S. J. Quevedo

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BENTHAM'S

INTRODUCTION TO THE PRINCIPLES

OF

MORALS AND LEGISLATION.

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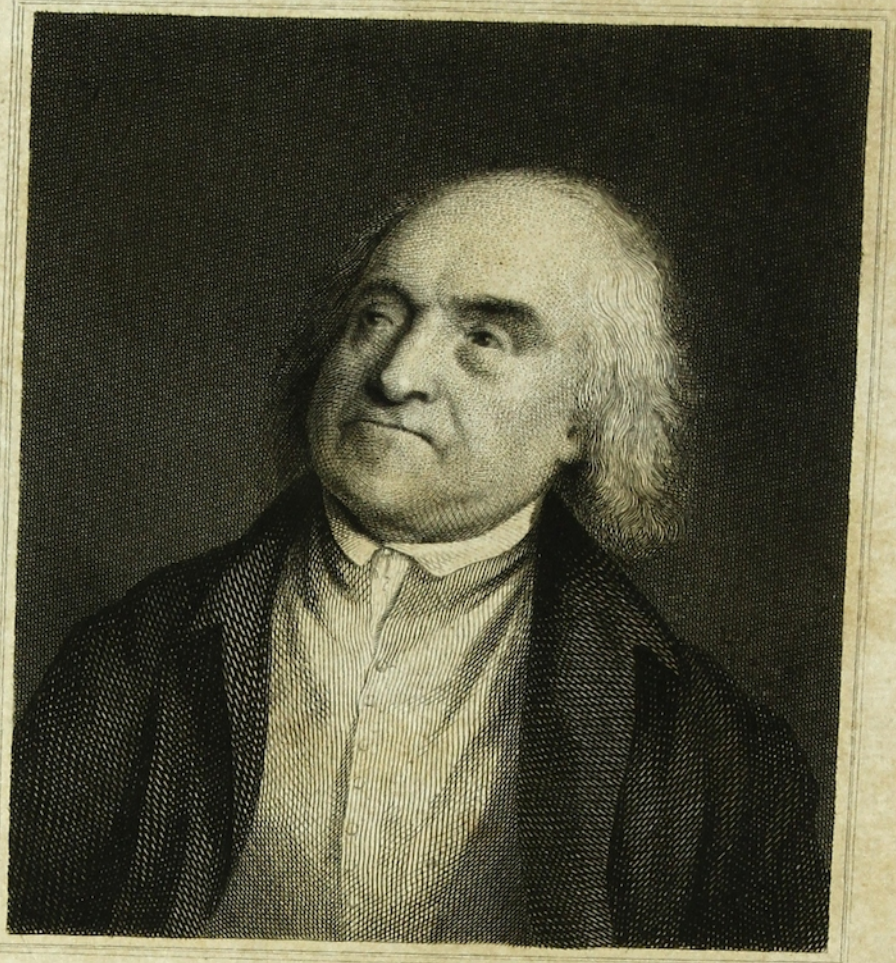

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TO THE

PRINCIPLES

OF

MORALS AND LEGISLATION.

BY

JEREMY BENTHAM, ESQ.

BENCHER OF LINCOLN'S INN; AND LATE OF
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ERRATA.

Side-note in page 43, for *politic* read *political.*

Title of Chapter X. page 161, insert "MOTIVES."

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3476i

PREFACE.

THE following sheets were, as the title-page expresses, printed so long ago as the year 1780. The design, in pursuance of which they were written, was not so extensive as that announced by the present title. They had at that time no other destination than that of serving as an introduction to a plan of a penal code *in terminis*, designed to follow them, in the same volume.

The body of the work had received its completion according to the then present extent of the author's views, when, in the investigation of some flaws he had discovered, he found himself unexpectedly entangled in an unsuspected corner of the metaphysical maze. A suspension, at first not apprehended to be more than a temporary one, necessarily ensued: suspension brought on coolness, and coolness, aided by other concurrent causes, ripened into disgust.

Imperfections pervading the whole mass had already been pointed out by the sincerity of severe and discerning friends; and conscience had certified the justness of their censure. The inordinate length of some of the chapters, the apparent inutility of others, and the dry and metaphysical turn of

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the whole, suggested an apprehension, that, if published in its present form, the work would contend under great disadvantages for any chance, it might on other accounts possess, of being read, and consequently of being of use.

But, though in this manner the idea of completing the present work slid insensibly aside, that was not by any means the case with the considerations which had led him to engage in it. Every opening, which promised to afford the lights he stood in need of, was still pursued: as occasion arose, the several departments connected with that in which he had at first engaged, were successively explored; insomuch that, in one branch or other of the pursuit, his researches have nearly embraced the whole field of legislation.

Several causes have conspired at present to bring to light, under this new title, a work which under its original one had been imperceptibly, but as it had seemed irrevocably, doomed to oblivion. In the course of eight years, materials for various works, corresponding to the different branches of the subject of legislation, had been produced, and some nearly reduced to shape: and, in every one of those works, the principles exhibited in the present publication had been found so necessary, that, either to transcribe them piece-meal, or to exhibit them somewhere where they could be referred to in the lump, was found unavoidable. The former course would have occasioned repetitions too bulky

to be employed without necessity in the execution of a plan unavoidably so voluminous: the latter was therefore indisputably the preferable one.

To publish the materials in the form in which they were already printed, or to work them up into a new one, was therefore the only alternative: the latter had all along been his wish, and, had time and the requisite degree of alacrity been at command, it would as certainly have been realised. Cogent considerations, however, concur, with the irksomeness of the task, in placing the accomplishment of it at present at an unfathomable distance.

Another consideration is, that the suppression of the present work, had it been ever so decidedly wished, is no longer altogether in his power. In the course of so long an interval, various incidents have introduced copies into various hands, from some of which they have been transferred, by deaths and other accidents, into others that are unknown to him. Detached, but considerable extracts, have even been published, without any dishonourable views, (for the name of the author was very honestly subjoined to them) but without his privity, and in publications undertaken without his knowledge.

It may perhaps be necessary to add, to complete his excuse for offering to the public a work pervaded by blemishes, which have not escaped even the author's partial eye, that the censure, so justly bestowed upon the form, did not extend itself to the matter.

In sending it thus abroad into the world with all its imperfections upon its head, he thinks it may be of assistance to the few readers he can expect, to receive a short intimation of the chief particulars, in respect of which it fails of corresponding with his maturer views. It will thence be observed how in some respects it fails of quadrating with the design announced by its original title, as in others it does with that announced by the one it bears at present.

An introduction to a work which takes for its subject the totality of any science, ought to contain all such matters, and such matters only, as belong in common to every particular branch of that science, or at least to more branches of it than one. Compared with its present title, the present work fails in both ways of being conformable to that rule.

As an introduction to the principles of *morals*, in addition to the analysis it contains of the extensive ideas signified by the terms *pleasure*, *pain*, *motive*, and *disposition*, it ought to have given a similar analysis of the not less extensive, though much less determinate, ideas annexed to the terms *emotion*, *passion*, *appetite*, *virtue*, *vice*, and some others, including the names of the particular *virtues* and *vices*. But as the true, and, if he conceives right, the only true ground-work for the development of the latter set of terms, has been laid by the explanation of the former, the completion of such a dictionary, so to

style it, would, in comparison of the commencement, be little more than a mechanical operation.

Again, as an introduction to the principles of *legislation in general*, it ought rather to have included matters belonging exclusively to the *civil* branch, than matters more particularly applicable to the *penal:* the latter being but a means of compassing the ends proposed by the former. In preference therefore, or at least in priority, to the several chapters which will be found relative to *punishment*, it ought to have exhibited a set of propositions which have since presented themselves to him as affording a standard for the operations performed by government, in the creation and distribution of proprietary and other civil rights. He means certain axioms of what may be termed *mental pathology*, expressive of the connexion betwixt the feelings of the parties concerned, and the several classes of incidents, which either call for, or are produced by, operations of the nature above mentioned.*

The consideration of the division of offences, and every thing else that belongs to offences, ought,

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* For example.—*It is worse to lose than simply not to gain.—A loss falls the lighter by being divided.—The suffering, of a person hurt in gratification of enmity, is greater than the gratification produced by the same cause.* These, and a few others which he will have occasion to exhibit at the head of another publication, have the same claim to the appellation of axioms, as those given by mathematicians under that name; since, referring to universal experience as their immediate basis, they are incapable of demonstration, and require only to be developed and illustrated, in order to be recognised as incontestable.

besides, to have preceded the consideration of punishment: for the idea of *punishment* presupposes the idea of *offence:* punishment, as such, not being inflicted but in consideration of offence.

Lastly, the analytical discussions relative to the classification of offences would, according to his present views, be transferred to a separate treatise, in which the system of legislation is considered solely in respect of its form: in other words, in respect of its *method* and *terminology*.

In these respects the performance fails of coming up to the author's own ideas of what should have been exhibited in a work, bearing the title he has now given it, viz. that of an *Introduction to the Principles of Morals and Legislation*. He knows however of no other that would be less unsuitable: nor in particular would so adequate an intimation of its actual contents have been given, by a title corresponding to the more limited design, with which it was written: viz. that of serving as an *introduction to a penal code*.

Yet more. Dry and tedious as a great part of the discussions it contains must unavoidably be found by the bulk of readers, he knows not how to regret the having written them, nor even the having made them public. Under every head, the practical uses, to which the discussions contained under that head appeared applicable, are indicated: nor is there, he believes, a single proposition that he has not found occasion to build upon in the

penning of some article or other of those provisions of detail, of which a body of law, authoritative or unauthoritative, must be composed. He will venture to specify particularly, in this view, the several chapters shortly characterised by the words *Sensibility*, *Actions*, *Intentionality*, *Consciousness*, *Motives*, *Dispositions*, *Consequences*. Even in the enormous chapter on the division of offences, which, notwithstanding the forced compression the plan has undergone in several of its parts, in manner there mentioned, occupies no fewer than one hundred and four closely printed quarto pages,* the ten concluding ones are employed in a statement of the practical advantages that may be reaped from the plan of classification which it exhibits. Those in whose sight the Defence of Usury has been fortunate enough to find favour, may reckon as one instance of those advantages the discovery of the principles developed in that little treatise. In the preface to an anonymous tract published so long ago as in 1776,† he had hinted at the utility of a natural classification of offences, in the character of a test for distinguishing genuine from spurious ones. The case of usury is one among a number of instances of the truth of that observation. A note at the end of Sect. xxxv. Chap. xvi. of the present publication, may serve to show how the opinions, developed in that tract, owed their origin to the difficulty ex-

* The first edition was published in 1789, in quarto.

† A Fragment on Government, &c. reprinted 1822.

perienced in the attempt to find a place in his system for that imaginary offence. To some readers, as a means of helping them to support the fatigue of wading through an analysis of such enormous length, he would almost recommend the beginning with those ten concluding pages.

One good at least may result from the present publication; viz. that the more he has trespassed on the patience of the reader on this occasion, the less need he will have so to do on future ones: so that this may do to those, the office which is done, by books of pure mathematics, to books of mixed mathematics and natural philosophy. The narrower the circle of readers is, within which the present work may be condemned to confine itself, the less limited may be the number of those to whom the fruits of his succeeding labours may be found accessible. He may therefore in this respect find himself in the condition of those philosophers of antiquity, who are represented as having held two bodies of doctrine, a popular and an occult one: but, with this difference, that in his instance the occult and the popular will, he hopes, be found as consistent as in those they were contradictory; and that in his production whatever there is of occultness has been the pure result of sad necessity, and in no respect of choice.

Having, in the course of this advertisement, had such frequent occasion to allude to different arrangements, as having been suggested by more ex-

tensive and maturer views, it may perhaps contribute to the satisfaction of the reader, to receive a short intimation of their nature: the rather, as, without such explanation, references, made here and there to unpublished works, might be productive of perplexity and mistake. The following then are the titles of the works by the publication of which his present designs would be completed. They are exhibited in the order which seemed to him best fitted for apprehension, and in which they would stand disposed, were the whole assemblage ready to come out at once: but the order, in which they will eventually appear, may probably enough be influenced in some degree by collateral and temporary considerations.

Part the 1st. Principles of legislation in matters of *civil*, more distinctively termed *private distributive*, or for shortness, *distributive, law*.

Part the 2d. Principles of legislation in matters of *penal law*.

Part the 3d. Principles of legislation in matters of *procedure*: uniting in one view the *criminal* and *civil* branches, between which no line can be drawn, but a very indistinct one, and that continually liable to variation.

Part the 4th. Principles of legislation in matters of *reward*.

Part the 5th. Principles of legislation in matters of *public distributive*, more concisely as well as familiarly termed *constitutional*, law.

Part the 6th. Principles of legislation in matters of *political tactics:* or of the art of maintaining *order* in the proceedings of political assemblies, so as to direct them to the end of their institution: viz. by a system of rules, which are to the constitutional branch, in some respects, what the law of procedure is to the civil and the penal.

Part the 7th. Principles of legislation in matters betwixt nation and nation, or, to use a new though not inexpressive appellation, in matters of *international* law.

Part the 8th. Principles of legislation in matters of *finance.*

Part the 9th. Principles of legislation in matters of *political economy.*

Part the 10th. Plan of a body of law, complete in all its branches, considered in respect of its *form;* in other words, in respect of its method and terminology; including a view of the origination and connexion of the ideas expressed by the short list of terms, the exposition of which contains all that can be said with propriety to belong to the head of *universal jurisprudence.**

The use of the principles laid down under the above several heads is to prepare the way for the body of law itself exhibited *in terminis;* and which to be complete, with reference to any political state, must consequently be calculated for the meridian,

* Such as obligation, right, power, possession, title, exemption, immunity, franchise, privilege, nullity, validity, and the like.

and adapted to the circumstances, of some one such state in particular.

Had he an unlimited power of drawing upon *time*, and every other condition necessary, it would be his wish to postpone the publication of each part to the completion of the whole. In particular, the use of the ten parts, which exhibit what appear to him the dictates of utility in every line, being no other than to furnish reasons for the several corresponding provisions contained in the body of law itself, the exact truth of the former can never be precisely ascertained, till the provisions, to which they are destined to apply, are themselves ascertained, and that *in terminis*. But as the infirmity of human nature renders all plans precarious in the execution, in proportion as they are extensive in the design, and as he has already made considerable advances in several branches of the theory, without having made correspondent advances in the practical applications, he deems it more than probable, that the eventual order of publication will not correspond exactly with that which, had it been equally practicable, would have appeared most eligible. Of this irregularity the unavoidable result will be, a multitude of imperfections, which, if the execution of the body of law *in terminis* had kept pace with the development of the principles, so that each part had been adjusted and corrected by the other, might have been avoided. His conduct however will be the less swayed by this inconvenience, from

his suspecting it to be of the number of those in which the personal vanity of the author is much more concerned, than the instruction of the public: since whatever amendments may be suggested in the detail of the principles, by the literal fixation of the provisions to which they are relative, may easily be made in a corrected edition of the former, succeeding upon the publication of the latter.

In the course of the ensuing pages, references will be found, as already intimated, some to the plan of a penal code to which this work was meant as an introduction, some to other branches of the above-mentioned general plan, under titles somewhat different from those, by which they have been mentioned here. The giving this warning is all which it is in the author's power to do, to save the reader from the perplexity of looking out for what has not as yet any existence. The recollection of the change of plan will in like manner account for several similar incongruities not worth particularizing.

Allusion was made, at the outset of this advertisement, to some unspecified difficulties, as the causes of the original suspension, and unfinished complexion, of the present work. Ashamed of his defeat, and unable to dissemble it, he knows not how to refuse himself the benefit of such an apology as a slight sketch of the nature of those difficulties may afford.

The discovery of them was produced by the

attempt to solve the questions that will be found at the conclusion of the volume: *Wherein consisted the identity and* completeness *of a law? What the distinction, and where the separation, between* a penal *and a* civil *law? What the distinction, and where the separation, between the* penal *and* other branches *of* the law?

To give a complete and correct answer to these questions, it is but too evident that the relations and dependencies of every part of the legislative system, with respect to every other, must have been comprehended and ascertained. But it is only upon a view of these parts themselves, that such an operation could have been performed. To the accuracy of such a survey one necessary condition would therefore be, the complete existence of the fabric to be surveyed. Of the performance of this condition no example is as yet to be met with any where. *Common* law, as it styles itself in England, *judiciary* law, as it might more aptly be styled every where, that fictitious composition which has no known person for its author, no known assemblage of words for its substance, forms every where the main body of the legal fabric: like that fancied ether, which, in default of sensible matter, fills up the measure of the universe. Shreds and scraps of real law, stuck on upon that imaginary ground, compose the furniture of every national code. What follows?—that he who, for the purpose just mentioned or for any other, wants an example of

a complete body of law to refer to, must begin with making one.

There is, or rather there ought to be, a *logic* of the *will*, as well as of the *understanding*: the operations of the former faculty, are neither less susceptible, nor less worthy, than those of the latter, of being delineated by rules. Of these two branches of that recondite art, Aristotle saw only the latter: succeeding logicians, treading in the steps of their great founder, have concurred in seeing with no other eyes. Yet so far as a difference can be assigned between branches so intimately connected, whatever difference there is, in point of importance, is in favour of the logic of the will. Since it is only by their capacity of directing the operations of this faculty, that the operations of the understanding are of any consequence.

Of this logic of the will, the science of *law*, considered in respect of its *form*, is the most considerable branch,—the most important application. It is, to the art of legislation, what the science of anatomy is to the art of medicine: with this difference, that the subject of it is what the artist has to work *with*, instead of being what he has to operate *upon*. Nor is the body politic less in danger from a want of acquaintance with the one science, than the body natural from ignorace in the other. One example, amongst a thousand that might be adduced in proof of this assertion, may be seen in the note which terminates this volume.

Such then were the difficulties: such the preliminaries:—an unexampled work to achieve, and then a new science to create: a new branch to add to one of the most abstruse of sciences.

Yet more: a body of proposed law, how complete soever, would be comparatively useless and uninstructive, unless explained and justified, and that in every tittle, by a continued accompaniment, a perpetual commentary of *reasons:** which reasons, that the comparative value of such as point in opposite directions may be estimated, and the conjunct force, of such as point in the same direction, may be felt, must be marshalled, and put under subordination to such extensive and leading ones as are termed *principles*. There must be therefore, not one system only, but two parallel and connected systems, running on together, the one of legislative provisions, the other of political reasons, each affording to the other correction and support.

Are enterprises like these achievable? He knows not. This only he knows, that they have been undertaken, proceeded in, and that some progress has been made in all of them. He will venture to add, if at all achievable, never at least by one, to whom the fatigue of attending to discussions, as arid as those which occupy the ensuing pages, would either appear useless, or feel intolerable. He will repeat it boldly (for it has been said before him,) truths

* To the aggregate of them a common denomination has since been allotted—*the rationale*.

that form the basis of political and moral science, are not to be discovered but by investigations as severe as mathematical ones, and beyond all comparison more intricate and extensive. The familiarity of the terms is a presumption, but it is a most fallacious one, of the facility of the matter. Truths in general have been called stubborn things: the truths just mentioned are so in their own way. They are not to be forced into detached and general propositions, unincumbered with explanations and exceptions. They will not compress themselves into epigrams. They recoil from the tongue and the pen of the declaimer. They flourish not in the same soil with sentiment. They grow among thorns; and are not to be plucked, like daisies, by infants as they run. Labour, the inevitable lot of humanity, is in no track more inevitable than here. In vain would an Alexander bespeak a peculiar road for royal vanity, or a Ptolemy, a smoother one, for royal indolence. There is no *King's Road*, no *Stadtholder's Gate*, to legislative, any more than to mathematic science.

AN

INTRODUCTION

TO THE

PRINCIPLES OF MORALS AND LEGISLATION.

CHAP. I.

OF THE PRINCIPLE OF UTILITY.

NATURE has placed mankind under the governance of two sovereign masters, *pain* and *pleasure*. It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand the standard of right and wrong, on the other the chain of causes and effects, are fastened to their throne. They govern us in all we do, in all we say, in all we think: every effort we can make to throw off our subjection, will serve but to demonstrate and confirm it. In words a man may pretend to abjure their empire: but in reality he will remain subject to it all the while. The *principle of utility* * recognises this subjection, and

Mankind governed by pain and pleasure.

* Note by the Author, July 1822.

To this denomination has of late been added, or substituted, the *greatest happiness* or *greatest felicity* principle: this for shortness, instead of saying at length *that principle* which states the greatest happiness of all those whose interest is in

CHAP. I. assumes it for the foundation of that system, the object of which is to rear the fabric of felicity by the hands of reason and of law. Systems which attempt to question it, deal in sounds instead of sense, in caprice instead of reason, in darkness instead of light.

But enough of metaphor and declamation: it is not by such means that moral science is to be improved.

II.

The principle of utility is the foundation of the present work: it will be proper therefore at the outset to give an explicit and determinate account of what is meant by it. By

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question, as being the right and proper, and only right and proper and universally desirable, end of human action: of human action in every situation, and in particular in that of a functionary or set of functionaries exercising the powers of Government. The word *utility* does not so clearly point to the ideas of *pleasure* and *pain* as the words *happiness* and *felicity* do: nor does it lead us to the consideration of the *number*, of the interests affected; to the *number*, as being the circumstance, which contributes, in the largest proportion, to the formation of the standard here in question; the *standard of right and wrong*, by which alone the propriety of human conduct, in every situation, can with propriety be tried. This want of a sufficiently manifest connexion between the ideas of *happiness* and *pleasure* on the one hand, and the idea of *utility* on the other, I have every now and then found operating, and with but too much efficiency, as a bar to the acceptance, that might otherwise have been given, to this principle.

Principle of utility, what.

the principle* of utility is meant that principle which approves or disapproves of every action whatsoever, according to the tendency which it appears to have to augment or diminish the happiness of the party whose interest is in question: or, what is the same thing in other words, to promote or to oppose that happiness. I say of every action whatsoever; and therefore not only of every action of a private individual, but of every measure of government.

III.

Utility, what.

By utility is meant that property in any object, whereby it tends to produce benefit, advantage, pleasure, good, or happiness, (all this in the present case comes to the same thing) or

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A principle, what.

* [Principle] The word principle is derived from the Latin principium: which seems to be compounded of the two words *primus*, first, or chief, and *cipium*, a termination which seems to be derived from *capio*, to take, as in *mancipium*, *municipium*; to which are analogous *auceps*, *forceps*, and others. It is a term of very vague and very extensive signification: it is applied to any thing which is conceived to serve as a foundation or beginning to any series of operations: in some cases, of physical operations; but of mental operations in the present case.

The principle here in question may be taken for an act of the mind; a sentiment; a sentiment of approbation; a sentiment which, when applied to an action, approves of its utility, as that quality of it by which the measure of approbation or disapprobation bestowed upon it ought to be governed.

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(what comes again to the same thing) to prevent the happening of mischief, pain, evil, or unhappiness to the party whose interest is considered: if that party be the community in general, then the happiness of the community: if a particular individual, then the happiness of that individual.

IV.

Interest of the community, what.

The interest of the community is one of the most general expressions that can occur in the phraseology of morals: no wonder that the meaning of it is often lost. When it has a meaning, it is this. The community is a fictitious *body*, composed of the individual persons who are considered as constituting as it were its *members*. The interest of the community then is, what?—the sum of the interests of the several members who compose it.

V.

It is in vain to talk of the interest of the community, without understanding what is the interest of the individual.* A thing is said to promote the interest, or to be *for* the interest, of an individual, when it tends to add to the sum total of his pleasures: or, what comes to the same thing, to diminish the sum total of his pains.

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* [Interest, &c.] Interest is one of those words, which not having any superior *genus*, cannot in the ordinary way be defined.

VI.

An action conformable to the principle of utility, what.

An action then may be said to be conformable to the principle of utility, or, for shortness sake, to utility, (meaning with respect to the community at large) when the tendency it has to augment the happiness of the community is greater than any it has to diminish it.

VII.

A measure of government conformable to the principle of utility, what.

A measure of government (which is but a particular kind of action, performed by a particular person or persons) may be said to be conformable to or dictated by the principle of utility, when in like manner the tendency which it has to augment the happiness of the community is greater than any which it has to diminish it.

VIII.

Laws or dictates of utility, what.

When an action, or in particular a measure of government, is supposed by a man to be conformable to the principle of utility, it may be convenient, for the purposes of discourse, to imagine a kind of law or dictate, called a law or dictate of utility: and to speak of the action in question, as being conformable to such law or dictate.

IX.

A partizan of the principle of utility, who.

A man may be said to be a partizan of the principle of utility, when the approbation or disapprobation he annexes to any action, or to any measure, is determined, by and propor-

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tioned to the tendency which he conceives it to have to augment or to diminish the happiness of the community: or in other words, to its conformity or unconformity to the laws or dictates of utility.

X.

Ought, ought not, right and wrong, &c. how to be understood

Of an action that is conformable to the principle of utility, one may always say either that it is one that ought to be done, or at least that it is not one that ought not to be done. One may say also, that it is right it should be done; at least that it is not wrong it should be done: that it is a right action; at least that it is not a wrong action. When thus interpreted, the words *ought*, and *right* and *wrong*, and others of that stamp, have a meaning: when otherwise, they have none.

XI.

To prove the rectitude of this principle is at once unnecessary and impossible.

Has the rectitude of this principle been ever formally contested? It should seem that it had, by those who have not known what they have been meaning. Is it susceptible of any direct proof? it should seem not: for that which is used to prove every thing else, cannot itself be proved: a chain of proofs must have their commencement somewhere. To give such proof is as impossible as it is needless.

XII.

It has seldom, however, as yet, been consistently pursued.

Not that there is or ever has been that human creature breathing, however stupid or perverse,

who has not on many, perhaps on most occasions of his life, deferred to it. By the natural constitution of the human frame, on most occasions of their lives men in general embrace this principle, without thinking of it: if not for the ordering of their own actions, yet for the trying of their own actions, as well as of those of other men. There have been, at the same time, not many, perhaps, even of the most intelligent, who have been disposed to embrace it purely and without reserve. There are even few who have not taken some occasion or other to quarrel with it, either on account of their not understanding always how to apply it, or on account of some prejudice or other which they were afraid to examine into, or could not bear to part with. For such is the stuff that man is made of: in principle and in practice, in a right track and in a wrong one, the rarest of all human qualities is consistency.

XIII.

It can never be consistently combated.

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.* His arguments, if they prove any thing, prove not that the principle is *wrong*, but that, according to the applications he supposes to

* "The principle of utility, (I have heard it said) is a dangerous principle: it is dangerous on certain occasions to consult it." This is as much as to say, what? that it is

CHAP. I.

be made of it, it is *misapplied*. Is it possible for a man to move the earth? Yes; but he must first find out another earth to stand upon.

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not consonant to utility, to consult utility: in short, that it is *not* consulting it, to consult it.

Addition by the author, July 1822.

Not long after the publication of the Fragment on Government, anno 1776, in which, in the character of an all-comprehensive and all-commanding principle, the principle of *utility* was brought to view, one person by whom observation to the above effect was made was *Alexander Wedderburn*, at that time Attorney or Solicitor General, afterwards successively Chief Justice of the Common Pleas, and Chancellor of England, under the successive titles of Lord Loughborough and Earl of Rosslyn. It was made—not indeed in my hearing, but in the hearing of a person by whom it was almost immediately communicated to me. So far from being self-contradictory, it was a shrewd and perfectly true one. By that distinguished functionary, the state of the Government was thoroughly understood: by the obscure individual, at that time not so much as supposed to be so: his disquisitions had not been as yet applied, with any thing like a comprehensive view, to the field of Constitutional Law, nor therefore to those features of the English Government, by which the greatest happiness of the ruling *one* with or without that of a favoured few, are now so plainly seen to be the only ends to which the course of it has at any time been directed. The *principle of utility* was an appellative, at that time employed—employed by me, as it had been by others, to designate that which, in a more perspicuous and instructive manner, may, as above, be designated by the name of the *greatest happiness principle*. "This principle (said Wedderburn) is a dangerous "one." Saying so, he said that which, to a certain extent, is strictly true: a principle, which lays down, as the only

Course to be taken for surmounting prejudices that may have been entertained against it.

XIV.

To disprove the propriety of it by arguments is impossible; but, from the causes that have been mentioned, or from some confused or partial view of it, a man may happen to be disposed not to relish it. Where this is the case, if he thinks the settling of his opinions on such a subject worth the trouble, let him take the following steps, and at length, perhaps, he may come to reconcile himself to it.

1. Let him settle with himself, whether he would wish to discard this principle altogether;

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right and justifiable end of Government, the greatest happiness of the greatest number—how can it be denied to be a dangerous one? dangerous it unquestionably is, to every government which has for its *actual* end or object, the greatest happiness of a certain *one*, with or without the addition of some comparatively small number of others, whom it is matter of pleasure or accommodation to him to admit, each of them, to a share in the concern, on the footing of so many junior partners. *Dangerous* it therefore really was, to the interest—the sinister interest—of all those functionaries, himself included, whose interest it was, to maximize delay, vexation, and expense, in judicial and other modes of procedure, for the sake of the profit, extractible out of the expense. In a Government which had for its end in view the greatest happiness of the greatest number, Alexander Wedderburn might have been Attorney General and then Chancellor: but he would not have been Attorney General with £15,000 a year, nor Chancellor, with a peerage with a veto upon all justice, with £25,000 a year, and with 500 sinecures at his disposal, under the name of Ecclesiastical Benefices, besides *et cæteras*.

CHAP. I.

if so, let him consider what it is that all his reasonings (in matters of politics especially) can amount to?

2. If he would, let him settle with himself, whether he would judge and act without any principle, or whether there is any other he would judge and act by?

3. If there be, let him examine and satisfy himself whether the principle he thinks he has found is really any separate intelligible principle; or whether it be not a mere principle in words, a kind of phrase, which at bottom expresses neither more nor less than the mere averment of his own unfounded sentiments; that is, what in another person he might be apt to call caprice?

4. If he is inclined to think that his own approbation or disapprobation, annexed to the idea of an act, without any regard to its consequences, is a sufficient foundation for him to judge and act upon, let him ask himself whether his sentiment is to be a standard of right and wrong, with respect to every other man, or whether every man's sentiment has the same privilege of being a standard to itself?

5. In the first case, let him ask himself whether his principle is not despotical, and hostile to all the rest of human race?

6. In the second case, whether it is not anarchial, and whether at this rate there are not

as many different standards of right and wrong as there are men? and whether even to the same man, the same thing, which is right to-day, may not (without the least change in its nature) be wrong to-morrow? and whether the same thing is not right and wrong in the same place at the same time? and in either case, whether all argument is not at an end? and whether, when two men have said, "I like this," and "I don't like it," they can (upon such a principle) have any thing more to say?

7. If he should have said to himself, No: for that the sentiment which he proposes as a standard must be grounded on reflection, let him say on what particulars the reflection is to turn? if on particulars having relation to the utility of the act, then let him say whether this is not deserting his own principle, and borrowing assistance from that very one in opposition to which he sets it up: or if not on those particulars, on what other particulars?

8. If he should be for compounding the matter, and adopting his own principle in part, and the principle of utility in part, let him say how far he will adopt it?

9. When he has settled with himself where he will stop, then let him ask himself how he justifies to himself the adopting it so far? and why he will not adopt it any farther?

10. Admitting any other principle than the

CHAP. I.

principle of utility to be a right principle, a principle that it is right for a man to pursue; admitting (what is not true) that the word *right* can have a meaning without reference to utility, let him say whether there is any such thing as a *motive* that a man can have to pursue the dictates of it: if there is, let him say what that motive is, and how it is to be distinguished from those which enforce the dictates of utility: if not, then lastly let him say what it is this other principle can be good for?

CHAP. II.

OF PRINCIPLES ADVERSE TO THAT OF UTILITY.

I.

All other principles than that of utility must be wrong.

If the principle of utility be a right principle to be governed by, and that in all cases, it follows from what has been just observed, that whatever principle differs from it in any case must necessarily be a wrong one. To prove any other principle, therefore, to be a wrong one, there needs no more than just to show it to be what it is, a principle of which the dictates are in some point or other different from those of the principle of utility: to state it is to confute it.

II.

Ways in which a principle may be wrong.

A principle may be different from that of utility in two ways: 1. By being constantly opposed to it: this is the case with a principle which may be termed the principle of *asceticism*.*

Asceticism, origin of the word.

Principles of the Monks.

* [Asceticism] Ascetic is a term that has been sometimes applied to Monks. It comes from a Greek word which signifies *exercise*. The practices by which Monks sought to distinguish themselves from other men were called their Exercises. These exercises consisted in so many contrivances they had for tormenting themselves. By this they thought to ingratiate themselves with the Deity. For the Deity, said they, is a Being of infinite benevolence: now a Being of the most ordinary benevolence is pleased to see others make

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2. By being sometimes opposed to it, and sometimes not, as it may happen: this is the case with another, which may be termed the principle of *sympathy* and *antipathy*.

III.

Principle of asceticism, what.

By the principle of asceticism I mean that principle, which, like the principle of utility, approves or disapproves of any action, according to the tendency which it appears to have to augment or diminish the happiness of the party whose interest is in question; but in an inverse manner: approving of actions in as far as they tend to diminish his happiness; disapproving of them in as far as they tend to augment it.

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themselves as happy as they can: therefore to make ourselves as unhappy as we can is the way to please the Deity. If any body asked them, what motive they could find for doing all this? Oh! said they, you are not to imagine that we are punishing ourselves for nothing: we know very well what we are about. You are to know, that for every grain of pain it costs us now, we are to have a hundred grains of pleasure by and by. The case is, that God loves to see us torment ourselves at present: indeed he has as good as told us so. But this is done only to try us, in order just to see how we should behave: which it is plain he could not know, without making the experiment. Now then, from the satisfaction it gives him to see us make ourselves as unhappy as we can make ourselves in this present life, we have a sure proof of the satisfaction it will give him to see us as happy as he can make us in a life to come.

IV.

A partizan of the principle of asceticism, who.

It is evident that any one who reprobates any the least particle of pleasure, as such, from whatever source derived, is *pro tanto* a partizan of the principle of asceticism. It is only upon that principle, and not from the principle of utility, that the most abominable pleasure which the vilest of malefactors ever reaped from his crime would be to be reprobated, if it stood alone. The case is, that it never does stand alone; but is necessarily followed by such a quantity of pain (or, what comes to the same thing, such a chance for a certain quantity of pain) that the pleasure in comparison of it, is as nothing: and this is the true and sole, but perfectly sufficient, reason for making it a ground for punishment.

V.

This principle has had in some a philosophical, in others a religious origin.

There are two classes of men of very different complexions, by whom the principle of asceticism appears to have been embraced; the one a set of moralists, the other a set of religionists. Different accordingly have been the motives which appear to have recommended it to the notice of these different parties. Hope, that is the prospect of pleasure, seems to have animated the former: hope, the aliment of philosophic pride: the hope of honour and reputation at the hands of men. Fear, that is the prospect of pain, the latter: fear, the offspring

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of superstitious fancy: the fear of future punishment at the hands of a splenetic and revengeful Deity. I say in this case fear: for of the invisible future, fear is more powerful than hope. These circumstances characterize the two different parties among the partizans of the principle of asceticism; the parties and their motives different, the principle the same.

VI.

It has been carried farther by the religious party than by the philosophical.

The religious party, however, appear to have carried it farther than the philosophical: they have acted more consistently and less wisely. The philosophical party have scarcely gone farther than to reprobate pleasure: the religious party have frequently gone so far as to make it a matter of merit and of duty to court pain. The philosophical party have hardly gone farther than the making pain a matter of indifference. It is no evil, they have said: they have not said, it is a good. They have not so much as reprobated all pleasure in the lump. They have discarded only what they have called the gross; that is, such as are organical, or of which the origin is easily traced up to such as are organical: they have even cherished and magnified the refined. Yet this, however, not under the name of pleasure: to cleanse itself from the sordes of its impure original, it was necessary it should change its name: the honourable, the glorious, the reputable, the be-

coming, the *honestum*, the *decorum*, it was to be called: in short, any thing but pleasure.

VII.

From these two sources have flowed the doctrines from which the sentiments of the bulk of mankind have all along received a tincture of this principle; some from the philosophical, some from the religious, some from both. Men of education more frequently from the philosophical, as more suited to the elevation of their sentiments: the vulgar more frequently from the superstitious, as more suited to the narrowness of their intellect, undilated by knowledge: and to the abjectness of their condition, continually open to the attacks of fear. The tinctures, however, derived from the two sources, would naturally intermingle, insomuch that a man would not always know by which of them he was most influenced: and they would often serve to corroborate and enliven one another. It was this conformity that made a kind of alliance between parties of a complexion otherwise so dissimilar: and disposed them to unite upon various occasions against the common enemy, the partizan of the principle of utility, whom they joined in branding with the odious name of Epicurean.

The philosophical branch of it has had most influence among persons of education, the religious among the vulgar.

VIII.

The principle of asceticism, however, with whatever warmth it may have been embraced

The principle of asceticism has never been steadily applied by either party to the Business of Government.

CHAP. II. by its partizans as a rule of private conduct, seems not to have been carried to any considerable length, when applied to the business of government. In a few instances it has been carried a little way by the philosophical party: witness the Spartan regimen. Though then, perhaps, it may be considered as having been a measure of security: and an application, though a precipitate and perverse application, of the principle of utility. Scarcely in any instances, to any considerable length, by the religious: for the various monastic orders, and the societies of the Quakers, Dumplers, Moravians, and other religionists, have been free societies, whose regimen no man has been astricted to without the intervention of his own consent. Whatever merit a man may have thought there would be in making himself miserable, no such notion seems ever to have occurred to any of them, that it may be a merit, much less a duty, to make others miserable: although it should seem, that if a certain quantity of misery were a thing so desirable, it would not matter much whether it were brought by each man upon himself, or by one man upon another. It is true, that from the same source from whence, among the religionists, the attachment to the principle of asceticism took its rise, flowed other doctrines and practices, from which misery in abundance was produced in

one man by the instrumentality of another: witness the holy wars, and the persecutions for religion. But the passion for producing misery in these cases proceeded upon some special ground: the exercise of it was confined to persons of particular descriptions: they were tormented, not as men, but as heretics and infidels. To have inflicted the same miseries on their fellow-believers and fellow-sectaries, would have been as blameable in the eyes even of these religionists, as in those of a partizan of the principle of utility. For a man to give himself a certain number of stripes was indeed meritorious: but to give the same number of stripes to another man, not consenting, would have been a sin. We read of saints, who for the good of their souls, and the mortification of their bodies, have voluntarily yielded themselves a prey to vermin: but though many persons of this class have wielded the reins of empire, we read of none who have set themselves to work, and made laws on purpose, with a view of stocking the body politic with the breed of highwaymen, housebreakers, or incendiaries. If at any time they have suffered the nation to be preyed upon by swarms of idle pensioners, or useless placemen, it has rather been from negligence and imbecility, than from any settled plan for oppressing and plundering of the people. If at any time they

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have sapped the sources of national wealth, by cramping commerce, and driving the inhabitants into emigration, it has been with other views, and in pursuit of other ends. If they have declaimed against the pursuit of pleasure, and the use of wealth, they have commonly stopped at declamation: they have not, like Lycurgus, made express ordinances for the purpose of banishing the precious metals. If they have established idleness by a law, it has been not because idleness, the mother of vice and misery, is itself a virtue, but because idleness (say they) is the road to holiness. If under the notion of fasting, they have joined in the plan of confining their subjects to a diet, thought by some to be of the most nourishing and prolific nature, it has been not for the sake of making them tributaries to the nations by whom that diet was to be supplied, but for the sake of manifesting their own power, and exercising the obedience of the people. If they have established, or suffered to be established, punishments for the breach of celibacy, they have done no more than comply with the petitions of those deluded rigorists, who, dupes to the ambitious and deep-laid policy of their rulers, first laid themselves under that idle obligation by a vow.

IX.

