

THE CULTURE  
OF JUSTICE

PATTERSON DU BOIS

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**THE CULTURE OF JUSTICE**



# THE CULTURE OF JUSTICE

*A Mode of Moral Education  
and of Social Reform*

BY PATTERSON DU BOIS

Author of "The Point of Contact in Teaching,"  
"Beckonings from Little Hands," "The  
Natural Way in Moral Training," etc.

*Render unto Cæsar the things  
that are Cæsar's.—Jesus.*

*True Justice between man and man.  
Ezekiel 18:8.*



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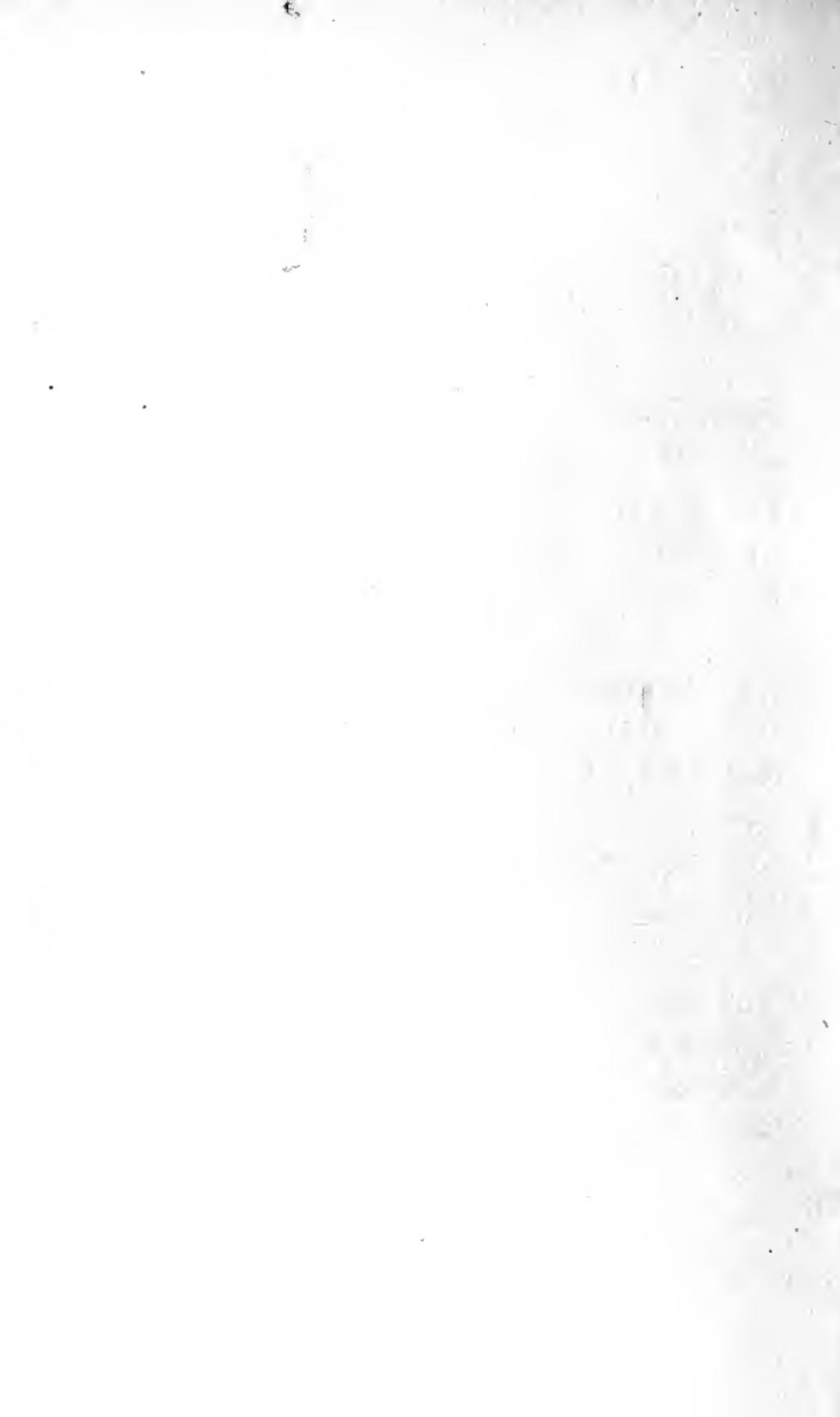
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## PUBLISHER'S PREFACE

THIS book is the natural sequence and consummation of its three predecessors—"Beckonings from Little Hands," "The Point of Contact in Teaching," and "Fireside Child Study." In all these works we see the same motif, but it remains for the present volume to make clear the meaning and importance of Justice itself as the bottom moral and social principle. The book is thus educational and sociological. It concerns the social reformer and the jurist as well as the parent, teacher, minister, and business man. Its reach is from the cradle to the market or to the school, bar, and pulpit—alike professional and popular.





