2. Victories of Political Liberalism

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2. Victories of Political Liberalism

Abstract
As we have already suggested in the opening paragraphs of this chapter, the roots of political liberalism antedated the nineteenth century. The philosophic principles of this creed were based on earlier ideas such as natural rights and utilitarianism. Political liberals held that human actions to be moral must be voluntary, and that a society seeking to follow the laws of nature must cherish individual liberty. Since they believed human reason was capable of discerning these laws, liberals believed that enlightened self-interest was an accurate guide for political action. In the next chapter we will take note of the kinship which existed between political liberals and economic liberals. Here we need only to say that both envisaged the chief functions of the state as primarily protective of life, liberty, and property, and active mainly to check abuses and prevent license.

Keywords
Contemporary Civilization, Political Liberalism, natural rights, utilitarianism

Disciplines
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Comments
This is a part of Section XIII: Political Liberalism and Nationalism, 1815-1871. The Contemporary Civilization page lists all additional sections of Ideas and Institutions of Western Man, as well as the Table of Contents for both volumes.

More About Contemporary Civilization:
From 1947 through 1969, all first-year Gettysburg College students took a two-semester course called Contemporary Civilization. The course was developed at President Henry W.A. Hanson's request with the goal of "introducing the student to the backgrounds of contemporary social problems through the major concepts, ideals, hopes and motivations of western culture since the Middle Ages."

Gettysburg College professors from the history, philosophy, and religion departments developed a textbook for the course. The first edition, published in 1955, was called An Introduction to Contemporary Civilization and Its Problems. A second edition, retitled Ideas and Institutions of Western Man, was published in 1958 and 1960. It is this second edition that we include here. The copy we digitized is from the Gary T. Hawbaker ’66 Collection and the marginalia are his.

Authors
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To achieve a system which would incorporate these ideas, political liberals advocated limited, constitutional, and parliamentary government. It should be limited so that it could not infringe upon man's natural rights. It should be constitutional (and outside of Britain liberals insisted that it should be based on a written document) in order that its powers could be sharply defined and circumscribed. It should be parliamentary,
that is to say, representative, since government should reflect the organized will and interests of the community at large.

Such a political system would provide the people with the forum necessary for translating natural law into legislation. It was therefore vital that guarantees of freedom of speech, press, assembly, petition, and religion be established. Liberals believed that religion was a peculiarly personal affair so long as it did not interfere with the duties of citizenship, and that church and state should be separate. Human serfdom and slavery they regarded as indefensible anachronisms. Hugo Grotius had mapped out a program for international comity, and later Rousseau, Bentham, and Kant had advanced various "peace projects." From these men political liberals drew ideas of practical pacifism. Finally, where they were not already in practice, they sought to establish legal principles of due process of law, equality before the law, privacy of the home, and a milder penal code. In many respects the program of the nineteenth century political liberal is neatly summarized in the American Bill of Rights, already cited in Chapter XI.

It must be remembered that before 1848 political liberalism was not generally synonymous with democracy. Where the former favored the supremacy of parliaments, the latter proclaimed the supremacy of the people. The bourgeoisie provided the core of liberal strength (although in places the aristocrats contributed significantly to its support), and they were not eager to extend the franchise to the masses. They stressed liberty more than they did equality. Property qualifications for voting still obtained and were justified on the grounds that freedom of economic opportunity (another liberal tenet) barred no sober and industrious man from the ranks of property holders. Many liberals, doubting that the masses were educationally qualified to participate in forming policy, supported free public education, despite their qualms at the prospect of state control of the schools.

The difference between political liberals and democrats in this century was mainly one of degree. Whereas the former concentrated on checking arbitrary government, the latter sought to place the franchise on a broader basis with more equitable representation in parliament. Democrats subsequently supported social-welfare legislation and after 1848, some professing democrats flirted with Marxian socialism. In most instances, however, liberals and democrats had much in common and worked cooperatively to achieve their respective ends.

In England the constitutional settlement of 1689 had brought forth a system of government greatly admired by eighteenth century critics like Voltaire, Montesquieu, and Rousseau. Yet, the ultraconservative Tory party in control prior to 1830 had followed a semireactionary policy in domestic affairs while stoutly resisting demands for reform. Liberal thought at this time was profoundly influenced by the utilitarian doctrines of Jeremy
Bentham. One of the prominent Benthamites was the economist, James Mill, who with many other liberals believed that utilitarian aims would be most surely realized through liberal and representative government.

It was the special contribution of Mill's son, John Stuart Mill (1806-1873), to persuade his countrymen (and the world at large) that Bentham's basic principles could be enlarged to include a more social and humane interpretation of men. So successful was the younger Mill that through his efforts liberalism became "a representative manifestation of the national mind" and a tenet of all English political parties. A writer on economic as well as political subjects, Mill did not conceive liberty as merely the absence of governmental restraints, and his distrust of "the tyranny of the majority" made him skeptical of some democratic dogmas. His thought was to fight against all abuses of power and he occupied himself chiefly with a defense of civil liberties as a means of bringing about the utilitarian standard of "the greatest good for the greatest number."

