for Propaganda Analysis have a social experimentalist policy? Does it consistently condemn propaganda as a method of political discussion?

18. Does America's Town Meeting of the Air have a social experimentalist policy?

19. Is this chapter's conclusion inconsistent with the first chapter of the book? If everyone who has anything to say to the public must become a propagandist, is it hypocritical to talk about teaching students *how* to think instead of teaching them *what* to think?

20. Compare the criticism of social experimentalism with the criticism of pragmatic ethics in Chapter Fourteen. Is there any point in the present chapter that was not covered in Chapter Fourteen?

21. Referring to Chapter Fourteen, are bystanders always part of the public, and therefore incapable of expert leadership?

22. Does the author agree with Plato in distinguishing between good lies and bad lies? Cf. *The Republic,* 377, 389.

23. Does the author agree with Averroes, who held that myths must control the ignorant? See E. Gilson, *Reason and Revelation in the Middle Ages.*

24. What false inferences are made by social experimentalists and dictators, respectively, from the following?

a. "Because social problems can be studied scientifically. . . ."

b. "Because social problems are not usually solved by scientific study alone. . . ."

25. Find some examples of talk that can be called action. What is the matter with the usual distinction between talk and action?

26. What groups in American political life have shown the greatest improvement in political skill during the last thirty years?

27. What nationally known pressure groups have local units in your locality?

28. What are some of the pitfalls to avoid in pressure-group organizations? Suggested data for study: The Anti-Saloon

League, The Liberty League, National Electric Light Association, The Interchurch World Movement, The Non-Partisan League, Farmer's Union.

29. In what respect does the author disagree with John Ruskin? "'A bad thing will pay, if you put it properly before the public,' wrote a first-rate man of business the other day to one of my friends. But what the final results of putting bad things properly before the public will be to the exhibitor of them, and the public also, no man of business that I am acquainted with is yet aware. I mean, therefore, to persist in my own method; and to allow the public to take their time. One of the most curiously mistaken notions is that they can hurry the pace of Time itself, or avert its power." *Fors Clavigera,* XXXVI.

30. To what extent do the arguments about the ethics of public debating resolve themselves into quibbles over the meaning of the word *public*? Compare Walter Lippmann's definition in *The Phantom Public* with Dewey's definition in *The Public and Its Problems.* Which definition does the author use?

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CHAPTER TWENTY-ONE

THE LEADER PRINCIPLE

A TREATISE on ethics must have a beginning and an end. Our starting point was the fact that we were born into a society with customs that do not always tell us unequivocally what we ought to do. We are encouraged by a part of our cultural heritage to think for ourselves not only about matters of fact but also in the evaluation of policies of action.

Review of Findings

Now we are about to close this book, and the time has come to summarize our findings. Often, no doubt, the findings seemed to be all questions and no answers. Defining and sharpening the alternatives of life have been no small part of philosophical ethics since the day when Socrates first began to play the gadfly. To formulate clearly an option which unthinking men sense but vaguely is some gain. To turn the spotlight of attention on pitfalls of sophistry that most folks avoid only by luck or instinct is worth while, too.

Indeed, the final conclusion of many ethical theorists is not some "infallible," fool-proof formula that settles all possible questions, but rather a clarifying method which helps each man to evaluate policies for himself.

To see clearly the alternatives of action and to choose wisely require training as well as intelligence and strength. Somehow affections and cognitions must be nicely related (Chapters One through Three). Otherwise, we suffer from wishful thinking or from thoughtless wishing. We are guided by habit and the accumulated wisdom of the past; yet, maladjustment is the fate of a society that is unable to determine which precedents have lost their usefulness (Chapter Two). We shall be bewildered by unprecedented problems unless our daily judgments are organized by economic plans or other institutional ideals (Chapters Four and Five). But consistency with a single plan or even with an abstract ethical principle (Chapters Six and Seven) is at times foolish, because we are not omniscient and our best rules are defective. The fact that all wisdom cannot be summarized in one rule does not justify the abandonment of all rules; it suggests guidance by several rules instead of one alone (Chapter Eight).

The difficulty of sound moral judgment is aggravated by the tendency of human beings to disagree in their ideas of goodness and duty (Chapters Nine through Twelve). If we are not to waste moral energies in endless controversy, we must distinguish disagreements about means from disagreements about ends (Chapter Ten). When we study the reaction of other men to opposition, we criticize some of them for overlooking agreements and supposing that the achievement of their ideal requires unrestrained violence (Chapters Thirteen and Fifteen). Other men seem to have

ignored fundamental disagreements or to have shown too much readiness to sacrifice their own consciences in order to preserve peace (Chapter Fourteen). We call men prudent when they recognize the limitations which disagreements and other conditions impose upon their freedom of choice and of action, but it is easy to exaggerate obstacles and fall into a false fatalism (Chapter Sixteen).

Finally, we admitted that not everyone is competent to criticize policies and at the same time avoid the destruction of valuable possessions. Inquiry and discussion jeopardize some values (Chapters Seventeen and Eighteen). But, since inquiry and discussion are themselves valuable in policy-making, we faced the problem of setting reasonable limits to discussion (Chapter Nineteen), and we admitted that logical standards must sometimes be relaxed so far as political discourse is concerned (Chapter Twenty). "When?" and "How much?" are questions that must remain partially unanswered until we apply our ethical principles to specific situations. They cannot be given complete answers in the abstract, as practically every great ethical theorist has agreed. But we have this perennial difficulty in ethics: we are not persistent enough in our attempts to remember and give due consideration to *all* of the things that are valuable in this world of ours.

A yet more succinct summing up may be possible. We have successively combatted the arguments that are advanced for not trying to live thoughtfully and to keep on thinking. Perhaps there are idyllic vales in which the inhabitants can successfully dispute the dictum of Socrates that "the unexamined life is not worth living." Most of us, however, have sufficient grounds for criticizing our own policies and the policies proposed by others. We have argued for ethical

criticism (1) against the traditionalists, who say that sufficient wisdom is implicit in custom; (2) against certain scientists, who insist that the only reliable thought is factual rather than evaluative; (3) against the dogmatists, who think they have an all-inclusive rule and do not need to continue inquiry; (4) against the skeptics, who say that since no rule is perfect, we should abandon general rules and the quest for consistency; (5) against the subjectivists, who say that the relativity of morals implies that one man's opinion is as good as another's; (6) against the Machiavellian, who is ready to discourage ethical reflection on practical grounds; (7) against the intolerant religionist, who is afraid that free thinking about values will destroy what is good; and (8) against the dictator, who considers most human beings too incompetent to make value judgments. We have recognized the difficulties on which these anti-ethicists rest their cases, and we have seen possibilities of overcoming all of them.

We shall now conclude our inquiry by grappling with the differences in ability and aim which, according to the dictatorial crowd, prove that policy evaluation should be the prerogative of the elite.

The Need for Leadership

Anyone has reason to doubt his own ability to think his way through to wise decisions on all policy questions. Everyone must occasionally tire of the enterprise and want to "let George do it." When thus oppressed by our responsibilities, we should sometimes go to bed and let sleep knit the ravelled sleeve of care. At other times we should take what William James called a "moral vacation," with the full knowledge

that a bit of diversion and relaxation will make us eager once more to face our dilemmas and have our say.