## PREFACE

THIS little book is the amplification of an address delivered under the auspices of the Union Theological Seminary at the opening of the Extension Courses for Lay Students in the autumn of 1906.

Prior to this I had presented one phase and another of the subject as lectures or talks before pedagogical, clerical, and women's clubs, or special audiences, under such titles as "The Appeal of Justice" and "The Place of Justice in Education."

The great moral awakening in civic and in business life, the contagious zeal for social reform, the growing consciousness of definite educational ideals, the movement toward child emancipation, the criticism of court procedure, the ascendancy of arbitration and peace principles—these on the one hand; on the

other hand, the menace to the integrity of the home and the family, the passionate greed, the gambling habit, the lawless vengeance, and the sluggishness of the Church to lead in moral-social reform—all these things indicate that the time is ripe for an effort toward the end which this discussion has in view.

That most of our social misery is at bottom rooted in human injustice has long been my intensifying conviction. That the improvement of moral conditions rests upon a fuller and more definite conception of Justice as the basal and the virile virtue is to me equally clear.

Such is the real purport of the work, however inadequate or faulty its presentation. The first part is devoted more specifically to principles or theory, the second part to practice or application; the latter includes diverse illustration and three very important topics, in which Justice or Equity is the common factor.

That some issues in the argument will

seem unconventional and extreme to not a few readers is to be expected. The main thing is that the true idea of Justice shall become our controlling moral habit of mind and regulate our complex human relations—our rights and duties.

PATTERSON DU BOIS.



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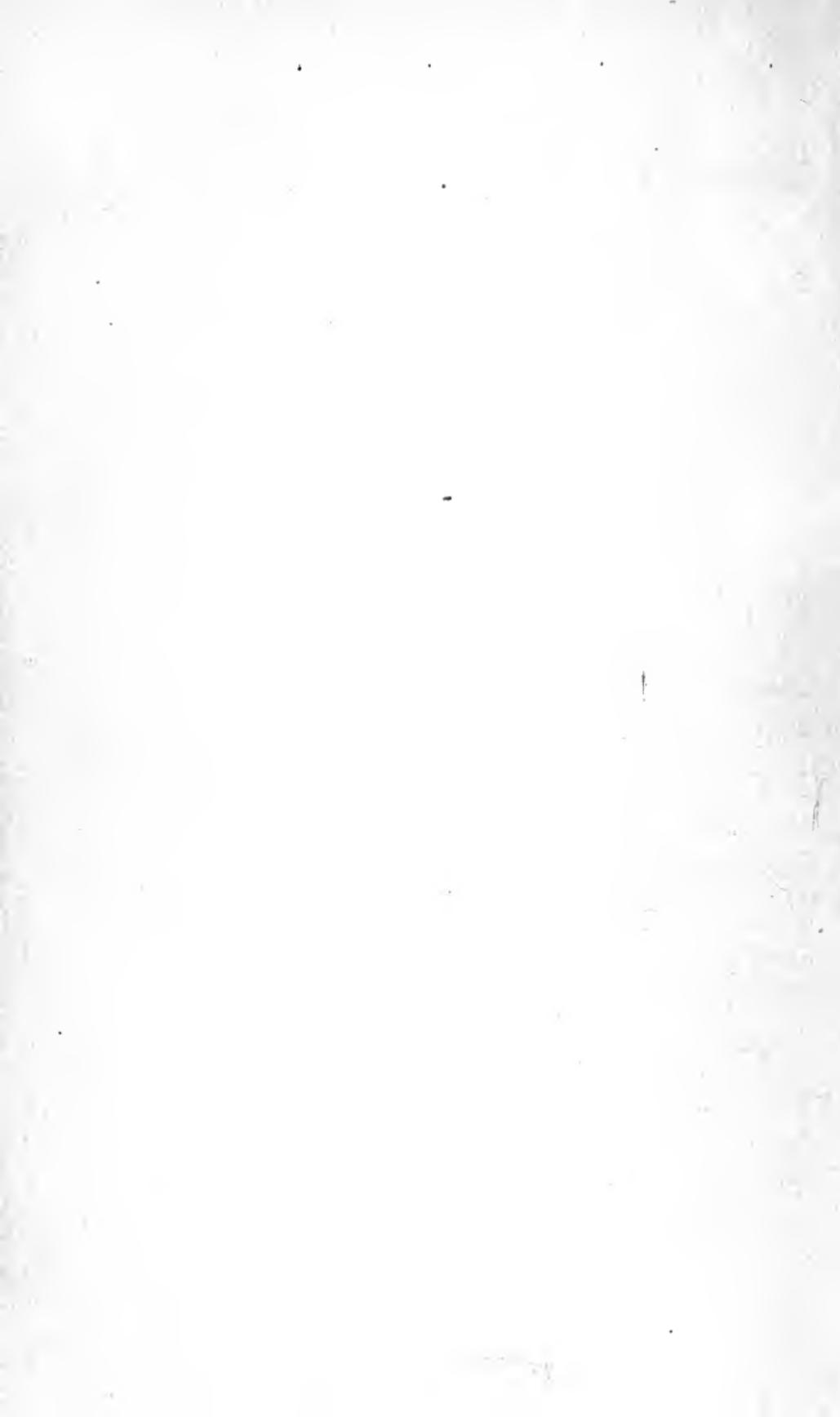
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PART FIRST