To this end Mill published in 1859 his justly celebrated essay, On Liberty. In the extract which follows the author suggested some practical rules for drawing the line between the liberty of the individual and social order, pointed out the difficulties incumbent in maintaining individual liberties, and offered some profound maxims on the theory of liberty.

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

It is, perhaps, hardly necessary to say that this doctrine is meant to apply only to human beings in the
maturity of their faculties. We are not speaking of children, or of young persons below the age which the law may fix as that of manhood or womanhood. Those who are still in a state to require being taken care of by others, must be protected against their own actions as well as against external injury. For the same reason, we may leave out of consideration those backward states of society in which the race itself may be considered as in its nonage. The early difficulties in the way of spontaneous progress are so great, that there is seldom any choice of means for overcoming them; and a ruler full of the spirit of improvement is warranted in the use of any expedients that will attain an end, perhaps otherwise unattainable. Despotism is a legitimate mode of government in dealing with barbarians, provided the end be their improvement, and the means justified by actually effecting that end. Liberty, as a principle, has no application to any state of things anterior to the time when mankind have become capable of being improved by free and equal discussion. Until then, there is nothing for them but implicit obedience to an Akbar or a Charlemagne, if they are so fortunate as to find one. But as soon as mankind have attained the capacity of being guided to their own improvement by conviction or persuasion (a period long since reached in all nations with whom we need here concern ourselves), compulsion, either in the direct form or in that of pains and penalties for non-compliance, is no longer admissible as a means to their own good, and justifiable only for the security of others.

It is proper to state that I forego any advantage which could be derived to my argument from the idea of abstract right, as a thing independent of utility. I regard utility as the ultimate appeal on all ethical questions; but it must be utility in the largest sense, grounded on the permanent interests of man as a progressive being. Those interests, I contend, authorize the subjection of individual spontaneity to external control, only in respect to those actions of each, which concern the interest of other people. If any one does an act hurtful to others, there is a prima facie case for punishing him, by law, or, where legal penalties are not safely applicable, by general disapprobation. There are also many positive acts for the benefit of others, which he may rightfully be compelled to perform, such as, to give evidence in a court of justice; to bear his fair share of the common defence, or in any other joint work necessary to the interest of the society of which he enjoys the protection; and to perform certain acts of individual beneficence, such as saving a fellow creature's life, or interposing to protect the defenceless against ill-usage, things which whenever it is obviously a man's duty to do, he may rightfully be made responsible to society for not doing. A
person may cause evil to others not only by his actions but by his inaction, and in either case he is justly accountable to them for the injury. The latter case, it is true, requires a much more cautious exercise of compulsion than the former. To make any one answerable for doing evil to others, is the rule; to make him answerable for not preventing evil is, comparatively speaking, the exception. Yet there are many cases clear enough and grave enough to justify that exception. In all things which regard the external relations of the individual, he is de jure amenable to those whose interests are concerned, and if need be, to society as their protector. There are often good reasons for not holding him to the responsibility; but these reasons must arise from the special expediencies of the case: either because it is a kind of case in which he is on the whole likely to act better, when left to his own discretion, than when controlled in any way in which society have it in their power to control him; or because the attempt to exercise control would produce other evils, greater than those which it would prevent. When such reasons as these preclude the enforcement of responsibility, the conscience of the agent himself should step into the vacant judgment-seat, and protect those interests of others which have no external protection; judging himself all the more rigidly, because the case does not admit of his being made accountable to the judgment of his fellow-creatures.

But there is a sphere of action in which society, as distinguished from the individual, has, if any, only an indirect interest; comprehending all that portion of a person's life and conduct which affects only himself, or, if it also affects others, only with their free, voluntary, and undeceived consent and participation. When I say only himself, I mean directly, and in the first instance: for whatever affects himself, may affect others through himself; and the objection which may be grounded on this contingency, will receive consideration in the sequel. This, then, is the appropriate region of human liberty. It comprises, first, the inward domain of consciousness, demanding liberty of conscience, in the most comprehensive sense; liberty of thought and feeling; absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral, or theological. The liberty of expressing and publishing opinions may seem to fall under a different principle, since it belongs to that part of the conduct of an individual which concerns other people; but, being almost of as much importance as the liberty of thought itself, and resting in great part on the same reasons, is practically inseparable from it. Secondly, the principle requires liberty of tastes and pursuits; of framing the plan of our life to suit our own character; of doing as we like, subject to such consequences as may follow; without impediment from our fellow-creatures, so long as what we do does not harm them, even though they

 manusls

may be better

or might be

in plain language
should think our conduct foolish, perverse, or wrong. Thirdly, from this liberty of each individual, follows the liberty, within the same limits, of combination among individuals; freedom to unite, for any purpose not involving harm to others; the persons combining being supposed to be of full age, and not forced or deceived.