Nevertheless, the magnitude of the questions of moral evaluation clearly suggests the advisability of relying upon others for wisdom in counsel and strength in action. Most of us confess that we cannot competently meet every option if we rely solely upon our own resources. Someone else is frequently in a better position than we to evaluate our policies. We seem to be justified in following a leader.

"Follow the leader" is a game that may be played in several ways. The leader may simply take the initiative in helping his fellows to formulate policies and organize effort. On the other hand, the leader may act as a substitute for reflection on policies. Jefferson and Sun Yat Sen stimulated their followers to more fruitful participation in the processes of evaluation and choice. Napoleon III and Stalin succeeded by intimidation and intrigue in surrounding themselves with yes men; they destroyed ethical reflection instead of guiding it. The Fredericks, the Alexanders, the Rockefellers, the Pitts, the Calvins, and the other famous leaders of history do not fall into two neat classes: the policy stimulators and the substitutes for policy-making. Nevertheless, the recent resurgence of dictatorship gives point to the distinction. As you look forward to the amelioration of distressing conditions in home and business, community and continent, you will rest your hopes in one or the other kind of leadership. If you yourself come into a position of power, you may either foster or kill ethical and political capacity in your children, your subordinates, or your constituents.

The dictatorial ideal recommends itself as a cure-all for the follies of policy-making because it is a proxy for policy-

making, so far as the multitude is concerned. In general, these follies of policy-making may be summarized as follows:

I. Foolish policies may result from too much thought at the wrong time and place:
   A. Thought that never reaches a conclusion or terminates in action;
   B. Thought that insists upon rigid rules for all action;

II. Foolish policies may result from excessive partisanship.
   A. Destructive conflict ensues if no controversial methods are outlawed.
   B. Guesswork and confusion reign supreme if every man is considered competent to judge every question.

Foolish Policies May Result From Too Much Thought

A. Interminable deliberation. The first premise of dictatorial leadership is that thought without action is unwise. The second premise is that freedom of discussion produces endless thought without action. The first statement is true. The second may be true. Scientists and scholars demonstrate the inexhaustibility of inquiry. However long a man may observe and think, there always remain some unanswered questions. The spirit and canons of inquiry are not sufficient for all the purposes of life. Never-ending thought and self-correcting doubt are admirable for the advancement of knowledge, but may be fatal. Desires and wants make action from time to time imperative. The apologists for dictatorship have a point. But somehow they go on to an unimplied conclusion. Because thought without action is unwise, they say, therefore, action without thought on the part of any but the leader is wise. Theirs but to trust and

obey, to do and to die; the leader's part to tell them when and how.[1]

Is it necessary to suppress freedom of thought in order to reach some sort of conclusion when inaction is worse in its consequences than even thoughtless action? In this country the popular answer is "No"; but if a reasoning man is to stop short of fatal thoughtfulness, he must give attention to the exigencies of desire as well as to the data of the fact-finding enterprise. In other words, this is one of the often repeated problems of the moral life. When shall the books be closed? When must the tentative conclusions be treated as a practical absolute (Professor Ames's phrase) and acted upon?

Max Otto not long since addressed a stirring call for action to scholars and book-readers and "thinking men."[2] He quoted from Lord's *Behold Our Land* the statement that the topsoil in one of our southern states had washed away under the very eyes of geologists, botanists, and other experts in a great university, these able men all the while thinking but doing nothing to prevent the devastation. I cannot

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[1] Among the disciples of G. Sorel, irrationalism is still more completely praised. Even the leader does not think in any ordinary way about questions of policy. He acts by impulse or on hunch ("inspiration") and is considered virtuous because arbitrary action, *any* action, is better than inaction. This doctrine is obviously at odds with Plato's, which is sometimes represented as the dictatorial ideal par excellence. Plato recommends in *The Republic* that the state be ruled by men who are unlimited by law or constitution. He assumes, however, that they will be guided by Reason. In view of Plato's position in *The Statesman* and *The Laws*, it seems reasonable to interpret him as recommending lawless dictatorial government only when completely wise men are available, for in the last two works he advises constitutional policies to check rulers who are actually imperfect in wisdom and virtue, as all human rulers must be. Many commentators place Plato in the camp of blind dictatorship, but their reading of the text is odd, to say the least. See G. H. Lewes, *Biographical History of Philosophy*, Vol. I, p. 239; R. H. S. Crossman, *Plato Today*. Oxford University Press, 1939.

[2] *The Human Enterprise*, F. S. Crofts & Co., 1940.

agree with Professor Otto that every thinker should go into political and social action. Some men have great merit as researchers but are bunglers by temperament when they try to "win friends and influence people." But I agree that large numbers of research men should recognize the situations that call them from the ivory towers. I agree that thousands of study clubs and millions of book buyers should get the habit of spending as much time deciding what to do as they give to the question, "What shall we think?" We may easily go off half-cocked in either the contemplative or the pragmatic direction. We must find the Golden Mean in mixing thought and action.

In signalling for a termination of thought and a beginning of action, some men must undoubtedly assume leadership in any society. These leaders may be experts or they may be men of common sense; but they must have a flair for popularizing expert knowledge. Unless such leaders appear to arouse and guide democratic action, democracy will be rejected by impatient men, who want quick action.

B. Rigid rules, foolish policies. The dictators say that they can promise relief, not only from interminable thought but also from rigid, unworkable policies. Long before the recent crop of totalitarian Caesars, important men in Europe were protesting against the ideal of a society founded upon the abstract rules of thought. A romantic protest followed the fiasco of the French Revolution. The men of 1789 had tried to remake France and then Europe according to a blueprint. They hoped to straighten the crooked streets of the old cities and the inconsistent customs of the ancient regime. But the pain of readjustment was worse in some respects, at least, than the misery of the old irrationalisms. After 1815 there was a widespread desire to take Reason off

the throne to which the "butchers of the French Revolution" had elevated it.[3]

So, also, after the map-changing and institution-creating fad of 1918 and 1919, a reaction against the ideal of a rationally planned society gained strength. Sorel, Kierkegaard, Pareto, and other critics of political rationalism were frequently quoted and became famous, some of them long after the death and burial of their books as well as their bodies. Of course, Americans like Herbert Hoover and Walter Lippmann[4] identified the rise of dictatorship with the ideal of a planned society; but in this, as in some other matters, the evidence does not substantiate their opinions. The idea of entrusting supreme policy-making powers to one man or to a clique is closely linked with the idea that *no* stated policy can be good. The dictator must be free to be inconsistent, to reverse policy, and to make exceptions to rules. Any formula which a reasoning man may invent or a legislature may adopt will produce evil because of the unpredictable shifts and unsettlements of society.

The advocates of dictatorship have, indeed, recognized a knotty problem in modern industrial society. With the acceleration of social change, neither ancient customs nor new plans can be rigidly adhered to without lamentable consequences. In Part Two, we recognized the fact that rules without discretion and ideals without adjustment to changing conditions may be folly incarnate.

Does this defect of rules imply that wise conduct cannot be lawful? The dictators argue from a true premise to a false conclusion. Because rules without discretion and

[3] See Sidney Hook, *From Hegel to Marx*, p. 135 f.

[4] See Hoover's argument in *The Challenge to Liberty* (Charles Scribner's Sons, 1935), and Lippmann's argument in *An Inquiry into the Principles of the Good Society* (Little, Brown & Co., 1937).

adaptation are bad,[5] it does not follow that discretion and opportunism without rules are either good or inevitable.