The principle of asceticism seems originally

The principle of asce-

to have been the reverie of certain hasty speculators, who having perceived, or fancied, that certain pleasures, when reaped in certain circumstances, have, at the long run, been attended with pains more than equivalent to them, took occasion to quarrel with every thing that offered itself under the name of pleasure. Having then got thus far, and having forgot the point which they set out from, they pushed on, and went so much further as to think it meritorious to fall in love with pain. Even this, we see, is at bottom but the principle of utility misapplied.

Asceticism, in its origin, was but that of utility misapplied.

X.

The principle of utility is capable of being consistently pursued; and it is but tautology to say, that the more consistently it is pursued, the better it must ever be for human-kind. The principle of asceticism never was, nor ever can be, consistently pursued by any living creature. Let but one tenth part of the inhabitants of this earth pursue it consistently, and in a day's time they will have turned it into a hell.

It can never be consistently pursued.

XI.

Among principles adverse* to that of utility,

The principle of sympathy and antipathy, what.

* The following Note was first printed in January 1789.

It ought rather to have been styled, more extensively, the principle of *caprice*. Where it applies to the choice of actions to be marked out for injunction or prohibition, for

CHAP. II. that which at this day seems to have most influence in matters of government, is what may be called the principle of sympathy and an-

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reward or punishment, (to stand, in a word, as subjects for *obligations* to be imposed,) it may indeed with propriety be termed, as in the text, the principle of *sympathy* and *antipathy*. But this appellative does not so well apply to it, when occupied in the choice of the *events* which are to serve as sources of *title* with respect to *rights:* where the actions prohibited and allowed the obligations and rights, being already fixed, the only question is, under what circumstances a man is to be invested with the one or subjected to the other? from what incidents occasion is to be taken to invest a man, or to refuse to invest him, with the one, or to subject him to the other? In this latter case it may more appositely be characterized by the name of the *phantastic principle*. Sympathy and antipathy are affections of the *sensible* faculty. But the choice of *titles* with respect to *rights*, especially with respect to proprietary rights, upon grounds unconnected with utility, has been in many instances the work, not of the affections but of the imagination.

When, in justification of an article of English Common Law, calling uncles to succeed in certain cases in preference to fathers, Lord Coke produced a sort of ponderosity he had discovered in rights, disqualifying them from ascending in a straight line, it was not that he *loved* uncles particularly, or *hated* fathers, but because the analogy, such as it was, was what his imagination presented him with, instead of a reason, and because, to a judgment unobservant of the standard of utility, or unacquainted with the art of consulting it, where affection is out of the way, imagination is the only guide.

When I know not what ingenious grammarian invented the proposition *Delegatus non potest delegare*, to serve as a rule of law, it was not surely that he had any antipathy to delegates of the second order, or that it was any pleasure to

tipathy. By the principle of sympathy and antipathy, I mean that principle which approves or disapproves of certain actions, not on

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him to think of the ruin which, for want of a manager at home, may befal the affairs of a traveller, whom an unforeseen accident has deprived of the object of his choice: it was, that the incongruity, of giving the same law to objects so contrasted as *active* and *passive* are, was not to be surmounted, and that *-atus* chimes, as well as it contrasts, with *-are*.

When that inexorable maxim, (of which the dominion is no more to be defined, than the date of its birth, or the name of its father, is to be found,) was imported from England for the government of Bengal, and the whole fabric of judicature was crushed by the thunders of *ex post facto* justice, it was not surely that the prospect of a blameless magistracy perishing in prison afforded any enjoyment to the unoffended authors of their misery; but that the music of the maxim, absorbing the whole imagination, had drowned the cries of humanity along with the dictates of common sense.* *Fiat Justitia, ruat cœlum,* says another maxim, as

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* Additional Note by the Author, July 1822.

Add, and that the bad system, of Mahometan and other native law was to be put down at all events, to make way for the inapplicable and still more mischievous system of English Judge-made law, and, by the hand of his accomplice Hastings, was to be put into the pocket of Impey—Importer of this instrument of subversion, £8,000 a-year contrary to law, in addition to the £8,000 a-year lavished upon him, with the customary profusion, by the hand of law.—See the Account of this transaction in *Mills' British India.*

To this Governor a statue is erecting by a vote of East India Directors and Proprietors: on it should be inscribed—*Let it but put money into our pockets, no tyranny too flagitious to be worshipped by us.*

To this statue of the Arch-malefactor should be added, for a companion, that of the long robed accomplice: the one lodging the bribe in the hand of the other. The hundred millions of plundered and oppressed Hindoos and Mahometans pay for the one: a Westminster Hall subscription might pay for the other.

What they have done for Ireland with her seven millions of souls, the authorised deniers and perverters of justice have done for Hindostan with her hundred millions. In this there is nothing wonderful. The wonder is—that, under such institutions, men, though in ever such small number, should be found, whom the view of the injustices which, by *English Judge-made law*, they are compelled to commit, and

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account of their tending to augment the happiness, nor yet on account of their tending to diminish the happiness of the party whose

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full of extravagance as it is of harmony: Go heaven to wreck—so justice be but done:—and what is the ruin of kingdoms, in comparison of the wreck of heaven?

So again, when the Prussian chancellor, inspired with the wisdom of I know not what Roman sage, proclaimed in good Latin, for the edification of German ears, *Servitus servitutis non datur*, [Cod. Fred. tom. ii. par. 2. liv. 2. tit. x. § 6. p. 308.] it was not that he had conceived any aversion to the life-holder who, during the continuance of his term, should wish to gratify a neighbour with a right of way or water, or to the neighbour who should wish to accept of the indulgence; but that, to a jurisprudential ear, *-tus -tutis* sound little less melodious than *-atus -are*. Whether the melody of the maxim was the real reason of the rule, is not left open to dispute: for it is ushered in by the conjunction *quia*, reason's appointed harbinger: *quia servitus servitutis non datur*.

Neither would equal melody have been produced, nor indeed could similar melody have been called for, in either of these instances, by the opposite provision: it is only when they are opposed to general rules, and not when by their conformity they are absorbed in them, that more specific ones can obtain a separate existence. *Delegatus potest delegare*, and *Servitus servitutis datur*, provisions already included under the general adoption of contracts, would have been as unnecessary to the apprehension and the memory, as, in comparison of their energetic negatives, they are insipid to the ear.

Were the inquiry diligently made, it would be found that

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the miseries they are thus compelled to produce, deprive of health and rest. Witness the Letter of an English Hindostan Judge, Sept. 1, 1819, which lies before me. I will not make so cruel a requital for his honesty, as to put his name in print: indeed the House of Commons' Documents already published leave little need of it.

interest is in question, but merely because a man finds himself disposed to approve or disapprove of them: holding up that approbation or disapprobation as a sufficient reason for

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the goddess of harmony has exercised more influence, however latent, over the dispensations of Themis, than her most diligent historiographers, or even her most passionate panegyrists, seem to have been aware of. Every one knows, how, by the ministry of Orpheus, it was she who first collected the sons of men beneath the shadow of the sceptre: yet, in the midst of continual experience, men seem yet to learn, with what successful diligence she has laboured to guide it in its course. Every one knows, that measured numbers were the language of the infancy of law: none seem to have observed, with what imperious sway they have governed her maturer age. In English jurisprudence in particular, the connexion betwixt law and music, however less perceived than in Spartan legislation, is not perhaps less real nor less close. The music of the Office, though not of the same kind, is not less musical in its kind, than the music of the Theatre; that which hardens the heart, than that which softens it:—sostenutos as long, cadences as sonorous; and those governed by rules, though not yet promulgated, not less determinate. Search indictments, pleadings, proceedings in chancery, conveyances: whatever trespasses you may find against truth or common sense, you will find none against the laws of harmony. The English Liturgy, justly as this quality has been extolled in that sacred office, possesses not a greater measure of it, than is commonly to be found in an English Act of Parliament. Dignity, simplicity, brevity, precision, intelligibility, possibility of being retained or so much as apprehended, every thing yields to Harmony. Volumes might be filled, shelves loaded, with the sacrifices that are made to this insatiate power. Expletives, her ministers in Grecian poetry, are not less busy, though in dif-

CHAP. II. itself, and disclaiming the necessity of looking out for any extrinsic ground. Thus far in the general department of morals: and in the par-

ferent shape and bulk, in English legislation: in the former, they are monosyllables:* in the latter, they are whole lines.†

To return to the *principle of sympathy and antipathy:* a term preferred at first, on account of its impartiality, to the *principle of caprice.* The choice of an appellative, in the above respects too narrow, was owing to my not having, at that time, extended my views over the civil branch of law, any otherwise than as I had found it inseparably involved in the penal. But when we come to the former branch, we shall see the *phantastic* principle making at least as great a figure there, as the principle of *sympathy and antipathy* in the latter.

In the days of Lord Coke, the light of utility can scarcely be said to have as yet shone upon the face of Common Law. If a faint ray of it, under the name of the *argumentum ab inconvenienti,* is to be found in a list of about twenty topics exhibited by that great lawyer as the co-ordinate leaders of that all-perfect system, the admission, so circumstanced, is as sure a proof of neglect, as, to the statues of Brutus and Cassius, exclusion was a cause of notice. It stands, neither in the front, nor in the rear, nor in any post of honour; but huddled in towards the middle, without the smallest mark of preference. [Coke Littleton. 11. a.] Nor is this Latin *inconvenience* by any means the same thing with the English one. It stands distinguished from *mischief:* and because by the vulgar it is taken for something less bad, it is given by the learned as something worse. *The law prefers a mischief to an inconvenience,* says an admired maxim, and the more admired, because as nothing is expressed by it, the more is supposed to be understood.

* Μεν, τοι, γε, νυν, &c.—

† And be it further enacted by the authority aforesaid, that—Provided always, and it is hereby further enacted and declared that—&c. &c.

ticular department of politics, measuring out the quantum (as well as determining the ground) of punishment, by the degree of the disapprobation.

XII.

This is rather the negation of all principle, than any thing positive.

It is manifest, that this is rather a principle in name than in reality: it is not a positive principle of itself, so much as a term employed to signify the negation of all principle. What one expects to find in a principle is something that points out some external consideration, as a means of warranting and guiding the internal sentiments of approbation and disapprobation: this expectation is but ill fulfilled by a proposition, which does neither more nor less than hold up each of those sentiments as a ground and standard for itself.

XIII.

Sentiments of a partizan of the principle of antipathy.

In looking over the catalogue of human actions (says a partizan of this principle) in

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Not that there is any avowed, much less a constant opposition, between the prescriptions of utility and the operations of the common law: such constancy we have seen to be too much even for ascetic fervor. [Supra, par. x.] From time to time instinct would unavoidably betray them into the paths of reason: instinct which, however it may be cramped, can never be killed by education. The cobwebs spun out of the materials brought together by "the competition of opposite analogies," can never have ceased being warped by the silent attraction of the rational principle: though it should have been, as the needle is by the magnet, without the privity of conscience.

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order to determine which of them are to be marked with the seal of disapprobation, you need but to take counsel of your own feelings: whatever you find in yourself a propensity to condemn, is wrong for that very reason. For the same reason it is also meet for punishment: in what proportion it is adverse to utility, or whether it be adverse to utility at all, is a matter that makes no difference. In that same *proportion* also is it meet for punishment: if you hate much, punish much: if you hate little, punish little: punish as you hate. If you hate not at all, punish not at all: the fine feelings of the soul are not to be overborne and tyrannized by the harsh and rugged dictates of political utility.

XIV.

The systems that have been formed concerning the standard of right and wrong, are all reducible to this principle.

The various systems that have been formed concerning the standard of right and wrong, may all be reduced to the principle of sympathy and antipathy. One account may serve for all of them. They consist all of them in so many contrivances for avoiding the obligation of appealing to any external standard, and for prevailing upon the reader to accept of the author's sentiment or opinion as a reason for itself. The phrases different, but the principle the same.*

Various phrases that have served as the charac-

* It is curious enough to observe the variety of inventions men have hit upon, and the variety of phrases they have

XV.

This principle will frequently coincide with that of utility.

It is manifest, that the dictates of this principle will frequently coincide with those of utility, though perhaps without intending any

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brought forward, in order to conceal from the world, and, if possible, from themselves, this very general and therefore very pardonable self-sufficiency.

teristic marks of so many pretended systems.

1. One man says, he has a thing made on purpose to tell him what is right and what is wrong; and that it is called a *moral sense*: and then he goes to work at his ease, and says, such a thing is right, and such a thing is wrong—why? "because my moral sense tells me it is."

1. Moral Sense.

2. Another man comes and alters the phrase: leaving out *moral*, and putting in *common*, in the room of it. He then tells you, that his common sense teaches him what is right and wrong, as surely as the other's moral sense did: meaning by common sense, a sense of some kind or other, which, he says, is possessed by all mankind: the sense of those, whose sense is not the same as the author's, being struck out of the account as not worth taking. This contrivance does better than the other; for a moral sense, being a new thing, a man may feel about him a good while without being able to find it out: but common sense is as old as the creation; and there is no man but would be ashamed to be thought not to have as much of it as his neighbours. It has another great advantage: by appearing to share power, it lessens envy: for when a man gets up upon this ground, in order to anathematize those who differ from him, it is not by a *sic volo sic jubeo*, but by a *velitis jubeatis*.

2. Common Sense.

3. Another man comes, and says, that as to a moral sense indeed, he cannot find that he has any such thing: that however he has an *understanding*, which will do quite as well. This understanding, he says, is the standard of right and wrong: it tells him so and so. All good and wise men

3. Understanding.

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such thing. Probably more frequently than not: and hence it is that the business of penal justice is carried on upon that tolerable sort

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understand as he does: if other men's understandings differ in any point from his, so much the worse for them: it is a sure sign they are either defective or corrupt.

4. Rule of Right.

4. Another man says, that there is an eternal and immutable Rule of Right: that that rule of right dictates so and so: and then he begins giving you his sentiments upon any thing that comes uppermost: and these sentiments (you are to take for granted) are so many branches of the eternal rule of right.

5. Fitness of Things.

5. Another man, or perhaps the same man (it's no matter) says, that there are certain practices conformable, and others repugnant, to the Fitness of Things; and then he tells you, at his leisure, what practices are conformable and what repugnant: just as he happens to like a practice or dislike it.

6. Law of Nature.

6. A great multitude of people are continually talking of the Law of Nature; and then they go on giving you their sentiments about what is right and what is wrong: and these sentiments, you are to understand, are so many chapters and sections of the Law of Nature.

7. Law of Reason, Right Reason, Natural Justice, Natural Equity, Good Order.

7. Instead of the phrase, Law of Nature, you have sometimes, Law of Reason, Right Reason, Natural Justice, Natural Equity, Good Order. Any of them will do equally well. This latter is most used in politics. The three last are much more tolerable than the others, because they do not very explicitly claim to be any thing more than phrases: they insist but feebly upon the being looked upon as so many positive standards of themselves, and seem content to be taken, upon occasion, for phrases expressive of the conformity of the thing in question to the proper standard, whatever that may be. On most occasions, however, it will be better to say *utility*: *utility* is clearer, as referring more explicitly to pain and pleasure.

of footing upon which we see it carried on in common at this day. For what more natural or more general ground of hatred to a practice

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8. We have one philosopher, who says, there is no harm in any thing in the world but in telling a lie: and that if, for example, you were to murder your own father, this would only be a particular way of saying, he was not your father. Of course, when this philosopher sees any thing that he does not like, he says, it is a particular way of telling a lie. It is saying, that the act ought to be done, or may be done, when, *in truth*, it ought not to be done.

8. Truth.

9. The fairest and openest of them all is that sort of man who speaks out, and says, I am of the number of the Elect: now God himself takes care to inform the Elect what is right: and that with so good effect, that let them strive ever so, they cannot help not only knowing it but practising it. If therefore a man wants to know what is right and what is wrong, he has nothing to do but to come to me.

9. Doctrine of Election.

It is upon the principle of antipathy that such and such acts are often reprobated on the score of their being *unnatural*: the practice of exposing children, established among the Greeks and Romans, was an unnatural practice. Unnatural, when it means any thing, 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 great complaint. It therefore means nothing; nothing, I mean, which there is in the act itself. All it can serve to express is, the disposition of the person who is talking of it: the disposition he is in to be angry at the thoughts of it. Does it merit his anger? Very likely it may: but whether it does or no is a question, which, to be answered rightly, can only be answered upon the principle of utility.

Repugnancy to Nature.

Unnatural, is as good a word as moral sense, or common

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can there be, than the mischievousness of such practice? What all men are exposed to suffer by, all men will be disposed to hate. It is far

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sense; and would be as good a foundation for a system. Such an act is unnatural; that is, repugnant to nature: for I do not like to practise it; and, consequently, do not practise it. It is therefore repugnant to what ought to be the nature of every body else.

Mischief they produce.

The mischief common to all these ways of thinking and arguing (which, in truth, as we have seen, are but one and the same method, couched in different forms of words) is their serving as a cloke, and pretence, and aliment, to despotism: if not a despotism in practice, a despotism however in disposition: which is but too apt, when pretence and power offer, to show itself in practice. The consequence is, that with intentions very commonly of the purest kind, a man becomes a torment either to himself or his fellow-creatures. If he be of the melancholy cast, he sits in silent grief, bewailing their blindness and depravity: if of the irascible, he declaims with fury and virulence against all who differ from him; blowing up the coals of fanaticism, and branding with the charge of corruption and insincerity, every man who does not think, or profess to think, as he does.

If such a man happens to possess the advantages of style, his book may do a considerable deal of mischief before the nothingness of it is understood.

These principles, if such they can be called, it is more frequent to see applied to morals than to politics: but their influence extends itself to both. In politics, as well as morals, a man will be at least equally glad of a pretence for deciding any question in the manner that best pleases him, without the trouble of inquiry. If a man is an infallible judge of what is right and wrong in the actions of private individuals, why not in the measures to be observed

yet, however, from being a constant ground: for when a man suffers, it is not always that he knows what it is he suffers by. A man may

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by public men in the direction of those actions? accordingly (not to mention other chimeras) I have more than once known the pretended law of nature set up in legislative debates, in opposition to arguments derived from the principle of utility.

Whether utility is actually the sole ground of all the approbation we ever bestow, is a different consideration.

"But is it never, then, from any other considerations than "those of utility, that we derive our notions of right and "wrong?" I do not know: I do not care. Whether a moral sentiment can be originally conceived from any other source than a view of utility, is one question: whether upon examination and reflection it can, in point of fact, be actually persisted in and justified on any other ground, by a person reflecting within himself, is another: whether in point of right it can properly be justified on any other ground, by a person addressing himself to the community, is a third. The two first are questions of speculation: it matters not, comparatively speaking, how they are decided. The last is a question of practice: the decision of it is of as much importance as that of any can be.

"I feel in myself," (say you) "a disposition to approve of such or such an action in a moral view: but this is not owing to any notions I have of its being a useful one to the community. I do not pretend to know whether it be an useful one or not: it may be, for aught I know, a mischievous one." 'But is it then,' (say I) 'a mischievous one? examine; and if you can make yourself sensible that it is so, then, if duty means any thing, that is, moral duty, it is your *duty* at least to abstain from it: and more than that, if it is what lies in your power, and can be done without too great a sacrifice, to endeavour to prevent it. It is not your cherishing the notion of it in your bosom, and giving it the name of virtue, that will excuse you.'

CHAP. II.

suffer grievously, for instance, by a new tax, without being able to trace up the cause of his sufferings to the injustice of some neighbour, who has eluded the payment of an old one.

XVI.

This principle is most apt to err on the side of severity.

The principle of sympathy and antipathy is most apt to err on the side of severity. It is for applying punishment in many cases which

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" I feel in myself," (say you again) " a disposition to detest such or such an action in a moral view; but this is not owing to any notions I have of its being a mischievous one to the community. I do not pretend to know whether it be a mischievous one or not: it may be not a mischievous one: it may be, for aught I know, an useful one."—' May it indeed,' (say I) ' an useful one? but let me tell you then, that unless duty, and right and wrong, be just what you please to make them, if it really be not a mischievous one, and any body has a mind to do it, it is no duty of your's, but, on the contrary, it would be very wrong in you, to take upon you to prevent him: detest it within yourself as much as you please; that may be a very good reason (unless it be also a useful one) for your not doing it yourself: but if you go about, by word or deed, to do any thing to hinder him, or make him suffer for it, it is you, and not he, that have done wrong: it is not your setting yourself to blame his conduct, or branding it with the name of vice, that will make him culpable, or you blameless. Therefore, if you can make yourself content that he shall be of one mind, and you of another, about that matter, and so continue, it is well: but if nothing will serve you, but that you and he must needs be of the same mind, I'll tell you what you have to do: it is for you to get the better of your antipathy, not for him to truckle to it.'

deserve none: in many cases which deserve some, it is for applying more than they deserve. There is no incident imaginable, be it ever so trivial, and so remote from mischief, from which this principle may not extract a ground of punishment. Any difference in taste: any difference in opinion: upon one subject as well as upon another. No disagreement so trifling which perseverance and altercation will not render serious. Each becomes in the other's eyes an enemy, and, if laws permit, a criminal.*

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* King James the First of England had conceived a violent antipathy against Arians: two of whom he burnt.* This gratification he procured himself without much difficulty: the notions of the times were favourable to it. He wrote a furious book against Vorstius, for being what was called an Arminian: for Vorstius was at a distance. He also wrote a furious book, called "A Counterblast to Tobacco," against the use of that drug, which Sir Walter Raleigh had then lately introduced. Had the notions of the times co-operated with him, he would have burnt the Anabaptist and the smoker of tobacco in the same fire. However he had the satisfaction of putting Raleigh to death afterwards, though for another crime.

Disputes concerning the comparative excellence of French and Italian music have occasioned very serious bickerings at Paris. One of the parties would not have been sorry (says Mr. D'Alembert †) to have brought government into the quarrel. Pretences were sought after and urged. Long before that, a dispute of like nature, and of at least equal warmth, had been kindled at London upon the comparative

* Hume's Hist. vol. 6. † Melanges Essai sur la Liberté de la Musique.

CHAP. II.

This is one of the circumstances by which the human race is distinguished (not much indeed to its advantage) from the brute creation.

XVII.

But errs, in some instances, on the side of lenity.

It is not, however, by any means unexampled for this principle to err on the side of lenity. A near and perceptible mischief moves antipathy. A remote and imperceptible mischief, though not less real, has no effect. Instances in proof of this will occur in numbers in the course of the work.* It would be breaking in upon the order of it to give them here.

XVIII.

The theological principle, what—not a separate principle.

It may be wondered, perhaps, that in all this while no mention has been made of the *theological* principle; meaning that principle which professes to recur for the standard of

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merits of two composers at London; where riots between the approvers and disapprovers of a new play are, at this day, not unfrequent. The ground of quarrel between the Big-endians and the Little-endians in the fable, was not more frivolous than many an one which has laid empires desolate. In Russia, it is said, there was a time when some thousands of persons lost their lives in a quarrel, in which the government had taken part, about the number of fingers to be used in making the sign of the cross. This was in days of yore: the ministers of Catherine II. are better *instructed*† than to take any other part in such disputes, than that of preventing the parties concerned from doing one another a mischief.

† Instruct. art. 474, 475, 476.

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* See ch. xvi. [Division] par. 42, 44.

right and wrong to the will of God. But the case is, this is not in fact a distinct principle. It is never any thing more or less than one or other of the three before-mentioned principles presenting itself under another shape. The *will* of God here meant cannot be his revealed will, as contained in the sacred writings: for that is a system which nobody ever thinks of recurring to at this time of day, for the details of political administration: and even before it can be applied to the details of private conduct, it is universally allowed, by the most eminent divines of all persuasions, to stand in need of pretty ample interpretations; else to what use are the works of those divines? And for the guidance of these interpretations, it is also allowed, that some other standard must be assumed. The will then which is meant on this occasion, is that which may be called the *presumptive* will: that is to say, that which is presumed to be his will on account of the conformity of its dictates to those of some other principle. What then may be this other principle? it must be one or other of the three mentioned above: for there cannot, as we have seen, be any more. It is plain, therefore, that, setting revelation out of the question, no light can ever be thrown upon the standard of right and wrong, by any thing that can be said upon the question, what is God's will. We may be

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perfectly sure, indeed, that whatever is right is conformable to the will of God: but so far is that from answering the purpose of showing us what is right, that it is necessary to know first whether a thing is right, in order to know from thence whether it be conformable to the will of God.*

XIX.

Antipathy, let the actions it dictates be ever so right, is never of itself a right ground of action.

There are two things which are very apt to be confounded, but which it imports us carefully to distinguish:—the motive or cause,

* The principle of theology refers every thing to God's pleasure. But what is God's pleasure? God does not, he confessedly does not now, either speak or write to us. How then are we to know what is his pleasure? By observing what is our own pleasure, and pronouncing it to be his. Accordingly, what is called the pleasure of God, is and must necessarily be (revelation apart) neither more nor less than the good pleasure of the person, whoever he be, who is pronouncing what he believes, or pretends, to be God's pleasure. How know you it to be God's pleasure that such or such an act should be abstained from? whence come you even to suppose as much? "Because the engaging in it would, I imagine, be prejudicial upon the whole to the happiness of mankind;" says the partizan of the principle of utility: "Because the commission of it is attended with a gross and sensual, or at least with a trifling and transient satisfaction;" says the partizan of the principle of asceticism: "Because I detest the thoughts of it; and I cannot, neither ought I to be called upon to tell why;" says he who proceeds upon the principle of antipathy. In the words of one or other of these must that person necessarily answer (revelation apart) who professes to take for his standard the will of God.

The principle of theology how reducible to one or another of the other three principles.

which, by operating on the mind of an individual, is productive of any act: and the ground or reason which warrants a legislator, or other by-stander, in regarding that act with an eye of approbation. When the act happens, in the particular instance in question, to be productive of effects which we approve of, much more if we happen to observe that the same motive may frequently be productive, in other instances, of the like effects, we are apt to transfer our approbation to the motive itself, and to assume, as the just ground for the approbation we bestow on the act, the circumstance of its originating from that motive. It is in this way that the sentiment of antipathy has often been considered as a just ground of action. Antipathy, for instance, in such or such a case, is the cause of an action which is attended with good effects: but this does not make it a right ground of action in that case, any more than in any other. Still farther. Not only the effects are good, but the agent sees beforehand that they will be so. This may make the action indeed a perfectly right action: but it does not make antipathy a right ground of action. For the same sentiment of antipathy, if implicitly deferred to, may be, and very frequently is, productive of the very worst effects. Antipathy, therefore, can never be a right ground of action. No more, therefore,

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can resentment, which, as will be seen more particularly hereafter, is but a modification of antipathy. The only right ground of action, that can possibly subsist, is, after all, the consideration of utility, which, if it is a right principle of action, and of approbation, in any one case, is so in every other. Other principles in abundance, that is, other motives, may be the reasons why such and such an act *has* been done: that is, the reasons or causes of its being done: but it is this alone that can be the reason why it might or ought to have been done. Antipathy or resentment requires always to be regulated, to prevent its doing mischief: to be regulated by what? always by the principle of utility. The principle of utility neither requires nor admits of any other regulator than itself.

CHAP. III.

OF THE FOUR SANCTIONS OR SOURCES OF PAIN AND PLEASURE.

I.

Connexion of this chapter with the preceding.

It has been shown that the happiness of the individuals, of whom a community is composed, that is their pleasures and their security, is the end and the sole end which the legislator ought to have in view: the sole standard, in conformity to which each individual ought, as far as depends upon the legislator, to be *made* to fashion his behaviour. But whether it be this or any thing else that is to be *done*, there is nothing by which a man can ultimately be *made* to do it, but either pain or pleasure. Having taken a general view of these two grand objects (*viz.* pleasure, and what comes to the same thing, immunity from pain) in the character of *final* causes; it will be necessary to take a view of pleasure and pain itself, in the character of *efficient* causes or means.

II.

Four sanctions or sources of pleasure and pain.

There are four distinguishable sources from which pleasure and pain are in use to flow: considered separately, they may be termed the *physical*, the *political*, the *moral*, and the *religious*: and inasmuch as the pleasures and pains belonging to each of them are capable

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of giving a binding force to any law or rule of conduct, they may all of them be termed *sanctions*.*

III.

1. The physical sanction.

If it be in the present life, and from the ordinary course of nature, not purposely modified by the interposition of the will of any human being, nor by any extraordinary interposition of any superior invisible being, that the pleasure or the pain takes place or is expected, it

* Sanctio, in Latin, was used to signify the *act of binding*, and, by a common grammatical transition, *any thing which serves to bind a man:* to wit, to the observance of such or such a mode of conduct. According to a Latin grammarian,* the import of the word is derived by rather a far-fetched process (such as those commonly are, and in a great measure indeed must be, by which intellectual ideas are derived from sensible ones) from the word *sanguis*, blood: because, among the Romans, with a view to inculcate into the people a persuasion that such or such a mode of conduct would be rendered obligatory upon a man by the force of what I call the religious sanction (that is, that he would be made to suffer by the extraordinary interposition of some superior being, if he failed to observe the mode of conduct in question) certain ceremonies were contrived by the priests: in the course of which ceremonies the blood of victims was made use of.

A Sanction then is a source of obligatory powers or *motives*: that is, of *pains* and *pleasures*; which, according as they are connected with such or such modes of conduct, operate, and are indeed the only things which can operate, as *motives*. See Chap. x. [Motives.]

* Servius. See Ainsworth's Dict. ad verbum *Sanctio*.

may be said to issue from or to belong to the *physical sanction.*

IV.

2. The politic

If at the hands of a *particular* person or set of persons in the community, who under names correspondent to that of *judge,* are chosen for the particular purpose of dispensing it, according to the will of the sovereign or supreme ruling power in the state, it may be said to issue from the *political sanction.*

V.

3. The moral or popular.

If at the hands of such *chance* persons in the community, as the party in question may happen in the course of his life to have concerns with, according to each man's spontaneous disposition, and not according to any settled or concerted rule, it may be said to issue from the *moral* or *popular sanction.**

VI.

4. The religious.

If from the immediate hand of a superior invisible being, either in the present life, or in a future, it may be said to issue from the *religious sanction.*

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* Better termed *popular,* as more directly indicative of its constituent cause; as likewise of its relation to the more common phrase *public opinion,* in French *opinion publique,* the name there given to that tutelary power, of which of late so much is said, and by which so much is done. The latter appellation is however unhappy and inexpressive; since if *opinion* is material, it is only in virtue of the influence it exercises over action, through the medium of the affections and the will.

CHAP. III.

VII.

The pleasures and pains which belong to the religious sanction, may regard either the present life or a future.

Pleasures or pains which may be expected to issue from the *physical*, *political*, or *moral* sanctions, must all of them be expected to be experienced, if ever, in the *present* life: those which may be expected to issue from the *religious* sanction, may be expected to be experienced either in the *present* life or in a *future*.

VIII.

Those which regard the present life, from which soever source they flow, differ only in the circumstances of their production.

Those which can be experienced in the present life, can of course be no others than such as human nature in the course of the present life is susceptible of: and from each of these sources may flow all the pleasures or pains of which, in the course of the present life, human nature is susceptible. With regard to these then (with which alone we have in this place any concern) those of them which belong to any one of those sanctions, differ not ultimately in kind from those which belong to any one of the other three: the only difference there is among them lies in the circumstances that accompany their production. A suffering which befals a man in the natural and spontaneous course of things, shall be styled, for instance, a *calamity;* in which case, if it be supposed to befal him through any imprudence of his, it may be styled a punishment issuing from the physical sanction. Now this same

suffering, if inflicted by the law, will be what is commonly called a *punishment;* if incurred for want of any friendly assistance, which the misconduct, or supposed misconduct, of the sufferer has occasioned to be withholden, a punishment issuing from the *moral* sanction; if through the immediate interposition of a particular providence, a punishment issuing from the religious sanction.

IX.

Example. A man's goods, or his person, are consumed by fire. If this happened to him by what is called an accident, it was a calamity: if by reason of his own imprudence (for instance, from his neglecting to put his candle out) it may be styled a punishment of the physical sanction: if it happened to him by the sentence of the political magistrate, a punishment belonging to the political sanction; that is, what is commonly called a punishment: if for want of any assistance which his *neighbour* withheld from him out of some dislike to his *moral* character, a punishment of the *moral* sanction: if by an immediate act of *God's* displeasure, manifested on account of some *sin* committed by him, or through any distraction of mind, occasioned by the dread of such displeasure, a punishment of the *religious* sanction.*

* A suffering conceived to befal a man by the immediate

X.

Those which regard a future life are not specifically known.

As to such of the pleasures and pains belonging to the religious sanction, as regard a future life, of what kind these may be we cannot know. These lie not open to our observation. During the present life they are matter only of expectation: and, whether that expectation be derived from natural or revealed religion, the particular kind of pleasure or pain, if it be different from all those which lie open to our observation, is what we can have no idea of. The best ideas we can obtain of such pains and pleasures are altogether unliquidated in point of quality. In what other respects our ideas of them *may* be liquidated will be considered in another place.*

XI.

The physical sanction included in each of the other three.

Of these four sanctions the physical is altogether, we may observe, the ground-work of the political and the moral: so is it also of the religious, in as far as the latter bears relation to the present life. It is included in each of those other three. This may operate in any case, (that is, any of the pains or pleasures be-

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act of God, as above, is often, for shortness sake, called a *judgment:* instead of saying, a suffering inflicted on him in consequence of a special judgment formed, and resolution thereupon taken, by the Deity.

* See ch. xiii. [Cases unmeet] par. 2. Note.

longing to it may operate) independently of *them*: none of *them* can operate but by means of this. In a word, the powers of nature may operate of themselves; but neither the magistrate, nor men at large, *can* operate, nor is God in the case in question *supposed* to operate, but through the powers of nature.

XII.

Use of this chapter.

For these four objects, which in their nature have so much in common, it seemed of use to find a common name. It seemed of use, in the first place, for the convenience of giving a name to certain pleasures and pains, for which a name equally characteristic could hardly otherwise have been found: in the second place, for the sake of holding up the efficacy of certain moral forces, the influence of which is apt not to be sufficiently attended to. Does the political sanction exert an influence over the conduct of mankind? The moral, the religious sanctions do so too. In every inch of his career are the operations of the political magistrate liable to be aided or impeded by these two foreign powers: who, one or other of them, or both, are sure to be either his rivals or his allies. Does it happen to him to leave them out in his calculations? he will be sure almost to find himself mistaken in the result. Of all this we shall find

CHAP. III. abundant proofs in the sequel of this work. It behoves him, therefore, to have them continually before his eyes; and that under such a name as exhibits the relation they bear to his own purposes and designs.

CHAP. IV.

VALUE OF A LOT OF PLEASURE OR PAIN, HOW TO BE MEASURED.

I.

Use of this chapter.

PLEASURES then, and the avoidance of pains, are the *ends* which the legislator has in view: it behoves him therefore to understand their *value*. Pleasures and pains are the *instruments* he has to work with: it behoves him therefore to understand their force, which is again, in other words, their value.

II.

Circumstances to be taken into the account in estimating the value of a pleasure or pain considered with reference to a single person, and by itself.

To a person considered *by himself*, the value of a pleasure or pain considered *by itself*, will be greater or less, according to the four following circumstances:*

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* These circumstances have since been denominated *elements* or *dimensions* of *value* in a pleasure or a pain.

Not long after the publication of the first edition, the following memoriter verses were framed, in the view of lodging more effectually, in the memory, these points, on which the whole fabric of morals and legislation may be seen to rest.

Intense, long, certain, speedy, fruitful, pure—
Such marks in *pleasures* and in *pains* endure.
Such pleasures seek, if *private* be thy end:
If it be *public*, wide let them *extend*.
Such *pains* avoid, whichever be thy view:
If pains *must* come, let them *extend* to few.

1. Its *intensity*.
2. Its *duration*.
3. Its *certainty* or *uncertainty*.
4. Its *propinquity* or *remoteness*.

III.

—considered as connected with other pleasures or pains.

These are the circumstances which are to be considered in estimating a pleasure or a pain considered each of them by itself. But when the value of any pleasure or pain is considered for the purpose of estimating the tendency of any *act* by which it is produced, there are two other circumstances to be taken into the account; these are,

5. Its *fecundity*, or the chance it has of being followed by sensations of the *same* kind: that is, pleasures, if it be a pleasure: pains, if it be a pain.

6. Its *purity*, or the chance it has of *not* being followed by sensations of the *opposite* kind: that is, pains, if it be a pleasure: pleasures, if it be a pain.

These two last, however, are in strictness scarcely to be deemed properties of the pleasure or the pain itself; they are not, therefore, in strictness to be taken into the account of the value of that pleasure or that pain. They are in strictness to be deemed properties only of the act, or other event, by which such pleasure or pain has been produced; and accordingly are only to be taken into the account of the tendency of such act or such event.

IV.

—considered with reference to a number of persons.

To a *number* of persons, with reference to each of whom the value of a pleasure or a pain is considered, it will be greater or less, according to seven circumstances: to wit, the six preceding ones; *viz.*

1. Its *intensity.*
2. Its *duration.*
3. Its *certainty* or *uncertainty.*
4. Its *propinquity* or *remoteness.*
5. Its *fecundity.*
6. Its *purity.*

And one other; to wit:

7. Its *extent;* that is, the number of persons to whom it *extends;* or (in other words) who are affected by it.

V.

Process for estimating the tendency of any act or event

To take an exact account then of the general tendency of any act, by which the interests of a community are affected, proceed as follows. Begin with any one person of those whose interests seem most immediately to be affected by it: and take an account,

1. Of the value of each distinguishable *pleasure* which appears to be produced by it in the *first* instance.

2. Of the value of each *pain* which appears to be produced by it in the *first* instance.

3. Of the value of each pleasure which appears to be produced by it *after* the first.

This constitutes the *fecundity* of the first *pleasure* and the *impurity* of the first *pain*.

4. Of the value of each *pain* which appears to be produced by it after the first. This constitutes the *fecundity* of the first *pain*, and the *impurity* of the first pleasure.

5. Sum up all the values of all the *pleasures* on the one side, and those of all the pains on the other. The balance, if it be on the side of pleasure, will give the *good* tendency of the act upon the whole, with respect to the interests of that *individual* person; if on the side of pain, the *bad* tendency of it upon the whole.

6. Take an account of the *number* of persons whose interests appear to be concerned; and repeat the above process with respect to each. *Sum up* the numbers expressive of the degrees of *good* tendency, which the act has, with respect to each individual, in regard to whom the tendency of it is *good* upon the whole: do this again with respect to each individual, in regard to whom the tendency of it is *good* upon the whole: do this again with respect to each individual, in regard to whom the tendency of it is *bad* upon the whole. Take the *balance*; which, if on the side of *pleasure*, will give the general *good tendency* of the act, with respect to the total number or community of individuals concerned; if on the side of pain, the general *evil tendency*, with respect to the same community.

VI.

Use of the foregoing process.

It is not to be expected that this process should be strictly pursued previously to every moral judgment, or to every legislative or judicial operation. It may, however, be always kept in view: and as near as the process actually pursued on these occasions approaches to it, so near will such process approach to the character of an exact one.

VII.

The same process applicable to good and evil, profit and mischief, and all other modifications of pleasure and pain.

The same process is alike applicable to pleasure and pain, in whatever shape they appear: and by whatever denomination they are distinguished: to pleasure, whether it be called *good* (which is properly the cause or instrument of pleasure) or *profit* (which is distant pleasure, or the cause or instrument of distant pleasure,) or *convenience*, or *advantage*, *benefit*, *emolument*, *happiness*, and so forth: to pain, whether it be called *evil*, (which corresponds to *good*) or *mischief*, or *inconvenience*, or *disadvantage*, or *loss*, or *unhappiness*, and so forth.

VIII.

Conformity of men's practice to this theory.

Nor is this a novel and unwarranted, any more than it is a useless theory. In all this there is nothing but what the practice of mankind, wheresoever they have a clear view of their own interest, is perfectly conformable to. An article of property, an estate in land, for instance, is valuable, on what account? On

CHAP. IV. account of the pleasures of all kinds which it enables a man to produce, and what comes to the same thing the pains of all kinds which it enables him to avert. But the value of such an article of property is universally understood to rise or fall according to the length or shortness of the time which a man has in it: the certainty or uncertainty of its coming into possession: and the nearness or remoteness of the time at which, if at all, it is to come into possession. As to the *intensity* of the pleasures which a man may derive from it, this is never thought of, because it depends upon the use which each particular person may come to make of it; which cannot be estimated till the particular pleasures he may come to derive from it, or the particular pains he may come to exclude by means of it, are brought to view. For the same reason, neither does he think of the *fecundity* or *purity* of those pleasures.