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

Though this doctrine is anything but new, and, to some persons, may have the air of a truism, there is no doctrine which stands more directly opposed to the general tendency of existing opinion and practice. Society has expended fully as much effort in the attempt (according to its lights) to compel people to conform to its notions of personal, as of social excellence. The ancient commonwealths thought themselves entitled to practise, and the ancient philosophers countenanced, the regulation of every part of private conduct by public authority, on the ground that the State had a deep interest in the whole bodily and mental discipline of every one of its citizens; a mode of thinking which may have been admissible in small republics surrounded by powerful enemies, in constant peril of being subverted by foreign attack or internal commotion, and to which even a short interval of relaxed energy and self-command might so easily be fatal, that they could not afford to wait for the salutary permanent effects of freedom. In the modern world, the greater size of political communities, and above all, the separation between the spiritual and temporal authority (which placed the direction of men's consciences in other hands than those which controlled their worldly affairs), prevented so great an interference by law in the details of private life; but the engines of moral repression have been wielded more strenuously against divergence from the reigning opinion in self-regarding, than even in social matters; religion, the most powerful of the elements which have entered into the formation of moral feeling, having almost always been governed either by the ambition of a hierarchy, seeking control over every department of human conduct, or by the spirit of Puritanism. And some of those modern reformers who have placed themselves in strongest opposition to the religions of the past, have been noway behind either churches or sects in their assertion of the right of spiritual domination: M. Comte, in
particular, whose social system, as unfolded in his Traité de Politique Positive, aims at establishing (though by moral more than by legal appliances) a despotism of society over the individual, surpassing anything contemplated in the political ideal of the most rigid disciplinarian among the ancient philosophers....

The time, it is to be hoped, is gone by, when any defense would be necessary of the "liberty of the press" as one of the secularities against corrupt or tyrannical government. No argument, we may suppose, can now be needed, against permitting a legislature or an executive, not identified in interest with the people, to prescribe opinions to them, and determine what doctrines or what arguments they shall be allowed to hear. This aspect of the question, besides, has been so often and so triumphantly enforced by preceding writers, that it needs not be specially insisted on in this place. Though the law of England, on the subject of the press, is as servile to this day as it was in the time of the Tudors, there is little danger of its being actually put in force against political discussion, except during some temporary panic, when fear of insurrection drives ministers and judges from their propriety; and, speaking generally, it is not, in constitutional countries, to be apprehended, that the government, whether completely responsible to the people or not, will often attempt to control the expression of opinion, except when in doing so it makes itself the organ of the general intolerance of the public. Let us suppose, therefore, that the government is entirely at one with the people, and never thinks of exerting any power of coercion unless in agreement with what it conceives to be their voice. But I deny the right of the people to exercise such coercion, either by themselves or by their government. The power itself is illegitimate. The best government has no more title to it than the worst. It is as noxious, or more noxious, when exerted in accordance with public opinion, than when in opposition to it. If all mankind minus one, were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind. Were an opinion a personal possession of no value except to the owner; if to be obstructed in the enjoyment of it were simply a private injury, it would make some difference whether the injury was inflicted only on a few persons or on many. But the peculiar evil of silencing the expression of an opinion is, that it is robbing the human race of the privilege of having the human race as well as the existing generation; those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth; if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error.

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

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

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

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

Thirdly, even if the received opinion be not only true, but the whole truth; unless it is suffered to be, and actually is, vigorously and earnestly contested, it will, by most of those who receive it, be held in the manner of a prejudice, with little comprehension or feeling of its rational grounds. And not only this, but, fourthly, the meaning of the doctrine itself will be in danger of being lost, or enfeebled, and deprived of its vital effect on the character and conduct: the dogma becoming a mere formal profession, inefficacious for good, but cumbering the ground, and preventing the growth of any real and heartfelt conviction, from reason or personal experience.