American courts and administrators have shown, despite serious shortcomings, that discretion can be exercised where legislation is uncertain or contradictory without being arbitrary in any evil sense. Judges and commissioners, presidents and governors, can appeal to certain general principles of public policy and ethics for guidance. In this country we expect our officials to use their good judgment in this way; and if they do not respect the limits set by public opinion, we expect to force them out of office by an election or two. That the system does not always work well is a problem and not an axiom.

Leadership is needed to stir government, schools, industry, and other institutions out of their bureaucratic ruts and to arouse individuals from dogmatic slumber. In public life this need for leadership is gaining recognition. Congress and the state legislatures are giving individual administrators more latitude, defining certain areas within which discretion may be used. The traditional legislative practice of prescribing exactly what executive and court shall do in all cases proved unworkable during the last century. Some policy decisions have been delegated to the courts, and some have been delegated to the executive. A century ago, state legislatures were passing special acts authorizing this or that individual to change his name, to adopt a child, or to divorce his wife. Such questions are now entrusted to the discretion

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[5] Plato put the matter this way: "A perfectly simple principle can never be applied to a state of things which is the reverse of simple." *The Statesman*, 294. *The Dialogues of Plato.* Jowett translation, by permission of the Jowett Trustees. The Clarendon Press, 1920.

of a judge. Other questions which were once answered by legislatures are now decided by executive administrators. In 1874, for example, the Wisconsin legislature fixed the precise rates which railroads might charge. The North Dakota legislature at one time enacted a law specifically requiring the operation of one freight and one passenger train per day over each railroad.[6] For a time these regulations were repealed only when the regulated industries secured control of the legislatures. Gradually, however, it became apparent that inflexible statutes worked as many hardships and injustices as the old conditions of unregulated management. The several states and the federal government began to enact less rigid laws and give more discretion to administrators. Executive officials are now, in many instances, directed simply to establish fair rates, to set up rules of fair competition, and to determine what is conducive to the public convenience and necessity. Health boards and sanitary commissions are authorized by law to require employers and institutions to maintain safe and sanitary premises. Exactly what constitutes safe and sanitary premises is left to the good judgment of a commission or board. In some matters, such as health, fire hazards, wages, and hours of work, the legislature may place the problem in the hands of a single official rather than a commission.[7]

The growth of administrative discretion is lamented by some people who talk about government of men replacing government of laws. It must be admitted that administrative leadership is uneven in quality. The demands of a rap-

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[6] *Compiled Statutes of North Dakota*, section 4789.

[7] Blachly and Oatman estimated in 1934 that rulings published by administrative agencies ran to eight or ten times as many pages as the Acts of Congress. See their *Administrative Legislation and Adjudication*, p. 11.

idly expanding technology descended upon us too suddenly to allow sufficient time for the training of experts. The public is not yet educated in the ways of selecting dependable men or of holding them responsible for good administration. But the remedy lies in the cultivation of new administrative arts, not in a futile attempt to return to letter-of-the-law government.

In some areas we have been shifting responsibility for policy-making from legislature to courts, and more recently from courts to executive agencies. But we still have government by law. The legislatures are getting away from rigid and detailed enactments, but they do lay down broad policies. The courts make the day-to-day decisions, but the "due processes" are more or less effective protection against arbitrary interpretations of general legislative policies.

Administrative boards and commissions also are restrained in their policy-making decisions. They must have a definite delegation of power. Our courts have outlawed "roving commissions." The boards must publish their rulings. The persons affected have the right to be heard, and to have their case reviewed by the courts if there is any question of misinterpretation of law. We still have the right to campaign for new laws and to remove from office the policy-makers who refuse to abide by general policies.[8]

If these new types of administrative leadership are not to become dictatorial and arbitrary, we must, no doubt, be on guard. We need better definitions of general policy by

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[8] Experience shows that subsidiary boards and commissioners should be guided, not only by legislative enactment, but also by the chief executive's interpretation of enactments. The president, governor, or mayor co-ordinates legislative policies, and he stands responsible to the electorate. Otherwise, bureaucracy in the worst sense may develop—department heads impeding one another's work and unresponsive to shifts in public opinion.

our Congress and state assemblies. Unnecessary vagueness in the law is an opportunity for whimsical interpreters.[9] We need to give more attention to the selection of administrators and judges. We must insist that commissions give adequate notice of their rulings.[10] An unpublished regulation may be a tool for lawless bureaucracy. We must learn how to make our claims and our points of view known to these new governmental leaders. Their hearings are less formal and come at less regular intervals than the sessions of courts and legislatures. Unfortunately, many citizens who fear that democratic public administrators will become tyrannical are now looking backward to the frontier days when little leadership in government was needed.[11] They fail to realize that a fast-moving, industrial society requires some delegation of policy-making powers as well as a division of labor. Unless these citizens presently show more willingness to grant discretion within the bounds of law, they may contribute to

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[9] See J. M. Landis, *The Administrative Process*, pp. 66–67. Yale University Press, 1938.

[10] The federal government publishes administrative rulings in the *Federal Register*, and some states require the publication of regulations. All state governments should adopt this practice.

[11] These world-weary citizens usually misrepresent the legal situation of frontier days. The frontier had little formal government, but what there was frequently was government of men rather than of laws. David Crockett tells how on Shoal Creek "we met and appointed magistrates and constables to keep order. We didn't fix any laws for them, though; for we supposed they would know law enough, whoever they might be; and so we left it to themselves to fix the laws." After formal government was established in his county, Crockett says the honor of being a squire "rested more heavily on me than before. For, at first, whenever I told my constable, says I—'Catch that fellow and bring him up for trial,'—away he went, and the fellow must come, dead or alive; for we considered this a good warrant, though it was only in verbal writing. But after I was appointed by the assembly, they told me my warrants must be in real writing, and signed; and that I must keep a book, and write my proceedings in it. This was a hard business on me, for I could just barely write my own name; but to do this, and write the warrants too, was at least a huckleberry over my persimmon." *The Life of David Crockett*, Chapter IX. (This book is not regarded as reliable in detail, but it is reliable as a mirror of early nineteenth-century attitudes in the frontier regions.)

the establishment of a dictatorial sort of leadership which will exercise utterly lawless discretion.

So far we have been talking about leadership in public affairs. Leadership is also essential to wisdom in personal conduct in a fluctuating and complex world. In Chapter Ten we described the transition from the taboo type of morality to the reflective type. Detailed rules of conduct are less adequate in a civilized society than they are in a simple tribe. Quite general moral principles such as the Golden Rule and the Greatest Happiness Rule are instilled as moral sentiments into the hearts of the young. If conduct is to have any important moral regulation instead of being controlled only by military methods, most men will need stimulation and guidance in the application of their general rules to the problems of daily life. If the perplexed husband can secure counsel from physician or psychologist or parson, he may be able to make the application of *rule* to *case* of infidelity, or bankruptcy, or domestic war. He may with a few suggestions work out his own salvation. If the perplexed young woman can secure an interview with a competent personnel expert, she may with some help reach a wise decision on the career question. No dictator need order: *Kirche, Küche, Kinder.* If the neighbors can find a smart playground director to hear their youngster troubles, they may arrive at a constructive recreational policy. If businessmen and workmen can talk with lawyer, banker, psychologist, ward committeeman, or economist, they may talk their way to a practicable application of ethical principles. Leadership of this sort is the very antithesis of dictation, for it promotes rational policy administration instead of suppressing it. We have yet to see it proved that discretion can be wisely exercised only if one top man has it and exercises it in an utterly

irresponsible manner. But we also have yet to see it proved that discretionary powers distributed widely through society can be used wisely enough to prevent both chaos and stagnation. Here is the second continuous task for modern ethics.