Thus much for pleasure and pain, happiness and unhappiness, in *general*. We come now to consider the several particular kinds of pain and pleasure.

CHAP. V.

PLEASURES AND PAINS, THEIR KINDS.

I.

Pleasures and pains are either, 1. Simple: or, 2. Complex.

HAVING represented what belongs to all sorts of pleasures and pains alike, we come now to exhibit, each by itself, the several sorts of pains and pleasures. Pains and pleasures may be called by one general word, interesting perceptions. Interesting perceptions are either simple or complex. The simple ones are those which cannot any one of them be resolved into more: complex are those which are resolvable into divers simple ones. A complex interesting perception may accordingly be composed either, 1. Of pleasures alone: 2. Of pains alone: or, 3. Of a pleasure or pleasures, and a pain or pains together. What determines a lot of pleasure, for example, to be regarded as one complex pleasure, rather than as divers simple ones, is the nature of the exciting cause. Whatever pleasures are excited all at once by the action of the same cause, are apt to be looked upon as constituting all together but one pleasure.

II.

The simple pleasures enumerated.

The several simple pleasures of which human nature is susceptible, seem to be as

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follows: 1. The pleasures of sense. 2. The pleasures of wealth. 3. The pleasures of skill. 4. The pleasures of amity. 5. The pleasures of a good name. 6. The pleasures of power. 7. The pleasures of piety. 8. The pleasures of benevolence. 9. The pleasures of malevolence. 10. The pleasures of memory. 11. The pleasures of imagination. 12. The pleasures of expectation. 13. The pleasures dependent on association. 14. The pleasures of relief.

III.

The simple pains enumerated.

The several simple pains seem to be as follows: 1. The pains of privation. 2. The pains of the senses. 3. The pains of awkwardness. 4. The pains of enmity. 5. The pains of an ill name. 6. The pains of piety. 7. The pains of benevolence. 8. The pains of malevolence. 9. The pains of the memory. 10. The pains of the imagination. 11. The pains of expectation. 12. The pains dependent on association.*

Analytical view, why none given

* The catalogue here given, is what seemed to be a complete list of the several simple pleasures and pains of which human nature is susceptible: insomuch, that if, upon any occasion whatsoever, a man feels pleasure or pain, it is either referable at once to some one or other of these kinds, or resolvable into such as are. It might perhaps have been a satisfaction to the reader, to have seen an analytical view of the subject, taken upon an exhaustive plan, for the purpose of demonstrating the catalogue to be what it purports to be, a complete one. The catalogue is in fact the result of such an analysis; which, however, I thought it better to discard at present, as being of too metaphysical a cast, and not

IV.

Pleasures of sense enumerated.

1. The pleasures of sense seem to be as follows: 1. The pleasures of the taste or palate; including whatever pleasures are experienced in satisfying the appetites of hunger and thirst. 2. The pleasure of intoxication. 3. The pleasures of the organ of smelling. 4. The pleasures of the touch. 5. The simple pleasures of the ear; independent of association. 6. The simple pleasures of the eye; independent of association. 7. The pleasure of the sexual sense. 8. The pleasure of health: or, the internal pleasureable feeling or flow of spirits (as it is called,) which accompanies a state of full health and vigour; especially at times of moderate bodily exertion. 9. The pleasures of novelty: or, the pleasures derived from the gratification of the appetite of curiosity, by the application of new objects to any of the senses.*

V.

Pleasures of wealth, which are either of acquisition or of possession.

2. By the pleasures of wealth may be meant those pleasures which a man is apt to derive from the consciousness of possessing any article or articles which stand in the list of instruments of enjoyment or security, and more particularly

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strictly within the limits of this design. See ch. xiii. [Cases unmeet] Par. 2. Note.

* There are also pleasures of novelty, excited by the appearance of new ideas: these are pleasures of the imagination. See infra xiii.

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at the time of his first acquiring them; at which time the pleasure may be styled a pleasure of gain or a pleasure of acquisition: at other times a pleasure of possession.

3. Pleasures of skill.

3. The pleasures of skill, as exercised upon particular objects, are those which accompany the application of such particular instruments of enjoyment to their uses, as cannot be so applied without a greater or less share of difficulty or exertion.*

VI.

4. Pleasures of amity.

4. The pleasures of amity, or self-recommendation, are the pleasures that may accompany the persuasion of a man's being in the acquisition or the possession of the good-will of such or such assignable person or persons in particular: or, as the phrase is, of being upon good terms with him or them: and as a fruit of it, of his being in a way to have the benefit of their spontaneous and gratuitous services.

VII.

5. Pleasures of a good name.

5. The pleasures of a good name are the pleasures that accompany the persuasion of a man's being in the acquisition or the possession of the good-will of the world about him;

* For instance, the pleasure of being able to gratify the sense of hearing, by singing, or performing upon any musical instrument. The pleasure thus obtained, is a thing superadded to, and perfectly distinguishable from, that which a man enjoys from hearing another person perform in the same manner.

that is, of such members of society as he is likely to have concerns with; and as a means of it, either their love or their esteem, or both: and as a fruit of it, of his being in the way to have the benefit of their spontaneous and gratuitous services. These may likewise be called the pleasures of good repute, the pleasures of honour, or the pleasures of the moral sanction.*

VIII.

6. The pleasures of power are the pleasures that accompany the persuasion of a man's being in a condition to dispose people, by means of their hopes and fears, to give him the benefit of their services: that is, by the hope of some service, or by the fear of some disservice, that he may be in the way to render them. 6. Pleasures of power.

IX.

7. The pleasures of piety are the pleasures that accompany the belief of a man's being in the acquisition or in possession of the good-will or favour of the Supreme Being: and as a fruit of it, of his being in a way of enjoying pleasures to be received by God's special appointment, either in this life, or in a life to come. These may also be called the pleasures of religion, the pleasures of a religious disposition, or the pleasures of the religious sanction.† 7. Pleasures of piety.

X.

8. The pleasures of benevolence are the plea- 8. Pleasures of benevolence or good-will.

* See ch. iii. [Sanctions.]

† See ch. iii. [Sanctions.]

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sures resulting from the view of any pleasures supposed to be possessed by the beings who may be the objects of benevolence; to wit, the sensitive beings we are acquainted with; under which are commonly included, 1. The Supreme Being. 2. Human beings. 3. Other animals. These may also be called the pleasures of good-will, the pleasures of sympathy, or the pleasures of the benevolent or social affections.

XI.

9. Pleasures of malevolence or ill-will.

9. The pleasures of malevolence are the pleasures resulting from the view of any pain supposed to be suffered by the beings who may become the objects of malevolence: to wit, 1. Human beings. 2. Other animals. These may also be styled the pleasures of ill-will, the pleasures of the irascible appetite, the pleasures of antipathy, or the pleasures of the malevolent or dissocial affections.

XII.

10. Pleasures of the memory.

10. The pleasures of the memory are the pleasures which, after having enjoyed such and such pleasures, or even in some case after having suffered such and such pains, a man will now and then experience, at recollecting them exactly in the order and in the circumstances in which they were actually enjoyed or suffered. These derivative pleasures may of course be distinguished into as many species as there are of original perceptions, from whence they may

be copied. They may also be styled pleasures of simple recollection.

XIII.

11. The pleasures of the imagination are the pleasures which may be derived from the contemplation of any such pleasures as may happen to be suggested by the memory, but in a different order, and accompanied by different groups of circumstances. These may accordingly be referred to any one of the three cardinal points of time, present, past, or future. It is evident they may admit of as many distinctions as those of the former class. 11. Pleasures of the imagination.

XIV.

12. The pleasures of expectation are the pleasures that result from the contemplation of any sort of pleasure, referred to time *future*, and accompanied with the sentiment of *belief*. These also may admit of the same distinctions.* 12. Pleasures of expectation.

XV.

13. The pleasures of association are the pleasures which certain objects or incidents may happen to afford, not of themselves, but merely in virtue of some association they have contracted in the mind with certain objects or incidents which are in themselves pleasurable. Such is the case, for instance, with the pleasure 13. Pleasures depending on association.

* In contradistinction to these, all other pleasures may be termed pleasures of *enjoyment*.

of skill, when afforded by such a set of incidents as compose a game of chess. This derives its pleasurable quality from its association partly with the pleasures of skill, as exercised in the production of incidents pleasurable of themselves: partly from its association with the pleasures of power. Such is the case also with the pleasure of good luck, when afforded by such incidents as compose the game of hazard, or any other game of chance, when played at for nothing. This derives its pleasurable quality from its association with one of the pleasures of wealth; to wit, with the pleasure of acquiring it.

XVI.

14. Pleasures of relief.

14. Farther on we shall see pains grounded upon pleasures; in like manner may we now see pleasures grounded upon pains. To the catalogue of pleasures may accordingly be added the pleasures of *relief:* or, the pleasures which a man experiences when, after he has been enduring a pain of any kind for a certain time, it comes to cease, or to abate. These may of course be distinguished into as many species as there are of pains; and may give rise to so many pleasures of memory, of imagination, and of expectation

XVII.

1. Pains of privation.

1. Pains of privation are the pains that may result from the thought of not possessing in the

time present any of the several kinds of pleasures. Pains of privation may accordingly be resolved into as many kinds as there are of pleasures to which they may correspond, and from the absence whereof they may be derived.

XVIII.

These include, 1. Pains of desire.

There are three sorts of pains which are only so many modifications of the several pains of privation. When the enjoyment of any particular pleasure happens to be particularly desired, but without any expectation approaching to assurance, the pain of privation which thereupon results takes a particular name, and is called the pain of *desire*, or of unsatisfied desire.

XIX.

2. Pains of disappointment.

Where the enjoyment happens to have been looked for with a degree of expectation approaching to assurance, and that expectation is made suddenly to cease, it is called a pain of disappointment.

XX.

3. Pains of regret.

A pain of privation takes the name of a pain of regret in two cases: 1. Where it is grounded on the memory of a pleasure, which having been once enjoyed, appears not likely to be enjoyed again: 2. Where it is grounded on the idea of a pleasure, which was never actually enjoyed, nor perhaps so much as expected, but which might have been enjoyed (it is sup-

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posed,) had such or such a contingency happened, which, in fact, did not happen.

XXI.

2. Pains of the senses.

2. The several pains of the senses seem to be as follows: 1. The pains of hunger and thirst: or the disagreeable sensations produced by the want of suitable substances which need at times to be applied to the alimentary canal. 2. The pains of the taste: or the disagreeable sensations produced by the application of various substances to the palate, and other superior parts of the same canal. 3. The pains of the organ of smell: or the disagreeable sensations produced by the effluvia of various substances when applied to that organ. 4. The pains of the touch: or the disagreeable sensations produced by the application of various substances to the skin. 5. The simple pains of the hearing: or the disagreeable sensations excited in the organ of that sense by various kinds of sounds: independently (as before,) of association. 6. The simple pains of the sight: or the disagreeable sensations if any such there be, that may be excited in the organ of that sense by visible images, independent of the principle of association. 7.* The pains resulting

No positive pains correspond to the pleasure of the sexual sense.

* The pleasure of the sexual sense seems to have no positive pain to correspond to it: it has only a pain of privation, or pain of the mental class, the pain of unsatisfied desire.

from excessive heat or cold, unless these be referable to the touch. 8. The pains of disease: or the acute and uneasy sensations resulting from the several diseases and indispositions to which human nature is liable. 9. The pain of exertion, whether bodily or mental: or the uneasy sensation which is apt to accompany any intense effort, whether of mind or body.

XXII.

3.* The pains of awkwardness are the pains which sometimes result from the unsuccessful endeavour to apply any particular instruments of enjoyment or security to their uses, or from the difficulty a man experiences in applying them.†

3. Pains of awkwardness.

If any positive pain of body result from the want of such indulgence, it belongs to the head of pains of disease.

* The pleasures of novelty have no positive pains corresponding to them. The pain which a man experiences when he is in the condition of not knowing what to do with himself, that pain, which in French is expressed by a single word *ennui*, is a pain of privation: a pain resulting from the absence, not only of all the pleasures of novelty, but of all kinds of pleasure whatsoever.

No positive pains correspond to the pleasure of novelty.

The pleasures of wealth have also no positive pains corresponding to them: the only pains opposed to them are pains of privation. If any positive pains result from the want of wealth, they are referable to some other class of positive pains; principally to those of the senses. From the want of food, for instance, result the pains of hunger; from the want of clothing, the pains of cold; and so forth.

——nor to to those of wealth.

† It may be a question, perhaps, whether this be a positive pain of itself, or whether it be nothing more than a pain of

Is this a distinct positive pain, or only a pain of privation?

XXIII.

4. Pains of enmity.

4. The pains of enmity are the pains that may accompany the persuasion of a man's being obnoxious to the ill-will of such or such an assignable person or persons in particular: or, as the phrase is, of being upon ill terms with him or them: and, in consequence, of being obnoxious to certain pains of some sort or other, of which he may be the cause.

XXIV.

5. Pains of an ill name.

5. The pains of an ill-name, are the pains that accompany the persuasion of a man's being obnoxious, or in a way to be obnoxious to the ill-will of the world about him. These may likewise be called the pains of ill-repute, the pains of dishonour, or the pains of the moral sanction.*

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privation, resulting from the consciousness of a want of skill. It is, however, but a question of words, nor does it matter which way it be determined.

The positive pains of an ill name, and the pains of privation, opposed to the pleasures of a good name, run into one another.

* In as far as a man's fellow-creatures are supposed to be determined by any event not to regard him with any degree of esteem or *good* will, or to regard him with a less degree of esteem or *good* will than they would otherwise; not to do him any sorts of *good* offices, or not to do him so many *good* offices as they would otherwise; the pain resulting from such consideration may be reckoned a pain of privation: as far as they are supposed to regard him with such a degree of aversion or disesteem as to be disposed to do him positive *ill* offices, it may be reckoned a positive pain. The pain of privation, and the positive pain, in this case run one into another indistinguishably.

XXV.

6.* The pains of piety are the pains that accompany the belief of a man's being obnoxious to the displeasure of the Supreme Being: and in consequence to certain pains to be inflicted by his especial appointment, either in this life or in a life to come. These may also be called the pains of religion; the pains of a religious disposition; or the pains of the religious sanction. When the belief is looked upon as well-grounded, these pains are commonly called religious terrors; when looked upon as ill-grounded, superstitious terrors.†

6. Pains of piety.

XXVI.

7. The pains of benevolence are the pains resulting from the view of any pains supposed to be endured by other beings. These may also be called the pains of good-will, of

7. Pains of benevolence.

* There seem to be no positive pains to correspond to the pleasures of power. The pains that a man may feel from the want or the loss of power, in as far as power is distinguished from all other sources of pleasure, seem to be nothing more than pains of privation.

No positive pains correspond to the pleasures of power.

† The positive pains of piety, and the pains of privation, opposed to the pleasures of piety, run one into another in the same manner as the positive pains of enmity, or of an ill name, do with respect to the pains of privation, opposed to the pleasures of amity, and those of a good name. If what is apprehended at the hands of God is barely the not receiving pleasure, the pain is of the privative class: if, moreover, actual pain be apprehended, it is of the class of positive pains.

The positive pains of piety, and the pains of privation, opposed to the pleasures of piety, run into one another.

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sympathy, or the pains of the benevolent or social affections.

XXVII.

8. Pains of malevolence.

8. The pains of malevolence are the pains resulting from the view of any pleasures supposed to be enjoyed by any beings who happen to be the objects of a man's displeasure. These may also be styled the pains of ill-will, of antipathy, or the pains of the malevolent or dissocial affections.

XXVIII.

9. Pains of the memory.

9. The pains of the memory may be grounded on every one of the above kinds, as well of pains of privation as of positive pains. These correspond exactly to the pleasures of the memory.

XXIX.

10. Pains of the imagination.

10. The pains of the imagination may also be grounded on any one of the above kinds, as well of pains of privation as of positive pains: in other respects they correspond exactly to the pleasures of the imagination.

XXX.

11. Pains of expectation.

11. The pains of expectation may be grounded on each one of the above kinds, as well of pains of privation as of positive pains. These may be also termed pains of apprehension.*

* In contradistinction to these, all other pains may be termed pains of *sufferance*.

XXXI.

12. The pains of association correspond exactly to the pleasures of association.

12. Pains of association.

XXXII.

Of the above list there are certain pleasures and pains which suppose the existence of some pleasure or pain of some other person, to which the pleasure or pain of the person in question has regard: such pleasures and pains may be termed *extra-regarding*. Others do not suppose any such thing: these may be termed *self-regarding*.* The only pleasures and pains of the extra-regarding class are those of benevolence, and those of malevolence: all the rest are self-regarding.†

Pleasures and pains are either self-regarding or extra-regarding.

XXXIII.

Of all these several sorts of pleasures and pains, there is scarce any one which is not liable, on more accounts than one, to come under the consideration of the law. Is an offence committed? it is the tendency which it has to destroy, in such or such persons, some of these pleasures, or to produce some of these pains, that constitutes the mischief of it, and the ground

In what ways the law is concerned with the above pains and pleasures.

* See chap. x. [Motives.]

† By this means the pleasures and pains of amity may be the more clearly distinguished from those of benevolence: and on the other hand, those of enmity from those of malevolence. The pleasures and pains of amity and enmity are of the self-regarding cast: those of benevolence and malevolence of the extra-regarding.

Pleasures and pains of amity and enmity distinguished from those of benevolence and malevolence.

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for punishing it. It is the prospect of some of these pleasures, or of security from some of these pains, that constitutes the motive or temptation, it is the attainment of them that constitutes the profit of the offence. Is the offender to be punished? It can be only by the production of one or more of these pains, that the punishment can be inflicted.*

Complex pleasures and pains omitted, why.

* It would be a matter not only of curiosity, but of some use, to exhibit a catalogue of the several complex pleasures and pains, analyzing them at the same time into the several simple ones, of which they are respectively composed. But such a disquisition would take up too much room to be admitted here. A short specimen, however, for the purpose of illustration, can hardly be dispensed with.

Specimen. Pleasures of a country prospect.

The pleasures taken in at the eye and ear are generally very complex. The pleasures of a country scene, for instance, consist commonly, amongst others, of the following pleasures:

I. Pleasures of the senses.

1. The simple pleasures of sight, excited by the perception of agreeable colours and figures, green fields, waving foliage, glistening water, and the like.

2. The simple pleasures of the ear, excited by the perceptions of the chirping of birds, the murmuring of waters, the rustling of the wind among the trees.

3. The pleasures of the smell, excited by the perceptions of the fragrance of flowers, of new-mown hay, or other vegetable substances, in the first stages of fermentation.

4. The agreeable inward sensation, produced by a brisk circulation of the blood, and the ventilation of it in the lungs by a pure air, such as that in the country frequently is in comparison of that which is breathed in towns.

II. Pleasures of the imagination produced by association.

1. The idea of the plenty, resulting from the possession of the objects that are in view, and of the happiness arising from it.

2. The idea of the innocence and happiness of the birds, sheep, cattle, dogs, and other gentle or domestic animals.

3. The idea of the constant flow of health, supposed to be enjoyed by all these creatures: a notion which is apt to result from the occasional flow of health enjoyed by the supposed spectator.

4. The idea of gratitude, excited by the contemplation of the all-powerful and beneficent Being, who is looked up to as the author of these blessings.

These four last are all of them, in some measure at least, pleasures of sympathy.

The depriving a man of this groupe of pleasures is one of the evils apt to result from imprisonment; whether produced by illegal violence, or in the way of punishment, by appointment of the laws.

CHAP. VI.

OF CIRCUMSTANCES INFLUENCING SENSIBILITY.

I.

Pain and pleasure not uniformly proportioned to their causes.

PAIN and pleasure are produced in men's minds by the action of certain causes. But the quantity of pleasure and pain runs not uniformly in proportion to the cause; in other words, to the quantity of force exerted by such cause. The truth of this observation rests not upon any metaphysical nicety in the import given to the terms *cause*, *quantity*, and *force*: it will be equally true in whatsoever manner such force be measured.

II.

Degree or *quantum* of sensibility, what.

The disposition which any one has to feel such or such a quantity of pleasure or pain, upon the application of a cause of given force, is what we term the degree or *quantum* of his sensibility. This may be either *general*, referring to the sum of the causes that act upon him during a given period: or *particular*, referring to the action of any one particular cause, or sort of cause.

III.

Bias or quality of sensibility, what.

But in the same mind such and such causes of pain or pleasure will produce more pain or pleasure than such or such other

causes of pain or pleasure: and this proportion will in different minds be different. The disposition which any one has to have the proportion in which he is affected by two such causes, different from that in which another man is affected by the same two causes, may be termed the quality or *bias* of his sensibility. One man, for instance, may be most affected by the pleasures of the taste; another by those of the ear. So also, if there be a difference in the nature or proportion of two pains or pleasures which they respectively experience from the same cause; a case not so frequent as the former. From the same injury, for instance, one man may feel the same quantity of grief and resentment together as another man: but one of them shall feel a greater share of grief than of resentment: the other, a greater share of resentment than of grief.

IV.

Exciting causes pleasurable and dolorific.

Any incident which serves as a cause, either of pleasure or of pain, may be termed an *exciting* cause: if of pleasure, a pleasurable cause: if of pain, a painful, afflictive, or dolorific cause.*

* The exciting cause, the pleasure or pain produced by it, and the intention produced by such pleasure or pain in the character of a motive, are objects so intimately connected, that, in what follows, I fear I have not, on every occasion, been able to keep them sufficiently distinct. I thought it

V.

Circumstances influencing sensibility, what.

Now the quantity of pleasure, or of pain, which a man is liable to experience upon the application of an exciting cause, since they will not depend altogether upon that cause, will depend in some measure upon some other circumstance or circumstances: these circumstances, whatsoever they be, may be termed *circumstances influencing sensibility*.*

VI.

Circumstances influencing sensibility enumerated.

These circumstances will apply differently to different exciting causes; insomuch that to a certain exciting cause, a certain circumstance shall not apply at all, which shall apply with great force to another exciting cause. But without entering for the present into these distinctions, it may be of use to sum up all the circumstances which can be found to influence the effect of *any* exciting cause. These, as on a former occasion, it may be as well first to

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necessary to give the reader this warning; after which, should there be found any such mistakes, it is to be hoped they will not be productive of much confusion.

* Thus, in physical bodies, the momentum of a ball put in motion by impulse, will be influenced by the circumstance of gravity: being in some directions increased, in others diminished by it. So in a ship, put in motion by the wind, the momentum and direction will be influenced not only by the attraction of gravity, but by the motion and resistance of the water, and several other circumstances.

sum up together in the concisest manner possible, and afterwards to allot a few words to the separate explanation of each article. They seem to be as follows: 1. Health. 2. Strength. 3. Hardiness. 4. Bodily imperfection. 5. Quantity and quality of knowledge. 6. Strength of intellectual powers. 7. Firmness of mind. 8. Steadiness of mind. 9. Bent of inclination. 10. Moral sensibility. 11. Moral biases. 12. Religious sensibility. 13. Religious biases. 14. Sympathetic sensibility. 15. Sympathetic biases. 16. Antipathetic sensibility. 17. Antipathetic biases. 18. Insanity. 19. Habitual occupations. 20. Pecuniary circumstances. 21. Connexions in the way of sympathy. 22. Connexions in the way of antipathy. 23. Radical frame of body. 24. Radical frame of mind. 25. Sex. 26. Age. 27. Rank. 28. Education. 29. Climate. 30. Lineage. 31. Government. 32. Religious profession.*

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* An analytical view of all these circumstances will be given at the conclusion of the chapter: to which place it was necessary to refer it, as it could not well have been understood, till some of them had been previously explained.

Extent and intricacy of this subject

To search out the vast variety of exciting or moderating causes, by which the degree or bias of a man's sensibility may be influenced, to define the boundaries of each, to extricate them from the entanglements in which they are involved, to lay the effect of each article distinctly before the reader's eye, is, perhaps, if not absolutely the most difficult

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VII.

1. Health.

1. Health is the absence of disease, and consequently of all those kinds of pain which are among the symptoms of disease. A man may be said to be in a state of health, when he

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task, at least one of the most difficult tasks, within the compass of moral physiology. Disquisitions on this head can never be completely satisfactory without examples. To provide a sufficient collection of such examples, would be a work of great labour as well as nicety: history and biography would need to be ransacked: a vast course of reading would need to be travelled through on purpose. By such a process the present work would doubtless have been rendered more amusing; but in point of bulk, so enormous, that this single chapter would have been swelled into a considerable volume. Feigned cases, although they may upon occasion serve to render the general matter tolerably intelligible, can never be sufficient to render it palatable. On this therefore, as on so many other occasions, I must confine myself to dry and general instruction: discarding illustration, although sensible that without it instruction cannot manifest half its efficacy. The subject, however, is so difficult, and so new, that I shall think I have not ill succeeded, if, without pretending to exhaust it, I shall have been able to mark out the principal points of view, and to put the matter in such a method as may facilitate the researches of happier inquirers.

The great difficulty lies in the nature of the words; which are not, like pain and pleasure, names of homogeneous real entities, but names of various fictitious entities, for which no common genus is to be found: and which therefore, without a vast and roundabout chain of investigation, can never be brought under any exhaustive plan of arrangement, but must be picked up here and there as they happen to occur.

is not conscious of any uneasy sensations, the primary seat of which can be perceived to be any where in his body.* In point of general sensibility, a man who is under the pressure of any bodily indisposition, or, as the phrase is, is in an ill state of health, is less sensible to the influence of any pleasurable cause, and more so to that of any afflictive one, than if he were *well*.

VIII.

2. The circumstance of strength, though in point of causality closely connected with that of health, is perfectly distinguishable from it. The same man will indeed generally be stronger in a good state of health than in a bad one. But one man, even in a bad state of health, may be stronger than another even in a good one. Weakness is a common concomitant of disease: but in consequence of his radical frame of body, a man may be weak all his life long, without experiencing any disease. Health, as we have observed, is principally a negative circumstance: strength a positive one. The degree of a man's 2. Strength.

* It may be thought, that in a certain degree of health, this negative account of the matter hardly comes up to the case. In a certain degree of health, there is often such a kind of feeling diffused over the whole frame, such a comfortable feel, or flow of spirits, as it is called, as may with propriety come under the head of positive pleasure. But without experiencing any such pleasurable feeling, if a man experience no painful one, he may be well enough said to be in health.

CHAP. VI. strength can be measured with tolerable accuracy.*

IX.

3. Hardiness. 3. Hardiness is a circumstance which, though closely connected with that of strength, is distinguishable from it. Hardiness is the absence of irritability. Irritability respects either pain, resulting from the action of mechanical causes; or disease, resulting from the action of causes purely physiological. Irritability, in the former sense, is the disposition to undergo a greater or less degree of pain upon the application of a

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Measure of strength, the weight a man can lift. * The most accurate measure that can be given of a man's strength, seems to be that which is taken from the weight or number of pounds and ounces he can lift with his hands in a given attitude. This indeed relates immediately only to his arms: but these are the organs of strength which are most employed; of which the strength corresponds with most exactness to the general state of the body with regard to strength; and in which the quantum of strength is easiest measured. Strength may accordingly be distinguished into *general* and *particular*.

Weakness, what. Weakness is a negative term, and imports the absence of strength. It is, besides, a relative term, and accordingly imports the absence of such a quantity of strength as makes the share, possessed by the person in question, less than that of some person he is compared to. Weakness, when it is at such a degree as to make it painful for a man to perform the motions necessary to the going through the ordinary functions of life, such as to get up, to walk, to dress one's self, and so forth, brings the circumstance of health into question, and puts a man into that sort of condition in which he is said to be in ill health.

mechanical cause; such as are most of those applications by which simple afflictive punishments are inflicted, as whipping, beating, and the like. In the latter sense, it is the disposition to contract disease with greater or less facility, upon the application of any instrument acting on the body by its physiological properties; as in the case of fevers, or of colds, or other inflammatory diseases, produced by the application of damp air: or to experience immediate uneasiness, as in the case of relaxation or chilliness produced by an over or under proportion of the matter of heat.

Difference between strength and hardiness.

Hardiness, even in the sense in which it is opposed to the action of mechanical causes, is distinguishable from strength. The external indications of strength are the abundance and firmness of the muscular fibres: those of hardiness, in this sense, are the firmness of the muscular fibres, and the callosity of the skin. Strength is more peculiarly the gift of nature: hardiness, of education. Of two persons who have had, the one the education of a gentleman, the other, that of a common sailor, the first may be the stronger, at the same time that the other is the hardier.

X.

4. Bodily imperfection.

4. By bodily imperfection may be understood that condition which a person is in, who either stands distinguished by any remarkable

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deformity, or wants any of those parts or faculties, which the ordinary run of persons of the same sex and age are furnished with: who, for instance, has a hare-lip, is deaf, or has lost a hand. This circumstance, like that of ill-health, tends in general to diminish more or less the effect of any pleasurable circumstance, and to increase that of any afflictive one. The effect of this circumstance, however, admits of great variety: inasmuch as there are a great variety of ways in which a man may suffer in his personal appearance, and in his bodily organs and faculties: all which differences will be taken notice of in their proper places.*

XI.

5. Quantity and quality of knowledge.

5. So much for circumstances belonging to the condition of the body: we come now to those which concern the condition of the mind: the use of mentioning these will be seen hereafter. In the first place may be reckoned the quantity and quality of the knowledge the person in question happens to possess: that is, of the ideas which he has actually in store, ready upon occasion to call to mind: meaning such ideas as are in some way or other of an interesting nature: that is, of a nature in some way or other to influence his happiness, or that of other men. When these ideas are many, and of im-

* See B. I. Tit. [Irrep. corp. Injuries.]

portance, a man is said to be a man of knowledge; when few, or not of importance, *ignorant*.

XII.

6. By strength of intellectual powers may be understood the degree of facility which a man experiences in his endeavours to call to mind as well such ideas as have been already aggregated to his stock of knowledge, as any others, which, upon any occasion that may happen, he may conceive a desire to place there. It seems to be on some such occasion as this that the words *parts* and *talents* are commonly employed. To this head may be referred the several qualities of readiness of apprehension, accuracy and tenacity of memory, strength of attention, clearness of discernment, amplitude of comprehension, vividity and rapidity of imagination. Strength of intellectual powers, in general, seems to correspond pretty exactly to general strength of body: as any of these qualities in particular does to particular strength.

6. Strength of intellectual powers.

XIII.

7. Firmness of mind on the one hand, and irritability on the other, regard the proportion between the degrees of efficacy with which a man is acted upon by an exciting cause, of which the value lies chiefly in magnitude, and one of which the value lies chiefly in propinquity.* A man may be said to be of a firm mind, when

7. Firmness of mind.

* See chap. iv. [Value.]

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small pleasures or pains, which are present or near, do not affect him, in a greater proportion to their value, than greater pleasures or pains, which are uncertain or remote ;* of an irritable mind, when the contrary is the case.

XIV.

8. Steadiness.

8. Steadiness regards the time during which a given exciting cause of a given value continues to affect a man in nearly the same manner and degree as at first, no assignable external event or change of circumstances intervening to make an aleration in its force.†

XV.

9. Bent of inclinations.

9. By the bent of a man's inclinations may be understood the propensity he has to expect pleasure or pain from certain objects, rather than from others. A man's inclinations may be

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When, for instance, having been determined, by the prospect of some inconvenience, not to disclose a fact, although he should be put to the rack, he perseveres in such resolution after the rack is brought into his presence, and even applied to him.

† The facility with which children grow tired of their play-things, and throw them away, is an instance of unsteadiness: the perseverance with which a merchant applies himself to his traffic, or an author to his book, may be taken for an instance of the contrary. It is difficult to judge of the quantity of pleasure or pain in these cases, but from the effects which it produces in the character of a motive: and even then it is difficult to pronounce, whether the change of conduct happens by the extinction of the old pleasure or pain, or by the intervention of a new one.

said to have such or such a bent, when, amongst the several sorts of objects which afford pleasure in some degree to all men, he is apt to expect more pleasure from one particular sort, than from another particular sort, or more from any given particular sort, than another man would expect from that sort; or when, amongst the several sorts of objects, which to one man afford pleasure, whilst to another they afford none, he is apt to expect, or not to expect, pleasure from an object of such or such a sort: so also with regard to pains. This circumstance, though intimately connected with that of the bias of a man's sensibility, is not undistinguishable from it. The quantity of pleasure or pain, which on any given occasion a man may experience from an application of any sort, may be greatly influenced by the expectations he has been used to entertain of pleasure or pain from that quarter; but it will not be absolutely determined by them: for pleasure or pain may come upon him from a quarter from which he was not accustomed to expect it.

XVI.

10. Moral sensibility.

10. The circumstances of *moral*, *religious*, *sympathetic*, and *antipathetic sensibility*, when closely considered, will appear to be included in some sort under that of *bent of inclination*. On account of their particular importance they may, however, be worth mentioning apart. A

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man's moral sensibility may be said to be strong, when the pains and pleasures of the moral sanction * show greater in his eyes, in comparison with other pleasures and pains (and consequently exert a stronger influence) than in the eyes of the persons he is compared with; in other words, when he is acted on with more than ordinary efficacy by the sense of honour: it may be said to be weak, when the contrary is the case.

XVII.

11. Moral biases.

11. Moral sensibility seems to regard the average effect or influence of the pains and pleasures of the moral sanction, upon all sorts of occasions to which it is applicable, or happens to be applied. It regards the average force or *quantity* of the impulses the mind receives from that source during a given period. Moral *bias* regards the particular acts on which, upon so many particular occasions, the force of that sanction is looked upon as attaching. It regards the *quality* or direction of those impulses. It admits of as many varieties, therefore, as there are dictates which the moral sanction may be conceived to issue forth. A man may be said to have such or such a *moral bias*, or to have a moral bias in favour of such or such an action, when he looks upon it as

* See ch. v. [Pleasures and Pains.]

being of the number of those of which the performance is dictated by the moral sanction.

XVIII.

12. What has been said with regard to moral sensibility, may be applied, *mutatis mutandis*, to religious. 12. Religious sensibility.

XIX.

13. What has been said with regard to moral biases, may also be applied, *mutatis mutandis*, to religious biases. 13. Religious biases.

XX.

14. By sympathetic sensibility is to be understood the propensity that a man has to derive pleasure from the happiness, and pain from the unhappiness, of other sensitive beings. It is the stronger, the greater the ratio of the pleasure or pain he feels on their account is to that of the pleasure or pain which (according to what appears to him) they feel for themselves. 14. Sympathetic sensibility.

XXI.

15. Sympathetic bias regards the description of the parties who are the objects of a man's sympathy: and of the acts or other circumstances of or belonging to those persons, by which the sympathy is excited. These parties may be, 1. Certain individuals. 2. Any subordinate class of individuals. 3. The whole nation. 4. Human kind in general. 5. The whole sensitive creation. According as these 15. Sympathetic biases.

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objects of sympathy are more numerous, the *affection*, by which the man is biased, may be said to be the more *enlarged*.

XXII.

16, 17. Antipathetic sensibility, and antipathetic biases.

16, 17. Antipathetic sensibility and antipathetic biases are just the reverse of sympathetic sensibility and sympathetic biases. By antipathetic sensibility is to be understood the propensity that a man has to derive pain from the happiness, and pleasure from the unhappiness, of other sensitive beings.

XXIII.

18. Insanity

18. The circumstance of insanity of mind corresponds to that of bodily imperfection. It admits, however, of much less variety, inasmuch as the soul is (for aught we can perceive) one indivisible thing, not distinguishable, like the body, into parts. What lesser degrees of imperfection the mind may be susceptible of, seem to be comprisable under the already-mentioned heads of ignorance, weakness of mind, irritability, or unsteadiness; or under such others as are reducible to them. Those which are here in view are those extraordinary species and degrees of mental imperfection, which, wherever they take place, are as conspicuous and as unquestionable as lameness or blindness in the body: operating partly, it should seem, by inducing an extraordinary degree of the imperfections above mentioned,

partly by giving an extraordinary and preposterous bent to the inclinations.

XXIV.

19. Habitual occupations.

19. Under the head of a man's habitual occupations, are to be understood, on this occasion, as well those which he pursues for the sake of profit, as those which he pursues for the sake of present pleasure. The consideration of the profit itself belongs to the head of a man's pecuniary circumstances. It is evident, that if by any means a punishment, or any other exciting cause, has the effect of putting it out of his power to continue in the pursuit of any such occupation, it must on that account be so much the more distressing. A man's habitual occupations, though intimately connected in point of causality with the bent of his inclinations, are not to be looked upon as precisely the same circumstance. An amusement, or channel of profit, may be the object of a man's *inclinations*, which has never been the subject of his *habitual occupations*: for it may be, that though he wished to betake himself to it, he never did, it not being in his power: a circumstance which may make a good deal of difference in the effect of any incident by which he happens to be debarred from it.

XXV.

20. Pecuniary circumstances.

20. Under the head of pecuniary circum-

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stances, I mean to bring to view the proportion which a man's *means* bear to his *wants*: the sum total of his means of every kind, to the sum total of his wants of every kind. A man's means depend upon three circumstances: 1. His property. 2. The profit of his labour. 3. His connexions in the way of support. His wants seem to depend upon four circumstances. 1. His habits of expense. 2. His connexions in the way of burthen. 3. Any present casual demand he may have. 4. The strength of his expectation. By a man's property is to be understood, whatever he has in store independent of his labour. By the profit of his labour is to be understood the growing profit. As to labour, it may be either of the body principally, or of the mind principally, or of both indifferently: nor does it matter in what manner, nor on what subject, it be applied, so it produce a profit. By a man's connexions in the way of support, are to be understood the pecuniary assistances, of whatever kind, which he is in a way of receiving from any persons who, on whatever account, and in whatever proportion, he has reason to expect should contribute *gratis* to his maintenance: such as his parents, patrons, and relations. It seems manifest, that a man can have no other means than these. What he uses, he must have either of his own, or from other people: if from other

people, either *gratis* or for a price. As to habits of expense, it is well known, that a man's desires are governed in a great degree by his habits. Many are the cases in which desire (and consequently the pain of privation connected with it*) would not even subsist at all, but for previous enjoyment. By a man's connexions in the way of burthen, are to be understood whatever expense he has reason to look upon himself as bound to be at in the support of those who by law, or the customs of the world, are warranted in looking up to him for assistance; such as children, poor relations, superannuated servants, and any other dependents whatsoever. As to present casual demand, it is manifest, that there are occasions on which a given sum will be worth infinitely more to a man than the same sum would at another time: where, for example, in a case of extremity, a man stands in need of extraordinary medical assistance: or wants money to carry on a law-suit, on which his all depends: or has got a livelihood waiting for him in a distant country, and wants money for the charges of conveyance. In such cases, any piece of good or ill fortune, in the pecuniary way, might have a very different effect from what it would have at any other time. With regard to strength of expectation; when one

* See ch. v. [Pleasures and Pains.]

man expects to gain or to keep a thing which another does not, it is plain the circumstance of not having it will affect the former very differently from the latter; who, indeed, commonly will not be affected by it at all.

XXVI.