Before quitting the subject of freedom of opinion, it is fit to take some notice of those who say, that the free expression of all opinions should be permitted, on condition that the manner be temperate, and do not pass the bounds of fair discussion. Much might be said on the impossibility of fixing where these supposed bounds are to be placed; for if the test be offence to those whose opinion is attacked, I think experience testifies that this offence is given whenever the attack is telling and powerful, and that every opponent who pushes them hard, and whom they find it difficult to answer, appears to them, if he shows any strong feeling on the subject, an intemperate opponent. But this, though an important consideration in a practical point of view, merges in a more fundamental objection. Undoubtedly the manner of asserting an opinion, even though it be a true one, may be very objectionable, and may justly incur severe censure. But the principal offences of the kind are such as it is mostly impossible, unless by accidental self-betrayal, to bring home to conviction. The gravest of them is, to argue sophistically, to suppress facts or arguments, to misstate the elements of the case, or misrepresent the opposite opinion. But all this, even to the most
aggravated degree, is so continually done in perfect good
faith, by persons who are not considered, and in many
other respects may not deserve to be considered, ignorant
or incompetent, that it is rarely possible on adequate
grounds conscientiously to stamp the misrepresentation as
morally culpable; and still less could law presume to in-
terfere with this kind of controversial misconduct. With
regard to what is commonly meant by intemperate discus-
sion, namely, invective, sarcasm, personality, and the
like, the denunciation of these weapons would deserve more
sympathy if it were ever proposed to interdict them equally
to both sides; but it is only desired to restrain the em-
ployment of them against the prevailing opinion: against
the unprevailing they may not only be used without general
disapproval, but will be likely to obtain for him who uses
them the praise of honest zeal and righteous indignation.
Yet whatever mischief arises from their use, is greatest
when they are employed against the comparatively defence-
less; and whatever unfair advantage can be derived by any
opinion from this mode of asserting it, accrues almost
exclusively to received opinions. The worst offence of
this kind which can be committed by a polemic, is to stig-
mematize those who hold the contrary opinion as bad and
immoral men. To calumny of this sort, those who hold any
unpopular opinion are peculiarly exposed, because they
are in general few and uninfluential, and nobody but
themselves feels much interest in seeing justice done
them; but this weapon is, from the nature of the case,
denied to those who attack a prevailing opinion: they
can neither use it with safety to themselves, nor, if
they could, would it do anything but recoil on their own
cause. In general, opinions contrary to those commonly
received can only obtain a hearing by studied moderation
of language, and the most cautious avoidance of unneces-
sary offence, from which they hardly ever deviate even in
a slight degree without losing ground: while unmeasured
vituperation employed on the side of the prevailing opin-
on, really does deter people from professing contrary
opinions, and from listening to those who profess them.
For the interest, therefore, of truth and justice, it is
far more important to restrain this employment of vituper-
ative language than the other; and, for example, if it
were necessary to choose, there would be much more need
to discourage offensive attacks on infidelity, than on
religion. It is, however, obvious that law and authority
have no business with restraining either, while opinion
ought, in every instance, to determine its verdict by the
circumstances of the individual case; condemning every one,
on whichever side of the argument he places himself, in
whose mode of advocacy either want of candor, or malignity,
bigotry, or intolerance of feeling manifest themselves;
but not inferring these vices from the side which a person
takes, though it be the contrary side of the question to
our own: and giving merited honor to every one, whatever
opinion he may hold, who has calmness to see and honesty to state what his opponents and their opinions really are, exaggerating nothing to their discredit, keeping nothing back which tells, or can be supposed to tell, in their favor. This is the real morality of public discussion; and if often violated, I am happy to think that there are many controversialists who to a great extent observe it, and a still greater number who conscientiously strive towards it........

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

The maxims are, first, that the individual is not accountable to society for his actions; in so far as these concern the interests of no person but himself. Advice, instruction, persuasion, and avoidance by other people, if thought necessary by them for their own good, are the only measures by which society can justifiably express its dislike or disapprobation of his conduct. Secondly, that for such actions as are prejudicial to the interests of others, the individual is accountable, and may be subjected either to social or to legal punishments, if society is of opinion that the one or the other is requisite for its protection.

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

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

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

One of these examples, that of the sale of poisons, opens a new question; the proper limits of what may be called functions of police; how far liberty may legitimately be invaded for the prevention of crime, or of accident. It is one of the undisputed functions of government to take precautions against crime before it has
been committed, as well as to detect and punish it afterwards. The preventive function of government, however, is far more liable to be abused to the prejudice of liberty, than the punitive function; for there is hardly any part of the legitimate freedom of action of a human being which would not admit of being represented, and fairly too, as increasing the facilities for some form or other of delinquency. Nevertheless, if a public authority, or even a private person, sees any one evidently preparing to commit a crime, they are not bound to look on inactive until the crime is committed, but may interfere to prevent it. If poisons were never bought or used for any purpose except the commission of murder, it would be right to prohibit their manufacture and sale. They may, however, be wanted not only for innocent but for useful purposes, and restrictions cannot be imposed in the one case without operating in the other. Again, it is a proper office of public authority to guard against accidents. If either a public officer or any one else saw a person attempting to cross a bridge which had been ascertained to be unsafe, and there were no time to warn him of his danger, they might seize him and turn him back, without any real infringement of his liberty; for liberty consists in doing what one desires, and he does not desire to fall into the river. Nevertheless, when there is not a certainty, but only a danger of mischief, no one but the person himself can judge of the sufficiency of the motive which may prompt him to incur the risk; in this case, therefore, (unless he is a child, or delirious, or in some state of excitement or absorption incompatible with the full use of the reflecting faculty), he ought, I conceive, to be only warned of the danger; not forcibly prevented from exposing himself to it. Similar considerations, applied to such a question as the sale of poisons, may enable us to decide which among the possible modes of regulation are or are not contrary to principle. Such a precaution, for example, as that of labelling the drug with some word expressive of its dangerous character, may be enforced without violation of liberty: the buyer cannot wish not to know that the thing he possesses has poisonous qualities. But to require in all cases the certificate of a medical practitioner, would make it sometimes impossible, always expensive, to obtain the article for legitimate uses. The only mode apparent to me, in which difficulties may be thrown in the way of crime committed through this means, without any infringement, worth taking into account, upon the liberty of those who desire the poisonous substance for other purposes, consists in providing what, in the apt language of Bentham, is called "preappointed evidence." This provision is familiar to every one in the case of contracts. It is usual and right that the law, when a contract is entered into, should require as the condition of its enforcing performance, that certain formalities should be observed, such as signatures,
attestation of witnesses, and the like, in order that in case of subsequent dispute, there may be evidence to prove that the contract was really entered into, and that there was nothing in the circumstances to render it legally invalid: the effect being, to throw great obstacles in the way of fictitious contracts, or contracts made in circumstances which, if known, would destroy the validity. Precautions of a similar nature might be enforced in the sale of articles adapted to be instruments of crime. The seller, for example, might be required to enter in a register the exact time of the transaction, the name and address of the buyer, the precise quality and quantity sold; to ask the purpose for which it was wanted, and record the answer he received. When there was no medical prescription, the presence of some third person might be required, to bring home the fact to the purchaser, in case there should afterwards be reason to believe that the article had been applied to criminal purposes. Such regulations would in general be no material impediment to obtaining the article, but a very considerable one to making an improper use of it without detection.