Excessive Partisanship

A. Destructive conflict. One of the greatest attractions of dictatorship is the dictator's promise to restore unity to the community. You probably have some friends who make sarcastic and cynical remarks about modern democracy's contentiousness. They tell you how many million words of debate filled the last Congressional Record and how little was actually accomplished by all this partisan talk. They are enraged by the defiant demands of labor, farmers, big business, or the old people. They hint broadly that if they had the whip hand they would soon put certain troublemakers in their place. They applaud the governor who is a "strong man." Let him call out the National Guard and declare martial law just to show agitators who's boss.

Exactly this frame of mind caused certain "good people" in Europe to welcome military dictatorship. It is an attitude that has cropped up repeatedly during the past hundred and fifty years. The reason for this irritation is no mystery. A big society with rapidly multiplying divisions of labor loses that primitive solidarity which our ancestral tribes enjoyed. Division of labor brings division of interest and division of sentiment. Noisy and often destructive partisan conflicts ensue. Truly, some institutions have been disintegrating steadily since the twelfth century. Perhaps social dissolution goes on in all ages, but it is conspicuous in our time. By birth and early training, modern men seem to have less and less in common.

This trend has been noted and lamented by European sociologists ever since sociology has had a name. August Comte, Ferdinand Tönnies, Emile Durkheim, Max Weber, and Ludwig Gumplowicz, in spite of many differences, all observe regretfully the destruction of the primitive unity of the tribe. Modern men are more individualistic or more class-ridden than their ancestors. They become progressively poorer in common customs and shared sentiments on the basis of which they might re-establish peace.

The sociological picture is embroidered by philosophers, novelists, and men of action. Gentile's portrayal of post-war Italy is typical:

> A defeatist psychology, as they say, took possession of the Italian people and expressed itself in hatred of the war, of those responsible for the war, even of our army which had won the war. An anarchical spirit of dissolution rose against all authority. The ganglia of our economic life seemed struck with mortal disease. Labor ran riot in strike after strike. The very bureaucracy seemed to align itself against the State.[12]

The moral of all this is supposed to be simple: Put an end to the wrangling by depriving the dissident groups of any participation in policy-making. Entrust a leader with the supreme power, and let him impose by military force the unity which men cannot attain by parliamentary methods.

Once more, the dictator people have put their finger on a major problem in modern life. As we saw in Part Three of this book, humanity is not unanimous in its value judgments, and "the acids of modernity" are constantly producing new divisions in the social fabric. Unable to agree with some of

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[12] "The Philosophical Basis of Fascism," Part II, *Foreign Affairs*, January, 1928. Giovanni Gentile was for a time the Fascist minister of education.

our fellows, unable to understand them, we face a dilemma in which good is pitted against good, rather than the traditional option of good versus evil. Machiavelli, Nietzsche, and Marx urge us to bloody partisanship, sacrificing the values of a common life. Hegel, the pragmatists, and the utilitarians recommend devotion to a common life, but it is not the common life of *our present dreams.* Their way out of mutual obstruction is a synthesis or a compromise in which the conscience of our early training is violated and, if possible, forgotten.

On the whole, we inclined toward the latter point of view, at least for Americans, whose conflicts do not seem to be as unmitigated as the wars of Europe. The splitting of society, which sociologists like Gumplowicz emphasized, is not the only trend. While some common institutions were disappearing, new tendencies toward unity were showing themselves. The integrative tendencies of schools, markets, and the greater interdependence of men in an industrial society were emphasized, perhaps overemphasized, by sociologists Albion Small, Georg Simmel, E. A. Ross, and C. H. Cooley.

Military dictatorship is not the only method of harmonizing classes and nations. Our faith in the other possibilities does not rest solely upon such socializing agencies as the common schools, the market-machinery, and representative government. Each of these institutions occasionally may become so hopelessly partisan that it fails to mediate the basic conflicts. Yet we have faith in society's ability to tolerate partisanship without destroying itself. That faith is founded upon the fact that no one takes sides in every dispute. Consequently, there is always a great body of bystanders. The bystanders are not as nonpartisan as Kant's God, but their

interest lies in keeping a dispute from paralyzing all of the enterprises that are not *directly* involved. As bystanders we support laws and customs which set limits to partisanship. We will not tolerate libel or violence or too long continued nonco-operation (strikes, lockouts, boycotts, or civil disobedience campaigns). As partisans we are checked by others who have only the bystander interest in our cause.

At times the bystander interest is much less effectively organized than the partisan pressure groups; but modern experience does not support the thesis that the bystanding public is inevitably inarticulate and impotent. At any rate, everyone, as a bystander, faces the most difficult ethical problem of our period: What shall be the general plan with regard to participation in policy-making? The dictators say, "Let us decide everything and thereby avoid the destructiveness of partisan clashes in policy deliberation." They argue for a one-party and something like a one-institution system. They would abolish partisans, because partisan conflicts may be destructive.

The advocates of dictatorial leadership tell us that the modern world becomes anarchical if everyone is allowed to participate in policy-making discussions. This is possible, but the dictators usually caricature the processes of democratic discussion by picturing a disorderly brawl in which there are no leaders. We do well to recall the role of Dr. Wiley in the food and drug debate of 1906, of President Roosevelt in the farmer revolt of 1932, of President Jackson in the South Carolina nullification incident of 1832, of Samuel Gompers in the unification of the labor movement, and of Horace Mann in the establishment of public schools. These leaders represented various pressure and bystander interests. They did not destroy discussion, but they kept

argument from degenerating into an interminable quibble, and at the same time they had some regard for the ideas of dissenters.

To avoid the Scylla of fatal indecision and the Charybdis of civil war, every civilized society must have leaders. Under most circumstances, the leaders may perform their function by helping people to have their say and to agree on some policy. The partisan leader helps his followers to formulate demands that will not be impossible. The bystanders' leader helps them to determine the limits of partisan tactics and delays.

B. Amateur policy-making. The final plea for dictatorship calls our attention to the technical difficulties in present-day choices between the better and the worse. Is the "average man" competent to pass judgment on the desirability of an international boundary settlement? Is he even sufficiently informed to pass on the suitability of movies for his children or the wholesomeness of the foods which he purchases?

Certainly the day is past when we could believe that "every man is as good as every other man, if not better." Romantic equalitarianism is dead, and most of us feel like old Heracleitus, who growled:

> The Ephesians would do well to hang themselves, every man of them, and to leave the city to beardless boys. For they banished Hermodorus, the best man of them all, declaring: We will have no best man among us. . . .[13]

The "average man's" technical information is not sufficient for wise decisions on many questions. The gap be-

[13] "The Fragments," C. M. Bakewell, *Source Book in Ancient Philosophy*, p. 35. Charles Scribner's Sons, 1907.

tween popular lore and expert knowledge is now wider than it was in the Middle Ages when Europe's barbarians were illiterate.