21. Connexions in the way of sympathy.

21. Under the head of a man's connexions in the way of sympathy, I would bring to view the number and description of the persons in whose welfare he takes such a concern, as that the idea of their happiness should be productive of pleasure, and that of their unhappiness of pain to him: for instance, a man's wife, his children, his parents, his near relations, and intimate friends. This class of persons, it is obvious, will for the most part include the two classes by which his pecuniary circumstances are affected: those, to wit, from whose means he may expect support, and those whose wants operate on him as a burthen. But it is obvious, that besides these, it may very well include others, with whom he has no such pecuniary connexion: and even with regard to these, it is evident that the pecuniary dependence, and the union of affections, are circumstances perfectly distinguishable. Accordingly, the connexions here in question, independently of any influence they may have on a man's pecuniary circumstances, have an influence on the effect of any exciting causes whatsoever. The tendency of

them is to increase a man's general sensibility; to increase, on the one hand, the pleasure produced by all pleasurable causes; on the other, the pain produced by all afflictive ones. When any pleasurable incident happens to a man, he naturally, in the first moment, thinks of the pleasure it will afford immediately to himself: presently afterwards, however (except in a few cases, which is not worth while here to insist on) he begins to think of the pleasure which his friends will feel upon their coming to know of it: and this secondary pleasure is commonly no mean addition to the primary one. First comes the self-regarding pleasure: then comes the idea of the pleasure of sympathy, which you suppose that pleasure of your's will give birth to in the bosom of your friend: and this idea excites again in your's a new pleasure of sympathy, grounded upon his. The first pleasure issuing from your own bosom, as it were from a radiant point, illuminates the bosom of your friend: reverberated from thence, it is reflected with augmented warmth to the point from whence it first proceeded: and so it is with pains.*

* This is one reason why legislators in general like better to have married people to deal with than single; and people that have children than such as are childless. It is manifest that the stronger and more numerous a man's connexions in the way of sympathy are, the stronger is the hold which the

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Nor does this effect depend wholly upon affection. Among near relations, although there should be no kindness, the pleasures and pains of the moral sanction are quickly propagated by a peculiar kind of sympathy: no article, either of honour or disgrace, can well fall upon a man, without extending to a certain distance within the circle of his family. What reflects honour upon the father, reflects honour upon the son: what reflects disgrace, disgrace. The *cause* of this singular and seemingly unreasonable circumstance (that is, its analogy to the rest of the phenomena of the human mind,) belongs not to the present purpose. It is sufficient if the effect be beyond dispute.

XXVII.

22. Connexions in the way of antipathy.

22. Of a man's connexions in the way of antipathy, there needs not any thing very particular to be observed. Happily there is no primæval and constant source of antipathy in human nature, as there is of sympathy. There are no permanent sets of persons who are naturally and of course the objects of antipathy to a man, as there are who are the objects of the contrary affection. Sources, however, but too many, of antipathy, are apt to spring up upon various occasions during the course of a man's

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law has upon him. A wife and children are so many pledges a man gives to the world for his good behaviour.

life: and whenever they do, this circumstance may have a very considerable influence on the effects of various exciting causes. As on the one hand a punishment, for instance, which tends to separate a man from those with whom he is connected in the way of sympathy, so on the other hand, one which tends to force him into the company of those with whom he is connected in the way of antipathy, will, on that account, be so much the more distressing. It is to be observed, that sympathy itself multiplies the sources of antipathy. Sympathy for your friend gives birth to antipathy on *your* part against all those who are objects of antipathy, as well as to sympathy for those who are objects of sympathy to *him*. In the same manner does antipathy multiply the sources of sympathy; though commonly perhaps with rather a less degree of efficacy. Antipathy against your enemy is apt to give birth to sympathy on *your* part towards those who are objects of antipathy, as well as to antipathy against those who are ojects of sympathy, to *him*.

XXVIII.

23. Thus much for the circumstances by which the effect of any exciting cause may be influenced, when applied upon any given occasion, at any given period. But besides these supervening incidents, there are other circumstances relative to a man, that may have their in-

23. Radical frame of body.

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fluence, and which are co-eval to his birth. In the first place, it seems to be universally agreed, that in the original frame or texture of every man's body, there is a something which, independently of all subsequently intervening circumstances, renders him liable to be affected by causes producing bodily pleasure or pain, in a manner different from that in which another man would be affected by the same causes. To the catalogue of circumstances influencing a man's sensibility, we may therefore add his original or radical frame, texture, constitution, or temperament of body.

XXIX.

24. Radical frame of mind.

24. In the next place, it seems to be pretty well agreed, that there is something also in the original frame or texture of every man's mind, which, independently of all exterior and subsequently intervening circumstances, and even of his radical frame of body, makes him liable to be differently affected by the same exciting causes, from what another man would be. To the catalogue of circumstances influencing a man's sensibility, we may therefore further add his original or radical frame, texture, constitution or temperament of mind.*

Idiosyncrasy, what.

* The characteristic circumstances whereby one man's frame of body or mind, considered at any given period, stands distinguished from that of another, have been comprised by metaphysicians and physiologists under the name *idiosyncrasy*, from ἰδιος, peculiar, and συνκρασις, composition.

XXX.

This distinct from the circumstance of frame of body;

It seems pretty certain, all this while, that a man's sensibility to causes producing pleasure or pain, even of mind, may depend in a considerable degree upon his original and acquired frame of body. But we have no reason to think that it can depend altogether upon that frame: since, on the one hand, we see persons whose frame of body is as much alike as can be conceived, differing very considerably in respect of their mental frame: and, on the other hand, persons whose frame of mind is as much alike as can be conceived, differing very conspicuously in regard to their bodily frame.*

XXXI.

——and from all others.

It seems indisputable also, that the different

* Those who maintain, that the mind and the body are one substance, may here object, that upon that supposition the distinction between frame of mind and frame of body is but nominal, and that accordingly there is no such thing as a frame of mind distinct from the frame of body. But granting, for argument-sake, the antecedent, we may dispute the consequence. For if the mind be but a part of the body, it is at any rate of a nature very different from the other parts of the body.

Whether the soul be material or immaterial makes no difference.

A man's frame of body cannot in any part of it undergo any considerable alteration without its being immediately indicated by phænomena discernible by the senses. A man's frame of mind may undergo very considerable alterations, his frame of body remaining the same to all appearance; that is, for any thing that is indicated to the contrary by phænomena cognizable to the senses: meaning those of other men.

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sets of external occurrences that may befal a man in the course of his life, will make great differences in the subsequent texture of his mind at any given period : yet still those differences are not solely to be attributed to such occurrences. Equally far from the truth seems that opinion to be (if any such be maintained) which attributes all to nature, and that which attributes all to education. The two circumstances will therefore still remain distinct, as well from one another, as from all others.

XXXII.

Yet the result of them is not separately discernible.

Distinct however as they are, it is manifest, that at no period in the active part of a man's life can they either of them make their appearance by themselves. All they do is to constitute the latent ground-work which the other supervening circumstances have to work upon : and whatever influence those original principles may have, is so changed and modified, and covered over, as it were, by those other circumstances, as never to be separately discernible. The effects of the one influence are indistinguishably blended with those of the other.

XXXIII.

Frame of body indicates, but not certainly, that of mind.

The emotions of the body are received, and with reason, as probable indications of the temperature of the mind. But they are far enough from conclusive. A man may exhibit, for instance, the exterior appearances of grief, with-

out really grieving at all, or at least in any thing near the proportion in which he appears to grieve. Oliver Cromwell, whose conduct indicated a heart more than ordinarily callous, was as remarkably profuse in tears.* Many men can command the external appearances of sensibility with very little real feeling.† The female sex commonly with greater facility than

* Hume's Hist.

† The quantity of the sort of pain, which is called grief, is indeed hardly to be measured by any external indications. It is neither to be measured, for instance, by the quantity of the tears, nor by the number of moments spent in crying. Indications rather less equivocal may, perhaps, be afforded by the pulse. A man has not the motions of his heart at command as he has those of the muscles of his face. But the particular significancy of these indications is still very uncertain. All they can express is, that the man is affected; they cannot express in what manner, nor from what cause. To an affection resulting in reality from such or such a cause, he may give an artificial colouring, and attribute it to such or such another cause. To an affection directed in reality to such or such a person as its object, he may give an artificial bias, and represent it as if directed to such or such another object. Tears of rage he may attribute to contrition. The concern he feels at the thoughts of a punishment that awaits him, he may impute to a sympathetic concern for the mischief produced by his offence.

A very tolerable judgment, however, may commonly be formed by a discerning mind, upon laying all the external indications exhibited by a man together, and at the same time comparing them with his actions.

A remarkable instance of the power of the will, over the external indications of sensibility, is to be found in Tacitus's

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the male: hence the proverbial expression of a woman's tears. To have this kind of command over one's self, was the characteristic excellence of the orator of ancient times, and is still that of the player in our own.

XXXIV.

Secondary influencing circumstances.

The remaining circumstances may, with reference to those already mentioned, be termed *secondary* influencing circumstances. These have an influence, it is true, on the quantum or bias of a man's sensibility, but it is only by means of the other primary ones. The manner in which these two sets of circumstances are concerned, is such that the primary ones do the business, while the secondary ones lie most open to observation. The secondary ones, therefore, are those which are most heard of; on which account it will be necessary to take notice of them: at the same time that it is only by means of the primary ones that their influence can be explained; whereas the influence of the primary ones will be apparent enough, without any mention of the secondary ones.

XXXV.

25. Sex.

25. Among such of the primitive modifications of the corporeal frame as may appear to influence the quantum and bias of sensibility,

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story of the Roman soldier, who raised a mutiny in the camp, pretending to have lost a brother by the lawless cruelty of the General. The truth was, he never had had a brother.

the most obvious and conspicuous are those which constitute the *sex*. In point of quantity, the sensibility of the female sex appears in general to be greater than that of the male. The health of the female is more delicate than that of the male: in point of strength and hardiness of body, in point of quantity and quality of knowledge, in point of strength of intellectual powers, and firmness of mind, she is commonly inferior: moral, religious, sympathetic, and antipathetic sensibility are commonly stronger in her than in the male. The quality of her knowledge, and the bent of her inclinations, are commonly in many respects different. Her moral biases are also, in certain respects, remarkably different: chastity, modesty, and delicacy, for instance, are prized more than courage in a woman: courage, more than any of those qualities, in a man. The religious biases in the two sexes are not apt to be remarkably different; except that the female is rather more inclined than the male to superstition; that is, to observances not dictated by the principle of utility; a difference that may be pretty well accounted for by some of the before-mentioned circumstances. Her sympathetic biases are in many respects different: for her own offspring all their lives long, and for children in general while young, her affection is commonly stronger than that of the male.

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Her affections are apt to be less enlarged: seldom expanding themselves so much as to take in the welfare of her country in general, much less that of mankind, or the whole sensitive creation: seldom embracing any extensive class or division, even of her own countrymen, unless it be in virtue of her sympathy for some particular individuals that belong to it. In general, her antipathetic, as well as sympathetic biases, are apt to be less conformable to the principle of utility than those of the male; owing chiefly to some deficiency in point of knowledge, discernment, and comprehension. Her habitual occupations of the amusing kind are apt to be in many respects different from those of the male. With regard to her connexions in the way of sympathy, there can be no difference. In point of pecuniary circumstances, according to the customs of perhaps all countries, she is in general less independent.

XXXVI.

26. Age.

26. Age is of course divided into divers periods, of which the number and limits are by no means uniformly ascertained. One might distinguish it, for the present purpose, into, 1. Infancy. 2. Adolescence. 3. Youth. 4. Maturity. 5. Decline. 6. Decrepitude. It were lost time to stop on the present occasion to examine it at each period, and to observe the

indications it gives, with respect to the several primary circumstances just reviewed. Infancy and decrepitude are commonly inferior to the other periods, in point of health, strength, hardiness, and so forth. In infancy, on the part of the female, the imperfections of that sex are enhanced: on the part of the male, imperfections take place mostly similar in quality, but greater in quantity, to those attending the states of adolescence, youth, and maturity in the female. In the stage of decrepitude both sexes relapse into many of the imperfections of infancy. The generality of these observations may easily be corrected upon a particular review.

XXXVII.

27. Station, or rank in life, is a circumstance, that, among a civilized people, will commonly undergo a multiplicity of variations. *Cæteris paribus*, the quantum of sensibility appears to be greater in the higher ranks of men than in the lower. The primary circumstances in respect of which this secondary circumstance is apt to induce or indicate a difference, seem principally to be as follows: 1. Quantity and Quality of knowledge. 2. Strength of mind. 3. Bent of inclination. 4. Moral sensibility. 5. Moral biases. 6. Religious sensibility. 7. Religious biases. 8. Sympathetic sensibility. 9. Sympathetic biases. 10. Antipathetic sensibility. 11. Antipathetic biases.

27. Rank.

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12. Habitual occupations. 13. Nature and productiveness of a man's means of livelihood. 14. Connexions importing profit. 15. Habit of expense. 16. Connexions importing burthen. A man of a certain rank will frequently have a number of dependents besides those whose dependency is the result of natural relationship. As to health, strength, and hardiness, if rank has any influence on these circumstances, it is but in a remote way, chiefly by the influence it may have on his habitual occupations.

XXXVIII.

28. Education.

28. The influence of education is still more extensive. Education stands upon a footing somewhat different from that of the circumstances of age, sex, and rank. These words, though the influence of the circumstances they respectively denote exerts itself principally, if not entirely, through the medium of certain of the primary circumstances before mentioned, present, however, each of them a circumstance which has a separate existence of itself. This is not the case with the word education: which means nothing any farther than as it serves to call up to view some one or more of those primary circumstances. Education may be distinguished into physical and mental; the education of the body and that of the mind: mental, again, into intellectual and moral; the

culture of the understanding, and the culture of the affections. The education a man receives, is given to him partly by others, partly by himself. By education then nothing more can be expressed than the condition a man is in in respect of those primary circumstances, as resulting partly from the management and contrivance of others, principally of those who in the early periods of his life have had dominion over him, partly from his own. To the physical part of his education, belong the circumstances of health, strength, and hardiness: sometimes, by accident, that of bodily imperfection; as where by intemperance or negligence an irreparable mischief happens to his person. To the intellectual part, those of quantity and quality of knowledge, and in some measure perhaps those of firmness of mind and steadiness. To the moral part, the bent of his inclinations, the quantity and quality of his moral, religious, sympathetic, and antipathetic sensibility: to all three branches indiscriminately, but under the superior control of external occurrences, his habitual recreations, his property, his means of livelihood, his connexions in the way of profit and of burthen, and his habits of expense. With respect indeed to all these points, the influence of education is modified, in a manner more or less apparent, by that of exterior occurrences; and in a

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manner scarcely at all apparent, and altogether out of the reach of calculation, by the original texture and constitution as well of his body as of his mind.

XXXIX.

29.Climate.

29. Among the external circumstances by which the influence of education is modified, the principal are those which come under the head of *climate*. This circumstance places itself in front, and demands a separate denomination, not merely on account of the magnitude of its influence, but also on account of its being conspicuous to every body, and of its applying indiscriminately to great numbers at a time. This circumstance depends for its *essence* upon the situation of that part of the earth which is in question, with respect to the course taken by the whole planet in its revolution round the sun: but for its *influence* it depends upon the condition of the bodies which compose the earth's surface at that part, principally upon the quantities of sensible heat at different periods, and upon the density, and purity, and dryness or moisture of the circumambient air. Of the so often mentioned primary circumstances, there are few of which the production is not influenced by this secondary one; partly by its manifest effects upon the body; partly by its less perceptible effects upon the mind. In hot climates men's health is apt to be more

precarious than in cold: their strength and hardiness less: their vigour, firmness, and steadiness of mind less: and thence indirectly their quantity of knowledge: the bent of their inclinations different: most remarkably so in respect of their superior propensity to sexual enjoyments, and in respect of the earliness of the period at which that propensity begins to manifest itself: their sensibilities of all kinds more intense: their habitual occupations savouring more of sloth than of activity: their radical frame of body less strong, probably, and less hardy: their radical frame of mind less vigorous, less firm, less steady.

XL.

30. Another article in the catalogue of secondary circumstances, is that of *race* or *lineage*: the national race or lineage a man issues from. This circumstance, independently of that of climate, will commonly make some difference in point of radical frame of mind and body. A man of negro race, born in France or England, is a very different being, in many respects, from a man of French or English race. A man of Spanish race, born in Mexico or Peru, is at the hour of his birth a different sort of being, in many respects, from a man of the original Mexican or Peruvian race. This circumstance, as far as it is distinct from climate, rank, and education, and from the two just mentioned, 30. Lineage

CHAP. VI. operates chiefly through the medium of moral, religious, sympathetic, and antipathetic biases.

XLI.

31. Government. 31. The last circumstance but one, is that of government: the government a man lives under at the time in question; or rather that under which he has been accustomed most to live. This circumstance operates principally through the medium of education: the magistrate operating in the character of a tutor upon all the members of the state, by the direction he gives to their hopes and to their fears. Indeed under a solicitous and attentive government, the ordinary preceptor, nay even the parent himself, is but a deputy, as it were, to the magistrate: whose controlling influence, different in this respect from that of the ordinary preceptor, dwells with a man to his life's end. The effects of the peculiar power of the magistrate are seen more particularly in the influence it exerts over the quantum and bias of men's moral, religious, sympathetic, and antipathetic sensibilities. Under a well-constituted, or even under a well-administered though ill-constituted government, men's moral sensibility is commonly stronger, and their moral biases more conformable to the dictates of utility: their religious sensibility frequently weaker, but their religious biases less unconformable to the dictates of utility: their sympathetic

affections more enlarged, directed to the magistrate more than to small parties or to individuals, and more to the whole community than to either: their antipathetic sensibilities less violent, as being more obsequious to the influence of well-directed moral biases, and less apt to be excited by that of ill-directed religious ones: their antipathetic biases more conformable to well-directed moral ones, more apt (in proportion) to be grounded on enlarged and sympathetic than on narrow and self-regarding affections, and accordingly, upon the whole, more conformable to the dictates of utility.

XLII.

32. Religious profession.

32. The last circumstance is that of religious profession: the religious profession a man is of: the religious fraternity of which he is a member. This circumstance operates principally through the medium of religious sensibility and religious biases. It operates, however, as an indication more or less conclusive, with respect to several other circumstances. With respect to some, scarcely but through the medium of the two just mentioned: this is the case with regard to the quantum and bias of a man's moral, sympathetic, and antipathetic sensibility: perhaps in some cases with regard to quantity and quality of knowledge, strength of intellectual powers, and bent of inclination. With respect to others, it may operate immediately

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of itself: this seems to be the case with regard to a man's habitual occupations, pecuniary circumstances, and connexions in the way of sympathy and antipathy. A man who pays very little inward regard to the dictates of the religion which he finds it necessary to profess, may find it difficult to avoid joining in the ceremonies of it, and bearing a part in the pecuniary burthens it imposes.* By the force of habit and example he may even be led to entertain a partiality for persons of the same profession, and a proportionable antipathy against those of a rival one. In particular, the antipathy against persons of different persuasions is one of the last points of religion which men part with. Lastly, it is obvious, that the religious profession a man is of cannot but have a considerable influence on his education. But, considering the import of the term education, to say this is perhaps no more than saying in other words what has been said already.

* The ways in which a religion may lessen a man's means, or augment his wants, are various. Sometimes it will prevent him from making a profit of his money: sometimes from setting his hand to labour. Sometimes it will oblige him to buy dearer food instead of cheaper: sometimes to purchase useless labour: sometimes to pay men for not labouring: sometimes to purchase trinkets, on which imagination alone has set a value: sometimes to purchase exemptions from punishment, or titles to felicity in the world to come.

XLIII.

Use of the preceding observations.

These circumstances, all or many of them, will need to be attended to as often as upon any occasion any account is taken of any quantity of pain or pleasure, as resulting from any cause. Has any person sustained an injury? they will need to be considered in estimating the mischief of the offence. Is satisfaction to be made to him? they will need to be attended to in adjusting the *quantum* of that satisfaction. Is the injurer to be punished? they will need to be attended to in estimating the force of the impression that will be made on him by any given punishment.

XLIV.

How far the circumstances in question can be taken into account.

It is to be observed, that though they seem all of them, on some account or other, to merit a place in the catalogue, they are not all of equal use in practice. Different articles among them are applicable to different exciting causes. Of those that may influence the effect of the same exciting cause, some apply indiscriminately to whole classes of persons together; being applicable to all, without any remarkable difference in degree: these may be directly and pretty fully provided for by the legislator. This is the case, for instance, with the primary circumstances of bodily imperfection, and insanity: with the secondary circumstance of sex: perhaps with that of age: at any rate with those

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of rank, of climate, of lineage, and of religious profession. Others, however they may apply to whole classes of persons, yet in their application to different individuals are susceptible of perhaps an indefinite variety of degrees. These cannot be fully provided for by the legislator; but, as the existence of them, in every sort of case, is capable of being ascertained, and the degree in which they take place is capable of being measured, provision may be made for them by the judge, or other executive magistrate, to whom the several individuals that happen to be concerned may be made known. This is the case, 1. With the circumstance of health. 2. In some sort with that of strength. 3. Scarcely with that of hardiness: still less with those of quantity and quality of knowledge, strength of intellectual powers, firmness or steadiness of mind; except in as far as a man's condition, in respect of those circumstances, may be indicated by the secondary circumstances of sex, age, or rank: hardly with that of bent of inclination, except in as far as that latent circumstance is indicated by the more manifest one of habitual occupations: hardly with that of a man's moral sensibility or biases, except in as far as they may be indicated by his sex, age, rank, and education: not at all with his religious sensibility and religious biases, except in as far as they may be indicated by the

religious profession he belongs to: not at all with the quantity or quality of his sympathetic or antipathetic sensibilities, except in as far as they may be presumed from his sex, age, rank, education, lineage, or religious profession. It is the case, however, with his habitual occupations, with his pecuniary circumstances, and with his connexions in the way of sympathy. Of others, again, either the existence cannot be ascertained, or the degree cannot be measured. These, therefore, cannot be taken into account, either by the legislator or the executive magistrate. Accordingly, they would have no claim to be taken notice of, were it not for those secondary circumstances by which they are indicated, and whose influence could not well be understood without them. What these are has been already mentioned.

XLV.

To what exciting causes there is most occasion to apply them.

It has already been observed, that different articles in this list of circumstances apply to different exciting causes: the circumstance of bodily strength, for instance, has scarcely any influence of itself (whatever it may have in a roundabout way, and by accident) on the effect of an incident which should increase or diminish the quantum of a man's property. It remains to be considered, what the exciting causes are with which the legislator has to do. These may, by some accident or other, be any what-

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soever: but those with which he has principally to do, are those of the painful or afflictive kind. With pleasurable ones he has little to do, except now and then by accident: the reasons of which may be easily enough perceived, at the same time that it would take up too much room to unfold them here. The exciting causes with which he has principally to do, are, on the one hand, the mischievous acts, which it his business to prevent; on the other hand, the punishments, by the terror of which it is his endeavour to prevent them. Now of these two sets of exciting causes, the latter only is of his production: being produced partly by his own special appointment, partly in conformity to his general appointment, by the special appointment of the judge. For the legislator, therefore, as well as for the judge, it is necessary (if they would know what it is they are doing when they are appointing punishment) to have an eye to all these circumstances. For the legislator, lest, meaning to apply a certain quantity of punishment to all persons who shall put themselves in a given predicament, he should unawares apply to some of those persons much more or much less than he himself intended: for the judge, lest, in applying to a particular person a particular measure of punishment, he should apply much more or much less than was intended,

perhaps by himself, and at any rate by the legislator. They ought each of them, therefore, to have before him, on the one hand, a list of the several circumstances by which sensibility may be influenced; on the other hand, a list of the several species and degrees of punishment which they purpose to make use of: and then, by making a comparison between the two, to form a detailed estimate of the influence of each of the circumstances in question, upon the effect of each species and degree of punishment. CHAP. VI.

There are two plans or orders of distribution, either of which might be pursued in the drawing up this estimate. The one is to make the name of the circumstance take the lead, and under it to represent the different influences it exerts over the effects of the several modes of punishment: the other is to make the name of the punishment take the lead, and under it to represent the different influences which are exerted over the effects of it by the several circumstances above mentioned. Now of these two sorts of objects, the punishment is that to which the intention of the legislator is directed in the first instance. This is of his own creation, and will be whatsoever he thinks fit to make it: the influencing circumstance exists independently of him, and is what it is whether he will or no. What he has occasion to do is to establish a certain species and degree of

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punishment: and it is only with reference to that punishment that he has occasion to make any inquiry concerning any of the circumstances here in question. The latter of the two plans therefore is that which appears by far the most useful and commodious. But neither upon the one nor the other plan can any such estimate be delivered here.*

XLVI.

Analytical view of the circumstances influencing sensibility.

Of the several circumstances contained in this catalogue, it may be of use to give some sort of analytic view; in order that it may be the more easily discovered if any which ought to have been inserted are omitted; and that, with regard to those which are inserted, it may be seen how they differ and agree.

* This is far from being a visionary proposal, not reducible to practice. I speak from experience, having actually drawn up such an estimate, though upon the least commodious of the two plans, and before the several circumstances in question had been reduced to the precise number and order in which they are here enumerated. This is a part of the matter destined for another work. See ch. xiii. [Cases unmeet] par 2. Note. There are some of these circumstances that bestow particular denominations on the persons they relate to: thus, from the circumstance of bodily imperfections, persons are denominated deaf, dumb, blind, and so forth: from the circumstance of insanity, idiots, and maniacs: from the circumstance of age, infants: for all which classes of persons particular provision is made in the Code. See B. I. tit. [Exemptions.] Persons thus distinguished will form so many articles in the *catalogus personarum privilegiatarum*. See Appendix. tit. [Composition.]

In the first place, they may be distinguished into *primary* and *secondary:* those may be termed primary, which operate immediately of themselves: those secondary, which operate not but by the medium of the former. To this latter head belong the circumstances of sex, age, station in life, education, climate, lineage, government, and religious profession: the rest are primary. These again are either *connate* or *adventitious:* those which are connate, are radical frame of body and radical frame of mind. Those which are adventitious, are either *personal*, or *exterior*. The personal, again, concern either a man's *dispositions*, or his *actions*. Those which concern his dispositions, concern either his *body* or his *mind*. Those which concern his body are health, strength, hardiness, and bodily imperfection. Those which concern his mind, again, concern either his *understanding* or his *affections*. To the former head belong the circumstances of quantity and quality of knowledge, strength of understanding, and insanity. To the latter belong the circumstances of firmness of mind, steadiness, bent of inclination, moral sensibility, moral biases, religious sensibility, religious biases, sympathetic sensibility, sympathetic biases, antipathetic sensibility, and antipathetic biases. Those which regard his actions, are his habitual occupations. Those which are exterior to him, regard either

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the *things* or the *persons* which he is concerned with; under the former head come his pecuniary circumstances;* under the latter, his connexions in the way of sympathy and antipathy.

Analytical view of the constituent articles in a man's pecuniary circumstances.

* As to a man's pecuniary circumstances, the causes on which those circumstances depend, do not come all of them under the same class. The absolute quantum of a man's property does indeed come under the same class with his pecuniary circumstances in general: so does the profit he makes from the occupation which furnishes him with the means of livelihood. But the occupation itself concerns his own person, and comes under the same head as his habitual amusements: as likewise his habits of expense: his connexions in the ways of profit and of burthen, under the same head as his connexions in the way of sympathy: and the circumstances of his present demand for money, and strength of expectation, come under the head of those circumstances relative to his person which regard his affections.

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OF HUMAN ACTIONS IN GENERAL.

I.

The demand for punishment depends in part upon the tendency of the act.

THE business of government is to promote the happiness of the society, by punishing and rewarding. That part of its business which consists in punishing, is more particularly the subject of penal law. In proportion as an act tends to disturb that happiness, in proportion as the tendency of it is pernicious, will be the demand it creates for punishment. What happiness consists of we have already seen: enjoyment of pleasures, security from pains.

II.

Tendency of an act determined by its consequences.

The general tendency of an act is more or less pernicious, according to the sum total of its consequences: that is, according to the difference between the sum of such as are good, and the sum of such as are evil.

III.

Material consequences only are to be regarded.

It is to be observed, that here, as well as henceforward, wherever consequences are spoken of, such only are meant as are *material*. Of the consequences of any act, the multitude and variety must needs be infinite: but such of them only as are material are worth regard-

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ing. Now among the consequences of an act, be they what they may, such only, by one who views them in the capacity of a legislator, can be said to be material,* as either consist of pain or pleasure, or have an influence in the production of pain or pleasure.†

IV.

These depend in part upon the intention.

It is also to be observed, that into the account of the consequences of the act, are to be taken not such only as might have ensued, were intention out of the question, but such also as depend upon the connexion there may be between these first-mentioned consequences and the intention. The connexion there is between the intention and certain consequences is, as we shall see hereafter,‡ a means of producing other consequences. In this lies the difference between rational agency and irrational.

V.

The intention depends as well upon the understanding as the will.

Now the intention, with regard to the con-

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* Or *of importance.*

† In certain cases the consequences of an act may be material by serving as evidences indicating the existence of some other material fact, which is even *antecedent* to the act of which they are the consequences: but even here, they are material only because, in virtue of such their evidentiary quality, they have an influence, at a subsequent period of time, in the production of pain and pleasure: for example, by serving as grounds for conviction, and thence for punishment. See tit. [Simple Falsehoods.] *verbo* [material.]

‡ See B. I. tit. [Exemptions] and tit. [Extenuations.]

sequences of an act, will depend upon two things: 1. The state of the will or intention, with respect to the act itself. And, 2. The state of the understanding, or perceptive faculties, with regard to the circumstances which it is, or may appear to be, accompanied with. Now with respect to these circumstances, the perceptive faculty is susceptible of three states: consciousness, unconsciousness, and false consciousness. Consciousness, when the party believes precisely those circumstances, and no others, to subsist, which really do subsist: unconsciousness, when he fails of perceiving certain circumstances to subsist, which, however, do subsist: false consciousness, when he believes or imagines certain circumstances to subsist, which in truth do not subsist.

VI.

In an action are to be considered, 1. The act. 2. The circumstances. 3. The intentionality. 4. The consciousness.

In every transaction, therefore, which is examined with a view to punishment, there are four articles to be considered: 1. The *act* itself, which is done. 2. The *circumstances* in which it is done. 3. The *intentionality* that may have accompanied it. 4. The *consciousness*, unconsciousness, or false consciousness, that may have accompanied it.

What regards the act and the circumstances will be the subject of the present chapter: what regards intention and consciousness, that of the two succeeding.

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VII.

5. The motives. 6. The disposition.

There are also two other articles on which the general tendency of an act depends: and on that, as well as on other accounts, the demand which it creates for punishment. These are, 1. The particular *motive* or motives which gave birth to it. 2. The general *disposition* which it indicates. These articles will be the subject of two other chapters.

VIII.

Acts positive and negative.

Acts may be distinguished in several ways, for several purposes.

They may be distinguished, in the first place, into *positive* and *negative*. By positive are meant such as consist in motion or exertion: by negative, such as consist in keeping at rest; that is, in forbearing to move or exert one's self in such and such circumstances. Thus, to strike is a positive act: not to strike on a certain occasion, a negative one. Positive acts are styled also acts of commission; negative, acts of omission or forbearance.*

Acts of omission are still acts.

* The distinction between positive and negative acts runs through the whole system of offences, and sometimes makes a material difference with regard to their consequences. To reconcile us the better to the extensive, and, as it may appear on some occasions, the inconsistent signification here given to the word *act*, it may be considered, 1. That in many cases, where no exterior or overt act is exercised, the state which the mind is in at the time when the supposed act is said to happen, is as truly and directly the result of the will,

IX.

Such acts, again, as are negative, may either be *absolutely* so, or *relatively*: absolutely, when they import the negation of all positive agency whatsoever; for instance, not to strike at all: relatively, when they import the negation of such or such a particular mode of agency; for instance, not to strike such a person or such a thing, or in such a direction.

Negative acts may be so relatively or absolutely.

X.

It is to be observed, that the nature of the act, whether positive or negative, is not to be determined immediately by the form of the discourse made use of to express it. An act which is positive in its nature may be characterized by a negative expression: thus, not to be at rest, is as much as to say to move. So also an

Negative acts may be expressed positively; and *vice versâ*.

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as any exterior act, how plain and conspicuous soever. The not revealing a conspiracy, for instance, may be as perfectly the act of the will, as the joining in it. In the next place, that even though the mind should never have had the incident in question in contemplation (insomuch that the event of its not happening should not have been so much as obliquely intentional) still the state the person's mind was in at the time when, if he *had* so willed, the incident might have happened, is in many cases productive of as material consequences; and not only as likely, but as fit to call for the interposition of other agents, as the opposite one. Thus, when a tax is imposed, your not paying it is an act which at any rate must be punished in a certain manner, whether you happened to think of paying it or not.

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act, which is negative in its nature, may be characterized by a positive expression: thus, to forbear or omit to bring food to a person in certain circumstances, is signified by the single and positive term *to starve*.

XI.

Acts external and internal.

In the second place, acts may be distinguished into *external* and *internal*. By external, are meant corporal acts; acts of the body: by internal, mental acts; acts of the mind. Thus, to strike is an external or exterior * act: to intend to strike, an internal or interior one.

XII.

Acts of discourse, what.

Acts of *discourse* are a sort of mixture of the two: external acts, which are no ways material, nor attended with any consequences, any farther than as they serve to express the existence of internal ones. To speak to another to strike, to write to him to strike, to make signs to him to strike, are all so many acts of discourse.

XIII.

External acts may be transitive or intransitive.

Third, Acts that are external may be distinguished into *transitive* and *intransitive*. Acts may be called transitive, when the motion is communicated from the person of the agent to some foreign body: that is, to such a foreign body on which the effects of it are considered

* [Exterior.] An exterior act is also called by lawyers *overt*.

as being *material;* as where a man runs against you, or throws water in your face. Acts may be called intransitive, when the motion is communicated to no other body, on which the effects of it are regarded as material, than some part of the same person in whom it originated: as where a man runs, or washes himself.*

XIV.

A transitive act, its commencement, termination, and intermediate progress.

An act of the transitive kind may be said to be in its *commencement,* or in the *first* stage of its progress, while the motion is confined to the person of the agent, and has not yet been communicated to any foreign body, on which the effects of it can be material. It may be said to be in its *termination,* or to be in the last stage of its progress, as soon as the motion or impulse has been communicated to some such foreign body. It may be said to be in the *middle* or

Distinction between transitive acts and intransitive, recognized by grammarians.

* The distinction is well known to the latter grammarians: it is with them indeed that it took its rise: though by them it has been applied rather to the names than to the things themselves. To verbs, signifying transitive acts, as here described, they have given the name of transitive verbs: those significative of intransitive acts they have termed intransitive. These last are still more frequently called *neuter;* that is, *neither* active nor passive. The appellation seems improper: since, instead of their being *neither,* they are both in one.

To the class of acts that are here termed intransitive, belong those which constitute the 3d class in the system of offences. See ch. [Division.] and B. I. tit. [Self-regarding Offences.]

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intermediate stage or stages of its progress, while the motion, having passed from the person of the agent, has not yet been communicated to any such foreign body. Thus, as soon as a man has lifted up his hand to strike, the act he performs in striking you is in its commencement: as soon as his hand has reached you, it is in its termination. If the act be the motion of a body which is separated from the person of the agent before it reaches the object, it may be said, during that interval, to be in its intermediate progress,* or in *gradu mediativo*: as in the case where a man throws a stone or fires a bullet at you.

XV.

An intransitive act, its commencement, and termination.

An act of the *in*transitive kind may be said to be in its commencement, when the motion or impulse is as yet confined to the member or organ in which it originated; and has not yet been communicated to any member or organ that is distinguishable from the former. It may be said to be in its termination, as soon as it has been applied to any other part of the same person. Thus, where a man poisons himself, while he is lifting up the poison to his mouth, the act is in its commencement: as soon as it has reached his lips, it is in its termination.†

* Or *in its migration*, or *in transitu*.

† These distinctions will be referred to in the next chapter: ch. viii. [Intentionality]: and applied to practice in B. I. tit. [Extenuations.]

XVI.

Acts transient and continued.

In the third place, acts may be distinguished into *transient* and *continued*. Thus, to strike is a transient act: to lean, a continued one. To buy, a transient act: to keep in one's possession, a continued one.

XVII.

Difference between a continued act and a repetition of acts.

In strictness of speech there is a difference between a *continued* act and a *repetition* of acts. It is a repetition of acts, when there are intervals filled up by acts of different natures: a continued act, when there are no such intervals. Thus, to lean, is one continued act: to keep striking, a repetition of acts.

XVIII.

Difference between a repetition of acts and a habit.

There is a difference, again, between a *repetition* of acts, and a *habit* or *practice*. The term repetition of acts may be employed, let the acts in question be separated by ever such short intervals, and let the sum total of them occupy ever so short a space of time. The term habit is not employed but when the acts in question are supposed to be separated by long-continued intervals, and the sum total of them to occupy a considerable space of time. It is not (for instance) the drinking ever so many times, nor ever so much at a time, in the course of the same sitting, that will constitute a habit of drunkenness: it is necessary that such sittings themselves be frequently repeated. Every habit is

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a repetition of acts; or, to speak more strictly, when a man has frequently repeated such and such acts after considerable intervals, he is said to have persevered in or contracted a habit: but every repetition of acts is not a habit.*

XIX.

Acts are indivisible, or divisible, and divisible, as well with regard to matter as to motion.

Fourth, acts may be distinguished into *indivisible* and *divisible*. Indivisible acts are merely imaginary: they may be easily conceived, but can never be known to be exemplified. Such as are divisible may be so, with regard either to matter or to motion. An act indivisible with regard to matter, is the motion or rest of one single atom of matter. An act indivisible, with regard to motion, is the motion of any body, from one single atom of space to the next to it.

Fifth, acts may be distinguished into *simple* and *complex*: simple, such as the act of striking, the act of leaning, or the act of drinking, above instanced: complex, consisting each of a multitude of simple acts, which, though numerous and heterogeneous, derive a sort of unity from the relation they bear to some common design or end; such as the act of giving a dinner, the act of maintaining a child, the act of exhi-

* [Habit.] A habit, it should seem, can hardly in strictness be termed an aggregate of acts: acts being a sort of real archetypal entities, and habits a kind of fictitious entities or imaginary beings, supposed to be constituted by, or to result as it were out of, the former.

biting a triumph, the act of bearing arms, the act of holding a court, and so forth.

XX.

Caution respecting the ambiguity of language.

It has been every now and then made a question, what it is in such a case that constitutes *one* act: where one act has ended, and another act has begun: whether what has happened has been one act or many.* These questions, it is now evident, may frequently be answered, with equal propriety, in opposite ways: and if there be any occasions on which they can be answered only in one way, the answer will depend upon the nature of the occasion, and the purpose for which the question is proposed. A man is wounded in two fingers at one stroke—Is it one wound or several? A man is beaten at 12 o'clock, and again at 8 minutes after 12—Is it one beating or several? You beat one man, and instantly in the same breath you beat another—Is this one beating or several? In any of these cases it may be *one*, perhaps, as to some purposes, and *several* as to others. These examples are given, that men may be aware of the ambiguity of language: and neither harass themselves with unsolvable doubts, nor one another with interminable disputes.

XXI.

Circumstances are to be considered.

So much with regard to acts considered in

* Distinctions like these come frequently in question in the course of Procedure.

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themselves: we come now to speak of the *circumstances* with which they may have been accompanied. These must necessarily be taken into the account before any thing can be determined relative to the consequences. What the consequences of an act may be upon the whole can never otherwise be ascertained: it can never be known whether it is beneficial, or indifferent, or mischievous. In some circumstances even to kill a man may be a beneficial act: in others, to set food before him may be a pernicious one.

XXII.

Circumstances, what.

Now the circumstances of an act, are, what? Any objects * whatsoever. Take any act whatsoever, there is nothing in the nature of things that excludes any imaginable object from being a circumstance to it. Any given object may be a circumstance to any other.†

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* Or entities. See B. II. tit. [Evidence.] § [Facts.]

Circumstance, archetypation of the word.

† The etymology of the word circumstance is perfectly characteristic of its import: *circum stantia*, things standing round: objects standing round a given object. I forget what mathematician it was that defined God to be a circle, of which the center is every where, but the circumference no where. In like manner the field of circumstances, belonging to any act, may be defined a circle, of which the circumference is no where, but of which the act in question is the center. Now then, as any act may, for the purpose of discourse, be considered as a center, any other act or object whatsoever may be considered as of the number of those that are standing round it.

XXIII.

Circumstances material and immaterial.

We have already had occasion to make mention for a moment of the *consequences* of an act: these were distinguished into material and immaterial. In like manner may the circumstances of it be distinguished. Now *materiality* is a relative term: applied to the consequences of an act, it bore relation to pain and pleasure: applied to the circumstances, it bears relation to the consequences. A circumstance may be said to be material, when it bears a visible relation in point of causality to the consequences: immaterial, when it bears no such visible relation.