✱

*THEORY*





# THE CULTURE OF JUSTICE

## I

### A RIGHT START

A CHILD of ten, returning from school one day, naively submitted to the court of the home circle this case of class-room ethics: "The teacher makes the girls pick up all the papers from the floor about their own desks; and sometimes the children say, 'Those are not my papers;' but she says they must pick them up just the same." Then with a child's instinctive directness she added, "I should think it would be better not to let the papers get on the floor."

This plea of the children, that the papers were not theirs, was the appeal to Justice—the earliest born and the most persistent form of the moral sense. The little maid simply shifted the problem back from cure to prevention.

What she saw in a twinkling, the brain of science and the heart of philanthropy have been gradually coming to see through the centuries. The world is a school-room littered with disorder and misery. Shall we spend ourselves merely trying to relieve it? or shall we work to prevent it? This is the problem. Can Love alone solve it?

Love is the great dynamic of the soul. But human love has little or no essential wisdom, no selective self-control. It is unengineered steam, the electric potential of the air. It may caress a child into saintship or it may nag and punish him into criminal estrangement. It may lift the poor into self-respect and cheerful comfort, or it may pauperise them into degradation and despair. *Love needs a regulator. It needs the judgment of Justice.*

As we shall see later, Justice is the fullest expression of the right relation of man to man. No other virtue is thus complete. It gives to all other virtues

their highest efficiency. To Love, it is the balance-wheel, the pendulum, the regulator, the governor, the rudder, the far-sighted lookout, the premier.

Without a sense of justice there is no sound moral sense. Exactly what justice means and why it is the essence of moral living we shall see later. That the Christian or the Jew needs all the morality that he can get is not debatable. That the culture of justice is the shortest and indeed the only sure road to it is the present proposition.

All through the ages and now on all sides of us we find religious men failing in morals. They do not appear to appreciate the infinite obligation of rendering to every man his own or of enabling each to contribute his fullest strength to the common good. They have not brought conscience under the law of justice. The result is, social conditions as we see them among all sorts and conditions of men.

Some Christians are afraid to be moral

lest they be "merely" moral. On this point also more later. But just this word now: When the Master Teacher told men that they must render unto Cæsar the things that are Cæsar's and unto God the things that are God's, he gave them to understand that there is a moral obligation of man to man as well as a religious obligation of man to God. These two things are at bottom one, but the finite mind will do well to think of them, must so do indeed, as practically two. Christianity includes morality, sure enough, but human relations are so complex that it is worth while—necessary, in fact—to think of morals as morals, however strongly we hold that being a Christian includes all.