The right inherent in society, to ward off crimes against itself by antecedent precautions, suggests the obvious limitations to the maxim, that purely self-regarding misconduct cannot properly be meddled with in the way of prevention or punishment. Drunkenness, for example, in ordinary cases, is not a fit subject for legislative interference; but I should deem it perfectly legitimate that a person, who had once been convicted of any act of violence to others under the influence of drink, should be placed under a special legal restriction, personal to himself; that if he were afterwards found drunk, he should be liable to a penalty, and that if when in that state he committed another offence, the punishment to which he would be liable for that other offence should be increased in severity. The making himself drunk, in a person whom drunkenness excites to do harm to others, is a crime against others. So, again, idleness, except in a person receiving support from the public, or except when it constitutes a breach of contract, cannot without tyranny be made a subject of legal punishment; but if either from idleness of from any other avoidable cause, a man fails to perform his legal duties to others, as for instance to support his children, it is no tyranny to force him to fulfil that obligation, by compulsory labor, if no other means are available.

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

There is another question to which an answer must be found, consistent with the principles which have been laid down. In cases of personal conduct supposed to be blameable, but which respect for liberty precludes society from preventing or punishing, because the evil directly resulting falls wholly on the agent; what the agent is free to do, ought other persons to be equally free to counsel or instigate? This question is not free from difficulty. The case of a person who solicits another to do an act, is not strictly a case of self-regarding conduct. To give advice or offer inducements to any one, is a social act, and may therefore, like actions in general which affect others, be supposed amenable to social control. But a little reflection corrects the first impression, by showing that if the case is not strictly within the definition of individual liberty, yet the reasons on which the principle of individual liberty is grounded, are applicable to it. If people must be allowed, in whatever concerns only themselves, to act as seems best to themselves at their own peril, they must equally be free to consult with one another about what is fit to be so done; to exchange opinions, and give and receive suggestions. Whatever it is permitted to do, it must be permitted to advise to do. The question is doubtful, only when the instigator derives a personal benefit from his advice; when he makes it his occupation, for subsistence or pecuniary gain, to promote what society and the State consider to be an evil. Then, indeed, a new element of complication is introduced; namely, the existence of classes of persons with an interest opposed to what is considered as the public weal, and whose mode of living is grounded on the counteraction of it. Ought this to be interfered with, or not? Fornication, for example, must be tolerated, and so must gambling; but should a person be free to be a pimp, or to keep a gambling-house? The case is one of those which lie on the exact boundary line between two principles, and it is not at once apparent to which of the two it properly belongs. There are arguments on both sides. On the side of toleration it may be said, that the fact of following anything as an occupation, and living or profiting by the practice of it, cannot make that criminal which would otherwise be admissible; that the act should either be consistently permitted or consistently prohibited; that if the principles which we have hitherto defended are true, society has no business, as society, to decide anything to be wrong which concerns only the individual; that it cannot go beyond dissuasion, and that one person should be as free to persuade, as another to dissuade. In opposition to this it may be contended, that although the public, or the State, are not warranted in authoritatively
deciding, for purposes of repression or punishment, that such or such conduct affecting only the interests of the individual is good or bad, they are fully justified in assuming, if they regard it as bad, that its being so or not is at least a disputable question: That, this being supposed, they cannot be acting wrongly in endeavoring to exclude the influence of solicitations which are not disinterested, of instigators who cannot possibly be impartial -- who have a direct personal interest on one side, and that side the one which the State believes to be wrong, and who confessedly promote it for personal objects only. There can surely, it may be urged, be nothing lost, no sacrifice of good, by so ordering matters that persons shall make their election, either wisely or foolishly, on their own prompting, as free as possible from the arts of persons who stimulate their inclinations for interested purposes of their own. Thus (it may be said) though the statutes respecting unlawful games are utterly indefensible -- though all persons should be free to gamble in their own or each other's houses, or in any place of meeting established by their own subscriptions, and open only to the members and their visitors -- yet public gambling-houses should not be permitted. It is true that the prohibition is never effectual, and that whatever amount of tyrannical power is given to the police, gambling-houses can always be maintained under other pretences; but they may be compelled to conduct their operations with a certain degree of secrecy and mystery, so that nobody knows anything about them but those who seek them; and more than this, society ought not to aim at. There is considerable force in these arguments. I will not venture to decide whether they are sufficient to justify the moral anomaly of punishing the accessory, when the principal is (and must be) allowed to go free; of fining or imprisoning the procurer, but not the fornicator, the gambling-house keeper, but not the gambler. Still less ought the common operations of buying and selling to be interfered with on analogous grounds. Almost every article which is bought and sold may be used in excess, and the sellers have a pecuniary interest in encouraging that excess; but no argument can be founded on this, in favor, for instance, of the Maine Law; because the class of dealers in strong drinks, though interested in their abuse, are indispensably required for the sake of their legitimate use. The interest however, of these dealers in promoting intemperance is a real evil, and justifies the State in imposing restrictions and requiring guarantees, which but for that justification would be infringements of legitimate liberty....