XXIV.

A circumstance may be related to an event in point of causality, in four ways, *viz.* 1. Production. 2. Derivation. 3. Collateral connexion. 4. Conjunct influence.

The consequences of an act are events.* A circumstance may be related to an event in point of causality in any one of four ways: 1. In the way of causation or production. 2. In the way of derivation. 3. In the way of collateral connexion. 4. In the way of conjunct influence. It may be said to be related to the event in the way of causation, when it is of the number of those that contribute to the production of such event: in the way of derivation, when it is of the number of the events to the production of which that in question has been contributory: in the way of collateral connexion, where the circumstance in question, and the event in question, without being either

* See B. II. tit. [Evidence.] § [Facts.]

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of them instrumental in the production of the other, are related, each of them, to some common object, which has been concerned in the production of them both: in the way of conjunct influence, when, whether related in any other way or not, they have both of them concurred in the production of some common consequence.

XXV.

Example. Assassination of Buckingham.

An example may be of use. In the year 1628, Villiers, Duke of Buckingham, favourite and minister of Charles I. of England, received a wound and died. The man who gave it him was one Felton, who, exasperated at the mal-administration of which that minister was accused, went down from London to Portsmouth, where Buckingham happened then to be, made his way into his anti-chamber, and finding him busily engaged in conversation with a number of people round him, got close to him, drew a knife and stabbed him. In the effort, the assassin's hat fell off, which was found soon after, and, upon searching him, the bloody knife. In the crown of the hat were found scraps of paper, with sentences expressive of the purpose he was come upon. Here then, suppose the event in question is the wound received by Buckingham: Felton's drawing out his knife, his making his way into the chamber, his going down to Portsmouth, his conceiving an

indignation at the idea of Buckingham's administration, that administration itself, Charles's appointing such a minister, and so on, higher and higher without end, are so many circumstances, related to the event of Buckingham's receiving the wound, in the way of causation or production: the bloodiness of the knife, a circumstance related to the same event in the way of derivation: the finding of the hat upon the ground, the finding the sentences in the hat, and the writing them, so many circumstances related to it in the way of collateral connexion: and the situation and conversations of the people about Buckingham, were circumstances related to the circumstances of Felton's making his way into the room, going down to Portsmouth, and so forth, in the way of conjunct influence; inasmuch as they contributed in common to the event of Buckingham's receiving the wound, by preventing him from putting himself upon his guard upon the first appearance of the intruder.*

* The division may be farther illustrated and confirmed by the more simple and particular case of animal generation. To production corresponds paternity: to derivation, filiation: to collateral connexion, collateral consanguinity: to conjunct influence, marriage and copulation.

If necessary, it might be again illustrated by the material image of a chain, such as that which, according to the ingenious fiction of the ancients, is attached to the throne of Jupiter. A section of this chain should then be exhibited by

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XXVI.

It is not every event that has circumstances related to it in all those ways.

These several relations do not all of them attach upon an event with equal certainty. In the first place, it is plain, indeed, that every event must have some circumstance or other, and in truth, an indefinite multitude of circumstances, related to it in the way of production: it must of course have a still greater multitude of circumstances related to it in the way of collateral connexion. But it does not appear necessary that every event should have circumstances related to it in the way of derivation: nor therefore that it should have any related to it in the way of conjunct influence. But of the circumstances of all kinds which actually do attach upon an event, it is only a very small number that can be discovered by the utmost exertion of the human faculties: it is a still smaller number that ever actually do attract our notice: when occasion happens, more or fewer of them will be discovered by a man in proportion to the strength, partly of his intellectual powers, partly of his inclination.*

way of specimen, in the manner of the *diagram* of a pedigree. Such a figure I should accordingly have exhibited, had it not been for the apprehension that an exhibition of this sort, while it made the subject a small matter clearer to one man out of a hundred, might, like the mathematical formularies we see sometimes employed for the like purpose, make it more obscure and formidable for the other ninety-nine.

* The more remote a connexion of this sort is, of course

It appears therefore that the multitude and description of such of the circumstances belonging to an act, as may appear to be material, will be determined by two considerations: 1. By the nature of things themselves. 2. By the strength or weakness of the faculties of those who happen to consider them.

XXVII.

Thus much it seemed necessary to premise

Use of this chapter.

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the more obscure. It will often happen that a connexion, the idea of which would at first sight appear extravagant and absurd, shall be rendered highly probable, and indeed indisputable, merely by the suggestion of a few intermediate circumstances.

At Rome, 390 years before the Christian æra, a goose sets up a cackling: two thousand years afterwards a king of France is murdered. To consider these two events, and nothing more, what can appear more extravagant than the notion that the former of them should have had any influence on the production of the latter? Fill up the gap, bring to mind a few intermediate circumstances, and nothing can appear more probable. It was the cackling of a parcel of geese, at the time the Gauls had surprised the Capitol, that saved the Roman commonwealth: had it not been for the ascendancy that commonwealth acquired afterwards over most of the nations of Europe, amongst others over France, the Christian religion, humanly speaking, could not have established itself in the manner it did in that country. Grant then, that such a man as Henry IV. would have existed, no man, however, would have had those motives, by which Ravaillac, misled by a mischievous notion concerning the dictates of that religion, was prompted to assassinate him.

CHAP. VII. in general concerning acts, and their circumstances, previously to the consideration of the particular sorts of acts with their particular circumstances, with which we shall have to do in the body of the work. An act of some sort or other is necessarily included in the notion of every offence. Together with this act, under the notion of the same offence, are included certain circumstances: which circumstances enter into the essence of the offence, contribute by their conjunct influence to the production of its consequences, and in conjunction with the act are brought into view by the name by which it stands distinguished. These we shall have occasion to distinguish hereafter by the name of *criminative* circumstances.* Other circumstances again entering into combination with the act and the former set of circumstances, are productive of still farther consequences. These additional consequences, if they are of the beneficial kind, bestow, according to the value they bear in that capacity, upon the circumstances to which they owe their birth, the appellation of *exculpative* † or *extenuative* circumstances: ‡ if of the mischievous kind, they bestow on them the appellation of

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* See B. I. tit. [Crim. circumstances.]

† See B. I. tit. [Justifications.]

‡ See B. I. tit. [Extenuations.]

aggravative circumstances.* Of all these different sets of circumstances, the criminative are connected with the consequences of the original offence, in the way of production; with the act, and with one another, in the way of conjunct influence: the consequences of the original offence with them, and with the act respectively, in the way of derivation: the consequences of the modified offence, with the criminative, exculpative, and extenuative circumstances respectively, in the way also of derivation: these different sets of circumstances, with the consequences of the modified act or offence, in the way of production: and with one another (in respect of the consequences of the modified act or offence) in the way of conjunct influence. Lastly, whatever circumstances can be seen to be connected with the consequences of the offence, whether directly in the way of derivation, or obliquely in the way of collateral affinity (to wit, in virtue of its being connected, in the way of derivation, with some of the circumstances with which they stand connected in the same manner) bear a *material* relation to the offence in the way of evidence, they may accordingly be styled *evidentiary* circumstances, and may become of use, by being held forth upon occasion as so

* See B. I. tit. [Aggravations.]

CHAP. VII. many proofs, indications, or evidences of its having been committed.*†

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* See B. I. tit. [Accessory Offences.] and B. II. tit. [Evidence.]

† It is evident that this analysis is equally applicable to incidents of a purely physical nature, as to those in which moral agency is concerned. If therefore it be just and useful here, it might be found not impossible, perhaps, to find some use for it in natural philosophy.

CHAP. VIII.

OF INTENTIONALITY.

I.

Recapitulation.

So much with regard to the two first of the articles upon which the evil tendency of an action may depend: *viz.* the act itself, and the general assemblage of the circumstances with which it may have been accompanied. We come now to consider the ways in which the particular circumstance of *intention* may be concerned in it.

II.

The intention may regard, 1. The act: or, 2. The consequences.

First, then, the intention or will may regard either of two objects: 1. The act itself: or, 2. Its consequences. Of these objects, that which the intention regards may be styled *intentional*. If it regards the act, then the act may be said to be intentional:* if the consequences, so also

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Ambiguity of the words *voluntary* and *involuntary*.

* On this occasion the words *voluntary* and *involuntary* are commonly employed. These, however, I purposely abstain from, on account of the extreme ambiguity of their signification. By a voluntary act is meant sometimes, any act, in the performance of which the will has had any concern at all; in this sense it is synonymous to *intentional*: sometimes such acts only, in the production of which the will has been determined by motives not of a painful nature; in this sense it is synonymous to unconstrained, or

CHAP. VIII. then may the consequences. If it regards both the act and consequences, the whole *action* may be said to be intentional. Whichever of those articles is not the object of the intention, may of course be said to be *unintentional*.

III.

It may regard the act without any of the consequences.

The act may very easily be intentional without the consequences; and often is so. Thus, you may intend to touch a man, without intending to hurt him: and yet, as the consequences turn out, you may chance to hurt him.

IV.

—or the consequences without regarding the act in all its stages.

The consequences of an act may also be intentional, without the act's being intentional throughout; that is, without its being intentional in every stage of it: but this is not so frequent a case as the former. You intend to hurt a man, suppose, by running against him, and pushing him down: and you run towards him accordingly: but a second man coming in on a sudden

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uncoerced: sometimes such acts only, in the production of which the will has been determined by motives, which, whether of the pleasurable or painful kind, occurred to a man himself, without being suggested by any body else; in this sense it is synonymous to *spontaneous*. The sense of the word involuntary does not correspond completely to that of the word voluntary. Involuntary is used in opposition to intentional; and to unconstrained: but not to spontaneous. It might be of use to confine the signification of the words voluntary and involuntary to one single and very narrow case, which will be mentioned in the next note.

between you and the first man, before you can stop yourself, you run against the second man, and by him push down the first.

v.

—but not without regarding the first stage.

But the consequences of an act cannot be intentional, without the act's being itself intentional in at least the first stage. If the act be not intentional in the first stage, it is no act of your's: there is accordingly no intention on your part to produce the consequences: that is to say, the individual consequences. All there can have been on your part is a distant intention to produce other consequences, of the same nature, by some act of your's, at a future time: or else, without any intention, a bare *wish* to see such event take place. The second man, suppose, runs of his own accord against the first, and pushes him down. You had intentions of doing a thing of the same nature: *viz.* To run against him, and push him down yourself; but you had done nothing in pursuance of those intentions: the individual consequences therefore of the act, which the second man performed in pushing down the first, cannot be said to have been on your part intentional.*

An act unintentional in its first stage, may be so with respect to, 1. Quantity of matter moved: 2. Direction: 3. Velocity.

* To render the analysis here given of the possible states of the mind in point of intentionality absolutely complete, it must be pushed to such a farther degree of minuteness, as to some eyes will be apt to appear trifling. On this account it seemed advisable to discard what follows, from the text to a

CHAP. VIII.

A consequence, when intentional, may be directly so, or obliquely.

VI.

Second. A consequence, when it is intentional, may either be *directly* so, or only *obliquely*. It may be said to be directly or lineally intentional, when the prospect of producing it consti-

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place where any one who thinks proper may pass by it. An act of the body, when of the positive kind, is a motion: now in motion there are always three articles to be considered: 1. The quantity of matter that moves: 2. The direction in which it moves: and, 3. The velocity with which it moves. Correspondent to these three articles, are so many modes of intentionality, with regard to an act, considered as being only in its first stage. To be completely unintentional, it must be unintentional with respect to every one of these three particulars. This is the case with those acts which alone are properly termed *involuntary*: acts, in the performance of which the will has no sort of share: such as the contraction of the heart and arteries.

Upon this principle, acts that are unintentional in their first stage, may be distinguished into such as are completely unintentional, and such as are incompletely unintentional: and these again may be unintentional, either in point of quantity of matter alone, in point of direction alone, in point of velocity alone, or in any two of these points together.

The example given further on may easily be extended to this part of the analysis, by any one who thinks it worth the while.

There seem to be occasions in which even these disquisitions, minute as they may appear, may not be without their use in practice. In the case of homicide, for example, and other corporal injuries, all the distinctions here specified may occur, and in the course of trial may, for some purpose or other, require to be brought to mind, and made the subject of discourse. What may contribute to render the mention of them pardonable, is the use that might possibly be made of

tuted one of the links in the chain of causes by which the person was determined to do the act. It may be said to be obliquely or collaterally intentional, when, although the consequence was in contemplation, and appeared likely to ensue in case of the act's being performed, yet the prospect of producing such consequence did not constitute a link in the aforesaid chain.

VII.

When directly, ultimately so, or mediately.

Third. An incident, which is directly intentional, may either be *ultimately* so, or only *mediately*. It may be said to be ultimately intentional, when it stands last of all exterior events in the aforesaid chain of motives; insomuch that the prospect of the production of such incident, could there be a certainty of its taking place, would be sufficient to determine the will, without the prospect of its producing any other. It may be said to be mediately intentional, and no more, when there is some other incident, the prospect of producing which forms a subsequent link in the same chain: insomuch that the prospect of producing the former would not have operated as a motive, but for the ten-

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them in natural philosophy. In the hands of an expert metaphysician, these, together with the foregoing chapter on human actions, and the section on facts in general, in title Evidence of the Book of Procedure, might, perhaps, be made to contribute something towards an exhaustive analysis of the possible varieties of mechanical inventions.

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dency which it seemed to have towards the production of the latter.

VIII.

When directly intentional, it may be exclusively so, or inexclusively.

Fourth. When an incident is directly intentional, it may either be *exclusively* so, or *inexclusively*. It may be said to be exclusively intentional, when no other but that very individual incident would have answered the purpose, insomuch that no other incident had any share in determining the will to the act in question. It may be said to have been inexclusively* intentional, when there was some other incident, the prospect of which was acting upon the will at the same time.

IX.

When inexclusively, it may be conjunctively, disjunctively, or indiscriminately so.

Fifth. When an incident is inexclusively intentional, it may be either *con*junctively so, *dis*junctively, or *indiscriminately*. It may be said to be conjunctively intentional with regard to such other incident, when the intention is to produce both: disjunctively, when the intention is to produce either the one or the other indifferently, but not both: indiscriminately, when the intention is indifferently to produce either the one or the other, or both, as it may happen.

X.

When disjunctively, it may be with or without preference.

Sixth. When two incidents are disjunctively intentional, they may be so with or without *preference*. They may be said to be so with

* Or concurrently.

preference, when the intention is, that one of them in particular should happen rather than the other: without preference, when the intention is equally fulfilled, whichever of them happens.*

XI.

Example.

One example will make all this clear. William II. king of England, being out a stag-hunting, received from Sir Walter Tyrrel a wound, of which he died.† Let us take this case, and diversify it with a variety of suppositions, correspondent to the distinctions just laid down.

1. First then, Tyrrel did not so much as entertain a thought of the king's death; or, if he did, looked upon it as an event of which there was no danger. In either of these cases the incident of his killing the king was altogether unintentional.

2. He saw a stag running that way, and he saw the king riding that way at the same time: what he aimed at was to kill the stag: he did

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Difference between an incident's being unintentional, and disjunctively intentional, when the election is in favour of the other.

* There is a difference between the case where an incident is altogether unintentional, and that in which, it being disjunctively intentional with reference to another, the preference is in favour of that other. In the first case, it is not the intention of the party that the incident in question should happen at all: in the latter case, the intention is rather that the other should happen: but if that cannot be, then that this in question should happen rather than that neither should, and that both, at any rate, should not happen.

All these are distinctions to be attended to in the use of the particle *or*: a particle of very ambiguous import, and of great importance in legislation. See Append. tit. [Composition.]

† Hume's Hist.

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not wish to kill the king: at the same time he saw, that if he shot, it was as likely he should kill the king as the stag: yet for all that he shot, and killed the king accordingly. In this case the incident of his killing the king was intentional, but obliquely so.

3. He killed the king on account of the hatred he bore him, and for no other reason than the pleasure of destroying him. In this case the incident of the king's death was not only directly but ultimately intentional.

4. He killed the king, intending fully so to do; not for any hatred he bore him, but for the sake of plundering him when dead. In this case the incident of the king's death was directly intentional, but not ultimately: it was mediately intentional.

5. He intended neither more nor less than to kill the king. He had no other aim nor wish. In this case it was exclusively as well as directly intentional: exclusively, to wit, with regard to every other material incident.

6. Sir Walter shot the king in the right leg, as he was plucking a thorn out of it with his left hand. His intention was, by shooting the arrow into his leg through his hand, to cripple him in both those limbs at the same time. In this case the incident of the king's being shot in the leg was intentional: and that conjunctively with another which did not happen; viz. his being shot in the hand.

7. The intention of Tyrrel was to shoot the king either in the hand or in the leg, but not in both; and rather in the hand than in the leg. In this case the intention of shooting in the hand was disjunctively concurrent, with regard to the other incident, and that with preference.

8. His intention was to shoot the king either in the leg or the hand, whichever might happen; but not in both. In this case the intention was inexclusive, but disjunctively so: yet that, however, without preference.

9. His intention was to shoot the king either in the leg or the hand, or in both, as it might happen. In this case the intention was indiscriminately concurrent, with respect to the two incidents.

XII.

Intentionality of the act with respect to its different *stages*, how far material.

It is to be observed, that an act may be unintentional in any stage or stages of it, though intentional in the preceding: and, on the other hand, it may be intentional in any stage or stages of it, and yet unintentional in the succeeding.* But whether it be intentional or no in any preceding stage, is immaterial, with respect to the consequences, so it be unintentional in the last. The only point, with respect to which it is material, is the proof. The more stages the act is unintentional in, the more apparent it will commonly be, that

* See ch. vii. [Actions] par. 14.

CHAP. VIII. it was unintentional with respect to the last. If a man, intending to strike you on the cheek, strikes you in the eye, and puts it out, it will probably be difficult for him to prove that it was not his intention to strike you in the eye. It will probably be easier, if his intention was really not to strike you, or even not to strike at all.

XIII.

Goodness and badness of intention dismissed.

It is frequent to hear men speak of a good intention, of a bad intention; of the goodness and badness of a man's intention: a circumstance on which great stress is generally laid. It is indeed of no small importance, when properly understood: but the import of it is to the last degree ambiguous and obscure. Strictly speaking, nothing can be said to be good or bad, but either in itself; which is the case only with pain or pleasure: or on account of its effects; which is the case only with things that are the causes or preventives of pain and pleasure. But in a figurative and less proper way of speech, a thing may also be styled good or bad, in consideration of its cause. Now the effects of an intention to do such or such an act, are the same objects which we have been speaking of under the appellation of its *consequences:* and the causes of intention are called *motives.* A man's intention then on any occasion may be styled good or bad, with reference either to the consequences of the

act, or with reference to his motives. If it be deemed good or bad in any sense, it must be either because it is deemed to be productive of good or of bad consequences, or because it is deemed to originate from a good or from a bad motive. But the goodness or badness of the consequences depend upon the circumstances. Now the circumstances are no objects of the intention. A man intends the act: and by his intention produces the act: but as to the circumstances, he does not intend *them:* he does not, inasmuch as they are circumstances of it, produce them. If by accident there be a few which he has been instrumental in producing, it has been by former intentions, directed to former acts, productive of those circumstances as the consequences: at the time in question he takes them as he finds them. Acts, with their consequences, are objects of the will as well as of the understanding: circumstances, as such, are objects of the understanding only. All he can do with these, as such, is to know or not to know them: in other words, to be conscious of them, or not conscious. To the title of Consciousness belongs what is to be said of the goodness or badness of a man's intention, as resulting from the consequences of the act: and to the head of Motives, what is to be said of his intention, as resulting from the motive. CHAP. VIII.

CHAP. IX.

OF CONSCIOUSNESS.

I.

Connexion of this chapter with the foregoing.

So far with regard to the ways in which the will or intention may be concerned in the production of any incident: we come now to consider the part which the understanding or perceptive faculty may have borne, with relation to such incident.

II.

Acts advised and unadvised: consciousness, what.

A certain act has been done, and that intentionally: that act was attended with certain circumstances: upon these circumstances depended certain of its consequences; and amongst the rest, all those which were of a nature purely physical. Now then, take any one of these circumstances, it is plain, that a man, at the time of doing the act from whence such consequences ensued, may have been either conscious, with respect to this circumstance, or unconscious. In other words, he may either have been aware of the circumstance, or not aware: it may either have been present to his mind, or not present. In the first case, the act may be said to have been

an *advised* act, with respect to that circumstance: in the other case, an *unadvised* one.

III.

Unadvisedness may regard either existence, or materiality.

There are two points, with regard to which an act may have been advised or unadvised: 1. The *existence* of the circumstance itself. 2. The *materiality* of it.*

IV.

The circumstance may have been present, past, or future.

It is manifest, that with reference to the time of the act, such circumstance may have been either *present*, *past*, or *future*.

V.

An unadvised act may be heedless, or not heedless.

An act which is unadvised, is either *heedless*, or not heedless. It is termed heedless, when the case is thought to be such, that a person of ordinary prudence,† if prompted by an ordinary share of benevolence, would have been likely to have bestowed such and so much attention and reflection upon the material circumstances, as would have effectually disposed him to prevent the mischievous incident from taking place: not heedless, when the case is not thought to be such as above mentioned.‡

VI.

A mis-advised act, what.—A mis-supposal.

Again. Whether a man did or did not suppose the existence or materiality of a given circumstance, it may be that he *did* suppose the

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* See ch. vii. [Actions.] par. 3.

† See ch. vi. [Sensibility.] par. 12.

‡ See B. I. tit. [Extenuations.]

existence and materiality of some circumstance, which either did not exist, or which, though existing, was not material. In such case the act may be said to be *mis-advised*, with respect to such imagined circumstance: and it may be said, that there has been an erroneous supposition, or a *mis-supposal* in the case.

VII.

The supposed circumstance might have been materiall in the way either of prevention or of compensation.

Now a circumstance, the existence of which is thus erroneously supposed, may be material either, 1. In the way of prevention: or, 2. In that of compensation. It may be said to be material in the way of prevention, when its effect or tendency, had it existed, would have been to prevent the obnoxious consequences: in the way of compensation, when that effect or tendency would have been to produce other consequences, the beneficialness of which would have out-weighed the mischievousness of the others.

VIII.

It may have been supposed present, past, or future.

It is manifest that, with reference to the time of the act, such imaginary circumstance may in either case have been supposed either to be *present*, *past*, or *future*.

IX.

Example, continued from the last chapter.

To return to the example exhibited in the preceding chapter.

10. Tyrrel intended to shoot in the direction in which he shot; but he did not know that

the king was riding so near that way. In this case the act he performed in shooting, the act of shooting, was unadvised, with respect to the *existence* of the circumstance of the king's being so near riding that way.

11. He knew that the king was riding that way: but at the distance at which the king was, he knew not of the probability there was that the arrow would reach him. In this case the act was unadvised, with respect to the *materiality* of the circumstance.

12. Somebody had dipped the arrow in poison, without Tyrrel's knowing of it. In this case the act was unadvised, with respect to the existence of a *past* circumstance.

13. At the very instant that Tyrrel drew the bow, the king, being screened from his view by the foliage of some bushes, was riding furiously, in such manner as to meet the arrow in a direct line: which circumstance was also more than Tyrrel knew of. In this case the act was unadvised, with respect to the existence of a *present* circumstance.

14. The king being at a distance from court, could get nobody to dress his wound till the next day; of which circumstance Tyrrel was not aware. In this case the act was unadvised, with respect to what was then a *future* circumstance.

15. Tyrrel knew of the king's being riding that

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way, of his being so near, and so forth; but being deceived by the foliage of the bushes, he thought he saw a bank between the spot from which he shot, and that to which the king was riding. In this case the act was *mis-advised*, proceeding on the *mis-supposal* of a *preventive* circumstance.

16. Tyrrel knew that every thing was as above, nor was he deceived by the supposition of any preventive circumstance. But he believed the king to be an usurper: and supposed he was coming up to attack a person whom Tyrrel believed to be the rightful king, and who was riding by Tyrrel's side. In this case the act was also mis-advised, but proceeded on the mis-supposal of a *compensative* circumstance.

X.

In what case consciousness extends the intentionality from the act to the consequences.

Let us observe the connexion there is between intentionality and consciousness. When the act itself is intentional, and with respect to the existence of all the circumstances *advised*, as also with respect to the materiality of those circumstances, in relation to a given consequence, and there is no mis-supposal with regard to any preventive circumstance, that consequence must also be intentional: in other words; advisedness, with respect to the circumstances, if clear from the mis-supposal of any preventive circumstance, extends the intentionality from the act to the consequences.

Those consequences may be either directly intentional, or only obliquely so: but at any rate they cannot but be intentional.

XI.

Example continued.

To go on with the example. If Tyrrel intended to shoot in the direction in which the king was riding up, and knew that the king was coming to meet the arrow, and knew the probability there was of his being shot in that same part in which he was shot, or in another as dangerous, and with that same degree of force, and so forth, and was not misled by the erroneous supposition of a circumstance by which the shot would have been prevented from taking place, or any such other preventive circumstance, it is plain he could not but have intended the king's death. Perhaps he did not positively wish it; but for all that, in a certain sense he intended it.

XII.

A misadvised act may be rash or not rash.

What heedlessness is in the case of an unadvised act, rashness is in the case of a misadvised one. A misadvised act then may be either rash or not rash. It may be termed rash, when the case is thought to be such, that a person of ordinary prudence, if prompted by an ordinary share of benevolence, would have employed such and so much attention and reflection to the imagined circumstance, as, by discovering to him the non-existence, improbability,

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or immateriality of it, would have effectually disposed him to prevent the mischievous incident from taking place.

XIII.

The intention may be good or bad in itself, independently of the *motive* as well as the eventual consequences.

In ordinary discourse, when a man does an act of which the consequences prove mischievous, it is a common thing to speak of him as having acted with a good intention or with a bad intention, of his intention's being a good one or a bad one. The epithets good and bad are all this while applied, we see, to the intention: but the application of them is most commonly governed by a supposition formed with regard to the nature of the motive. The act, though eventually it prove mischievous, is said to be done with a good intention, when it is supposed to issue from a motive which is looked upon as a good motive: with a bad intention, when it is supposed to be the result of a motive which is looked upon as a bad motive. But the nature of the consequences intended, and the nature of the motive which gave birth to the intention, are objects which, though intimately connected, are perfectly distinguishable. The intention might therefore with perfect propriety be styled a good one, whatever were the motive. It might be styled a good one, when not only the consequences of the act *prove* mischievous, but the motive which gave birth to it *was* what is called a bad one. To

warrant the speaking of the intention as being a good one, it is sufficient if the consequences of the act, had they proved what to the agent they seemed likely to be, *would* have been of a beneficial nature. And in the same manner the intention may be bad, when not only the consequences of the act prove beneficial, but the motive which gave birth to it was a good one.

XIV.

It is better when the *intention* is meant to be spoken of as being good or bad, not to say, the *motive*.

Now, when a man has a mind to speak of your *intention* as being good or bad, with reference to the consequences, if he speaks of it at all he must use the word intention, for there is no other. But if a man means to speak of the *motive* from which your intention originated, as being a good or a bad one, he is certainly not obliged to use the word intention: it is at least as well to use the word motive. By the supposition he means the motive; and very likely he may *not* mean the intention. For what is true of the one is very often not true of the other. The motive may be good when the intention is bad: the intention may be good when the motive is bad: whether they are both good or both bad, or the one good and the other bad, makes, as we shall see hereafter, a very essential difference with regard to the consequences.* It is therefore much better, when motive is meant, never to say intention.

* See ch. xii. [Consequences.]

XV.

Example.

An example will make this clear. Out of malice a man prosecutes you for a crime of which he believes you to be guilty, but of which in fact you are not guilty. Here the *consequences* of his conduct are mischievous: for they are mischievous to you at any rate, in virtue of the shame and anxiety which you are made to suffer while the prosecution is depending: to which is to be added, in case of your being convicted, the evil of the punishment. To you therefore they are mischievous; nor is there any one to whom they are beneficial. The man's *motive* was also what is called a bad one: for malice will be allowed by every body to be a bad motive. However, the *consequences* of his conduct, had they proved such as he believed them likely to be, would have been good: for in them would have been included the punishment of a criminal, which is a benefit to all who are exposed to suffer by a crime of the like nature. The *intention* therefore, in this case, though not in a common way of speaking the motive, might be styled a *good* one. But of motives more particularly in the next chapter.

XVI.

Intention, in what cases it may be innocent.

In the same sense the intention, whether it be positively good or no, so long as it is not bad, may be termed innocent. Accordingly,

let the consequences have proved mischievous, and let the motive have been what it will, the intention may be termed innocent in either of two cases: 1. In the case of *un*-advisedness with respect to any of the circumstances on which the mischievousness of the consequences depended: 2. In the case of *mis*-advisedness with respect to any circumstance, which, had it been what it appeared to be, would have served either to prevent or to outweigh the mischief.

XVII.

Intentionality and consciousness how spoken of in the Roman law.

A few words for the purpose of applying what has been said to the Roman law. Unintentionality, and innocence of intention, seem both to be included in the case of *infortunium*, where there is neither *dolus* nor *culpa*. Unadvisedness coupled with heedlessness, and mis-advisedness coupled with rashness, correspond to the *culpa sine dolo*. Direct intentionality corresponds to *dolus*. Oblique intentionality seems hardly to have been distinguished from direct; were it to occur, it would probably be deemed also to correspond to *dolus*. The division into *culpa, lata, levis*, and *levissima*, is such as nothing certain can correspond to. What is it that it expresses? A distinction, not in the case itself, but only in the sentiments which any person (a judge, for instance) may find himself disposed to entertain with relation

CHAP. IX. to it: supposing it already distinguished into three subordinate cases by other means.

The word *dolus* seems ill enough contrived: the word *culpa* as indifferently. *Dolus*, upon any other occasion, would be understood to imply deceit, concealment,* clandestinity: † but here it is extended to open force. *Culpa*, upon any other occasion, would be understood to extend to blame of every kind. It would therefore include *dolus*. ‡

* See B. I. tit. [Theft] *verbo* [amenable.]

† Dolus, an virtus quis in hoste requirit? VIRGIL.
—— δολῳ ηε και αμφαδον. HOMER.

‡ I pretend not here to give any determinate explanation of a set of words, of which the great misfortune is, that the import of them is confused and indeterminate. I speak only by approximation. To attempt to determine the precise import that has been given them by a hundredth part of the authors that have used them, would be an endless task. Would any one talk intelligibly on this subject in Latin? let him throw out *dolus* altogether: let him keep *culpa*, for the purpose of expressing not the case itself, but the sentiment that is entertained concerning a case described by other means. For intentionality, let him coin a word boldly, and say *intentionalitas:* for unintentionality, *non-intentionalitas*. For unadvisedness, he has already the word *inscitia;* though the words *imprudentia, inobservantia,* were it not for the other senses they are used in, would do better: for unadvisedness coupled with heedlessness, let him say *inscitia culpabilis:* for unadvisedness without heedlessness, *inscitia inculpabilis:* for mis-advisedness coupled with rashness, *error culpabilis, error temerarius,* or *error cum temeritate:* for mis-advisedness without rashness, *error inculpabilis, error non-temerarius,* or *error sine temeritate.*

It

XVIII.

Use of this and the preceding chapter.

The above-mentioned definitions and distinctions are far from being mere matters of speculation. They are capable of the most extensive and constant application, as well to moral discourse as to legislative practice. Upon the degree and bias of a man's intention, upon the absence or presence of consciousness or missupposal, depend a great part of the good and bad, more especially of the bad consequences of an act; and on this, as well as other grounds, a great part of the demand for punishment.* The presence of intention with regard to such or such a consequence, and of consciousness with regard to such or such a circumstance, of the act, will form so many criminative circumstances,† or essential ingredients in the composition of this or that offence: applied to other circumstances, consciousness will form a ground of aggravation, annexable to the like offence.‡ In almost all cases, the absence of intention

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It is not unfrequent likewise to meet with the phrase, *malo animo*: a phrase still more indeterminate, if possible, than any of the former. It seems to have reference either to intentionality, or to consciousness, or to the motive, or to the disposition, or to any two or more of these taken together; nobody can tell which: these being objects which seem to have never hitherto been properly distinguished and defined.

* See ch. xiii. [Cases unmeet.]

† See B. I. tit. [Circumstances influencing.]

‡ See B. I. tit. [Aggravations.]

CHAP. IX. with regard to certain consequences, and the absence of consciousness, or the presence of mis-supposal, with regard to certain circumstances, will constitute so many grounds of extenuation. *

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* See B. I. tit. [Extenuations.]

CHAP. X.

§ 1. DIFFERENT SENSES OF THE WORD MOTIVE.*

I.

Motives, why considered.

It is an acknowledged truth, that every kind of act whatever, and consequently every kind of offence, is apt to assume a different character, and be attended with different effects, according to the nature of the *motive* which gives birth to it. This makes it requisite to take a view of the several motives by which human conduct is liable to be influenced.

II.

Purely speculative motives have nothing to do here.

By a motive, in the most extensive sense in which the word is ever used with reference to a thinking being, is meant any thing that can contribute to give birth to, or even to prevent, any kind of action. Now the action of a think-

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* Note by the author, July 1822.

For a tabular simultaneous view of the whole list of MOTIVES, in conjunction with the correspondent *pleasures* and *pains*, *interests* and *desires*, see, by the same author, *Table of the Springs of Action*, &c. with Explanatory Notes and Observations. London 1817, Hunter, St. Paul's Church Yard, 8vo. pp. 32.

The word *inducement* has of late presented itself, as being in its signification more comprehensive than the word *motive*, and on some occasions more apposite.

CHAP. X. ing being is the act either of the body, or only of the mind: and an act of the mind is an act either of the intellectual faculty, or of the will. Acts of the intellectual faculty will sometimes rest in the understanding merely, without exerting any influence in the production of any acts of the will. Motives, which are not of a nature to influence any other acts than those, may be styled purely *speculative* motives, or motives resting in speculation. But as to these acts, neither do they exercise any influence over external acts, or over their consequences, nor consequently over any pain or any pleasure that may be in the number of such consequences. Now it is only on account of their tendency to produce either pain or pleasure, that any acts can be material. With acts, therefore, that rest purely in the understanding, we have not here any concern: nor therefore with any object, if any such there be, which, in the character of a motive, can have no influence on any other acts than those.

III.

Motives to the will.

The motives with which alone we have any concern, are such as are of a nature to act upon the will. By a motive then, in this sense of the word, is to be understood any thing whatsoever, which, by influencing the will of a sensitive being, is supposed to serve as a means of determining him to act, or voluntarily

to forbear to act,* upon any occasion. Motives of this sort, in contradistinction to the former, may be styled *practical* motives, or motives applying to practice.

IV.

Figurative and unfigurative senses of the word.

Owing to the poverty and unsettled state of language, the word *motive* is employed indiscriminately to denote two kinds of objects, which, for the better understanding of the subject, it is necessary should be distinguished. On some occasions it is employed to denote any of those really existing incidents from whence the act in question is supposed to take its rise. The sense it bears on these occasions may be styled its literal or *unfigurative* sense. On other occasions it is employed to denote a certain fictitious entity, a passion, an affection of the mind, an ideal being which upon the happening of any

* When the effect or tendency of a motive is to determine a man to forbear to act, it may seem improper to make use of the term *motive*: since motive, properly speaking, means that which disposes an object to *move*. We must however use that improper term, or a term which, though proper enough, is scarce in use, the word *determinative*. By way of justification, or at least apology, for the popular usage in this behalf, it may be observed, that even forbearance to act, or the negation of motion (that is, of bodily motion) supposes an act done, when such forbearance is voluntary. It supposes, to wit, an act of the will, which is as much a positive act, as much a motion, as any other act of the thinking substance.

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such incident is considered as operating upon the mind, and prompting it to take that course, towards which it is impelled by the influence of such incident. Motives of this class are Avarice, Indolence, Benevolence, and so forth; as we shall see more particularly farther on. This latter may be styled the *figurative* sense of the term *motive*.

V.

Motives interior and exterior.

As to the real incidents to which the name of motive is also given, these too are of two very different kinds. They may be either, 1. The *internal* perception of any individual lot of pleasure or pain, the expectation of which is looked upon as calculated to determine you to act in such or such a manner; as the pleasure of acquiring such a sum of money, the pain of exerting yourself on such an occasion, and so forth: Or, 2. Any *external* event, the happening whereof is regarded as having a tendency to bring about the perception of such pleasure or such pain: for instance, the coming up of a lottery ticket, by which the possession of the money devolves to you; or the breaking out of a fire in the house you are in, which makes it necessary for you to quit it. The former kind of motives may be termed interior, or internal: the latter exterior, or external.

VI.

Motive in *prospect*—motive in *esse*.

Two other senses of the term *motive* need also

to be distinguished. Motive refers necessarily to action. It is a pleasure, pain, or other event, that prompts to action. Motive then, in one sense of the word, must be previous to such event. But, for a man to be governed by any motive, he must in every case look beyond that event which is called his action; he must look to the consequences of it: and it is only in this way that the idea of pleasure, of pain, or of any other event, can give birth to it. He must look, therefore, in every case, to some event posterior to the act in contemplation: an event which as yet exists not, but stands only in prospect. Now, as it is in all cases difficult, and in most cases unnecessary, to distinguish between objects so intimately connected, as the posterior possible object which is thus looked forward to, and the present existing object or event which takes place upon a man's looking forward to the other, they are both of them spoken of under the same appellation, *motive*. To distinguish them, the one first mentioned may be termed a motive in *prospect*, the other a motive in *esse*: and under each of these denominations will come as well exterior as internal motives. A fire breaks out in your neighbour's house: you are under apprehension of its extending to your own: you are apprehensive, that if you stay in it, you will be burnt: you accordingly run out of it. This then is the act: the others are all

CHAP. X.

motives to it. The event of the fire's breaking out in your neighbour's house is an external motive, and that in *esse:* the idea or belief of the probability of the fire's extending to your own house, that of your being burnt if you continue, and the pain you feel at the thought of such a catastrophe, are all so many internal events, but still in *esse:* the event of the fire's actually extending to your own house, and that of your being actually burnt by it, external motives in prospect: the pain you would feel at seeing your house a burning, and the pain you would feel while you yourself were burning, internal motives in prospect: which events, according as the matter turns out, may come to be in *esse:* but then of course they will cease to act as motives.

VII.

Motives immediate and remote.

Of all these motives, which stand nearest to the act, to the production of which they all contribute, is that internal motive in *esse* which consists in the expectation of the internal motive in prospect: the pain or uneasiness you feel at the thoughts of being burnt.* All other

* Whether it be the expectation of being burnt, or the pain that accompanies that expectation, that is the immediate internal motive spoken of, may be difficult to determine. It may even be questioned, perhaps, whether they are distinct entities. Both questions, however, seem to be mere questions of words,

motives are more or less remote: the motives in prospect, in proportion as the period at which they are expected to happen is more distant from the period at which the act takes place, and consequently later in point of time: the motives in *esse*, in proportion as they also are more distant from that period, and consequently earlier in point of time.*

VIII.

Motives to the understanding, how they may influence the will.

It has already been observed, that with motives of which the influence terminates altogether in the understanding, we have nothing here to do. If then, amongst objects that are spoken of as motives with reference to the understanding, there be any which concern us

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and the solution of them altogether immaterial. Even the other kinds of motives, though for some purposes they demand a separate consideration, are, however, so intimately allied, that it will often be scarce practicable, and not always material, to avoid confounding them, as they have always hitherto been confounded.

* Under the term *esse* must be included as well *past* existence, with reference to a given period, as *present*. They are equally real, in comparison with what is as yet but future. Language is materially deficient, in not enabling us to distinguish with precision between *existence* as opposed to *unreality*, and *present* existence as opposed to past. The word existence in English, and *esse*, adopted by lawyers from the Latin, have the inconvenience of appearing to confine the existence in question to some single period considered as being present.