That ethical philosophising alone will not produce moral living is patent and proved. But that a man is as he "thinketh in his heart" is a fact as old as Sacred Writ. Social life, in our day at least, is too intricate a thing to be morally lived without a clear, control-

ling principle of which the conscience is always conscious. If such a principle exist as a named virtue, the mind ought to be able to define it in words which, if not mathematical, should at least give a specific set to one's thinking, feeling, and willing. The "heart" means all this: to think in one's heart is to think things through to action.

Is there such a guiding principle, sentiment, or ideal virtue? It is the function of this book to show in some measure that there is, and that it is *Justice*. Every one has a feeling for justice as the moral-social specific. But with very few has it become the controlling ethical duty in their lives. It has never been defined as a centre of the thinking in the heart. We feel for Justice as the heathen gropes for God—knowing him only from afar and in the twilight mist.

The popular mind, largely affected by juridical phrase, has come to associate the idea of justice with the idea of retribution or punishment, or at least with

legal victory. The average man supposes that he can get justice without equity, or worse still, that if he is legal he is just! He never thinks of justice as the great formative agency for the development of the individual. He does not see it as a co-operative and reciprocal rendering, each to each, of that which is his own and in the interest of the highest common good. But of this matter of definition more later.

No one idea more dominates the attitude of loving and conscientious parents than that of correction and especially punishment; and still further, that the effectiveness of punishment depends chiefly upon its severity. The same is true of the school and the state. Under the strictly just habit of mind we should so study to render unto every one his own that punishment is hardly to be thought of, or thought of only as a consequence of our own dereliction.

Perhaps the measure of punishment necessary to the common good is the

measure of our ignorance and unwisdom in dealing first with children and later with men. In setting a penal pace for ourselves as guardians of children, however, let us cease to quote the dealings of God with the race, for only in the most limited sense can we compare ourselves with God. And so of justice; it is here discussed purely as a matter of morals or human relations. It demands that we begin right rather than wait for wrongs to need correcting.

Possibly the trouble lies just here: we pity our neighbour enough to pull him out of the mire, but we do not love him enough to think justice for him. Therefore we make no effort to prevent his falling into the pit in the first place, which is what a truly just habit of mind would order. In fact, so long as we allow the pitfall to remain we cannot hope for his safety. If it remain, it does so because we have not yet acquired the just habit of loving our neighbour as we ought to love ourselves, as contributors

to and sharers in the common good. We do not see the whole relation in which we stand in an infinite reciprocity. We need the eye of justice looking backward as well as forward.

As that great modern prophet, Victor Hugo, has put it:<sup>1</sup>

“This soul is full of darkness and sin is committed; but the guilty person is not the man who commits the sin, but he who produces the darkness.” Let us say who *permits* the darkness.

A child of six saw these truths no less directly. She had been telling her father and mother about an untrained school-mate from a Christian, well-to-do home. “How would you like to have a child like that?” she said; “you would teach her, wouldn’t you?” This showed that with all her disapprobation of such an objectionable classmate she still looked further back to causes and threw blame on the girl’s parents. This was the Spartan law.

<sup>1</sup> “Les Miserables.”

Another child, a vigorous-minded girl of ten, commenting on the conduct of certain companions, said it made her mad—"mad not at the children, but at their mothers." The average parent might think that those mothers had not punished enough; but the just mind might as fairly think that they had punished too much—or relied too greatly on treatment after instead of before the deed.

Let us start right. We have had a hand in producing the darkness that has permitted and produced misery in all sorts and conditions of men—and only too often in the very name of love. Usually we can look for the first causes in an unjust home life. The effects are evident in the larger social life.

The quickest way to atone for all this and to make a new start is to train the children into the unfailing method of Love's justice by practising it ourselves. It is their natural method, as we have seen in a few cited instances. But they

need us to steady them in it. We shall see the full meaning of this as we proceed.

As a feeling, Love is the greatest of all impelling powers. But love is not a prescribed method or a plan. Lacking wisdom, it may do unlovely, because unjust, things, without seeing their unloveliness. The mother punishes her child in love, she says. But if she has not heard the child's case and has ignorantly hurt the innocent, she has done an unjust and therefore an unlovely thing. And yet no one dare say she does not love her child.