It was pointed out in an early part of this Essay, that the liberty of the individual, in things wherein the individual is alone concerned, implies a corresponding liberty in any number of individuals to regulate by mutual agreement such things as regard them jointly, and regard
no persons but themselves. This question presents no
difficulty, so long as the will of all the persons im-
plicated remains unaltered; but since that will may
change, it is often necessary even in things in which
they alone are concerned, that they should enter into
engagements with one another; and when they do, it is
fit, as a general rule, that those engagements should be
kept. Yet in the laws, probably, of every country, this
general rule has some exceptions. Not only persons are
not held to engagements which violate the rights of third
parties, but it is sometimes considered a sufficient
reason for releasing them from an engagement, that it is
injurious to themselves. In this and most other civil-
ized countries, for example, an engagement by which a
person should sell himself, or allow himself to be sold,
as a slave, would be null and void; neither enforced by
law nor by opinion. The ground for thus limiting his
power of voluntarily disposing of his own lot in life, is
apparent, and is very clearly seen in this extreme case.
The reason for not interfering, unless for the sake of
others, with a person's voluntary acts, is consideration
for his liberty. His voluntary choice is evidence that
what he so chooses is desirable, or at the least endur-
able, to him, and his good is on the whole best provided
for by allowing him to take his own means of pursuing it.
But by selling himself for a slave, he abdicates his
liberty; he foregoes any future use of it, beyond that
single act. He therefore defeats, in his own case, the
very purpose which is the justification of allowing him
to dispose of himself. He is no longer free; but is
thenceforth in a position which has no longer the pre-
sumption in its favor, that would be afforded by his
voluntarily remaining in it. The principle of freedom
cannot require that he should be free not to be free.
It is not freedom, to be allowed to alienate his freedom.
These reasons, the force of which is so conspicuous in
this peculiar case, are evidently of far wider applica-
tion; yet a limit is everywhere set to them by the neces-
sities of life, which continually require, not indeed
that we should resign our freedom, but that we should
consent to this and the other limitation of it. The
principle, however, which demands uncontrolled freedom
of action in all that concerns only the agents themselves,
requires that those who have become bound to one another,
in things which concern no third party, should be able to
release one another from the engagement: and even with-
out such voluntary release, there are perhaps no contracts
or engagements, except those that relate to money or
money's worth, of which one can venture to say that there
ought to be no liberty whatever of retractation....