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CHAP. X. here, it is only in as far as such objects may, through the medium of the understanding, exercise an influence over the will. It is in this way, and in this way only, that any objects, in virtue of any tendency they may have to influence the sentiment of belief, may in a practical sense act in the character of motives. Any objects, by tending to induce a belief concerning the existence, actual, or probable, of a practical motive; that is, concerning the probability of a motive in prospect, or the existence of a motive in *esse*; may exercise an influence on the will, and rank with those other motives that have been placed under the name of practical. The pointing out of motives such as these, is what we frequently mean when we talk of giving *reasons*. Your neighbour's house is on fire as before. I observe to you, that at the lower part of your neighbour's house is some wood-work, which joins on to your's; that the flames have caught this wood-work, and so forth; which I do in order to dispose you to believe as I believe, that if you stay in your house much longer you will be burnt. In doing this, then, I suggest motives to your understanding; which motives, by the tendency they have to give birth to or strengthen a pain, which operates upon you in the character of an internal motive in *esse*, join their force, and act as motives upon the will.

§ 2. *No motives either constantly good, or constantly bad.* CHAP. X.

IX.

Nothing can act of itself as a motive but the ideas of pleasure or pain.

In all this chain of motives, the principal or original link seems to be the last internal motive in prospect; it is to this that all the other motives in prospect owe their materiality: and the immediately acting motive its existence. This motive in prospect, we see, is always some pleasure, or some pain; some pleasure, which the act in question is expected to be a means of continuing or producing: some pain which it is expected to be a means of discontinuing or preventing. A motive is substantially nothing more than pleasure or pain, operating in a certain manner.

X.

No sort of motive is in itself a bad one.

Now, pleasure is in *itself* a good: nay, even setting aside immunity from pain, the only good: pain is in itself an evil; and, indeed, without exception, the only evil; or else the words good and evil have no meaning. And this is alike true of every sort of pain, and of every sort of pleasure. It follows, therefore, immediately and incontestibly, that *there is no such thing as any sort of motive that is in itself a bad one.**

* Let a man's motive be ill-will; call it even malice, envy, cruelty; it is still a kind of pleasure that is his motive: the pleasure he takes at the thought of the pain which he sees,

XI.

Inaccuracy of expressions in which *good* or *bad* are applied to motives.

It is common, however, to speak of actions as proceeding from *good* or *bad* motives: in which case the motives meant are such as are internal. The expression is far from being an accurate one; and as it is apt to occur in the consideration of almost every kind of offence, it will be requisite to settle the precise meaning of it, and observe how far it quadrates with the truth of things.

XII.

Any sort of motive may give birth to any sort of act.

With respect to goodness and badness, as it is with every thing else that is not itself either pain or pleasure, so is it with motives. If they are good or bad, it is only on account of their effects: good, on account of their tendency to produce pleasure, or avert pain: bad, on account of their tendency to produce pain, or avert pleasure. Now the case is, that from one and the same motive, and from every kind of motive, may proceed actions that are good, others that are bad, and others that are indifferent. This we shall proceed to shew with respect to all the different kinds of motives, as

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or expects to see, his adversary undergo. Now even this wretched pleasure, taken by itself, is good: it may be faint; it may be short: it must at any rate be impure: yet while it lasts, and before any bad consequences arrive, it is as good as any other that is not more intense. See ch. iv. [Value.]

determined by the various kinds of pleasures and pains.

XIII.

Difficulties which stand in the way of an analysis of this sort.

Such an analysis, useful as it is, will be found to be a matter of no small difficulty; owing, in great measure, to a certain perversity of structure which prevails more or less throughout all languages. To speak of motives, as of any thing else, one must call them by their names. But the misfortune is, that it is rare to meet with a motive of which the name expresses that and nothing more. Commonly along with the very name of the motive, is tacitly involved a proposition imputing to it a certain quality; a quality which, in many cases, will appear to include that very goodness or badness, concerning which we are here inquiring whether, properly speaking, it be or be not imputable to motives. To use the common phrase, in most cases, the name of the motive is a word which is employed either only in a *good sense*, or else only in a *bad sense*. Now, when a word is spoken of as being used in a good sense, all that is necessarily meant is this: that in conjunction with the idea of the object it is put to signify, it conveys an idea of *approbation*: that is, of a pleasure or satisfaction, entertained by the person who employs the term at the thoughts of such object. In like manner, when a word is spoken of as being used in a bad

CHAP. X. sense, all that is necessarily meant is this: that, in conjunction with the idea of the object it is put to signify, it conveys an idea of *disapprobation*: that is, of a displeasure entertained by the person who employs the term at the thoughts of such object. Now, the circumstance on which such approbation is grounded will, as naturally as any other, be the opinion of the *goodness* of the object in question, as above explained: such, at least, it must be, upon the principle of utility: so, on the other hand, the circumstance on which any such disapprobation is grounded, will, as naturally as any other, be the opinion of the *badness* of the object: such, at least, it must be, in as far as the principle of utility is taken for the standard.

Now there are certain motives which, unless in a few particular cases, have scarcely any other name to be expressed by but such a word as is used only in a good sense. This is the case, for example, with the motives of piety and honour. The consequence of this is, that if, in speaking of such a motive, a man should have occasion to apply the epithet bad to any actions which he mentions as apt to result from it, he must appear to be guilty of a contradiction in terms. But the names of motives which have scarcely any other name to be expressed by, but such a word as is used only in a bad

sense, are many more.* This is the case, for example, with the motives of lust and avarice. And accordingly, if in speaking of any such motive, a man should have occasion to apply the epithets good or indifferent to any actions which he mentions as apt to result from it, he must here also appear to be guilty of a similar contradiction.†

This perverse association of ideas cannot, it is evident, but throw great difficulties in the way of the inquiry now before us. Confining himself to the language most in use, a man can scarce avoid running, in appearance, into perpetual contradictions. His propositions will appear, on the one hand, repugnant to truth; and on the other hand, adverse to utility. As paradoxes, they will excite contempt: as mischievous paradoxes, indignation. For the truths

* For the reason, see chap. xi. [Dispositions.] par. xvii. note.

† To this imperfection of language, and nothing more, are to be attributed, in great measure, the violent clamours that have from time to time been raised against those ingenious moralists, who, travelling out of the beaten tract of speculation, have found more or less difficulty in disentangling themselves from the shackles of ordinary language: such as Rochefoucault, Mandeville, and Helvetius. To the unsoundness of their opinions, and, with still greater injustice, to the corruption of their hearts, was often imputed, what was most commonly owing either to a want of skill, in matters of language on the part of the author, or a want of discernment, possibly now and then in some instances a want of probity, on the part of the commentator.

CHAP. X.

he labours to convey, however important, and however salutary, his reader is never the better: and he himself is much the worse. To obviate this inconvenience, completely, he has but this one unpleasant remedy; to lay aside the old phraseology and invent a new one. Happy the man whose language is ductile enough to permit him this resource. To palliate the inconvenience, where that method of obviating it is impracticable, he has nothing left for it but to enter into a long discussion, to state the whole matter at large, to confess, that for the sake of promoting the purposes, he has violated the established laws of language, and to throw himself upon the mercy of his readers.*

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* Happily, language is not always so intractable, but that by making use of two words instead of one, a man may avoid the inconvenience of fabricating words that are absolutely new. Thus instead of the word lust, by putting together two words in common use, he may frame the neutral expression, sexual desire: instead of the word avarice, by putting together two other words also in common use, he may frame the neutral expression, pecuniary interest. This, accordingly, is the course which I have taken. In these instances, indeed, even the combination is not novel: the only novelty there is consists in the steady adherence to the one neutral expression, rejecting altogether the terms, of which the import is infected by adventitious and unsuitable ideas.

In the catalogue of motives, corresponding to the several sorts of pains and pleasures, I have inserted such as have occurred to me. I cannot pretend to warrant it complete. To make sure of rendering it so, the only way would be, to

§ 3. *Catalogue of motives corresponding to that of Pleasures and Pains.*

XIV.

Physical desire corresponding to pleasures of sense in general.

From the pleasures of the senses, considered in the gross, results the motive which in a neutral sense, may be termed physical desire: in a bad sense, it is termed sensuality. Name used in a good sense it has none. Of this, nothing can be determined, till it be considered separately, with reference to the several species of pleasures to which it corresponds.

XV.

The motive corresponding to the pleasures of the palate.

In particular, then, to the pleasures of the taste or palate corresponds a motive, which in a neutral sense having received no name that can serve to express it in all cases, can only be termed, by circumlocution, the love of the pleasures of the palate. In particular cases it is styled hunger: in others, thirst.† The love of good cheer expresses this motive, but seems to go beyond: intimating, that the pleasure is to be

turn over the dictionary from beginning to end: an operation which, in a view to perfection, would be necessary for more purposes than this. See B. I. tit. [Defamation.] and Append. tit. [Composition.]

† Hunger and thirst, considered in the light of motives, import not so much the desire of a particular kind of pleasure, as the desire of removing a positive kind of pain. They do not extend to the desire of that kind of pleasure which depends on the choice of foods and liquors.

CHAP. X.

partaken of in company, and involving a kind of sympathy. In a bad sense, it is styled in some cases greediness, voraciousness, gluttony: in others, principally when applied to children, lickerishness. It may in some cases also be represented by the word daintiness. Name used in a good sense it has none. 1. A boy, who does not want for victuals, steals a cake out of a pastry-cook's shop, and eats it. In this case his motive will be universally deemed a bad one: and if it be asked what it is, it may be answered, perhaps, lickerishness. 2. A boy buys a cake out of a pastry-cook's shop, and eats it. In this case his motive can scarcely be looked upon as either good or bad, unless his master should be out of humour with him; and then perhaps he may call it lickerishness, as before. In both cases, however, his motive is the same. It is neither more nor less than the motive corresponding to the pleasures of the palate.*

XVI.

Sexual desires corresponding to the pleasure of the sexual sense.

To the pleasures of the sexual sense corresponds the motive which, in a neutral sense, may be termed sexual desire. In a bad sense, it is spoken of under the name of lasciviousness,

* It will not be worth while, in every case, to give an instance in which the action may be indifferent: if good as well as bad actions may result from the same motive, it is easy to conceive, that also may be indifferent.

and a variety of other names of reprobation. Name used in a good sense, it has none.*

1. A man ravishes a virgin. In this case the motive is, without scruple, termed by the name of lust, lasciviousness, and so forth; and is universally looked upon as a bad one. 2. The same man, at another time exercises the rights of marriage with his wife. In this case the motive is accounted, perhaps, a good one, or at least indifferent: and here people would scruple to call it by any of those names. In both cases, however, the motive may be precisely the same. In both cases it may be neither more nor less than sexual desire.

XVII.

Curiosity, &c. corresponding to the pleasures of curiosity.

To the pleasures of curiosity corresponds the motive known by the same name: and which may be otherwise called the love of novelty, or the love of experiment; and, on

* Love indeed includes sometimes this idea: but then it can never answer the purpose of exhibiting it separately: since there are three motives, at least, that may all of them be included in it, besides this: the love of beauty corresponding to the pleasures of the eye, and the motives corresponding to those of amity and benevolence. We speak of the love of children, of the love of parents, of the love of God. These pious uses protect the appellation, and preserve it from the ignominy poured forth upon its profane associates. Even sensual love would not answer the purpose; since that would include the love of beauty.

CHAP. X. particular occasions, sport, and sometimes play.

1. A boy, in order to divert himself, reads an improving book: the motive is accounted, perhaps, a good one: at any rate not a bad one. 2. He sets his top a spinning: the motive is deemed, at any rate, not a bad one. 3. He sets loose a mad ox among a crowd; his motive is now, perhaps, termed an abominable one. Yet in all three cases the motive may be the very same: it may be neither more nor less than curiosity.

XVIII.

None to pleasures of sense.

As to the other pleasures of sense they are of too little consequence to have given any separate denominations to the corresponding motives.

XIX.

Pecuniary interest to the pleasures of wealth.

To the pleasures of wealth corresponds the sort of motive which, in a neutral sense, may be termed pecuniary interest: in a bad sense, it is termed, in some cases, avarice, covetousness, rapacity, or lucre: in other cases, niggardliness: in a good sense, but only in particular cases, economy and frugality; and in some cases the word industry may be applied to it: in a sense nearly indifferent, but rather bad than otherwise, it is styled, though only in particular cases, parsimony.

1. For money you gratify a man's hatred, by

putting his adversary to death. 2. For money you plough his field for him.—In the first case your motive is termed lucre, and is accounted corrupt and abominable: and in the second, for want of a proper appellation, it is styled industry; and is looked upon as innocent at least, if not meritorious. Yet the motive is in both cases precisely the same: it is neither more nor less than pecuniary interest.

XX.

None to the pleasures of skill.

The pleasures of skill are neither distinct enough, nor of consequence enough, to have given any name to the corresponding motive.

XXI.

To the pleasures of amity the desire of ingratiating one's self.

To the pleasures of amity corresponds a motive which, in a neutral sense, may be termed the desire of ingratiating one's self. In a bad sense it is in certain cases, styled servility: in a good sense it has no name that is peculiar to it: in the cases in which it has been looked on with a favourable eye, it has seldom been distinguished from the motive of sympathy or benevolence, with which, in such cases, it is commonly associated.

1. To acquire the affections of a woman before marriage, to preserve them afterwards, you do every thing, that is consistent with other duties, to make her happy: in this case your motive is looked upon as laudable, though there is no name for it. 2. For the same

purpose, you poison a woman with whom she is at enmity: in this case your motive is looked upon as abominable, though still there is no name for it. 3. To acquire or preserve the favour of a man who is richer or more powerful than yourself, you make yourself subservient to his pleasures. Let them even be lawful pleasures, if people choose to attribute your behaviour to this motive, you will not get them to find any other name for it than servility. Yet in all three cases the motive is the same: it is neither more nor less than the desire of ingratiating yourself.

XXII.

To the pleasures of a good name, the love of reputation.

To the pleasures of the moral sanction, or, as they may otherwise be called, the pleasures of a good name, corresponds a motive which, in a neutral sense, has scarcely yet obtained any adequate appellative. It may be styled, the love of reputation. It is nearly related to the motive last preceding: being neither more nor less than the desire of ingratiating one's self with, or, as in this case we should rather say, of recommending one's self to, the world at large. In a good sense, it is termed honour, or the sense of honour: or rather, the word honour is introduced somehow or other upon the occasion of its being brought to view: for in strictness the word honour is put rather to signify that imaginary object, which a man is

spoken of as possessing upon the occasion of his obtaining a conspicuous share of the pleasures that are in question. In particular cases, it is styled the love of glory. In a bad sense, it is styled, in some cases, false honour; in others, pride; in others, vanity. In a sense not decidedly bad, but rather bad than otherwise, ambition. In an indifferent sense, in some cases, the love of fame: in others, the sense of shame. And, as the pleasures belonging to the moral sanction run undistinguishably into the pains derived from the same source,* it may also be styled, in some cases, the fear of dishonour, the fear of disgrace, the fear of infamy, the fear of ignominy, or the fear of shame.

1. You have received an affront from a man: according to the custom of the country, in order, on the one hand, to save yourself from the shame of being thought to bear it patiently;†

* See Chap. vi. [Pleasures and Pains.] par. xxiv. note.

† A man's bearing an affront patiently, that is, without taking this method of doing what is called wiping it off, is thought to import one or other of two things: either that he does not possess that sensibility to the pleasures and pains of the moral sanction, which, in order to render himself a respectable member of society, a man ought to possess: or, that he does not possess courage enough to stake his life for the chance of gratifying that resentment which a proper sense of the value of those pleasures and those pains it is thought would not fail to inspire. True it is, that there are

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on the other hand, to obtain the reputation of courage; you challenge him to fight with mortal weapons. In this case your motive will by

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divers other motives, by any of which the same conduct might equally be produced: the motives corresponding to the religious sanction, and the motives that come under the head of benevolence. Piety towards God, the practice in question being generally looked upon as repugnant to the dictates of the religious sanction: sympathy for your antagonist himself, whose life would be put to hazard at the same time with your own; sympathy for his connexions; the persons who are dependent on him in the way of support, or connected with him in the way of sympathy: sympathy for your own connexions: and even sympathy for the public, in cases where the man is such that the public appears to have a material interest in his life. But in comparison with the love of life, the influence of the religious sanction is known to be in general but weak: especially among people of those classes who are here in question: a sure proof of which is the prevalence of this very custom. Where it is so strong as to preponderate, it is so rare, that, perhaps, it gives a man a place in the calendar: and, at any rate, exalts him to the rank of martyr. Moreover, the instances in which either private benevolence or public spirit predominate over the love of life, will also naturally be but rare: and, owing to the general propensity to detraction, it will also be much rarer for them to be thought to do so. Now, when three or more motives, any one of them capable of producing a given mode of conduct, apply at once, that which appears to be the most powerful, is that which will of course be deemed to have actually done the *most:* and, as the bulk of mankind, on this as on other occasions, are disposed to decide peremptorily upon superficial estimates, it will generally be looked upon as having done the whole.

The consequence is, that when a man of a certain rank

some people be accounted laudable, and styled honour: by others it will be accounted blameable, and these, if they call it honour, will prefix an epithet of improbation to it, and call it false honour. 2. In order to obtain a post of rank and dignity, and thereby to increase the respects paid you by the public, you bribe the electors who are to confer it, or the judge before whom the title to it is in dispute. In this case your motive is commonly accounted corrupt and abominable, and is styled, perhaps, by some such name as dishonest or corrupt ambition, as there is no single name for it. 3. In order to obtain the good-will of the public, you bestow a large sum in works of private charity or public utility. In this case people will be apt not to agree about your motive. Your enemies will put a bad colour upon it, and call it ostentation: your friends, to save you from this reproach, will choose to impute your conduct not to this motive but to some other: such as that of charity (the denomination in this case given to private sympathy) or that of public spirit. 4. A king, for the sake of gaining the admiration annexed

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forbears to take this chance of revenging an affront, his conduct will, by most people, be imputed to the love of life: which, when it predominates over the love of reputation, is, by a not unsalutary association of ideas, stigmatized with the reproachful name of cowardice.

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to the name of conqueror (we will suppose power and resentment out of the question) engages his kingdom in a bloody war. His motive, by the multitude (whose sympathy for millions is easily overborne by the pleasure which their imagination finds in gaping at any novelty they observe in the conduct of a single person) is deemed an admirable one. Men of feeling and reflection, who disapprove of the dominion exercised by this motive on this occasion, without always perceiving that it is the same motive which in other instances meets with their approbation, deem it an abominable one; and because the multitude, who are the manufacturers of language, have not given them a simple name to call it by, they will call it by some such compound name as the love of false glory or false ambition. Yet in all four cases the motive is the same: it is neither more nor less than the love of reputation.

XXIII.

To the pleasures of power, the love of power.

To the pleasures of power corresponds the motive which, in a neutral sense, may be termed the love of power. People, who are out of humour with it sometimes, call it the lust of power. In a good sense, it is scarcely provided with a name. In certain cases this motive, as well as the love of reputation, are confounded under the same name, ambition. This is not to be wondered at, considering the

intimate connexion there is between the two motives in many cases: since it commonly happens, that the same object which affords the one sort of pleasure, affords the other sort at the same time: for instance, offices, which are at once posts of honour and places of trust: and since at any rate reputation is the road to power.

1. If, in order to gain a place in administration, you poison the man who occupies it. 2. If, in the same view, you propose a salutary plan for the advancement of the public welfare; your motive is in both cases the same. Yet in the first case it is accounted criminal and abominable: in the second case allowable, and even laudable.

XXIV.

The motive belonging to the religious sanction.

To the pleasures as well as to the pains of the religious sanction corresponds a motive which has, strictly speaking, no perfectly neutral name applicable to all cases, unless the word religion be admitted in this character: though the word religion, strictly speaking, seems to mean not so much the motive itself, as a kind of fictitious personage, by whom the motive is supposed to be created, or an assemblage of acts, supposed to be dictated by that personage: nor does it seem to be completely settled into a neutral sense. In the same sense it is also, in some cases, styled religious zeal:

CHAP. X. in other cases, the fear of God. The love of God, though commonly contrasted with the fear of God, does not come strictly under this head. It coincides properly with a motive of a different denomination; viz. a kind of sympathy or good-will, which has the Deity for its object. In a good sense, it is styled devotion, piety, and pious zeal. In a bad sense, it is styled, in some cases, superstition, or superstitious zeal: in other cases, fanaticism, or fanatic zeal: in a sense not decidedly bad, because not appropriated to this motive, enthusiasm, or enthusiastic zeal.

1. In order to obtain the favour of the Supreme Being, a man assassinates his lawful sovereign. In this case the motive is now almost universally looked upon as abominable, and is termed fanaticism: formerly it was by great numbers accounted laudable, and was by them called pious zeal. 2. In the same view, a man lashes himself with thongs. In this case, in yonder house, the motive is accounted laudable, and is called pious zeal: in the next house it is deemed contemptible, and called superstition. 3. In the same view, a man eats a piece of bread (or at least what to external appearance is a piece of bread) with certain ceremonies. In this case, in yonder house, his motive is looked upon as laudable, and is styled piety and devotion: in the next house it is

deemed abominable, and styled superstition, as before: perhaps even it is absurdly styled impiety. 4. In the same view, a man holds a cow by the tail while he is dying. On the Thames the motive would in this case be deemed contemptible, and called superstition. On the Ganges it is deemed meritorious, and called piety. 5. In the same view, a man bestows a large sum in works of charity, or public utility. In this case the motive is styled laudable, by those at least to whom the works in question appear to come under this description: and by these at least it would be styled piety. Yet in all these cases the motive is precisely the same: it is neither more nor less than the motive belonging to the religious sanction.*

XXV.

Good-will, &c. to the pleasures of sympathy.

To the pleasures of sympathy corresponds the motive which, in a neutral sense, is termed good-will. The word sympathy may also be used on this occasion: though the sense of it seems

* I am aware, or at least I hope, that people in general, when they see the matter thus stated, will be ready to acknowledge, that the motive in these cases, whatever be the tendency of the acts which it produces, is not a bad one: but this will not render it the less true, that hitherto, in popular discourse, it has been common for men to speak of acts, which they could not but acknowledge to have originated from this source, as proceeding from a bad motive. The same observation will apply to many of the other cases.

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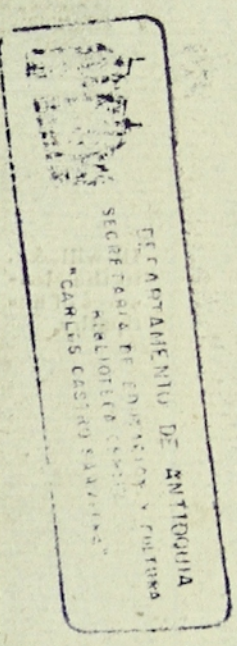
to be rather more extensive. In a good sense, it is styled benevolence: and in certain cases, philanthropy; and, in a figurative way, brotherly love; in others, humanity; in others, charity; in others, pity and compassion; in others, mercy; in others, gratitude; in others, tenderness; in others, patriotism; in others, public spirit. Love is also employed in this as in so many other senses. In a bad sense, it has no name applicable to it in all cases: in particular cases it is styled partiality. The word zeal, with certain epithets prefixed to it, might also be employed sometimes on this occasion, though the sense of it be more extensive; applying sometimes to ill as well as to good will. It is thus we speak of party zeal, national zeal, and public zeal. The word attachment is also used with the like epithets: we also say family-attachment. The French expression, *esprit de corps*, for which as yet there seems to be scarcely any name in English, might be rendered, in some cases, though rather inadequately, by the terms corporation spirit, corporation attachment, or corporation zeal.

1. A man who has set a town on fire is apprehended and committed: out of regard or compassion for him, you help him to break prison. In this case the generality of people will probably scarcely know whether to condemn your motive or to applaud it: those who condemn

your conduct, will be disposed rather to impute it to some other motive: if they style it benevolence or compassion, they will be for prefixing an epithet, and calling it false benevolence or false compassion.* 2. The man is taken again, and is put upon his trial: to save him you swear falsely in his favour. People, who would not call your motive a bad one before, will perhaps call it so now. 3. A man is at law with you about an estate: he has no right to it: the judge knows this, yet, having an esteem or affection for your adversary, adjudges it to him. In this case the motive is by every body deemed abominable, and is termed injustice and partiality. 4. You detect a statesman in receiving bribes: out of regard to the public interest, you give information of it, and prosecute him. In this case, by all who ac-



* Among the Greeks, perhaps the motive, and the conduct it gave birth to, would, in such a case, have been rather approved than disapproved of. It seems to have been deemed an act of heroism on the part of Hercules, to have delivered his friend Theseus from hell: though divine justice, which held him there, should naturally have been regarded as being at least upon a footing with human justice. But to divine justice, even when acknowledged under that character, the respect paid at that time of day does not seem to have been very profound, or well-settled: at present, the respect paid to it is profound and settled enough, though the name of it is but too often applied to dictates which could have had no other origin than the worst sort of human caprice.

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knowledge your conduct to have originated from this motive, your motive will be deemed a laudable one, and styled public spirit. But his friends and adherents will not choose to account for your conduct in any such manner: they will rather attribute it to party enmity. 5. You find a man on the point of starving: you relieve him; and save his life. In this case your motive will by every body be accounted laudable, and it will be termed compassion, pity, charity, benevolence. Yet in all these cases the motive is the same: it is neither more nor less than the motive of good-will.

XXVI.

Ill-will, &c. to the pleasures of antipathy.

To the pleasures of malevolence, or antipathy, corresponds the motive which, in a neutral sense, is termed antipathy or displeasure: and, in particular cases, dislike, aversion, abhorrence, and indignation: in a neutral sense, or perhaps a sense leaning a little to the bad side, ill-will: and, in particular cases, anger, wrath, and enmity. In a bad sense it is styled, in different cases, wrath, spleen, ill-humour, hatred, malice, rancour, rage, fury, cruelty, tyranny, envy, jealousy, revenge, misanthropy, and by other names, which it is hardly worth while to endeavour to collect.* Like good-will, it is used

* Here, as elsewhere, it may be observed, that the same words which are mentioned as names of motives, are also

with epithets expressive of the persons who are the objects of the affection. Hence we hear of party enmity, party rage, and so forth. In a good sense there seems to be no single name for it. In compound expressions it may be spoken of in such a sense, by epithets, such as *just* and *laudable*, prefixed to words that are used in a neutral or nearly neutral sense.

1. You rob a man: he prosecutes you, and gets you punished: out of resentment you set upon him, and hang him with your own hands. In this case your motive will universally be deemed detestable, and will be called malice, cruelty, revenge, and so forth. 2. A man has stolen a little money from you: out of resentment you prosecute him, and get him hanged by course of law. In this case people will probably be a little divided in their opinions about your motive: your friends will deem it a laudable one, and call it a just or laudable resentment: your enemies will perhaps be disposed to deem it blameable, and call it cruelty, malice, revenge, and so forth: to obviate which,

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many of them names of passions, appetites, and affections: fictitious entities, which are framed only by considering pleasures or pains in some particular point of view. Some of them are also names of moral qualities. This branch of nomenclature is remarkably entangled: to unravel it completely would take up a whole volume; not a syllable of which would belong properly to the present design.

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your friends will try perhaps to change the motive, and call it public spirit. 3. A man has murdered your father: out of resentment you prosecute him, and get him put to death in course of law. In this case your motive will be universally deemed a laudable one, and styled, as before, a just or laudable resentment: and your friends, in order to bring forward the more amiable principle from which the malevolent one, which was your immediate motive, took its rise, will be for keeping the latter out of sight, speaking of the former only, under some such name as filial piety. Yet in all these cases the motive is the same: it is neither more nor less than the motive of ill-will.

XXVII.

Self-preservation, to the several kinds of pains.

To the several sorts of pains, or at least to all such of them as are conceived to subsist in an intense degree, and to death, which, as far as we can perceive, is the termination of all the pleasures, as well as all the pains we are acquainted with, corresponds the motive, which in a neutral sense is styled, in general, self-preservation: the desire of preserving one's self from the pain or evil in question. Now in many instances the desire of pleasure, and the sense of pain, run into one another undistinguishably. Self-preservation, therefore, where the degree of the pain which it corresponds to is but slight, will scarcely be distinguishable, by any precise

line, from the motives corresponding to the several sorts of pleasures. Thus in the case of the pains of hunger and thirst: physical want will in many cases be scarcely distinguishable from physical desire. In some cases it is styled, still in a neutral sense, self-defence. Between the pleasures and the pains of the moral and religious sanctions, and consequently of the motives that correspond to them, as likewise between the pleasures of amity, and the pains of enmity, this want of boundaries has already been taken notice of.* The case is the same between the pleasures of wealth, and the pains of privation corresponding to those pleasures. There are many cases, therefore, in which it will be difficult to distinguish the motive of self-preservation from pecuniary interest, from the desire of ingratiating one's self, from the love of reputation, and from religious hope: in which cases, those more specific and explicit names will naturally be preferred to this general and inexplicit one. There are also a multitude of compound names, which either are already in use, or might be devised, to distinguish the specific branches of the motive of self-preservation from those several motives of a pleasurable origin: such as the fear of poverty, the fear of losing such or such a man's regard, the fear of shame, and the fear of God. Moreover,

* See ch. v. [Pleasures and Pains.] par. xxiv. xxv.

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to the evil of death corresponds, in a neutral sense, the love of life; in a bad sense, cowardice: which corresponds also to the pains of the senses, at least when considered as subsisting in an acute degree. There seems to be no name for the love of life that has a good sense; unless it be the vague and general name of prudence.

1. To save yourself from being hanged, pilloried, imprisoned, or fined, you poison the only person who can give evidence against you. In this case your motive will universally be styled abominable: but as the term self-preservation has no bad sense, people will not care to make this use of it: they will be apt rather to change the motive, and call it malice. 2. A woman, having been just delivered of an illegitimate child, in order to save herself from shame, destroys the child, or abandons it. In this case, also, people will call the motive a bad one, and, not caring to speak of it under a neutral name, they will be apt to change the motive, and call it by some such name as cruelty. 3. To save the expense of a halfpenny, you suffer a man, whom you could preserve at that expense, to perish with want, before your eyes. In this case your motive will be universally deemed an abominable one; and, to avoid calling it by so indulgent a name as self-preservation, people will be apt to call it avarice and niggardliness, with which indeed in this case it

indistinguishably coincides: for the sake of finding a more reproachful appellation, they will be apt likewise to change the motive, and term it cruelty. 4. To put an end to the pain of hunger, you steal a loaf of bread. In this case your motive will scarcely, perhaps, be deemed a very bad one; and, in order to express more indulgence for it, people will be apt to find a stronger name for it than self-preservation, terming it *necessity*. 5. To save yourself from drowning, you beat off an innocent man who has got hold of the same plank. In this case your motive will in general be deemed neither good nor bad, and it will be termed self-preservation, or necessity, or the love of life. 6. To save your life from a gang of robbers, you kill them in the conflict. In this case the motive may, perhaps, be deemed rather laudable than otherwise, and, besides self-preservation, is styled also self-defence. 7. A soldier is sent out upon a party against a weaker party of the enemy: before he gets up with them, to save his life, he runs away. In this case the motive will universally be deemed a contemptible one, and will be called cowardice. Yet in all these various cases, the motive is still the same. It is neither more nor less than self-preservation.

XXVIII.

In particular, to the pains of exertion corresponds the motive, which, in a neutral sense,

To the pains of exertion, the love of ease.

CHAP. X. may be termed the love of ease, or by a longer circumlocution, the desire of avoiding trouble. In a bad sense, it is termed indolence.* It seems to have no name that carries with it a good sense.

1. To save the trouble of taking care of it, a parent leaves his child to perish. In this case the motive will be deemed an abominable one, and, because indolence will seem too mild a name for it, the motive will, perhaps, be changed, and spoken of under some such term as cruelty. 2. To save yourself from an illegal slavery, you make your escape. In this case the motive will be deemed certainly not a bad one: and, because indolence, or even the love of ease, will be thought too unfavourable a name for it, it will, perhaps, be styled the love of liberty. 3. A mechanic, in order to save his labour, makes an improvement in his machinery. In this case, people will look upon his motive as a good one; and finding no name for it that carries a good sense, they will be disposed to keep the motive out of sight: they will speak rather of his ingenuity, than of the motive which was the means of his manifesting that quality. Yet in all these cases the motive

* It may seem odd at first sight to speak of the love of ease as giving birth to action: but exertion is as natural an effect of the love of ease as inaction is, when a smaller degree of exertion promises to exempt a man from a greater.

is the same: it is neither more nor less than the love of ease.

XXIX.

Motives can only be bad with reference to the most frequent complexion of their effects.

It appears then that there is no such thing as any sort of motive which is a bad one in itself: nor, consequently, any such thing as a sort of motive, which in itself is exclusively a good one. And as to their effects, it appears too that these are sometimes bad, at other times either indifferent or good: and this appears to be the case with every sort of motive. *If any sort of motive then is either good or bad on the score of its effects, this is the case only on individual occasions, and with individual motives;* and this is the case with one sort of motive as well as with another. *If any sort of motive then can, in consideration of its effects, be termed with any propriety a bad one,* it can only be with reference to the balance of all the effects it may have had of both kinds within a given period, that is, of its most usual tendency.

XXX.

How it is that motives, such as lust, avarice, &c. are constantly bad.

What then? (it will be said) are not lust, cruelty, avarice, bad motives? Is there so much as any one individual occasion, in which motives like these can be otherwise than bad? No, certainly: and yet the proposition, that there is no one *sort* of motive but what will on many occasions be a good one, is nevertheless true. The fact is, that these are names which, if pro-

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perly applied, are never applied but in the cases where the motives they signify happen to be bad. The names of these motives, considered apart from their effects, are sexual desire, displeasure, and pecuniary interest. To sexual desire, when the effects of it are looked upon as bad, is given the name of lust. Now lust is always a bad motive. Why? Because if the case be such, that the effects of the motive are not bad, it does not go, or at least ought not to go, by the name of lust. The case is, then, that when I say, "Lust is a bad motive," it is a proposition that merely concerns the import of the word lust; and which would be false if transferred to the other word used for the same motive, sexual desire. Hence we see the emptiness of all those rhapsodies of common-place morality, which consist in the taking of such names as lust, cruelty, and avarice, and branding them with marks of 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, shew them the cases in which sexual desire *merits* the name of lust; displeasure, that of cruelty; and pecuniary interest, that of avarice.

XXXI.

Under the above restrictions, motives

If it were necessary to apply such denominations as good, bad, and indifferent to motives,

may be distinguished into good, bad, and indifferent or neutral.

they might be classed in the following manner, in consideration of the most frequent complexion of their effects. In the class of good motives might be placed the articles of, 1. Good-will. 2. Love of reputation. 3. Desire of amity. And, 4. Religion. In the class of bad motives, 5. Displeasure. In the class of neutral or indifferent motives, 6. Physical desire. 7. Pecuniary interest. 8. Love of power. 9. Self-preservation; as including the fear of the pains of the senses, the love of ease, and the love of life.

XXXII.

Inconveniences of this distribution.

This method of arrangement, however, cannot but be imperfect; and the nomenclature belonging to it is in danger of being fallacious. For by what method of investigation can a man be assured, that with regard to the motives ranked under the name of good, the good effects they have had, from the beginning of the world, have, in each of the four species comprised under this name, been superior to the bad? still more difficulty would a man find in assuring himself, that with regard to those which are ranked under the name of neutral or indifferent, the effects they have had have exactly balanced each other, the value of the good being neither greater nor less than that of the bad. It is to be considered, that the interests of the person himself can no more be left out of

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the estimate, than those of the rest of the community. For what would become of the species, if it were not for the motives of hunger and thirst, sexual desire, the fear of pain, and the love of life? Nor in the actual constitution of human nature is the motive of displeasure less necessary, perhaps, than any of the others: although a system, in which the business of life might be carried on without it, might possibly be conceived. It seems, therefore, that they could scarcely, without great danger of mistakes, be distinguished in this manner even with reference to each other.

XXXIII.

It is only in individual instances that motives can be good or bad.

The only way, it should seem, in which a motive can with safety and propriety be styled good or bad, is with reference to its effects in each individual instance; and principally from the intention it gives birth to: from which arise, as will be shewn hereafter, the most material part of its effects. A motive is good, when the intention it gives birth to is a good one; bad, when the intention is a bad one: and an intention is good or bad, according to the material consequences that are the objects of it. So far is it from the goodness of the intention's being to be known only from the species of the motive. But from one and the same motive, as we have seen, may result intentions of every sort of complexion whatsoever. This circum-

stance, therefore, can afford no clue for the arrangement of the several sorts of motives.

XXXIV.

Motives distinguished into social, dissocial, and self-regarding.

A more commodious method, therefore, it should seem, would be to distribute them according to the influence which they appear to have on the interests of the other members of the community, laying those of the party himself out of the question: to wit, according to the tendency which they appear to have to unite, or disunite, his interests and theirs. On this plan they may be distinguished into *social*, *dissocial*, and *self-regarding*. In the social class may be reckoned, 1. Good-will. 2. Love of reputation. 3. Desire of amity. 4. Religion. In the dissocial may be placed, 5. Displeasure. In the self-regarding class, 6. Physical desire. 7. Pecuniary interest. 8. Love of power. 9. Self-preservation; as including the fear of the pains of the senses, the love of ease, and the love of life.

XXXV.

—social, into purely-social, and semi-social.

With respect to the motives that have been termed social, if any farther distinction should be of use, to that of good-will alone may be applied the epithet of *purely-social;* while the love of reputation, the desire of amity, and the motive of religion, may together be comprised under the division of *semi-social:* the social tendency being much more constant and une-

CHAP. X.

quivocal in the former than in any of the three latter. Indeed these last, social as they may be termed, are self-regarding at the same time.*

§ 4. *Order of pre-eminence among motives.*

XXXVI.

The dictates of good-will are the surest of coinciding with those of utility.

Of all these sorts of motives, good-will is that of which the dictates,† taken in a general view, are surest of coinciding with those of the principle of utility. For the dictates of utility are neither more nor less than the dictates of the most extensive ‡ and enlightened (that is *well-advised* §) benevolence. The dictates of the other motives may be comformable to those of utility, or repugnant, as it may happen.

XXXVII.

Yet do not in all cases.

In this, however, it is taken for granted, that in the case in question the dictates of benevolence are not contradicted by those of a more extensive, that is enlarged, benevolence. Now when the dictates of benevolence, as respecting

* "Religion," says the pious Addison, somewhere in the Spectator, "is the highest species of self-love."

Laws and dictates conceived as issuing from motives.

† When a man is supposed to be prompted by any motive to engage, or not to engage, in such or such an action, it may be of use, for the convenience of discourse, to speak of such motive as giving birth to an imaginary kind of *law* or *dictate*, injoining him to engage, or not to engage, in it. ‖

‡ See ch. iv. [Value.] and ch. vi. [Sensibility.] xxi.

§ See ch. ix. [Consciousness.]

‖ See ch. i.

the interests of a certain set of persons, are repugnant to the dictates of the same motive, as respecting the more important * interests of another set of persons, the former dictates, it is evident, are repealed, as it were, by the latter: and a man, were he to be governed by the former, could scarcely, with propriety, be said to be governed by the dictates of benevolence. On this account, were the motives on both sides sure to be alike present to a man's mind, the case of such a repugnancy would hardly be worth distinguishing, since the partial benevolence might be considered as swallowed up in the more extensive: if the former prevailed, and governed the action, it must be considered as not owing its birth to benevolence, but to some other motive: if the latter prevailed, the former might be considered as having no effect. But the case is, that a partial benevolence may govern the action, without entering into any direct competition with the more extensive benevolence, which would forbid it; because the interests of the less numerous assemblage of persons may be present to a man's mind, at a time when those of the more numerous are either not present, or, if present, make no impression. It is in this way that the dictates of this motive may be repugnant to utility, yet

* Or valuable. See ch. iv. [Value.]

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still be the dictates of benevolence. What makes those of private benevolence conformable upon the whole to the principle of utility, is, that in general they stand unopposed by those of public: if they are repugnant to them, it is only by accident. What makes them the more conformable, is, that in a civilized society, in most of the cases in which they would of themselves be apt to run counter to those of public benevolence, they find themselves opposed by stronger motives of the self-regarding class, which are played off against them by the laws; and that it is only in cases where they stand unopposed by the other more salutary dictates, that they are left free. An act of injustice or cruelty, committed by a man for the sake of his father or his son, is punished, and with reason, as much as if it were committed for his own.