Does this technical ineptitude of the masses justify dictatorial leadership? What about the candidates for the job of dictator? Are they possessed of adequate technical knowledge? It is the nature of specialization to make the most learned man in one field an amateur in most fields.

In reply to this objection, we are told that the modern dictator does nothing more than give irresistible authority to the judgments of the experts in each field. But this reply raises the question whether expert opinion may not become available and effective without the rubber stamp of a dictator.

Not a few professional men have envisaged a society in which the technicians ruled as a class. H. G. Wells had such a dream in *The Open Conspiracy,* and Stuart Chase had the same dream in *A New Deal* (p. 179). Alexis Carrel had a slightly different vision in *Man the Unknown.* Carrel's "fully developed individuals" were biologically as well as technically superior to ordinary stupid people. It is absurd, he said, to give them no more electoral power than is granted to a moron.

These contemporary priests reason in ways strangely reminiscent of the priests of the old authoritarian religions. They ignore the existing and possible channels through which technical information may flow to amateurs. They are unduly pessimistic about the services of experts in a democracy, and their pessimism arises from failure to consider two ways in which technicians may be leaders rather than dictators:

1. Men of superior ability and training may prepare questions for amateurs to decide. A physician confuses the minds of his

patients when, in highly technical language, he asks them to choose one of several possible treatments. On the other hand, he does not have to arrogate to himself the right of all decisions. He may prepare the technical questions so that their relation to expense, risks, and probable results is clarified. Experts dealing with public questions may also be leaders in clarifying issues in this same manner without becoming dictators.

2. Experts may present their opinions persuasively. In Chapter Twenty we attacked the doctrine of social experimentalism in so far as it disapproves of unscientific public presentations of scientific or logical conclusions. Uninhibited by the ifs of the laboratory and the whereases of the study, many specialists who are now a total loss politically might be effective leaders in the formulation of policies for both private and public life.

Representative democracy, in contrast to town-meeting democracy, does not require that all the citizens think together as a committee of the whole. If "the people had to make up their minds" by group thinking, democracy would be utterly unworkable in the United States and every other large country. A group does not have a cortex, and there are other reasons (see Chapter Twenty) why logical discussion is limited to rather small groups of persons who have similar backgrounds. But government may be democratic as long as the public has the option of accepting the ideas of more than one leader. Representative democracy is the system of allowing birds of a feather to flock together before counting noses or bills and deciding which bird's proposals shall be law. Representative democracy also allows any bird to try to get a following.

Conclusion

Leadership is an important condition of a good life. Unless some individuals take the initiative, our policies may

deserve such epithets as "indecisive," "visionary," "destructively partisan," and "ignorant." If large numbers of individuals take even a little initiative, leadership need not be dictatorial. But, if you and I and enough others neglect our ethics and dodge the policy problems on which we are competent to give leadership, there will be no middle ground in these fatal arguments:

1. Thought without action is bad. Therefore, action without thought (on your part) is good.
2. Rules without discretion are bad. Therefore, discretion without rules is good. Ideals without adjustment to actual conditions are bad. Therefore, adjustment to actual conditions without ideals is good.
3. Destructive partisan controversies are bad. Therefore, a system with no partisans and no controversies is good.
4. Policy-making by ignorant men is bad. Therefore, failure to consult the majority in the making of policies is good.

If you and I do not think about social facts and collaborate in drafting ethical policies in their light, someone will, no doubt, presently appear to do our thinking for us. Going to the expense of thinking, such a person would naturally expect to make our choices for us, too.

Every civilization has its problems of policy. Decisions have to be made on ends as well as means. The options are in many cases bewildering, but there is no reason why we should find the difficulty of choice unbearable. We are the heirs of a long line of disciplined thinkers who have exposed most of the sophistries into which it is possible to fall. We are the beneficiaries of an unprecedented collaboration in the gathering of needed facts. We have inherited institutions which, though imperfect, enable us to divide the labor of evaluation as well as the labor of muscle. Under these con-

ditions, the disciplined mind finds exhilaration and release, rather than depression, in meeting the problems of ethics.

Exercises

1. Read Plato's *The Statesman,* especially pages 293–296 in the Jowett translation, and then criticize the following criticisms:

". . . the state is not an end in itself, but is a means for the promotion of the good life. Plato describes the state as originating from the efforts of human beings to solve the problem of the division of labor. But its final end is moral—"designed for all virtue." Plato's state is not authoritarian and is not absolute; it derives its sanction from reason. Law is not valid as law but because it is right. Laws are imitations of the truth; they are second-best, mind being the first-best. There is then something above the state, namely the realm of fixed and universal standards, from which the state derives its authority." (Raphael Demos, *The Philosophy of Plato,* p. 365. Charles Scribner's Sons, 1939.)

"In one word, the Family, no less than the individual, is sacrificed to the State; the State itself being an Abstraction. Like the Utopists of modern days, Plato has developed an a priori theory of what the State should be, and by this theory all human feelings are to be neglected; instead of developing a theory a posteriori, i.e., from an investigation into the nature of human wants and feelings." (G. H. Lewes, *The Biographical History of Philosophy,* p. 239. D. Appleton-Century Co., 1873.)

2. Discuss the evidence for the following statements and also their implications:

a. "If every man thinks out for himself the principles of government, civil anarchy and the destruction of political sovereignty must quickly follow." Joseph de Maistre, *Mélanges,* p. 230.

b. "No constitution is formed by concert, no government is copied from a plan." Adam Ferguson, *Principles of Moral and Political Science,* Vol. III, 2.

3. Do you think that a representative legislative assembly should have supreme power of review?

a. Should Congress have power to override a decision of the Supreme Court?

b. Do you approve of the system sometimes used by the British Parliament, whereby policy rulings of administrative commissions and of the ministers are laid before Parliament and (i) go into effect if Parliament does not disapprove within a specified time or (ii) go into effect when Parliament approves them by resolution?

Are these questions merely of political *methods,* or do they raise questions of the ends of government? That is to say, could Hegel, Marx, Rousseau, and Dewey each accept any of the alternatives under certain circumstances, or is there something in one or more of the alternatives that one of these men could never accept?

4. Has the word "democratic" lost concrete meaning and become a synonym for "good"?

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APPENDIX ONE

A Test of Opinions

By M. S. Everett and Wayne A. R. Leys

DIRECTIONS: In this test you will find three or more opinions on each of fifty controversial questions. Which opinion most closely resembles your opinion? Choose only one alternative. If you can accept none of the alternatives, which is the one to which you have the least objection?

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1. a. The government should own and operate all industries.
   b. The government should own or control all industries which cannot be operated successfully without such interference, but in all other industries the government should enforce free and fair competition.
   c. The government should maintain high tariffs to protect American industry and labor, but otherwise should not interfere with free competition.

2. e. There should be stricter laws against vice and gambling.
   f. The present laws against vice and gambling are sufficient, but should be more strictly enforced.
   g. Imposing fines and jail sentences on gamblers and prostitutes is an ineffective way of dealing with these social problems.

3. i. The best way to get out of a depression is to restore business confidence.

   k. The best way to get out of a depression is to allow business failures to take their natural course until prices have fallen sufficiently to allow goods to be manufactured and sold again.

   m. The best way to get out of a depression is to build up public purchasing power by means of government borrowing to finance public works—the loans to be repaid through heavy taxes on incomes and inheritances so far as possible.