Not so when Love takes Justice for her wisdom and makes it her unfailing way. This enlists the nobler faculties of mind—calls out the imagination as interpreter, demands the suspended and deliberating judgment, holds self-interest and personal irritation in check, and opens the vision to the universal good. Justice is impossible to mental indolence. It develops that courage which is neces-

sary to face facts and that self-control which is essential to their valuation. It is the only safe administrator of the perfect law of individual liberty, and the guarantor of peace, unity, and brotherhood.

As a habit of thought, justice begins and must show itself as a moral fundament in the family. Many an able jurist finds it easier to be just on the bench than at the family fireside—even though he has not realised it. If, as we shall see later, the sense of justice develops in early childhood, it is in the home that it is either weakened or strengthened with the days.

In a true family life, uncorrupted, incorruptible, solidified by the loyalty of a just confidence, mutual aid and affectionate devotion—in this lies the hope of the nation and of the individual. Here virtue begins to be loved, vice to be abhorred. Here God first reveals himself to the upreaching soul.

I cannot forbear quoting a few apt sen-

tences from Dr. Washington Gladden. "All the economic operations of the community are an evolution from the life of the pioneer family. All the movements which tend to socialise the community—the education, the moral and religious training—originate in the family. These functions are now largely handed over to other agencies. But the family is not released from responsibility for them. The family must still remain the vitalising, energising force, in them and behind them all. All this work of protection, production, education must find its spring and its impulse in the home. The capital defect of our modern society is in the tendency of the family to shirk these primary social functions and pass them over to other agencies."

For society's sake, for the individual's sake, let us maintain the integrity of the family. The signs of family and home degeneracy are more serious than those of physical degeneracy and crime. It is in the home that Love needs the highest

wisdom—the wisdom of true justice. It is in the home that we handle first causes. Here justice should begin to be preventive, formative, and constructive rather than wait for the later public justice of correction, retribution, and repression.

## II

### OUR DUTY TO OUR POWERS

Too long have theology and the Church permitted the world to ask why "conversion" or the profession of Christianity has not produced a finer moral discernment as well as a higher moral courage in the average Christian.

The reason is not far to seek. We are endowed with capabilities or personal powers which have to be trained into a harmonious adjustment with a complex humanly organised society.

This is a matter of morals, however essentially Christian morals be rooted in religion. And it is with moral relations—social human relations only—that we are now concerned. More specifically, it is with justice as the modal base of human relations that we are en-

deavouring to cultivate a better working acquaintance.

Granted that the ultimate Christian motive is religious, we must have a more humanly near working purpose than the doing right in order to please God. Few men can carry so remote an abstraction into human adjustments unless the human adjustments are thought of as an end in themselves. To please God by being right with men is a true ideal, but it does not show us what being right with men consists in nor does it train the faculties and capabilities into specific habits of action.

Too often the Christian falls back into the lap of something that he calls "spirituality," and so evades the real issue—the near duty of discernment and coöperation. Or he rests in his orthodoxy and his literalism, or on certain pet rigours.

The famous defaulter, Hipple, made a point of condemning the use of tobacco, liquor, and the Sunday newspaper. A preacher said of him, "This man Hipple

had been fattening on sermons about love and heaven. . . . He was one of your strict churchmen, who did not consider that the minister preached gospel when he insisted upon honesty in business life. Hipple's conception of religion was to be exact in your formularies, but it never occurred to him that it was the Christian's duty to be true and honest and brave and pure."

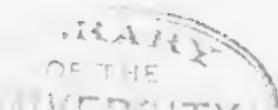
This may or may not be literally true of this particular man. But it is essentially true of a type of supposedly religious persons who, whether hypocritical in purpose or not, are strict about their theology, their forms, their church attentions, and even some ethical matters, but who have no really moral habit of mind. It was also said with reason that such a character is largely the product of "legalism."

There was a time, within easy memory, too, when orthodoxy would scarcely tolerate any particular stress upon morals or ethics. It fairly trembled lest man,

becoming impressed with his human relations, should forget his relations to God. In order to place ethics under a ban it unjustly coined the term "mere morality," and pointed the finger of theological condemnation at him who entertained that "mere morality" too generously. (No word in the language can be used with more insidious unfairness than the word "mere." It is one of the main mischief-makers of discussion.)