XXXVIII.

Next to them come those of the love of reputation.

After good-will, the motive of which the dictates seem to have the next best chance for coinciding with those of utility, is that of the love of reputation. There is but one circumstance which prevents the dictates of this motive from coinciding in all cases with those of the former. This is, that men in their likings and dislikings, in the dispositions they manifest to annex to any mode of conduct their approbation or their disapprobation, and in consequence to the per-

son who appears to practise it, their good or their ill will, do not govern themselves exclusively by the principle of utility. Sometimes it is the principle of asceticism they are guided by: sometimes the principle of sympathy and antipathy. There is another circumstance, which diminishes, not their conformity to the principle of utility, but only their efficacy in comparison with the dictates of the motive of benevolence. The dictates of this motive will operate as strongly in secret as in public: whether it appears likely that the conduct which they recommend will be known or not: those of the love of reputation will coincide with those of benevolence only in proportion as a man's conduct seems likely to be known. This circumstance, however, does not make so much difference as at first sight might appear. Acts, in proportion as they are material, are apt to become known:* and in point of reputation, the slightest suspicion often serves for proof. Besides, if an act be a disreputable one, it is not any assurance a man can have of the secrecy of the particular act in question, that will of course surmount the objections he may have against engaging in it. Though the act in question should remain secret, it will go towards forming a habit, which may give birth to other acts, that

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* See B. II. tit. [Evidence.]

CHAP. X.

may not meet with the same good fortune. There is no human being, perhaps, who is at years of discretion, on whom considerations of this sort have not some weight: and they have the more weight upon a man, in proportion to the strength of his intellectual powers, and the firmness of his mind.* Add to this, the influence which habit itself, when once formed, has in restraining a man from acts towards which, from the view of the disrepute annexed to them, as well as from any other cause, he has contracted an aversion. The influence of habit, in such cases, is a matter of fact, which, though not readily accounted for, is acknowledged and indubitable.†

XXXIX.

Next those of the desire of amity.

After the dictates of the love of reputation come, as it should seem, those of the desire of amity. The former are disposed to coincide with those of utility, inasmuch as they are disposed to coincide with those of benevolence. Now those of the desire of amity are apt also to

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* See ch. vi. [Sensibility.] par. xii. xiii.

† Strictly speaking, habit, being but a fictitious entity, and not really any thing distinct from the acts or perceptions by which it is said to be formed, cannot be the cause of any thing. The enigma, however, may be satisfactorily solved upon the principle of association, of the nature and force of which a very satisfactory account may be seen in Dr. Priestley's edition of Hartley on Man.

coincide, in a certain sort, with those of benevolence. But the sort of benevolence with the dictates of which the love of reputation coincides, is the more extensive; that with which those of the desire of amity coincide, the less extensive. Those of the love of amity have still, however, the advantage of those of the self-regarding motives. The former, at one period or other of his life, dispose a man to contribute to the happiness of a considerable number of persons: the latter, from the beginning of life to the end of it, confine themselves to the care of that single individual. The dictates of the desire of amity, it is plain, will approach nearer to a coincidence with those of the love of reputation, and thence with those of utility, in proportion, *cæteris paribus*, to the number of the persons whose amity a man has occasion to desire: and hence it is, for example, that an English member of parliament, with all his own weaknesses, and all the follies of the people whose amity he has to cultivate, is probably, in general, a better character than the secretary of a visier at Constantinople, or of a naïb in Indostan.

XL.

Difficulty of placing those of religion.

The dictates of religion are, under the infinite diversity of religions, so extremely variable, that it is difficult to know what general account to give of them, or in what rank to

CHAP. X. place the motive they belong to. Upon the mention of religion, people's first thoughts turn naturally to the religion they themselves profess. This is a great source of miscalculation, and has a tendency to place this sort of motive in a higher rank than it deserves. The dictates of religion would coincide, in all cases, with those of utility, were the Being, who is the object of religion, universally supposed to be as benevolent as he is supposed to be wise and powerful; and were the notions entertained of his benevolence, at the same time, as correct as those which are entertained of his wisdom and his power. Unhappily, however, neither of these is the case. He is universally supposed to be all-powerful: for by the Deity, what else does any man mean than the Being, whatever he be, by whom every thing is done? And as to knowledge, by the same rule that he should know one thing he should know another. These notions seem to be as correct, for all material purposes, as they are universal. But among the votaries of religion (of which number the multifarious fraternity of Christians is but a small part) there seem to be but few (I will not say how few) who are real believers in his benevolence. They call him benevolent in words, but they do not mean that he is so in reality. They do not mean, that he is benevolent as man is conceived to be benevolent: they do not

mean that he is benevolent in the only sense in which benevolence has a meaning. For if they did, they would recognise that the dictates of religion could be neither more nor less than the dictates of utility: not a tittle different: not a tittle less or more. But the case is, that on a thousand occasions they turn their backs on the principle of utility. They go astray after the strange principles its antagonists: sometimes it is the principle of asceticism: sometimes the principle of sympathy and antipathy.* Accordingly, the idea they bear in their minds, on such occasions, is but too often the idea of malevolence; to which idea, stripping it of its own proper name, they bestow the specious appellation of the social motive.† The dictates of religion, in short, are no other than the dictates of that principle which has been already mentioned under the name of the theological prin-

* Ch. ii. [Principles Adverse.] xviii.

† Sometimes, in order the better to conceal the cheat (from their own eyes doubtless as well as from others) they set up a phantom of their own, which they call Justice: whose dictates are to modify (which being explained, means to oppose) the dictates of benevolence. But justice, in the only sense in which it has a meaning, is an imaginary personage, feigned for the convenience of discourse, whose dictates are the dictates of utility, applied to certain particular cases. Justice, then, is nothing more than an imaginary instrument, employed to forward on certain occasions, and by certain means, the purposes of benevolence. The dictates of justice are no-

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ciple.* These, as has been observed, are just as it may happen, according to the biases of the person in question, copies of the dictates of one or other of the three original principles: sometimes, indeed, of the dictates of utility: but frequently of those of asceticism, or those of sympathy and antipathy. In this respect they are only on a par with the dictates of the love of reputation: in another they are below it. The dictates of religion are in all places intermixed more or less with dictates unconformable to those of utility, deduced from texts, well or ill interpreted, of the writings held for sacred by each sect: unconformable, by imposing practices sometimes inconvenient to a man's self, sometimes pernicious to the rest of the community. The sufferings of uncalled martyrs, the calamities of holy wars and religious persecutions, the mischiefs of intolerant laws, (objects which can here only be glanced at, not detailed) are so many additional mischiefs over and above the number of those which were ever brought into the world by the love of reputation. On the other hand, it is manifest, that with respect to the power of operating in secret, the dictates of religion have the same advantage over those

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thing more than a part of the dictates of benevolence, which, on certain occasions, are applied to certain subjects; to wit, to certain actions.

* See ch. ii. [Principles Adverse, &c.]

of the love of reputation, and the desire of amity, as is possessed by the dictates of benevolence.

XLI.

Tendency, they have to improve.

Happily, the dictates of religion seem to approach nearer and nearer to a coincidence with those of utility every day. But why? Because the dictates of the moral sanction do so: and those coincide with or are influenced by these. Men of the worst religions, influenced by the voice and practice of the surrounding world, borrow continually a new and a new leaf out of the book of utility: and with these, in order not to break with their religion, they endeavour, sometimes with violence enough, to patch together and adorn the repositories of their faith.

XLII.

Afterwards come the self-regarding motives: and, lastly, that of displeasure.

As to the self-regarding and dissocial motives, the order that takes place among these, and the preceding one, in point of extra-regarding influence, is too evident to need insisting on. As to the order that takes place among the motives of the self-regarding class, considered in comparison with one another, there seems to be no difference which on this occasion would be worth mentioning. With respect to the dissocial motive, it makes a difference (with regard to its extra-regarding effects) from which of two sources it originates; whether from self-regarding or from social considerations. The displeasure you conceive against a

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man may be founded either on some act which offends you in the first instance, or on an act which offends you no otherwise than because you look upon it as being prejudicial to some other party on whose behalf you interest yourself: which other party may be of course either a determinate individual, or any assemblage of individuals, determinate or indeterminate.* It it is obvious enough, that a motive, though in itself dissocial, may, by issuing from a social origin, possess a social tendency; and that its tendency, in this case, is likely to be the more social, the more enlarged the description is of the persons whose interests you espouse. Displeasure, venting itself against a man, on account of a mischief supposed to be done by him to the public, may be more social in its effects than any good-will, the exertions of which are confined to an individual.†

§ 5. *Conflict among motives.*

XLIII.

Motives impelling and restraining, what.

When a man has it in contemplation to engage in any action, he is frequently acted upon at the same sime by the force of divers motives: one motive, or set of motives, acting in one direction; another motive, or set of motives,

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* See ch. vi. [Sensibility.] par. xxi.

† See *supra*, par. xxxvii.

acting as it were in an opposite direction. The motives on one side disposing him to engage in the action: those on the other, disposing him not to engage in it. Now, any motive, the influence of which tends to dispose him to engage in the action in question, may be termed an *impelling* motive: any motive, the influence of which tends to dispose him not to engage in it, a *restraining* motive. But these appellations may of course be interchanged, according as the act is of the positive kind, or the negative.*

XLIV.

What are the motives most frequently at variance.

It has been shown, that there is no sort of motive but may give birth to any sort of action. It follows, therefore, that there are no two motives but may come to be opposed to one another. Where the tendency of the act is bad, the most common case is for it to have been dictated by a motive either of the self-regarding, or of the dissocial class. In such case the motive of benevolence has commonly been acting, though ineffectually, in the character of a restraining motive.

XLV.

Example to illustrate a struggle among contending motives.

An example may be of use, to show the variety of contending motives, by which a man may be acted upon at the same time. Crillon, a Catholic (at a time when it was generally thought merito-

* See ch. vii. [Actions.] par. viii.

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rious among Catholics to extirpate Protestants) was ordered by his king, Charles IX. of France, to fall privately upon Coligny, a Protestant, and assassinate him: his answer was, "Excuse me, Sire; but I'll fight him with all my heart."* Here then, were all the three forces above mentioned, including that of the political sanction, acting upon him at once. By the political sanction, or at least so much of the force of it as such a mandate, from such a sovereign, issued on such an occasion, might be supposed to carry with it, he was enjoined to put Coligny to death in the way of assassination: by the religious sanction, that is, by the dictates of religious zeal, he was enjoined to put him to death in any way: by the moral sanction, or in other words, by the dictates of honour, that is, of the love of reputation, he was permitted (which permission, when coupled with the mandates of his sovereign, operated, he conceived, as an injunction) to fight the adversary upon equal terms: by the dictates of enlarged benevolence (supposing the mandate to be unjustifiable) he was enjoined not to attempt his life in any way, but to remain at peace with him: supposing the mandate to be unjustifiable, by the dictates of private benevolence, he was enjoined not to meddle with him at any

* The idea of the case here supposed is taken from an anecdote in real history, but varies from it in several particulars.

rate. Among this confusion of repugnant dictates, Crillon, it seems, gave the preference, in the first place, to those of honour: in the next place, to those of benevolence. He would have fought, had his offer been accepted; as it was not, he remained at peace.

Here a multitude of questions might arise. Supposing the dictates of the political sanction to follow the mandate of the sovereign, of what kind were the motives which they afforded him for compliance? The answer is, of the self-regarding kind at any rate: inasmuch as, by the supposition, it was in the power of the sovereign to punish him for non-compliance, or reward him for compliance. Did they afford him the motive of religion? (I mean independently of the circumstance of heresy above mentioned) the answer is, Yes, if his notion was, that it was God's pleasure he should comply with them; No, if it was not. Did they afford him the motive of the love of reputation? Yes, if it was his notion that the world would expect and require that he should comply with them: No, if it was not. Did they afford him that of benevolence? Yes, if it was his notion that the community would upon the whole be the better for his complying with them: No, if it was not. But did the dictates of the political sanction, in the case in question, actually follow the mandates of the sovereign: in other words, was

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such a mandate legal? This we see is a mere question of local jurisprudence, altogether foreign to the present purpose.

XLVI.

Practical use of the above disquisitions relative to motives.

What is here said about the goodness and badness of motives, is far from being a mere matter of words. There will be occasion to make use of it hereafter for various important purposes. I shall have need of it for the sake of dissipating various prejudices, which are of disservice to the community, sometimes by cherishing the flame of civil dissensions,* at other times, by obstructing the course of justice. It will be shown, that in the case of many offences,† the consideration of the motive is a most material one: for that in the first place it makes a very material difference in the magnitude of the mischief:‡ in the next place, that it is easy to be ascertained; and thence may be made a ground for a difference in the demand for punishment: but that in other cases it is altogether incapable of being ascertained; and that, were it capable of being ever so well ascertained, good or bad, it could make no difference in the demand for punishment: that in all cases, the motive that may happen to govern a prosecutor, is a consideration totally immaterial: whence may be

* See B. I. tit. [Rebellion.]

† Ib. tit. [Simp. corp. injuries.] Ib. tit. [Homicide.]

‡ See ch. xi. [Dispositions.]

seen the mischievousness of the prejudice that is so apt to be entertained against informers; and the consequence it is of that the judge, in particular, should be proof against the influence of such delusions.

Lastly, The subject of motives is one with which it is necessary to be acquainted, in order to pass a judgment on any means that may be proposed for combating offences in their source.*

But before the theoretical foundation for these practical observations can be completely laid, it is necessary we should say something on the subject of *disposition:* which, accordingly, will furnish matter for the ensuing chapter.

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* See Append. tit. [Preventive Institutions.]

CHAP. XI.

OF HUMAN DISPOSITIONS IN GENERAL.

I.

Disposition, what.

In the foregoing chapter it has been shown at large, that goodness or badness cannot, with any propriety, be predicated of motives. Is there nothing then about a man that can properly be termed good or bad, when, on such or such an occasion, he suffers himself to be governed by such or such a motive? Yes, certainly: his *disposition*. Now disposition is a kind of fictitious entity, feigned for the convenience of discourse, in order to express what there is supposed to be *permanent* in a man's frame of mind, where, on such or such an occasion, he has been influenced by such or such a motive, to engage in an act, which, as it appeared to him, was of such or such a tendency.

II.

—how far it belongs to the present subject.

It is with disposition as with every thing else: it will be good or bad according to its effects: according to the effects it has in augmenting or diminishing the happiness of the community. A man's disposition may accordingly be considered in two points of view: according to

the influence it has, either, 1. on his own happiness: or, 2. on the happiness of others. Viewed in both these lights together, or in either of them indiscriminately, it may be termed, on the one hand, good; on the other, bad; or, in flagrant cases, depraved.* Viewed in the former of these lights, it has scarcely any peculiar name, which has as yet been appropriated to it. It might be termed, though but inexpressively, frail or infirm, on the one hand: sound or firm, on the other. Viewed in the other light, it might be termed beneficent, or meritorious, on the one hand: pernicious or mischievous, on the other. Now of that branch of a man's disposition, the effects of which regard in the first instance only himself, there needs not much to be said here. To reform it when bad, is the business rather of the moralist

* It might also be termed virtuous, or vicious. The only objection to the use of those terms on the present occasion is, the great quantity of good and bad repute that respectively stand annexed to them. The inconvenience of this is, their being apt to annex an ill-proportioned measure of disrepute to dispositions which are ill-constituted only with respect to the party himself: involving them in such a degree of ignominy as should be appropriated to such dispositions only as are mischievous with regard to others. To exalt weaknesses to a level with crimes, is a way to diminish the abhorrence which ought to be reserved for crimes. To exalt small evils to a level with great ones, is the way to diminish the share of attention which ought to be paid to great ones.

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than the legislator: nor is it susceptible of those various modifications which make so material a difference in the effects of the other. Again, with respect to that part of it, the effects whereof regard others in the first instance, it is only in as far as it is of a mischievous nature that the penal branch of law has any immediate concern with it: in as far as it may be of a beneficent nature, it belongs to a hitherto but little cultivated, and as yet unnamed branch of law, which might be styled the remuneratory.

III.

A mischievous disposition; a meritorious disposition; what.

A man then is said to be of a mischievous disposition, when, by the influence of no matter what motives, he is *presumed* to be more apt to engage, or form intentions of engaging, in acts which are *apparently* of a pernicious tendency, than in such as are apparently of a beneficial tendency: of a meritorious or beneficent disposition in the opposite case.

IV.

What a man's disposition is, can only be matter of presumption.

I say presumed: for, by the supposition, all that appears is one single action, attended with one single train of circumstances: but from that degree of consistency and uniformity which experience has shown to be observable in the different actions of the same person, the probable existence (past or future) of a number of acts of a similar nature, is naturally and justly

inferred from the observation of one single one. Under such circumstances, such as the motive proves to be in one instance, such is the disposition to be presumed to be in others.

V.

It depends upon what the act appears to be to him.

I say *apparently* mischievous: that is, apparently with regard to him: such as to him appear to possess that tendency: for from the mere event, independent of what to him it appears beforehand likely to be, nothing can be inferred on either side. If to him it appears likely to be mischievous, in such case, though in the upshot it should prove innocent, or even beneficial, it makes no difference; there is not the less reason for presuming his disposition to be a bad one: if to him it appears likely to be beneficial or innocent, in such case, though in the upshot it should prove pernicious, there is not the more reason on that account for presuming his disposition to be a good one. And here we see the importance of the circumstances of intentionality,* consciousness,† unconsciousness,† and mis-supposal.†

VI.

Which position is grounded on two facts: I. The correspondence between intentions and consequences:

The truth of these positions depends upon two others, both of them sufficiently verified by experience: The one is, that in the ordinary course of things the consequences of actions

* See ch. viii. † See ch. ix.

CHAP. XI.

commonly turn out conformable to intentions. A man who sets up a butcher's shop, and deals in beef, when he intends to knock down an ox, commonly does knock down an ox; though by some unlucky accident he may chance to miss his blow and knock down a man: he who sets up a grocer's shop, and deals in sugar, when he intends to sell sugar, commonly does sell sugar: though by some unlucky accident he may chance to sell arsenic in the room of it.

VII.

2. Between the intentions of the same person at different times.

The other is, that a man who entertains intentions of doing mischief at one time is apt to entertain the like intentions at another.*

VIII.

The disposition is to be inferred, 1. From the apparent tendency of the act:

There are two circumstances upon which the nature of the disposition, as indicated by any act, is liable to depend: 1. The apparent tendency of the act: 2. The nature of the motive

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A disposition, from which proceeds a habit of doing mischief, cannot be a good one.

* To suppose a man to be of a good disposition, and at the same time likely, in virtue of that very disposition, to engage in an habitual train of mischievous actions, is a contradiction in terms: nor could such a proposition ever be advanced, but from the giving, to the thing which the word disposition is put for, a reality which does *not* belong to it. If then, for example, a man of religious disposition should, in virtue of that very disposition, be in the habit of doing mischief, for instance, by persecuting his neighbours, the case must be, either that his disposition, though good in certain respects, is not good upon the whole: or that a religious disposition is not in general a good one.

which gave birth to it. This dependency is subject to different rules, according to the nature of the motive. In stating them, I suppose all along the apparent tendency of the act to be, as it commonly is, the same as the real.

2. From the nature of the motive.

IX.

1. Where the tendency of the act is *good*, and the motive is of the *self-regarding* kind. In this case the motive affords no inference on either side. It affords no indication of a good disposition: but neither does it afford any indication of a bad one.

Case 1. Tendency, *good*—motive, self-regarding.

A baker sells his bread to a hungry man who asks for it. This, we see, is one of those acts of which, in ordinary cases, the tendency is unquestionably good. The baker's motive is the ordinary commercial motive of pecuniary interest. It is plain, that there is nothing in the transaction, thus stated, that can afford the least ground for presuming that the baker is a better or a worse man than any of his neighbours.

X.

2. Where the tendency of the act is *bad*, and the motive, as before, is of the *self-regarding* kind. In this case the disposition indicated is a mischievous one.

Case 2. Tendency, *bad*—motive, self-regarding.

A man steals bread out of a baker's shop: this is one of those acts of which the tendency will readily be acknowledged to be bad. Why, and in what respects it is so, will be stated farther

on.* His motive, we will say, is that of pecuniary interest; the desire of getting the value of the bread for nothing. His disposition, accordingly, appears to be a bad one: for every one will allow a thievish disposition to be a bad one.

XI.

Case 3. Tendency, *good*-motive, good-will.

3. Where the tendency of the act is *good*, and the motive is the purely social one of *good-will*. In this case the disposition indicated is a beneficent one.

A baker gives a poor man a loaf of bread. His motive is compassion; a name given to the motive of benevolence, in particular cases of its operation. The disposition indicated by the baker, in this case, is such as every man will be ready enough to acknowledge to be a good one.

XII.

Case 4. Tendency, *bad*-motive, good-will.

4. Where the tendency of the act is *bad*, and the motive is the purely social one of good-will. Even in this case the disposition which the motive indicates is dubious: it may be a mischievous or a meritorious one, as it happens; according as the mischievousness of the act is more or less apparent.

XIII.

This case not an impossible one.

It may be thought, that a case of this sort cannot exist; and that to suppose it, is a con-

* See ch. xii. [Consequences] and Code, B. I. tit. [Theft.]

tradiction in terms. For the act is one, which, by the supposition, the agent knows to be a mischievous one. How then can it be, that good-will, that is, the desire of doing good, could have been the motive that led him into it? To reconcile this, we must advert to the distinction between enlarged benevolence and confined.* The motive that led him into it, was that of confined benevolence. Had he followed the dictates of enlarged benevolence, he would not have done what he did. Now, although he followed the dictates of that branch of benevolence, which in any single instance of its exertion is mischievous, when opposed to the other, yet, as the cases which call for the exertion of the former are, beyond comparison, more numerous than those which call for the exertion of the latter, the disposition indicated by him, in following the impulse of the former, will often be such as in a man, of the common run of men, may be allowed to be a good one upon the whole.

XIV.

Example I.

A man with a numerous family of children, on the point of starving, goes into a baker's shop, steals a loaf, divides it all among the children, reserving none of it for himself. It will be hard to infer that that man's disposition is a

* See ch. x. [Motives.]

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CHAP. XI. mischievous one upon the whole. Alter the case, give him but one child, and that hungry perhaps, but in no imminent danger of starving: and now let the man set fire to a house full of people, for the sake of stealing money out of it to buy the bread with. The disposition here indicated will hardly be looked upon as a good one.

XV.

Example II. Another case will appear more difficult to decide than either. Ravaillac assassinated one of the best and wisest of sovereigns, at a time when a good and wise sovereign, a blessing at all times so valuable to a state, was particularly precious: and that to the inhabitants of a populous and extensive empire. He is taken, and doomed to the most excruciating tortures. His son, well persuaded of his being a sincere penitent, and that mankind, in case of his being at large, would have nothing more to fear from him, effectuates his escape: Is this then a sign of a good disposition in the son, or of a bad one? Perhaps some will answer, of a bad one; for, besides the interest which the nation has in the sufferings of such a criminal, on the score of the example, the future good behaviour of such a criminal is more than any one can have sufficient ground to be persuaded of.

XVI.

Example III. Well then, let Ravaillac, the son, not facilitate his father's escape; but content himself

with conveying poison to him, that at the price of an easier death he may escape his torments. The decision will now, perhaps, be more difficult. The *act* is a wrong one, let it be allowed, and such as ought by all means to be punished: but is the *disposition* manifested by it a bad one? Because the young man breaks the laws in this one instance, is it probable, that if let alone, he would break the laws in ordinary instances, for the satisfaction of any inordinate desires of his own? The answer of most men would probably be in the negative.

XVII.

Case 5. Tendency, *good*—motive, love of reputation.

5. Where the tendency of the act is *good*, and the motive is a semi-social one, the *love of reputation*. In this case the disposition indicated is a good one.

In a time of scarcity, a baker, for the sake of gaining the esteem of the neighbourhood, distributes bread *gratis* among the industrious poor. Let this be taken for granted: and let it be allowed to be a matter of uncertainty, whether he had any real feeling for the sufferings of those whom he has relieved, or no. His disposition, for all that, cannot, with any pretence of reason, be termed otherwise than a good and beneficent one. It can only be in consequence of some very idle prejudice, if it receives a different name.*

The bulk of mankind apt to depreciate this motive.

* The bulk of mankind, ever ready to depreciate the character of their neighbours, in order, indirectly, to exalt their

CHAP. XI.

Case 6. Tendency, *bad*—motive, honour.

XVIII.

6. Where the tendency of the act is *bad*, and the motive, as before, is a semi-social one, the love of reputation. In this case, the disposition which it indicates is more or less good or bad: in the first place, according as the tendency of the act is more or less mischievous: in the

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own, will take occasion to refer a motive to the class of bad ones as often as they can find one still better, to which the act might have owed its birth. Conscious that his own motives are not of the best class, or persuaded that if they be, they will not be referred to that class by others; afraid of being taken for a dupe, and anxious to show the reach of his penetration; each man takes care, in the first place, to impute the conduct of every other man to the least laudable of the motives that can account for it: in the next place, when he has gone as far that way as he can, and cannot drive down the individual motive to any lower class, he changes his battery, and attacks the very class itself. To the love of reputation he will accordingly give a bad name upon every occasion, calling it ostentation, vanity, or vain-glory.

Partly to the same spirit of detraction, the natural consequence of the sensibility of men to the force of the moral sanction, partly to the influence of the principle of asceticism, may, perhaps, be imputed the great abundance of bad names of motives, in comparison of such as are good or neutral: and, in particular, the total want of neutral names for the motives of sexual desire, physical desire in general, and pecuniary interest. The superior abundance, even of good names, in comparison of neutral ones, would, if examined, be found rather to confirm than disprove the above remark. The language of a people on these points may, perhaps, serve in some measure as a key to their moral sentiments. But such speculative disquisitions are foreign to the purpose of the present work.

next place, according as the dictates of the moral sanction, in the society in question, approach more or less to a coincidence with those of utility. It does not seem probable, that in any nation, which is in a state of tolerable civilization, in short, in any nation in which such rules as these can come to be consulted, the dictates of the moral sanction will so far recede from a coincidence with those of utility (that is, of enlightened benevolence) that the disposition indicated in this case can be otherwise than a good one upon the whole.

XIX.

Example I.

An Indian receives an injury, real or imaginary, from an Indian of another tribe. He revenges it upon the person of his antagonist with the most excruciating torments: the case being, that cruelties inflicted on such an occasion, gain him reputation in his own tribe. The disposition manifested in such a case can never be deemed a good one, among a people ever so few degrees advanced, in point of civilization, above the Indians.

XX.

Example II.

A nobleman (to come back to Europe) contracts a debt with a poor tradesman. The same nobleman, presently afterwards, contracts a debt, to the same amount, to another nobleman, at play. He is unable to pay both: he pays the whole debt to the companion of his amusements, and no part of it to the tradesman. The

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disposition manifested in this case can scarcely be termed otherwise than a bad one. It is certainly, however, not so bad as if he had paid neither. The principle of love of reputation, or (as it is called in the case of this partial application of it) honour, is here opposed to the worthier principle of benevolence, and gets the better of it. But it gets the better also of the self-regarding principle of pecuniary interest. The disposition, therefore, which it indicates, although not so good a one as that in which the principle of benevolence predominates, is better than one in which the principle of self-interest predominates. He would be the better for having more benevolence: but would he be the better for having no honour? This seems to admit of great dispute.*

XXI.

Case 7. Tendency, *good*—motive, piety.

7. Where the tendency of the act is *good*, and the motive is the semi-social one of *religion*. In this case, the disposition indicated by it (considered with respect to the influence of it on the man's conduct towards others) is manifestly a beneficent and meritorious one.

A baker distributes bread *gratis* among the industrious poor. It is not that he feels for their distresses: nor is it for the sake of gaining reputation among his neighbours. It is for the sake of gaining the favour of the Deity: to whom,

* See the case of Duels discussed in B. I. tit. [Homicide.]

he takes for granted, such conduct will be acceptable. The disposition manifested by such conduct is plainly what every man would call a good one.

XXII.

Case 8. Tendency, *bad*—motive, religion.

8. Where the tendency of the act is *bad*, and the motive is that of religion, as before. In this case the disposition is dubious. It is good or bad, and more or less good or bad, in the first place, as the tendency of the act is more or less mischievous; in the next place, according as the religious tenets of the person in question approach more or less to a coincidence with the dictates of utility.

XXIII.

The disposition may be bad in this case.

It should seem from history, that even in nations in a tolerable state of civilization in other respects, the dictates of religion have been found so far to recede from a coincidence with those of utility; in other words, from those of enlightened benevolence; that the disposition indicated in this case may even be a bad one upon the whole. This however is no objection to the inference which it affords of a good disposition in those countries (such as perhaps are most of the countries of Europe at present) in which its dictates respecting the conduct of a man towards other men approach very nearly to a coincidence with those of utility. The dictates of religion, in their ap-

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plication to the conduct of a man in what concerns himself alone, seem in most European nations to savour a good deal of the ascetic principle: but the obedience to such mistaken dictates indicates not any such disposition as is likely to break out into acts of pernicious tendency with respect to others. Instances in which the dictates of religion lead a man into acts which are pernicious in this latter view, seem at present to be but rare: unless it be acts of persecution, or impolitic measures on the part of government, where the law itself is either the principal actor or an accomplice in the mischief. Ravaillac, instigated by no other motive than this, gave his country one of the most fatal stabs that a country ever received from a single hand: but happily the Ravaillacs are but rare. They have been more frequent, however, in France than in any other country during the same period: and it is remarkable, that in every instance it is this motive that has produced them. When they do appear, however, nobody, I suppose, but such as themselves, will be for terming a disposition, such as they manifest, a good one. It seems hardly to be denied, but that they are just so much the worse for their notions of religion; and that had they been left to the sole guidance of benevolence, and the love of reputation, without any religion at all, it would have been but

so much the better for mankind. One may say nearly the same thing, perhaps, of those persons who, without any particular obligation, have taken an active part in the execution of laws made for the punishment of those who have the misfortune to differ with the magistrate in matters of religion, much more of the legislator himself, who has put it in their power. If Louis XIV. had had no religion, France would not have lost 800,000 of its most valuable subjects. The same thing may be said of the authors of the wars called holy ones; whether waged against persons called Infidels, or persons branded with the still more odious name of Heretics. In Denmark, not a great many years ago, a sect is said to have arisen, who, by a strange perversion of reason, took it into their heads, that, by leading to repentance, murder, or any other horrid crime, might be made the road to heaven. It should all along, however, be observed, that instances of this latter kind were always rare: and that in almost all the countries of Europe, instances of the former kind, though once abundantly frequent, have for some time ceased. In certain countries, however, persecution at home, or (what produces a degree of restraint, which is one part of the mischiefs of persecution) I mean the *disposition* to persecute, whensoever occasion happens, is not yet at an end: insomuch that

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if there is no *actual* persecution, it is only because there are no heretics; and if there are no heretics, it is only because there are no thinkers.*

XXIV.

Case 9. Tendency, *good*—motive, malevolence.

9. Where the tendency of the act is *good*, and the motive (as before) is the dissocial one of ill-will. In this case the motive seems not to afford any indication on either side. It is no indication of a good disposition; but neither is it any indication of a bad one.

Example.

You have detected a baker in selling short weight: you prosecute him for the cheat. It is not for the sake of gain that you engaged in the prosecution; for there is nothing to be got by it: it is not from public spirit: it is not for the sake of reputation; for there is no reputation to be got by it: it is not in the view of pleasing the Deity: it is merely on account of a quarrel you have with the man you prosecute. From the transaction, as thus stated, there does not seem to be any thing to be said either in favour of your disposition or against it. The tendency of the act is good: but you would not have engaged in it, had it not been from a motive which there seems no particular reason to conclude will ever prompt you to engage in an act of the same kind again. Your

* See B. I. tit. [Offences against Religion.]

motive is of that sort which may, with least impropriety, be termed a bad one: but the act is of that sort, which, were it engaged in ever so often, could never have any evil tendency; nor indeed any other tendency than a good one. By the supposition, the motive it happened to be dictated by was that of ill-will: but the act itself is of such a nature as to have wanted nothing but sufficient discernment on your part in order to have been dictated by the most enlarged benevolence. Now, from a man's having suffered himself to be induced to gratify his resentment by means of an act of which the tendency is good, it by no means follows that he would be ready on another occasion, through the influence of the same sort of motive, to engage in any act of which the tendency is a bad one. The motive that impelled you was a dissocial one: but what social motive could there have been to restrain you? None, but what might have been outweighed by a more enlarged motive of the same kind. Now, because the dissocial motive prevailed when it stood alone, it by no means follows that it would prevail when it had a social one to combat it.

XXV.

Case 10. Tendency, *bad*—motive, malevolence.

10. Where the tendency of the act is *bad*, and the motive is the dissocial one of malevolence. In this case the disposition it indicates is of course a mischievous one.

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Example.

The man who stole the bread from the baker, as before, did it with no other view than merely to impoverish and afflict him: accordingly, when he had got the bread, he did not eat, or sell it; but destroyed it. That the disposition, evidenced by such a transaction, is a bad one, is what every body must perceive immediately.

XXVI.

Problem—to measure the depravity in a man's disposition.

Thus much with respect to the circumstances from which the mischievousness or meritoriousness of a man's disposition is to be inferred in the gross: we come now to the *measure* of that mischievousness or meritoriousness, as resulting from those circumstances. Now with meritorious acts and dispositions we have no direct concern in the present work. All that penal law is concerned to do, is to measure the depravity of the disposition where the act is mischievous. To this object, therefore, we shall here confine ourselves.

XXVII.

A man's disposition is constituted by the sum of his intentions:

It is evident, that the nature of a man's disposition must depend upon the nature of the motives he is apt to be influenced by: in other words, upon the degree of his sensibility to the force of such and such motives. For his disposition is, as it were, the sum of his intentions: the disposition he is of during a certain period, the sum or result of his intentions during that period. If, of the acts he has been intending

to engage in during the supposed period, those which are apparently of a mischievous tendency, bear a large proportion to those which appear to him to be of the contrary tendency, his disposition will be of the mischievous cast: if but a small proportion, of the innocent or upright.

XXVIII.

—which owe their birth to motives.

Now intentions, like every thing else, are produced by the things that are their causes: and the causes of intentions are motives. If, on any occasion, a man forms either a good or a bad intention, it must be by the influence of some motive.

XXIX.

A seducing or corrupting motive, what—a tutelary or preservatory motive.

When the act, which a motive prompts a man to engage in, is of a mischievous nature, it may, for distinction's sake, be termed a *seducing* or corrupting motive: in which case also any motive which, in opposition to the former, acts in the character of a restraining motive, may be styled a *tutelary*, preservatory, or preserving motive.

XXX.

Tutelary motives are either standing or occasional.

Tutelary motives may again be distinguished into *standing* or constant, and *occasional*. By standing tutelary motives, I mean such as act with more or less force in all, or at least in most cases, tending to restrain a man from *any* mischievous acts he may be prompted to en-

gage in; and that with a force which depends upon the general nature of the act, rather than upon any accidental circumstance with which any individual act of that sort may happen to be accompanied. By occasional tutelary motives, I mean such motives as may chance to act in this direction or not, according to the nature of the act, and of the particular occasion on which the engaging in it is brought into contemplation.

XXXI.

Standing tutelary motives are, 1. Good-will.

Now it has been shown, that there is no sort of motive by which a man may not be prompted to engage in acts that are of a mischievous nature; that is, which may not come to act in the capacity of a seducing motive. It has been shown, on the other hand, that there are some motives which are remarkably less likely to operate in this way than others. It has also been shown, that the least likely of all is that of benevolence or good-will: the most common tendency of which, it has been shown, is to act in the character of a tutelary motive. It has also been shown, that even when by accident it acts in one way in the character of a seducing motive, still in another way it acts in the opposite character of a tutelary one. The motive of good-will, in as far as it respects the interests of one set of persons, may prompt a man to engage in acts which are productive of

mischief to another and more extensive set: but this is only because his good-will is imperfect and confined: not taking into contemplation the interests of all the persons whose interests are at stake. The same motive, were the affection it issued from more enlarged, would operate effectually, in the character of a constraining motive, against that very act to which, by the supposition, it gives birth. This same sort of motive may therefore, without any real contradiction or deviation from truth, be ranked in the number of standing tutelary motives, notwithstanding the occasions in which it may act at the same time in the character of a seducing one.

XXXII.

2. The love of reputation.

The same observation, nearly, may be applied to the semi-social motive of love of reputation. The force of this, like that of the former, is liable to be divided against itself. As in the case of good-will, the interests of some of the persons, who may be the objects of that sentiment, are liable to be at variance with those of others: so in the case of love of reputation, the sentiments of some of the persons, whose good opinion is desired, may be at variance with the sentiments of other persons of that number. Now in the case of an act, which is really of a mischievous nature, it can scarcely happen that there shall be no persons whatever who will

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look upon it with an eye of disapprobation. It can scarcely ever happen, therefore, that an act really mischievous shall not have some part at least, if not the whole, of the force of this motive to oppose it; nor, therefore, that this motive should not act with some degree of force in the character of a tutelary motive. This, therefore, may be set down as another article in the catalogue of standing tutelary motives.

XXXIII.

3. The desire of amity.

The same observation may be applied to the desire of amity, though not in altogether equal measure. For, notwithstanding the mischievousness of an act, it may happen, without much difficulty, that all the persons for whose amity a man entertains any particular present desire which is accompanied with expectation, may concur in regarding it with an eye rather of approbation than the contrary. This is but too apt to be the case among such fraternities as those of thieves, smugglers, and many other denominations of offenders. This, however, is not constantly, nor indeed most commonly the case: insomuch, that the desire of amity may still be regarded, upon the whole, as a tutelary motive, were it only from the closeness of its connexion with the love of reputation. And it may be ranked among standing tutelary motives, since, where it does apply, the force with which it acts, depends not upon the occa-

sional circumstances of the act which it opposes, but upon principles as general as those upon which depend the action of the other semi-social motives.

XXXIV.

4. The motive of religion.

The motive of religion is not altogether in the same case with the three former. The force of it is not, like theirs, liable to be divided against itself. I mean in the civilized nations of modern times, among whom the notion of the unity of the Godhead is universal. In times of classical antiquity it was otherwise. If a man got Venus on his side, Pallas was on the other: if Æolus was for him, Neptune was against him. Æneas, with all his piety, had but a partial interest at the court of heaven. That matter stands upon a different footing now-a-days. In any given person, the force of religion, whatever it be, is now all of it on one side. It may balance, indeed, on which side it shall declare itself: and it may declare itself, as we have seen already in but too many instances, on the wrong as well as on the right. It has been, at least till lately, perhaps is still, accustomed so much to declare itself on the wrong side, and that in such material instances, that on that account it seemed not proper to place it, in point of social tendency, on a level altogether with the motive of benevolence. Where it does act, however, as it does in by far the greatest

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number of cases, in opposition to the ordinary seducing motives, it acts, like the motive of benevolence, in an uniform manner, not depending upon the particular circumstances that may attend the commission of the act; but tending to oppose it, merely on account of its mischievousness; and therefore, with equal force, in whatsoever circumstances it may be proposed to be committed. This, therefore, may also be added to the catalogue of standing tutelary motives.

XXXV.

Occasional tutelary motives may be any whatsoever.

As to the motives which may operate occasionally in the character of tutelary motives, these, it has been already intimated, are of various sorts, and various degrees of strength in various offences: depending not only upon the nature of the offence, but upon the accidental circumstances in which the idea of engaging in it may come in contemplation. Nor is there any sort of motive which may not come to operate in this character; as may be easily conceived. A thief, for instance, may be prevented from engaging in a projected scheme of house-breaking, by sitting too long over his bottle,* by a visit from his doxy, by the occasion he may have to go elsewhere, in order to receive his dividend of a former booty; † and so on.

* Love of the pleasures of the palate.

† Pecuniary interest.