4. b. Teachers should discuss controversial subjects but should state both sides to each question without giving their own views.

   c. Teachers should not discuss controversial questions in the classroom.

   d. Teachers should give their own views of controversial questions, provided this is done in an open-minded spirit with opposite points of view presented and ample opportunity afforded students for democratic discussion.

5. f. Miracles do not occur in the external world in answer to prayer, but an individual can cure himself of any disease or disability, however serious, by the exercise of great faith or mental power.

   g. Faith or the exercise of mental power is effective only in the cure of diseases of mental origin, such as some cases of hysteria.

   i. Miracles have sometimes occurred in answer to prayer.

6. k. Abortion to save a woman's life is moral, but abortion for any other reason is immoral and should be illegal. (By abortion is meant the removal of an embryo from the womb within the first few months after conception.)

   l. It is wrong to perform or permit anyone to perform an abortion under any circumstances, even to save a woman's life.

m. Abortion for any reason (therapeutic, economic, or social) should be legal, if done by a competent surgeon.

7. g. The government should own and operate the munitions industry.

h. The munitions industry should remain in private hands but with government regulation of exports to foreign countries and a restriction of the sale of firearms to individual citizens.

i. No limitations should be placed upon the munitions industry.

8. k. The parole system and other experiments in criminology would be improvements if more honest and capable judges and prison officials were available; since this is not the case, such measures should not be generally adopted.

l. The parole system, the suspended sentence for first offenders, and so forth, are breaking down respect for law and order.

m. Although attempts to make the penalty fit the criminal instead of the crime do not work perfectly, the resulting evils are outweighed by preventing many first offenders from becoming habitual criminals.

9. a. Complete medical services should be supplied at a flat annual rate by clinics or corporations of medical men; any citizens too poor to pay such fixed charges should be cared for by an expanded public health service.

b. People should be encouraged to take out health and hospital insurance; but there should be no interference with private practice, and doctors should continue as at present to charge such fees as they think reasonable.

c. The medical profession is doing all that can be done to safeguard the health of America. Those who insist on changes in professional practice would lead us to State Medicine, which would undermine the doctor's initiative

and destroy the personal relation between physician and patient.

d. Medical costs should be distributed as the costs of public school education are; all doctors should be put on a salary commensurate with their skill and training, and their work should be expanded under the supervision of public health departments manned by medical men.

10. e. God is a person of infinite power and wisdom who created the universe, ordained the laws of nature, and is capable of interfering with these at will to perform miracles or to answer prayers.

f. God is an impersonal being sometimes referred to as Natural Law, The Good, the Highest Social Values, the Most Real Being, the Universe, and so on. God did not create the universe but rather God is the universe or some force operating within it.

g. The term "God" should be discarded, for either it represents a being of such miraculous powers that an intelligent, educated person cannot believe in him, or it represents some aspect of nature that can be described more exactly in other terms.

11. h. There can be no equality of economic or political opportunity as long as the inheritance of large fortunes is permitted, but these inequalities must be endured for the sake of preserving capitalism.

i. Little or no inheritance tax should be levied upon an estate, since it is right and just that a man should be allowed to leave his property to his heirs.

m. A program of increasingly heavy taxes on inheritance should be initiated with a view to preventing all large inheritances eventually, even though this would result in socialism.

12. l. Sterilization, whether voluntary or involuntary, is immoral and contrary to nature. (By sterilization is meant

an operation that makes a person incapable of reproduction but does not interfere with the capacity to have sex relations.)

a. The state should sterilize feeble-minded persons, and voluntary sterilization by persons who have had all the children they desire should become an accepted practice.

b. The state should sterilize feeble-minded persons, but voluntary sterilization of other persons should not be permitted.

13. c. Freedom of speech should be permitted only to those persons who are not carrying on any subversive propaganda. Communists and others who advocate the overthrow of the government or the abolition of the American system of private property should not be granted permits to hold meetings.

d. Freedom of speech should not be denied to anyone under any circumstances, even though he may advocate the overthrow of the government or the suppression of other persons' liberties. Only persons who are committing a specific overt act of violence or plotting to commit such an act should be arrested.

e. Freedom of speech should be denied only to fascists who advocate the abolition of political liberty and democracy.

f. Freedom of speech should be abrogated only in times of national crisis, such as war. During a war, citizens should not be permitted to speak or write against the war, the draft laws, and so on.

14. g. As fast as practicable, all economic, political, and social discriminations against Negroes should be removed.

h. Negroes should live in a separate district of the city, but should be admitted to theatres and other places of amusement patronized by white people.

i. Negroes should continue forever to be segregated from white people and should not be admitted to hotels, restaurants, or places of amusement patronized by white people.

15. k. The Bible is a sacred book inspired and designed by God to convey moral truths but not scientific truths.

l. The Bible is a sacred book inspired by God in order to reveal truths that are higher than those attainable by reason. It is true from cover to cover, interpreted literally for the most part but figuratively occasionally.

m. The Bible is a collection of ancient literature and should be treated in the same way as any other literature—that is, the good and true parts should be accepted, and the bad and false parts rejected.

16. a. Everyone should make a resolution never to fight in any kind of war, offensive or defensive.

b. Everyone should make a resolution never to fight in any war unless his country is invaded.

c. Everyone should support his country in a war, even though he believes his country is in the wrong.

17. d. Newspapers should not be operated as private businesses but should be either state institutions or controlled by boards of trustees responsible to the public in the same way as colleges and universities are today.

e. Newspapers with very few exceptions reflect public opinion and with reasonable accuracy report the news, thereby performing a valuable public service.

f. Newspapers undermine democracy by placing too much power in the hands of a few wealthy individuals, but all remedies for the resulting evils of misleading and propagandistic news would entail even greater evils and dangers to liberty.

18. g. Ideally, marriage should be defined as beginning legally when a couple has a child, there being no legal regulation or licensing of voluntary sex relations not involving childbirth. Sex relations should be put on the same basis as friendship, with no legal marriage or divorce required except when a child is born.

h. Divorce should be granted on grounds of incompatibility, without a court trial, in cases in which there are no children, but with more deliberation in cases involving children.

i. Divorce on any grounds is immoral.

19. k. A moderate range of differences in income would be sufficient to enable capitalism to operate efficiently and progessively, and would be ethically preferable to equality of income.

l. The possibility of acquiring large fortunes is necessary to stimulate initiative and preserve capitalistic efficiency.

m. Equality of income for all adults regardless of position or ability would be ideal, although differences in income would probably be necessary during the transition from a capitalistic to a socialistic psychology.

20. a. The facts of science and some of the beliefs and hopes associated with even the most modernist religions are irreconcilable. Many religious beliefs are false.

b. There is no real conflict between science and religion. Science may conflict with traditional theology, but it can be harmonized with religion rightly understood.

c. Science is of great value in providing the comforts and conveniences of modern life, but it is a false guide to the great truths about life and the universe. Only religion can give us these larger, eternal truths.

21. d. The Constitution should be amended or reinterpreted to permit the federal government to engage in any business enterprises that it sees fit, whether in competition with private business or not, and to regulate industry in any way which Congress deems necessary for the general welfare.

e. Loyalty to the Constitution means to believe that the Constitution is in all essentials perfect and that it should not be changed.

f. A person can advocate amendment of the Constitution in the orderly ways laid down by the Constitution and still be loyal to our form of government. However, the provisions of the Constitution pertaining to economic matters are satisfactory as they stand.