I have already observed that, owing to the absence
of any recognized general principles, liberty is often
granted where it should be withheld, as well as withheld
where it should be granted; and one of the cases in which,
in the modern European world, the sentiment of liberty is the strongest, is a case where, in my view, it is altogether misplaced. A person should be free to do as he likes in his own concerns; but he ought not to be free to do as he likes in acting for another under the pretext that the affairs of another are his own affairs. The State, while it respects the liberty of each in what specially regards himself, is bound to maintain a vigilant control over his exercise of any power which it allows him to possess over others. This obligation is almost entirely disregarded in the case of the family relations, a case, in its direct influence on human happiness, more important than all others taken together. The almost despotic power of husbands over wives needs not be enlarged upon here, because nothing more is needed for the complete removal of the evil, than that wives should have the same rights, and should receive the protection of law in the same manner, as all other persons; and because, on this subject, the defenders of established injustice do not avail themselves of the plea of liberty, but stand forth openly as the champions of power. It is in the case of children, that misapplied notions of liberty are a real obstacle to the fulfilment by the State of its duties. One would almost think that a man's children were supposed to be literally, and not metaphorically, a part of himself, so jealous is opinion of the smallest interference of law with his absolute and exclusive control over them; more jealous than of almost any interference with his own freedom of action: so much less do the generality of mankind value liberty than power. Consider, for example, the case of education. Is it not a self-evident axiom, that the State should require and compel the education, up to a certain standard, of every human being who is born its citizen? Yet who is there that is not afraid to recognize and assert this truth? Hardly any one indeed will deny that it is one of the most sacred duties of the parents (or, as law and usage now stand, the father), after summoning a human being into the world, to give to that being an education fitting him to perform his part well in life towards others and towards himself. But while this is unanimously declared to be the father's duty, scarcely anybody, in this country, will bear to hear of obliging him to perform it. Instead of his being required to make any exertion or sacrifice for securing education to the child, it is left to his choice to accept it or not when it is provided gratis: It still remains unrecognized, that to bring a child into existence without a fair prospect of being able, not only to provide food for its body, but instruction and training for its mind, is a moral crime, both against the unfortunate offspring and against society; and that if the parent does not fulfil this obligation, the State ought to see it fulfilled at the charge, as far as possible, of the parent.
Were the duty of enforcing universal education once admitted, there would be an end to the difficulties about what the State should teach, and how it should teach, which now convert the subject into a mere battle-field for sects and parties, causing the time and labor which should have been spent in educating, to be wasted in quarrelling about education. If the government would make up its mind to require for every child a good education, it might save itself the trouble of providing one. It might leave to parents to obtain the education where and how they pleased, and content itself with helping it pay the school fees of the poorer classes of children, and defraying the entire school expenses of those who have no one else to pay for them. The objections which are urged with reason against State education, do not apply to the enforcement of education by the State, but to the State's taking upon itself to direct that education: which is a totally different thing. That the whole or any large part of the education of the people should be in State hands, I go as far as any one in deprecating. All that has been said of the importance of individuality of character, and diversity in opinions and modes of conduct, involves, as of the same unspeakable importance, diversity of education. A general State education is a mere contrivance for moulding people to be exactly like one another: and as the mould in which it casts them is that which pleases the predominant power in the government, whether this be a monarch, a priesthood, an aristocracy, or the majority of the existing generation, in proportion as it is efficient and successful, it establishes a despotism over the mind, leading by natural tendency to one over the body. An education established and controlled by the State, should only exist, if it exist at all, as one among many competing experiments, carried on for the purpose of example and stimulus, to keep the others up to a certain standard of excellence. Unless, indeed, when society in general is in so backward a state that it could not or would not provide for itself any proper institutions of education, unless the government undertook the task; then, indeed, the government may, as the less of two great evils, take upon itself the business of schools and universities, as it may that of joint-stock companies, when private enterprise, in a shape fitted for undertaking great works of industry, does not exist in the country. But in general, if the country contains a sufficient number of persons qualified to provide education under government auspices, the same persons would be able and willing to give an equally good education on the voluntary principle, under the assurance of remuneration afforded by a law rendering education compulsory, combined with State aid to those unable to defray the expense.

It is not in the matter of education only, that misplaced notions of liberty prevent moral obligations on the part of parents from being recognized, and legal
obligations from being imposed, where there are the strongest grounds for the former always, and in many cases for the latter also. The fact itself, of causing the existence of a human being, is one of the most responsible actions in the range of human life. To undertake this responsibility — to bestow a life which may be either a curse or a blessing — unless the being on whom it is to be bestowed will have at least the ordinary chances of a desirable existence, is a crime against that being. And in a country either over-peopled, or threatened with being so, to produce children, beyond a very small number, with the effect of reducing the reward of labor by their competition, is a serious offence against all who live by the remuneration of their labor. The laws which, in many countries on the Continent, forbid marriage unless the parties can show that they have the means of supporting a family, do not exceed the legitimate powers of the State: and whether such laws be expedient or not (a question mainly dependent on local circumstances and feelings), they are not objectionable as violations of liberty. Such laws are interferences of the State to prohibit a mischievous act — an act injurious to others, which ought to be a subject of reprobation, and social stigma, even when it is not deemed expedient to superadd legal punishment. Yet the current ideas of liberty, which bend so easily to real infringements of the freedom of the individual, in things which concern only himself, would repel the attempt to put any restraint upon his inclinations when the consequence of their indulgence is a life, or lives, of wretchedness and depravity to the offspring, with manifold evils to those sufficiently within reach to be in any way affected by their actions. When we compare the strange respect of mankind for liberty, with their strange want of respect for it, we might imagine that a man had an indispensable right to do harm to others, and no right at all to please himself without giving pain to any one.

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

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

The first is, when the thing to be done is likely to be better done by individuals than by the government.
business, or to determine how or by whom it shall be conducted, as those who are personally interested in it. This principle condemns the interferences, once so common, of the legislature, or the officers of government, with the ordinary processes of industry. But this part of the subject has been sufficiently enlarged upon by political economists, and is not particularly related to the principles of this Essay.