XXXVI.

There are some motives, however, which seem more apt to act in this character than others; especially as things are now constituted, now that the law has every where opposed to the force of the principal seducing motives, artificial tutelary motives of its own creation. Of the motives here meant it will be necessary to take a general view. They seem to be reducible to two heads; viz. 1. The love of ease; a motive put into action by the prospect of the trouble of the attempt; that is, the trouble which it may be necessary to bestow, in overcoming the physical difficulties that may accompany it. 2. Self-preservation, as opposed to the dangers to which a man may be exposed in the prosecution of it.

Motives that are particularly apt to act in this character are, 1. Love of ease. 2. Self-preservation.

XXXVII.

These dangers may be either, 1. Of a purely physical nature: or, 2. Dangers resulting from moral agency; in other words, from the conduct of any such persons to whom the act, if known, may be expected to prove obnoxious. But moral agency supposes knowledge with respect to the circumstances that are to have the effect of external motives in giving birth to it. Now the obtaining such knowledge, with respect to the commission of any obnoxious act, on the part of any persons who may be disposed to make the agent suffer for it, is called *detection;* and

Dangers to which self-preservation is most apt in this case to have respect, are, 1. Dangers purely physical. 2. Dangers depending on detection.

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the agent concerning whom such knowledge is obtained, is said to be detected. The dangers, therefore, which may threaten an offender from this quarter, depend, whatever they may be, on the event of his detection; and may, therefore, be all of them comprised under the article of the *danger of detection*.

XXXVIII.

Danger depending on detection may result from, 1. Opposition on the spot: 2. Subsequent punishment.

The danger depending upon detection may be divided again into two branches: 1. That which may result from any opposition that may be made to the enterprise by persons on the spot; that is, at the very time the enterprise is carrying on: 2. That which respects the legal punishment, or other suffering, that may await at a distance upon the issue of the enterprise.

XXXIX.

The force of the two standing tutelary motives of love of reputation, and desire of amity, depends upon detection.

It may be worth calling to mind on this occasion, that among the tutelary motives, which have been styled constant ones, there are two of which the force depends (though not so entirely as the force of the occasional ones which have been just mentioned, yet in a great measure) upon the circumstance of detection. These, it may be remembered, are, the love of reputation, and the desire of amity. In proportion, therefore, as the chance of being detected appears greater, these motives will apply with the greater force: with the less force, as it appears less. This is not the case with the two other

standing tutelary motives, that of benevolence, and that of religion.

XL.

Strength of a temptation, what is meant by it.

We are now in a condition to determine, with some degree of precision, what is to be understood by the *strength of a temptation*, and what indication it may give of the degree of mischievousness in a man's disposition in the case of any offence. When a man is prompted to engage in any mischievous act, we will say, for shortness, in an offence, the strength of the temptation depends upon the ratio between the force of the seducing motives on the one hand, and such of the occasional tutelary ones, as the circumstances of the case call forth into action, on the other. The temptation, then, may be said to be strong, when the pleasure or advantage to be got from the crime is such as in the eyes of the offender must appear great in comparison of the trouble and danger that appear to him to accompany the enterprise: slight or weak, when that pleasure or advantage is such as must appear small in comparison of such trouble and such danger. It is plain the strength of the temptation depends not upon the force of the impelling (that is of the seducing) motives altogether: for let the opportunity be more favourable, that is, let the trouble, or any branch of the danger, be made less than before, it will be acknowledged, that the temptation is made so

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much the stronger: and on the other hand, let the opportunity become less favourable, or, in other words, let the trouble, or any branch of the danger, be made greater than before, the temptation will be so much the weaker.

Now, after taking account of such tutelary motives as have been styled occasional, the only tutelary motives that can remain are those which have been termed standing ones. But those which have been termed the standing tutelary motives, are the same that we have been styling social. It follows, therefore, that the strength of the temptation, in any case, after deducting the force of the social motives, is as the sum of the forces of the seducing, to the sum of the forces of the occasional tutelary motives.

XLI.

Indications afforded by this and other circumstances respecting the depravity of an offender's disposition.

It remains to be inquired, what indication concerning the mischievousness or depravity of a man's disposition is afforded by the strength of the temptation, in the case where any offence happens to have been committed. It appears, then, that the weaker the temptation is, by which a man has been overcome, the more depraved and mischievous it shows his disposition to have been. For the goodness of his disposition is measured by the degree of his sensibility to the action of the social motives:* in other words,

* *Supra*, par, xxvii. xxviii.

by the strength of the influence which those motives have over him: now, the less considerable the force is by which their influence on him has been overcome, the more convincing is the proof that has been given of the weakness of that influence.

Again, The degree of a man's sensibility to the force of the social motives being given, it is plain that the force with which those motives tend to restrain him from engaging in any mischievous enterprise, will be as the apparent mischievousness of such enterprise, that is, as the degree of mischief with which it appears to *him* likely to be attended. In other words, the less mischievous the offence appears to him to be, the less averse he will be, as far as he is guided by social considerations, to engage in it; the more mischievous, the more averse. If then the nature of the offence is such as must appear to him highly mischievous, and yet he engages in it notwithstanding, it shows, that the degree of his sensibility to the force of the social motives is but slight; and consequently that his disposition is proportionably depraved. Moreover, the less the strength of the temptation was, the more pernicious and depraved does it show his disposition to have been. For the less the strength of the temptation was, the less was the force which the influence of those motives had to overcome: the clearer therefore is the proof

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that has been given of the weakness of that influence.

XLII.

Rules for measuring the depravity of disposition indicated by an offence.

From what has been said, it seems, that, for judging of the indication that is afforded concerning the depravity of a man's disposition by the strength of the temptation, compared with the mischievousness of the enterprise, the following rules may be laid down:

Rule 1. *The strength of the temptation being given, the mischievousness of the disposition manifested by the enterprise, is as the apparent mischievousness of the act.*

Thus, it would show a more depraved disposition, to murder a man for a reward of a guinea, or falsely to charge him with a robbery for the same reward, than to obtain the same sum from him by simple theft: the trouble he would have to take, and the risk he would have to run, being supposed to stand on the same footing in the one case as in the other.

Rule 2. *The apparent mischievousness of the act being given, a man's disposition is the more depraved, the slighter the temptation is by which he has been overcome.*

Thus, it shows a more depraved and dangerous disposition, if a man kill another out of mere sport, as the Emperor of Morocco, Muley Mahomet, is said to have done great numbers, than out of revenge, as Sylla and

Marius did thousands, or in the view of self-preservation, as Augustus killed many, or even for lucre, as the same Emperor is said to have killed some. And the effects of such a depravity, on that part of the public which is apprized of it, run in the same proportion. From Augustus, some persons only had to fear, under some particular circumstances. From Muley Mahomet, every man had to fear at all times.

Rule 3. *The apparent mischievousness of the act being given, the evidence which it affords of the depravity of a man's disposition is the less conclusive, the stronger the temptation is by which he has been overcome.*

Thus, if a poor man, who is ready to die with hunger, steal a loaf of bread, it is a less explicit sign of depravity, than if a rich man were to commit a theft to the same amount. It will be observed, that in this rule all that is said is, that the evidence of depravity is in this case the less conclusive: it is not said that the depravity is positively the less. For in this case it is possible, for any thing that appears to the contrary, that the theft might have been committed, even had the temptation been not so strong. In this case, the alleviating circumstance is only a matter of presumption; in the former, the aggravating circumstance is a matter of certainty.

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Rule 4. *Where the motive is of the dissocial kind, the apparent mischievousness of the act, and the strength of the temptation, being given, the depravity is as the degree of deliberation with which it is accompanied.*

For in every man, be his disposition ever so depraved, the social motives are those which, wherever the self-regarding ones stand neuter, regulate and determine the general tenor of his life. If the dissocial motives are put in action, it is only in particular circumstances, and on particular occasions; the gentle but constant force of the social motives, being for a while subdued. The general and standing bias of every man's nature is, therefore, towards that side to which the force of the social motives would determine him to adhere. This being the case, the force of the social motives tends continually to put an end to that of the dissocial ones; as, in natural bodies, the force of friction tends to put an end to that which is generated by impulse. Time, then, which wears away the force of the dissocial motives, adds to that of the social. The longer, therefore, a man continues, on a given occasion, under the dominion of the dissocial motives, the more convincing is the proof that has been given of his insensibility to the force of the social ones.

Thus, it shows a worse disposition, where a

man lays a deliberate plan for beating his antagonist, and beats him accordingly, than if he were to beat him upon the spot, in consequence of a sudden quarrel: and worse again, if, after having had him a long while together in his power, he beats him at intervals, and at his leisure.*

XLIII.

Use of this chapter.

The depravity of disposition, indicated by an act, is a material consideration in several respects. Any mark of extraordinary depravity, by adding to the terror already inspired by the crime, and by holding up the offender as a person from whom there may be more mischief to be apprehended in future, adds in that way to the demand for punishment. By indicating a general want of sensibility on the part of the offender, it may add in another way also to the demand for punishment. The article of disposition is of the more importance, inasmuch as, in measuring out the quantum of punishment, the principle of sympathy and antipathy is apt to look at nothing else. A man who punishes because he hates, and only because he hates, such a man, when he does not find any thing odious in the disposition, is not for punishing at all; and when he does, he is not for carrying the punishment further than his hatred carries him.

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* See B. I. tit. [Confinement.]

CHAP. XI. Hence the aversion we find so frequently expressed against the maxim, that the punishment must rise with the strength of the temptation; a maxim, the contrary of which, as we shall see, would be as cruel to offenders themselves, as it would be subversive of the purposes of punishment.

CHAP. XII.

OF THE CONSEQUENCES OF A MISCHIEVOUS ACT.

§ 1. *Shapes in which the mischief of an act may show itself.*

I.

Recapitulation.

HITHERTO we have been speaking of the various articles or objects on which the consequences or tendency of an act may depend: of the bare *act* itself: of the *circumstances* it may have been, or may have been supposed to be, accompanied with: of the *consciousness* a man may have had with respect to any such circumstances: of the *intentions* that may have preceded the act: of the *motives* that may have given birth to those intentions: and of the *disposition* that may have been indicated by the connexion between such intentions and such motives. We now come to speak of *consequences* or tendency: an article which forms the concluding link in all this chain of causes and effects, involving in it the materiality of the whole. Now, such part of this tendency as is of a mischievous nature, is all that we have any direct concern with; to that, therefore, we shall here confine ourselves.

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Mischief of an act, the aggregate of its mischievous consequences.

II.

The tendency of an act is mischievous when the consequences of it are mischievous; that is to say, either the certain consequences or the probable. The consequences, how many and whatsoever they may be, of an act, of which the tendency is mischievous, may, such of them as are mischievous, be conceived to constitute one aggregate body, which may be termed the mischief of the act.

III.

The mischief of an act, primary or secondary.

This mischief may frequently be distinguished, as it were, into two shares or parcels: the one containing what may be called the primary mischief; the other, what may be called the secondary. That share may be termed the *primary*, which is sustained by an assignable individual, or a multitude of assignable individuals. That share may be termed the *secondary*, which, taking its origin from the former, extends itself either over the whole community, or over some other multitude of unassignable individuals.

IV.

Primary—original, or derivative.

The primary mischief of an act may again be distinguished into two branches: 1. The *original*: and, 2. The *derivative*. By the original branch, I mean that which alights upon and is confined to any person who is a sufferer in the first instance, and on his own account:

the person, for instance, who is beaten, robbed, or murdered. By the derivative branch, I mean any share of mischief which may befal any other assignable persons in consequence of his being a sufferer, and no otherwise. These persons must, of course, be persons who in some way or other are connected with him. Now the ways in which one person may be connected with another, have been already seen: they may be connected in the way of *interest* (meaning self-regarding interest) or merely in the way of *sympathy*. And again, persons connected with a given person, in the way of interest, may be connected with him either by affording *support* to him, or by deriving it from him.*

V.

The secondary mischief, again, may frequently be seen to consist of two other shares or parcels: the first consisting of *pain;* the other of *danger*. The pain which it produces is a pain of apprehension: a pain grounded on the apprehension of suffering such mischiefs or inconveniencies, whatever they may be, as it is the nature of the primary mischief to produce. It may be styled, in one word, the *alarm*. The danger is the *chance*, whatever it may be, which the multitude it concerns may

The secondary— 1. Alarm: or, 2. Danger.

* See ch. vi. [Sensibility.]

CHAP. XII. in consequence of the primary mischief, stand exposed to, of suffering such mischiefs or inconveniencies. For danger is nothing but the chance of pain, or, what comes to the same thing, of loss of pleasure.

VI.

Example. An example may serve to make this clear. A man attacks you on the road, and robs you. You suffer a pain on the occasion of losing so much money :* you also suffered a pain at the thoughts of the personal ill-treatment you apprehended he might give you, in case of your not happening to satisfy his demands.† These together constitute the original branch of the primary mischief, resulting from the act of robbery. A creditor of your's, who expected you to pay him with part of that money, and a son of your's, who expected you to have given him another part, are in consequence disappointed. You are obliged to have recourse to the bounty of your father, to make good part of the deficiency. These mischiefs together make up the derivative branch. The report of this robbery circulates from hand to hand, and spreads itself in the neighbourhood.

* Viz. a *pain of privation*. See ch. v. [Pleasures and Pains.] xvii.

† Viz. a *pain of apprehension*, grounded on the prospect of organical pain, or whatever other mischiefs might have ensued from the ill treatment. Ib. xxx.

It finds its way into the newspapers, and is propagated over the whole country. Various people, on this occasion, call to mind the danger which they and their friends, as it appears from this example, stand exposed to in travelling; especially such as may have occasion to travel the same road. On this occasion they naturally feel a certain degree of pain: slighter or heavier, according to the degree of ill-treatment they may understand you to have received; the frequency of the occasion each person may have to travel in that same road, or its neighbourhood; the vicinity of each person to the spot; his personal courage; the quantity of money he may have occasion to carry about with him; and a variety of other circumstances. This constitutes the first part of the secondary mischief, resulting from the act of robbery; viz. the alarm. But people of one description or other, not only are disposed to conceive themselves to incur a chance of being robbed, in consequence of the robbery committed upon you, but (as will be shown presently) they do really incur such a chance. And it is this chance which constitutes the remaining part of the secondary mischief of the act of robbery; viz. the danger.

VII.

Let us see what this chance amounts to; and whence it comes. How is it, for instance,

The danger, whence it arises—a past offence affords no direct motive to a future.

CHAP. XII. that one robbery can contribute to produce another? In the first place, it is certain that it cannot create any direct motive. A motive must be the prospect of some pleasure, or other advantage, to be enjoyed in future: but the robbery in question is past: nor would it furnish any such prospect were it to come: for it is not one robbery that will furnish pleasure to him who may be about to commit another robbery. The consideration that is to operate upon a man, as a motive or inducement to commit a robbery, must be the idea of the pleasure he expects to derive from the fruits of that very robbery: but this pleasure exists independently of any other robbery.

VIII.

But it suggests feasibility, and weakens the force of restraining motives;

The means, then, by which one robbery tends, as it should seem, to produce another robbery, are two. 1. By suggesting to a person exposed to the temptation, the idea of committing such another robbery (accompanied, perhaps, with the belief of its facility). In this case the influence it exerts applies itself, in the first place, to the understanding. 2. By weakening the force of the tutelary motives which tend to restrain him from such an action, and thereby adding to the strength of the temptation.* In this case the influence applies itself to the will. These forces are, 1. The motive of benevolence,

* See ch. xi. [Dispositions.] xl.

which acts as a branch of the physical sanction.* 2. The motive of self-preservation, as against the punishment that may stand provided by the political sanction. 3. The fear of shame; a motive belonging to the moral sanction. 4. The fear of the divine displeasure; a motive belonging to the religious sanction. On the first and last of these forces it has, perhaps, no influence worth insisting on: but it has on the other two.

IX.

viz. 1. Those issuing from the political sanction.

The way in which a past robbery may weaken the force with which the *political* sanction tends to prevent a future robbery, may be thus conceived. The way in which this sanction tends to prevent a robbery, is by denouncing some particular kind of punishment against any who shall be guilty of it: the *real* value of which punishment will of course be diminished by the *real* uncertainty: as also, if there be any difference, the *apparent* value by the *apparent* uncertainty. Now this uncertainty is proportionably increased by every instance in which a man is known to commit the offence, without undergoing the punishment. This, of course, will be the case with

* To wit, in virtue of the pain it may give a man to be a witness to, or otherwise conscious of, the sufferings of a fellow-creature: especially when he is himself the cause of them: in a word, the pain of sympathy. See ch. v. [Pleasures and Pains.] xxvi.

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every offence for a certain time; in short, until the punishment allotted to it takes place. If punishment takes place at last, this branch of the mischief of the offence is then at last, but not till then, put a stop to.

x.

2. Those issuing from the moral.

The way in which a past robbery may weaken the force with which the *moral* sanction tends to prevent a future robbery, may be thus conceived. The way in which the moral sanction tends to prevent a robbery, is by holding forth the indignation of mankind as ready to fall upon him who shall be guilty of it. Now this indignation will be the more formidable, according to the number of those who join in it: it will be the less so, the fewer they are who join in it. But there cannot be a stronger way of showing that a man does not join in whatever indignation may be entertained against a practice, than the engaging in it himself. It shows not only that he himself feels no indignation against it, but that it seems to him there is no sufficient reason for apprehending what indignation may be felt against it by others. Accordingly, where robberies are frequent, and unpunished, robberies are committed without shame. It was thus amongst the Grecians formerly.* It is thus among the Arabs still.

* See Hom. Odyss. L. xix. l. 395. ib. L. iii. l. 71. Plato de Rep. L. i. p. 576. edit. Ficin. Thucyd. L. i.—and see B. I. tit. [Offences against external security.]

XI.

In whichever way then a past offence tends to pave the way for the commission of a future offence, whether by suggesting the idea of committing it, or by adding to the strength of the temptation, in both cases it may be said to operate by the force or *influence of example*.

It is said to operate by the influence of example.

XII.

The two branches of the secondary mischief of an act, the alarm and the danger, must not be confounded: though intimately connected, they are perfectly distinct: either may subsist without the other. The neighbourhood may be alarmed with the report of a robbery, when, in fact, no robbery, either has been committed or is in a way to be committed: a neighbourhood may be on the point of being disturbed by robberies, without knowing any thing of the matter. Accordingly, we shall soon perceive, that some acts produce alarm without danger: others, danger without alarm.

The alarm and the danger, though connected, are distinguishable.

XIII.

As well the danger as the alarm may again be divided, each of them, into two branches: the first, consisting of so much of the alarm or danger as may be apt to result from the future behaviour of the same agent: the second, consisting of so much as may be apt to result from the behaviour of other persons: such others, to

Both may have respect to the same person, or to others.

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wit, as may come to engage in acts of the same sort and tendency.*

XIV.

The primary consequences of an act may be mischievous, and the secondary beneficial.

The distinction between the primary and the secondary consequences of an act, must be carefully attended to. It is so just, that the latter may often be of a directly opposite nature to the former. In some cases, where the primary consequences of the act are attended with a mischief, the secondary consequences may be benefical, and that to such a degree, as even greatly to outweigh the mischief of the primary. This is the case, for instance, with all acts of punishment, when properly applied. Of these, the primary mischief being never intended to fall but upon such persons as may happen to have committed some act which it is expedient to prevent, the secondary mischief, that is, the alarm and the danger, extends no farther than to such persons as are under temptation to commit it: in which case, in as far as it tends to restrain them from committing such acts, it is of a beneficial nature.

XV.

Analysis of the different shapes in which the mischief of an act may show itself.

Thus much with regard to acts that produce positive pain, and that immediately. This case,

* To the former of these branches is opposed so much of the force of any punishment, as is said to operate in the way of *reformation*: to the latter, so much as is said to operate in the way of *example*. See ch. xiii. [Cases unmeet] ii. note.

by reason of its simplicity, seemed the fittest to take the lead. But acts may produce mischief in various other ways; which, together with those already specified, may all be comprized by the following abridged analysis.

Mischief may admit of a division in any one of three points of view. 1. According to its own *nature*. 2. According to its *cause*. 3. According to the person, or other party, who is the *object* of it.* With regard to its nature, it may be either *simple* or *complex*:† when simple, it may either be *positive* or *negative*: positive, consisting of actual pain: negative, consisting of the loss of pleasure. Whether simple or complex, and whether positive or negative, it may be either *certain* or *contingent*. When it is negative, it consists of the loss of some benefit or advantage: this benefit may be material in both or either of two ways: 1. By affording actual pleasure: or, 2. By averting pain or *danger*, which is the chance of pain: that is, by affording *security*. In as far, then, as the benefit which a mischief tends to avert, is productive of secu-

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* There may be other points of view, according to which mischief might be divided, besides these: but this does not prevent the division here given from being an exhaustive one. A line may be divided in any one of an infinity of ways, and yet without leaving in any one of those cases any remainder. See ch. xvi. [Division.] i. note.

† Ch. v. [Pleasures and Pains.] i.

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rity, the tendency of such mischief is to produce *insecurity*. 2. With regard to its *cause*, mischief may be produced either by one *single* action, or not without the *concurrence* of other actions: if not without the concurrence of other actions, these others may be the actions either of the *same person*, or of *other* persons: in either case, they may be either acts of the *same kind* as that in question, or of *other* kinds. 3. Lastly, with regard to the party who is the *object* of the mischief, or, in other words, who is in a way to be affected by it, such party may be either an *assignable* * individual, or assemblage of individuals, or else a multitude of *unassignable* individuals. When the object is an assignable individual, this individual may either be the person *himself* who is the author of the mischief, or some *other* person. When the individuals, who are the objects of it, are an unassignable multitude, this multitude may be either the *whole* political community or state, or some *subordinate* division of it. Now when the object of the mischief is the author himself, it may be styled *self-regarding:* when any other party is the object, *extra-regarding:* when such other party is an individual, it may be styled *private:* when a subordinate branch of the community, *semi-public:* when the whole community, *public*. Here, for the present, we must stop. To pursue the

* See ch. xvi. [Division.] iv. note.

subject through its inferior distinctions, will be the business of the chapter which exhibits the division of offences.*

—applied to the preceding cases.

The cases which have been already illustrated, are those in which the primary mischief is not necessarily otherwise than a simple one, and that positive: present, and therefore certain: producible by a single action, without any necessity of the concurrence of any other action, either on the part of the same agent, or of others; and having for its object an assignable individual, or, by accident, an assemblage of assignable individuals: extra-regarding therefore, and private. This primary mischief is accompanied by a secondary: the first branch of which is sometimes contingent and sometimes certain, the other never otherwise than contingent: both extra-regarding and semi-public: In other respects, pretty much upon a par with the primary mischief: except that the first branch, viz. the alarm, though inferior in magnitude to the primary, is, in point of extent, and therefore, upon the whole, in point of magnitude, much superior.

XVI.

—to examples of other cases where the mischief is less conspicuous.

Two instances more will be sufficient to illustrate the most material of the modifications above exhibited.

* Ch. xvi.

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Example I. An act of self-intoxication.

A man drinks a certain quantity of liquor, and intoxicates himself. The intoxication in this particular instance does him no sort of harm: or, what comes to the same thing, none that is perceptible. But it is probable, and indeed next to certain, that a given number of acts of the same kind would do him a very considerable degree of harm: more or less according to his constitution and other circumstances: for this is no more than what experience manifests every day. It is also certain, that one act of this sort, by one means or other, tends considerably to encrease the disposition a man may be in to practise other acts of the same sort: for this also is verified by experience. This, therefore, is one instance where the mischief producible by the act is contingent: in other words, in which the tendency of the act is no otherwise mischievous than in virtue of its producing a *chance* of mischief. This chance depends upon the concurrence of other acts of the same kind; and those such as must be practised by the same person. The object of the mischief is that very person himself who is the author of it, and he only, unless by accident. The mischief is therefore private and self-regarding.

As to its secondary mischief, alarm, it produces none: it produces indeed a certain quantity of danger by the influence of example: but

it is not often that this danger will amount to a quantity worth regarding.

XVII.

Example II. Non-payment of a tax.

Again. A man omits paying his share to a public tax. This we see is an act of the negative kind.* Is this then to be placed upon the list of mischievous acts? Yes, certainly. Upon what grounds? Upon the following. To defend the community against its external as well as its internal adversaries, are tasks, not to mention others of a less indispensable nature, which cannot be fulfilled but at a considerable expense. But whence is the money for defraying this expense to come? It can be obtained in no other manner than by contributions to be collected from individuals; in a word, by taxes. The produce then of these taxes is to be looked upon as a kind of *benefit* which it is necessary the governing part of the community should receive for the use of the whole. This produce, before it can be applied to its destination, requires that there should be certain persons commissioned to receive and to apply it. Now if these persons, had they received it, would have applied it to its proper destination, it would have been a benefit: the not putting them in a way to receive it, is then a mischief. But it is possible, that if received, it might not have been

* See. ch. vii. [Actions.] viii.

CHAP. XII. applied to its proper destination; or that the services, in consideration of which it was bestowed, might not have been performed. It is possible, that the under-officer, who collected the produce of the tax, might not have paid it over to his principal: it is possible that the principal might not have forwarded it on according to its farther destination; to the judge, for instance, who is to protect the community against its clandestine enemies from within, or the soldier, who is to protect it against its open enemies from without: it is possible that the judge, or the soldier, had they received it, would not however have been induced by it to fulfil their respective duties: it is possible, that the judge would not have sat for the punishment of criminals, and the decision of controversies: it is possible that the soldier would not have drawn his sword in the defence of the community. These, together with an infinity of other intermediate acts, which for the sake of brevity I pass over, form a connected chain of duties, the discharge of which is necessary to the preservation of the community. They must every one of them be discharged, ere the benefit to which they are contributory can be produced. If they are all discharged, in that case the benefit subsists, and any act, by tending to intercept that benefit, may produce a mischief. But if any of them are not, the benefit fails: it fails of itself: it would not have subsisted, although the act

in question (the act of non-payment) had not been committed. The benefit is therefore contingent; and, accordingly, upon a certain supposition, the act which consists in the averting of it is not a mischievous one. But this supposition, in any tolerably-ordered government, will rarely indeed be verified. In the very worst-ordered government that exists, the greatest part of the duties that are levied are paid over according to their destination: and, with regard to any particular sum, that is attempted to be levied upon any particular person upon any particular occasion, it is therefore manifest, that, unless it be certain that it will not be so disposed of, the act of withholding it is a mischievous one.

The act of payment, when referable to any particular sum, especially if it be a small one, might also have failed of proving beneficial on another ground: and, consequently, the act of non-payment, of proving mischievous. It is possible that the same services, precisely, might have been rendered without the money as with it. If, then, speaking of any small limited sum, such as the greatest which any one person is called upon to pay at a time, a man were to say, that the non-payment of it would be attended with mischievous consequences; this would be far from certain: but what comes to the same thing as if it were, it is perfectly cer

tain when applied to the whole. It is certain, that if all of a sudden the payment of all taxes was to cease, there would no longer be any thing effectual done, either for the maintenance of justice, or for the defence of the community against its foreign adversaries: that therefore the weak would presently be oppressed and injured in all manner of ways, by the strong at home, and both together overwhelmed by oppressors from abroad. Upon the whole, therefore, it is manifest, that in this case, though the mischief is remote and contingent, though in its first appearance it consists of nothing more than the interception of a *benefit*, and though the individuals, in whose favour that benefit would have been reduced into the explicit form of pleasure or security, are altogether unassignable, yet the mischievous tendency of the act is not on all these accounts the less indisputable. The mischief, in point of *intensity* and *duration*, is indeed unknown: it is *uncertain*: it is *remote*. But in point of *extent* it is immense; and in point of *fecundity*, pregnant to a degree that baffles calculation.

XVIII.

No alarm, when no assignable person is the object.

It may now be time to observe, that it is only in the case where the mischief is extra-regarding, and has an assignable person or persons for its object, that so much of the secondary branch of it as consists in *alarm* can have place.

When the individuals it affects are uncertain, and altogether out of sight, no alarm can be produced: as there is nobody whose sufferings you can see, there is nobody whose sufferings you can be alarmed at. No alarm, for instance, is produced by non-payment to a tax. If at any distant and uncertain period of time such offence should chance to be productive of any kind of alarm, it would appear to proceed, as indeed immediately it would proceed, from a very different cause. It might be immediately referable, for example, to the act of a legislator, who should deem it necessary to lay on a new tax, in order to make up for the deficiency occasioned in the produce of the old one. Or it might be referable to the act of an enemy, who, under favour of a deficiency thus created in the fund allotted for defence, might invade the country, and exact from it much heavier contributions than those which had been thus withholden from the sovereign.*

* The investigation might, by a process rendered obvious by analogy, be extended to the consequences of an act of a beneficial nature. In both instances a *third* order of consequences may be reckoned to have taken place, when the influence of the act, through the medium of the passive faculty of the patient, has come to affect his active faculty. In this way, 1. Evil may flow out of *evil*:—instance; the exertions of industry put a stop to by the extinction of inducement, resulting from a continued chain of acts of robbery or extortion. 2. *Good out of evil*:—instance; habits of depredation

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As to any alarm which such an offence might raise among the few who might chance to regard the matter with the eyes of statesmen, it is of too slight and uncertain a nature to be worth taking into the account.

§ 2. *How Intentionality, &c. may influence the mischief of an act.*

XIX.

Secondary mischief influenced by the state of the agent's mind.

We have seen the nature of the secondary mischief, which is apt to be reflected, as it were, from the primary, in the cases where the individuals who are the objects of the mischief are assignable. It is now time to examine into the circumstances upon which the production of such secondary mischief depends. These circumstances are no others than the four articles which have formed the subjects of the four last preceding chapters: viz. 1. The intentionality. 2. The consciousness. 3. The motive. 4. The disposition. It is to be observed all along, that it is only the *danger* that is immediately governed by the *real* state of the mind in respect to those articles: it is by the *apparent* state

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put a stop to by a steady course of punishment. 3. *Evil out of good*:—instance; habits of industry put a stop to by an excessive course of gratuitous bounty. 4. *Good out of good*:—instance; a constant and increasing course of industry, excited and kept up by the rewards afforded by a regular and increasing market for the fruits of it.

of it that the *alarm* is governed. It is governed by the real only in as far as the apparent happens, as in most cases it may be expected to do, to quadrate with the real. The different influences of the articles of intentionality and consciousness may be represented in the several cases following.

XX.

Case 1. Where the act is so completely unintentional, as to be altogether *involuntary*. In this case it is attended with no secondary mischief at all.

Case 1. Involuntariness.

A bricklayer is at work upon a house: a passenger is walking in the street below. A fellow-workman comes and gives the bricklayer a violent push, in consequence of which he falls upon the passenger, and hurts him. It is plain there is nothing in this event that can give other people, who may happen to be in the street, the least reason to apprehend any thing in future on the part of the man who fell, whatever there may be with regard to the man who pushed him.

XXI.

Case 2. Where the act, though not unintentional, is *unadvised*, insomuch that the mischievous part of the consequences is unintentional, but the unadvisedness is attended with *heedlessness*. In this case the act is attended with some small degree of secondary mischief, in proportion to the degree of heedlessness.

Case 2. Unintentionality with heedlessness.

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A groom being on horseback, and riding through a frequented street, turns a corner at a full pace, and rides over a passenger, who happens to be going by. It is plain, by this behaviour of the groom, some degree of alarm may be produced, less or greater, according to the degree of heedlessness betrayed by him: according to the quickness of his pace, the fullness of the street, and so forth. He has done mischief, it may be said, by his carelessness, already: who knows but that on other occasions the like cause may produce the like effect?

XXII.

Case 3. Missupposal of a complete justification, without rashness.

Case 3. Where the act is *misadvised* with respect to a circumstance, which, had it existed, would *fully* have excluded or (what comes to the same thing) outweighed the primary mischief: and there is no rashness in the case. In this case the act is attended with no secondary mischief at all.

It is needless to multiply examples any farther.

XXIII.

Case 4. Missupposal of a partial justification, without rashness.

Case 4. Where the act is misadvised with respect to a circumstance which would have excluded or counterbalanced the primary mischief *in part*, but not entirely: and still there is no rashness. In this case the act is attended with some degree of secondary mischief, in proportion to that part of the primary which remains unexcluded or uncounterbalanced.

XXIV.

Case 5. Missupposal, with rashness.

Case 5. Where the act is misadvised with respect to a circumstance, which, had it existed, would have excluded or counterbalanced the primary mischief entirely, or in part: and there is a degree of *rashness* in the supposal. In this case, the act is also attended with a farther degree of secondary mischief, in proportion to the degree of rashness.

XXV.

Case 6. Consequences completely intentional, and free from missupposal.

Case 6. Where the consequences are *completely* intentional, and there is no missupposal in the case. In this case the secondary mischief is at the highest.

XXVI.

The nature of a motive takes not away the mischief of the secondary consequences.

Thus much with regard to intentionality and consciousness. We now come to consider in what manner the secondary mischief is affected by the nature of the *motive*.

Where an act is pernicious in its primary consequences, the secondary mischief is not obliterated by the *goodness* of the motive; though the motive be of the best kind. For, notwithstanding the goodness of the motive, an act of which the primary consequences are pernicious, is produced by it in the instance in question, by the supposition. It may, therefore, in other instances: although this is not so likely to happen from a good motive as from a bad one.*

* An act of homicide, for instance, is not rendered inno-

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Nor the beneficialness.

XXVII.

An act, which, though pernicious in its primary consequences, is rendered in other respects beneficial upon the whole, by virtue of its secondary consequences, is not changed back again, and rendered pernicious upon the whole by the *badness* of the motive: although the motive be of the worst kind.*

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cent, much less beneficial, merely by its proceeding from a principle of religion, of honour (that is, of love of reputation) or even of benevolence. When Ravaillac assassinated Henry IV. it was from a principle of religion. But this did not so much as abate from the mischief of the act. It even rendered the act still more mischievous, for a reason that we shall see presently, than if it had originated from a principle of revenge. When the conspirators against the late king of Portugal attempted to assassinate him, it is said to have been from a principle of honour. But this, whether it abated or no, will certainly not be thought to have outweighed the mischief of the act. Had a son of Ravaillac's, as in the case before supposed,† merely on the score of filial affection, and not in consequence of any participation in his crime, put him to death in order to rescue him from the severer hands of justice, the motive, although it should not be thought to afford any proof of a mischievous disposition, and should, even in case of punishment, have made such rescuer an object of pity, would hardly have made the act of rescue a beneficial one.

* The prosecution of offences, for instance, proceeds most commonly from one or other, or both together, of two motives, the one of which is of the self-regarding, the other of the dissocial kind: viz. pecuniary interest, and ill-will: from pecuniary interest, for instance, whenever the obtaining pecu-

† Ch. xi. [Disposition.] xv.

XXVIII.

But it may aggravate the mischievousness, where they are mischievous.

But when not only the primary consequences of an act are pernicious, but, in other respects, the secondary likewise, the secondary mischief may be *aggravated* by the nature of the motive: so much of that mischief, to wit, as respects the future behaviour of the same person.

XXIX.

But not the most in the case of the worst motives.

It is not from the worst kind of motive, however, that the secondary mischief of an act receives its greatest aggravation.

XXX.

It does the more, the more considerable the tendency of the motive to produce such acts.

The aggravation which the secondary mischief of an act, in as far as it respects the future behaviour of the same person, receives from the nature of a motive in an individual case, is as

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niary amends for damage suffered is one end of the prosecution. It is common enough indeed to hear men speak of prosecutions undertaken from *public spirit*; which is a branch, as we have seen,* of the principle of benevolence. Far be it from me to deny but that such a principle may very frequently be an ingredient in the sum of motives, by which men are engaged in a proceeding of this nature. But whenever such a proceeding is engaged in from the sole influence of public spirit, uncombined with the least tincture of self interest, or ill-will, it must be acknowledged to be a proceeding of the heroic kind. Now acts of heroism are, in the very essence of them, but rare: for if they were common, they would not be acts of heroism. But prosecutions for crimes are very frequent, and yet, unless in very particular circumstances indeed, they are never otherwise than beneficial.

* See ch. x. [Motives.] xxv.

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the tendency of the motive to produce, on the part of the same person, acts of the like bad tendency with that of the act in question.

XXXI.

—which is as its strength and constancy.

The tendency of a motive to produce acts of the like kind, on the part of any given person, is as the *strength* and *constancy* of its influence on that person, as applied to the production of such effects.

XXXII.

General efficacy of a species of motive, how measured.

The tendency of a species of motive to give birth to acts of any kind, among persons in general, is as the *strength*, *constancy*, and *extensiveness** of its influence, as applied to the production of such effects.

XXXIII.

A mischievous act is more so, when issuing from a self-regarding than when from a dissocial motive.

Now the motives, whereof the influence is at once most powerful, most constant, and most extensive, are the motives of physical desire, the love of wealth, the love of ease, the love of life, and the fear of pain: all of them self-regarding motives. The motive of displeasure, whatever it may be in point of strength and extensiveness, is not near so constant in its influence (the case of mere antipathy excepted) as any of the other three. A pernicious act, therefore, when committed through vengeance, or otherwise through displeasure, is not near so mischievous as the same pernicious act,

* Ch. iv. [Value.]

when committed by force of any one of those other motives.*

XXXIV.

—so even when issuing from the motive of religion.

As to the motive of religion, whatever it may sometimes prove to be in point of strength and constancy, it is not in point of extent so universal, especially in its application to acts of a mischievous nature, as any of the three preceding motives. It may, however, be as universal in a particular state, or in a particular district of a

* It is for this reason that a threat, or other personal outrage, when committed on a stranger, in pursuance of a scheme of robbery, is productive of more mischief in society, and accordingly is, perhaps, every where more severely punished, than an outrage of the same kind offered to an acquaintance, in prosecution of a scheme of vengeance. No man is always in a rage. But, at all times, every man, more or less, loves money. Accordingly, although a man by his quarrelsomeness should for once have been engaged in a bad action, he may nevertheless remain a long while, or even his whole life-time, without engaging in another bad action of the same kind: for he may very well remain his whole life-time without engaging in so violent a quarrel: nor at any rate will he quarrel with more than one, or a few people at a time. But if a man, by his love of money, has once been engaged in a bad action, such as a scheme of robbery, he may at any time, by the influence of the same motive, be engaged in acts of the same degree of enormity. For take men throughout, if a man loves money to a certain degree to-day, it is probable that he will love it, at least in equal degree, to-morrow. And if a man is disposed to acquire it in that way, he will find inducement to rob, wheresoever and whensoever there are people to be robbed.

particular state. It is liable indeed to be very irregular in its operations. It is apt, however, to be frequently as powerful as the motive of vengeance, or indeed any other motive whatsoever. It will sometimes even be more powerful than any other motive. It is at any rate much more constant.* A pernicious act, therefore, when committed through the motive of religion, is more mischievous than when committed through the motive of ill-will.

XXXV.

How the secondary mischief is influenced by disposition.

Lastly, The secondary mischief, to wit, so much of it as hath respect to the future behaviour of the same person, is aggravated or lessened by the apparent depravity or beneficence of his disposition: and that in the proportion of such apparent depravity or beneficence.

XXXVI.

Connexion of this with the succeeding chapter.

The consequences we have hitherto been speaking of, are the *natural* consequences, of

* If a man happen to take it into his head to assassinate with his own hands, or with the sword of justice, those whom he calls heretics, that is, people who think, or perhaps only speak, differently upon a subject which neither party understands, he will be as much inclined to do this at one time as at another. Fanaticism never sleeps: it is never glutted: it is never stopped by philanthropy; for it makes a merit of trampling on philanthropy: it is never stopped by conscience; for it has pressed conscience into its service. Avarice, lust, and vengeance, have piety, benevolence, honour; fanaticism has nothing to oppose it.

which the act, and the other articles we have been considering, are the causes: consequences that result from the behaviour of the individual, who is the offending agent, without the interference of political authority. We now come to speak of *punishment:* which, in the sense in which it is here considered, is an *artificial* consequence, annexed by political authority to an offensive act, in one instance; in the view of putting a stop to the production of events similar to the obnoxious part of its natural consequences, in other instances.

END OF VOL. I.

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