22. g. It is right to put to death a deformed infant or a person suffering from an incurable disease, and legal provisions should be made for this so as to prevent abuses of the right.

h. It is right to put to death a deformed infant, but it is wrong to put to death an adult, even though he is suffering from an incurable disease and wishes to die.

i. It is wrong to put to death a deformed infant or a person suffering from an incurable disease.

23. k. Heavy taxes should be levied upon higher incomes and inheritances in order to increase the purchasing power of the general public and thus keep the capitalistic system from breaking down.

l. High taxes and government spending are responsible for most of our economic ills today.

m. Heavy taxes should be levied on higher incomes and inheritances, with a view to changing capitalism gradually into some form of socialism.

24. a. The United States should totally disarm, as there is no danger of this country's being invaded, and Americans should travel and invest money abroad at their own risk.

b. The United States should maintain only a large enough army and navy to protect itself against invasion.

c. The United States should maintain a large enough army and navy to protect American lives and property abroad.

25. d. All children in the United States should be compelled to receive their elementary and high school education in the public schools.

e. Parochial schools should be supported by part of the taxes collected for educational purposes.

f. Parents should be allowed to send their children to parochial schools, but parochial schools should not be financed by public taxation.

26. g. There is no conclusive proof that any race is superior to any other in intelligence; if the average of one race is higher than that of another, the great mass of the two races would probably overlap in ability.

h. The white race is superior to Negroes in intelligence, but it is possible that the Mongolian race may be equal to the white race in intelligence.

i. The white race is superior in intelligence to all other races; it is foolish to give much education to Negroes in this country and other dark races in colonial possessions in the hope that they may some day supply their quota of leaders, inventors, and skilled workmen.

27. k. The best way to solve our economic problems is through a democratic development toward socialism. The use of violence to make the United States socialistic would only play into the hands of fascists backed by great wealth.

l. The best way to solve our economic problems is through preserving capitalism with some reform of the system.

m. The best way to solve our economic problems is through a communist dictatorship. The socialist's hope of voting in a noncapitalistic order is based upon the mistaken supposition that capitalists will accept without violence laws that take away their power.

a. The best way to solve our economic problems is through a fascist dictatorship of men inspired by the ideal of national glory and military virtue.

28. b. It should be legal only for physicians, hospitals, clinics and medical schools to give information concerning

methods of contraception. (Contraception means preventing conception by the use of mechanical or chemical devices.)

c. It should be illegal to publish or distribute information concerning methods of contraception, no exception being made for physicians.

d. It should be legal to publish books concerning methods of contraception for distribution among the general public.

29. e. The Supreme Court's power to declare laws unconstitutional is an essential bulwark of our liberties and should not be taken away.

f. The Supreme Court should be allowed to declare laws unconstitutional, but the next Congress elected after such a decision should have the power to overrule the decision by a two-thirds vote.

g. The Supreme Court should give up voluntarily the power to declare laws unconstitutional or be made to do so by Constitutional Amendment.

30. k. The universe must have had a beginning, whether created by God or not.

l. God created the universe.

m. The universe had no beginning and will have no end. The forms and relations of things may change, but a substance cannot come from nothing.

31. a. Political corruption and inefficiency are largely traceable to favor-seeking and regulation-dodging by the owners and managers of private property. Political reforms will not be permanent until the institution of private property has been abolished or drastically changed.

b. Political corruption and inefficiency result largely from reliance upon outworn political methods and can be greatly reduced by extension of civil service, shortening of the ballot, reorganization and simplification of government bureaus, and so forth.

c. Politics is inevitably dirty, regardless of the form of government; respectable people ought to have as little to do with it as possible.

32. e. Teachers should abstain from criticizing our social and economic institutions and our national traditions.

f. Teachers should be privileged to point out defects in our institutions and national traditions, but they should not be permitted to participate actively in political or economic organizations seeking to change existing institutions.

g. Teachers should be permitted to participate actively in political and economic organizations seeking to change our institutions, provided that they treat other points of view fairly in the classroom.

33. h. Our national policy of curtailing agricultural and other production to the point where production is profitable is sound, and by preventing surpluses will ultimately do away with the worst economic maladjustments.

i. Our national policy should be to let the law of supply and demand alone and not try to regulate the production of economic goods.

j. Our national policy should favor increase in the production of the necessities and conveniences of life. If the public does not have the purchasing power to absorb increased production, income should be redistributed until the increased production is absorbed.

34. k. Only extreme cases of violation of public morals should be censored—for example, plays in which there is complete nudity or extremely vulgar language.

l. All obscene or immoral books, plays, movies, and works of art should be prohibited by a board of censors from making a public appearance.

m. There should be no censorship so far as adults are concerned. It might be made an offense to sell certain litera-

ture to children or to admit them to certain plays, but any censorship for the benefit of adults does more harm than good.

35. c. The church, as an institution primarily devoted to the worship of God and salvation of souls, is our most essential institution.

d. There is no longer any need for churches, since schools, colleges, and artistic, charitable, and recreational organizations fulfil all the useful functions which the church is capable of performing.

f. Quite apart from traditional beliefs about God, the Bible, or immortality, the church is needed as an institution in which life interests are integrated and the highest social values are sustained.

36. i. Woman's place is in the home, and women should therefore not be permitted to work outside the home except where necessary.

j. Women should follow careers exactly as men do and with equal opportunities and pay. (At the birth of each child, they should be given a year's leave of absence with pay; housekeeping should be professionalized as far as possible.)

k. Women should be privileged to work outside of the home except when they have children, in which case they should devote their time to rearing the children until the children have finished high school.

37. l. Employers are justified in trying to break up labor unions whenever possible.

m. Employers should be prosecuted under the National Labor Relations Act for discharging an employee because of membership in any labor union or political group.

h. Collective bargaining between labor unions and employers is desirable but should not be guaranteed by law.

38. a. The United States should co-operate with other peaceful powers in enforcing economic boycotts on aggressor nations, but should continue trade with nations against which aggression is committed, thus using its influence to bring a just settlement to all wars.
    b. The United States should maintain strict neutrality in all foreign wars, prohibiting travel and trade by Americans in belligerent countries under the present Neutrality Act.
    c. The United States should continue its former policy of avoiding entangling alliances, taking part in international affairs only so far as necessary to keep European powers out of Latin America and seeing that American rights are respected abroad.

39. a. Governmental regulation of private monopolies seldom protects the consumer and often results in the corruption of governmental officials. Any monopolistic industry should therefore be owned and operated by the government.
    b. Certain industries are most efficient when monopolistic, but the monopolies should be privately owned and regulated by governmental commissions such as the Interstate Commerce Commission.
    c. Monopolies should be broken up in accordance with the spirit of the antitrust laws, which were intended to preserve competition.

40. e. It is wrong and in fact sacrilegious to cremate a dead body.
    f. It is not wrong to cremate a dead body, but burial in a sealed metal casket is preferable if one can afford it.
    g. Cremation is the best method of disposing of the dead.