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

The third, and most cogent reason for restricting the interference of government, is the great evil of adding
unnecessarily to its power. Every function superadded to
those already exercised by the government, causes its in-
fluence over hopes and fears to be more widely diffused,
and converts, more and more, the active and ambitious
part of the public into hangers-on of the government, or
of some party which aims at becoming the government. If
the roads, the railways, the banks, the insurance offices,
the great joint-stock companies, the universities, and the
public charities, were all of them branches of the govern-
ment; if, in addition, the municipal corporations and
local boards, with all that now devolves on them, became
departments of the central administration; if the employes
of all these different enterprises were appointed and
paid by the government, and looked to the government for
every rise in life; not all the freedom of the press and
popular constitution of the legislature would make this
or any other country free otherwise than in name. And
the evil would be greater, the more efficiently and sci-
entifically the administrative machinery was constructed
-- the more skilful the arrangements for obtaining the
best qualified hands and heads with which to work it....
If indeed all the high talent of the country could be
drawn into the service of the government, a proposal
tending to bring about that result might well inspire
uneasiness. If every part of the business of society
which required organized concert, or large and compre-
hensive views, were in the hands of the government, and
if government offices were universally filled by the
ablest men, all the enlarged culture and practised intel-
ligence in the country, except the purely speculative,
would be concentrated in a numerous bureaucracy, to whom
alone the rest of the community would look for all things;
the multitude for direction and dictation in all they had
to do; the able and aspiring for personal advancement.
To be admitted into the ranks of the bureaucracy, and
when admitted, to rise therein, would be the sole objects
of ambition. Under this regime, not only is the outside
public ill-qualified, for want of practical experience,
to criticize or check the mode of operation of the bureau-
cracy, but even if the accidents of despotric or the natu-
ral working of popular institutions occasionally raise to
the summit a ruler or rulers of reforming inclinations,
no reform can be effected which is contrary to the inter-
est of the bureaucracy. Such is the melancholy condition
of the Russian empire, as is shown in the accounts of
those who have had sufficient opportunity of observation.
The Czar himself is powerless against the bureaucratic
body; he can send any one of them to Siberia, but he can-
not govern without them, or against their will. On every
decree of his they have a tacit veto, by merely refraining
from carrying it into effect. In countries of more ad-
vanced civilization and of a more insurrectionary spirit,
the public, accustomed to expect everything to be done
for them by the State, or at least to do nothing for
themselves without asking from the State not only leave
to do it, but even how it is to be done, naturally hold
the State responsible for all evil which befalls them,
and when the evil exceeds their amount of patience, they
rise against the government and make what is called a
revolution; whereupon somebody else, with or without
legitimate authority from the nation, vaults into the
seat, issues his orders to the bureaucracy, and every­
thing goes on much as it did before; the bureaucracy
being unchanged, and nobody else being capable of taking
their place.

A very different spectacle is exhibited among a people
accustomed to transact their own business. In France, a
large part of the people having been engaged in military
service, many of whom have held at least the rank of non-
commissioned officers, there are in every popular insur­
rection several persons competent to take the lead, and
improvise some tolerable plan of action. What the French
are in military affairs, the Americans are in every kind
of civil business; let them be left without a government,
every body of Americans is able to improvise one, and to
carry on that or any other public business with a suf­
cient amount of intelligence, order, and decision.
This is what every free people ought to be: and a people
capable of this is certain to be free; it will never let
itself be enslaved by any man or body of men because these
are able to seize and pull the reins of the central admin­
istration. No bureaucracy can hope to make such a people
as this do or undergo anything that they do not like.
But where everything is done through the bureaucracy,
nothing to which the bureaucracy is really adverse can be
done at all....

To determine the point at which evils, so formidable
to human freedom and advancement, begin, or rather at
which they begin to predominate over the benefits attend­
ing the collective application of the force of society,
under its recognized chiefs, for the removal of the ob­
stacles which stand in the way of its well-being, to
secure as much of the advantages of centralized power and
intelligence, as can be had without turning into govern­
mental channels too great a proportion of the general
activity, is one of the most difficult and complicated
questions in the art of government. It is, in a great
measure, a question of detail, in which many and various
considerations must be kept in view, and no absolute rule
can be laid down. But I believe that the practical prin­
ciple in which safety resides, the ideal to be kept in
view, the standard by which to test all arrangements in­
tended for overcoming the difficulty, may be conveyed in
these words: the greatest dissemination of power con­
sistent with efficiency; but the greatest possible cen­
tralization of information, and diffusion of it from the
centre.... A government cannot have too much of the kind
of activity which does not impede, but aids and stimu­
lates, individual exertion and development. The mischief
begins when, instead of calling forth the activity and powers of individuals and bodies, it substitutes its own activity for theirs; when, instead of informing, advising, and, upon occasion, denouncing, it makes them work in fetters, or bids them stand aside and does their work instead of them. The worth of a State, in the long run, is the worth of the individuals composing it; and a State which postpones the interests of their mental expansion and elevation, to a little more of administrative skill, or that semblance of it which practice gives, in the details of business; a State which dwarfs its men, in order that they may be more docile instruments in its hands even for beneficial purposes, will find that with small men no great thing can really be accomplished; and that the perfection of machinery to which it has sacrificed everything, will in the end avail it nothing, for want of the vital power which, in order that the machine might work more smoothly, it has preferred to banish. *