41. g. Shop organizations to clear grievances, schemes for employee ownership of stock, and welfare work sponsored by employers have some merit, but if they discourage

independent labor organizations they are dangerous extensions of industrial paternalism and autocracy.

h. The recent efforts of large corporations to improve employee relations prove that labor gains more by being cooperative than by militant demands and strikes.

i. The majority of labor unions are rackets run for the benefit of the officials.

42. k. The recent changes in the direction of a single standard of morals for the two sexes and more freedom between them are sufficient without going any further in breaking down distinctions between men and women.

l. Boys and girls should be strictly segregated—that is, they should not be allowed to see one of the opposite sex undressed and they should associate as much as possible with their own sex until they are mature.

m. All barriers between the two sexes should be broken down, and boys and girls should be reared together without any distinctions whatever.

43. a. Except in certain localities, both major political parties stand for nearly the same policies and do not represent the greatest differences of opinion in this country. There is need for a new major party, and enlightened citizens should support efforts to build up the local organizations necessary for such a party.

b. The two major political parties are not very different from each other, but little is to be gained by trying to create a third party.

c. One of the major political parties is greatly superior to the other in platform and in type of members; all enlightened citizens should give that party unswerving loyalty.

44. e. It is wrong to commit suicide under any circumstances.

f. It is right to commit suicide if one is suffering from an incurable disease or if one's death will not injure others.

g. It is right to commit suicide under any circumstances if one desires to do so, for everyone's life is his own.

45. h. There is a divine purpose, which can be detected in history, which is opposed to the evil and chaotic forces in the universe. Conditions that appear evil are not of God's making, but He is striving to overcome them.

i. If we could see the world from the standpoint of God's infinite mind, we would see that even those events which seem evil to us fit into His plan and serve a divine purpose.

j. The universe is in general indifferent to the happiness of human beings. The only intention to overcome evil is supplied by men; whatever aid comes from nonhuman sources is mechanistic and not purposive.

46. k. Increasing the severity of punishment has been demonstrated to be a poor deterrent to criminals. Certainty of detection and correction are of greater value but require great reform in our police departments and judiciary.

l. In order to reduce crime, punishments should be made more severe.

a. Attempts to reform the police department and judiciary are of some value, but crime cannot be greatly reduced as long as our economic enterprises are undemocratic.

47. b. The United States has survived the bitterest controversies, and is not seriously threatened by present-day pressure groups. The good, steady citizen serves his country best by minding his own business and not encouraging lobbies by taking them too seriously.

c. Pressure groups, such as the C.I.O., the Farm Bureau, and other lobbying organizations, should be discouraged, if not suppressed, for they threaten to tyrannize the country. The League of Women Voters, public forums, and the like, although not vicious, only succeed by their efforts in stirring up trouble.

d. If government is to be democratic now that the division of labor is so intricate, more people must be organized into pressure groups and organizations devoted to the study of public questions. Eventually such natural groupings should displace the traditional political parties and change representation from a geographical to a functional basis.

48. e. Young people should remain celibate until they are self-supporting and can afford to support a family.

f. Young people should get married as soon as they feel a strong urge to do so, regardless of their economic circumstances.

g. Young people of marriageable age who are not self-supporting are justified in having sex relations, provided they are prudent.

49. i. Socialism is a menace to all that is best in American life.

k. A socialistic system of production and distribution would be the least wasteful if we could get individuals to cooperate and use their initiative without the inducement of great financial rewards; but this is impossible because human nature cannot be changed.

m. The gains of a socialistic system would outweigh any loss of individual initiative. Motives other than the desire for great wealth could be used to stimulate initiative.

50. a. The soul or mind cannot exist apart from the body, since it is simply a function of the nervous system. Therefore, the soul perishes when the body perishes.

b. The soul is immortal, but we do not know what the future life will be like.

c. Those who lead very bad lives and do not receive God's forgiveness suffer eternal punishment in Hell; those who lead good lives and conform to God's laws are rewarded in Heaven.

Note regarding this test:

This test has proved its usefulness in several ways. First, in taking the test most persons realize how inarticulate and disorganized many of their moral opinions are. Such a realization is the starting point for ethical inquiry, as explained in Chapter Two.

Second, the members of a class or discussion group attain a more accurate idea of what they can assume in further discussions with other members of the group. This may be done by rating the answers according to their traditionalism. Give a numerical value of 0 to choices a, d, g, m, and j. Give a value of 1 to choices b, f, h, and k. Give a value of 2 to choices, c, e, i, and l. A total score of 100 will represent the most traditional set of views. A score of 0 will represent the least traditional set of views. The average scores for classes in two metropolitan schools approximated 50.

In the third place, a retest will give some idea of the extent of change in opinions during discussions. "After" tests are not, however, generally as reliable as "Before" tests.

APPENDIX TWO

The following is a list of some national organizations that have local branches and through which an individual may participate in public affairs. Churches and political parties are not given because they are well known. Specialized organizations whose membership is limited by vocational or educational qualifications are not listed. No endorsement is carried by listing.

Adult Education Association, 60 E. 42nd Street, New York.
American Association for Social Security, 22 E. 17th Street, New York.
American Birth Control League, 515 Madison Avenue, New York.
American Civil Liberties Union, 31 Union Square West, New York.
American Genetic Association, Washington, D. C.
American Humane Association, 50 Madison Avenue, New York.
American Labor Education Service, Inc., 437 W. 59th Street, New York.
American League to Abolish Capital Punishment, 124 Lexington Avenue, New York.
American National Red Cross, Washington, D. C.
American Social Hygiene Association, 50 W. 50th Street, New York.
American Taxpayers League, Washington, D. C.

America's Town Meeting of the Air, 123 W. 43rd Street, New York.
Association for Family Living, Chicago.
Boys' Clubs of America, 381 4th Avenue, New York.
Boy Scouts of America, Chicago.
Child Welfare League of America, 130 E. 22nd Street, New York.
Cooperative League of U.S.A., 167 W. 12th Street, New York.
Council of Foreign Relations, 45 E. 65th Street, New York.
Credit Union National Association, Madison, Wisconsin.
English Speaking Union, 19 W. 44th Street, New York.
Foreign Policy Association, 8 W. 40th Street, New York.
General Federation of Women's Clubs, Washington, D. C.
Girl Scouts, Inc., 570 Lexington Avenue, New York.
Good Neighbor Forum, 19 S. LaSalle Street, Chicago.
Human Betterment Foundation, Pasadena.
Institute for Propaganda Analysis, 40 E. 49th Street, New York.
Izaak Walton League of America, Chicago.
League for Industrial Democracy, 112 E. 19th Street, New York.
National Association for the Advancement of Colored People, 69 5th Avenue, New York.
National Committee for Mental Hygiene, 50 W. 50th Street, New York.
National Conference of Social Work, Columbus.
National Congress of Parents and Teachers, Washington, D. C.
National Council of the Y.M.C.A., 347 Madison Avenue, New York.
National Federation of Business and Professional Women's Clubs, Inc., 1819 Broadway, New York.
National Federation of Music Clubs, Fargo, N. D.
National League of Women Voters, Washington, D. C.
National Recreation Association, 315 4th Avenue, New York.
National Safety Council, Chicago.
National Tuberculosis Association, 50 W. 50th Street, New York.
National Urban League (colored), 1133 Broadway, New York.
Progressive Education Association, 310 W. 90th Street, New York.
Women's Christian Temperance Union, Evanston, Illinois.
Y.W.C.A., 600 Lexington Avenue, New York.

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