Referring to this absurd, to say nothing of unscriptural, coldness toward our moral duties considered as duties, Professor Coe<sup>1</sup> notes that "less than fifty years ago a writer on 'natural goodness' asserted that 'moral men as a class, and in view of their morality, inflict the severest injury on the cause of religion.' . . . The more perfect the moralist, the more fatal the influence!" This was that old misconception which, as Coe adds, "assumes that if only we have faith we do

<sup>1</sup> "Religion of a Mature Mind," p. 147.



not need to lay very much stress upon being good."

God wants us to be good. From Genesis to Revelation the Bible is big with this homely fact. He wants us to be like himself; but the only way that we can realise what the goodness of God means is to begin by being good to man in a small way ourselves. But we do not know how. Our powers are untrained. We have grown up without definite aims and conceptions. We need a method, a conscious mode of thinking, to guide our doing.

Look over the Christian world. There are millions professing love to God and love to man and yet in perpetual conflict of criticism one of another. They would not disagree on the point that Judaism and Christianity, unlike the pagan religions, demand moral excellence in conduct and character. They would not deny that they themselves were faulty or sinful, but they would resent particular charges against their particular

faults, going in most cases to the extent of excusing or of positively justifying their misdeeds in the concrete.

Yet these people mean to be good by the Gospel standards, and they are not fairly to be charged with hypocrisy. Most of them are not competent to act the purposeful hypocrite, if they would. They mean to love their fellow-men, but love in the best sense is not whim. It needs enlightenment and training. Its first obligation is to become learned and expert.

Parents suppose that because they love their children they cannot go astray in doing as they please with them. The amount of injustice and even downright cruelty committed in the name of love is prodigious.

So with the sympathies and the benevolent virtues generally. The fact that they are intentionally benevolent does not render them harmless. Neither does being a humble-minded, earnest Christian guarantee wisdom in the mode of

supposed well-doing. One man, for love's sake, throws alms to the pauper; another from the same motive cautions him against doing it. Both "love the brethren," but they disagree about love's method of striving to be a doer of the Word.

Parents differ in the motives for being good which they present to their children. With some, it is to please the parent, with others to please God; or it is fear of punishment, or it is utilitarian—a matter of final rewards. Until there is more uniformity of moral thinking we cannot have sound moral conditions.

Christians are conscientiously busy criticising one another's moral standards. What is a peccadillo to one is to another a heinous sin or crime; what one has never stopped to consider as a point in Christian morals, has to another been a glaring menace or a positive stumbling block. Why these differences? Are they not all Christians "in good standing"—and properly reckoned so by the

Church? Why, then, have they not reached some uniformity of moral judgment?

To become a Christian is not at once to attain the power of moral discernment or even the will to live up to such discernment as is already attained. But to become Christ's is to gain through Him the love of better things, to seek the more excellent way, to go on toward perfection. The question is *how to do it*.

Now in a social world, in the corporate life, what does this mean but the exercise of human powers? To consecrate these powers, however concretely, as in Miss Havergal's hymn, "Take my life and let it be," is to be incessantly vigilant that our powers neither become atrophied through disuse nor crippled through misuse. I cannot understand how taking Christ into my life or the knowing of it through my love to the brethren relieves me from the responsibility of expertly using these God-given faculties. No one so much as the Christian is under obliga-

tion to be wise, discreet, discerning, healthy, strong, energetic, efficient.

In Swedenborg's phrase, the "Kingdom of God is a kingdom of uses." Christianity and uselessness are incompatible ideas, for Christianity is essentially social. To be immoral is to be anti-social; it is to disrupt the social bond. Likewise to be useless in society is to be anti-social and is virtually immoral.

But love to God and faith in Christ do not appear to teach a Christian how to be useful, even though he grow into the desire. We have hosts of obstructive—because unwise—Christians about us as witnesses. Why is this so? Do we not also see the wicked, and even the unlearned wicked, turning to Christ and showing a fine discrimination in their moral reformation? We see both, and why? Some have a more acute and a better discernment than others. This is a matter apart from faith or "conversion."

All this points to the fact that when we begin to talk about religion and "spirit-

uality" and faith and love and salvation we are prone to lose sight of the truth that a right spirit or a consecrated mind, or heart, does not insure skill in mental or moral discernment any more than it guarantees muscular development. It does not adjust religious faith or belief to forms of environment. It may beget the desire, but it does not direct the faculties specifically.

The egregious mistake of Christians—not of Christianity—appears to me to be this comparative *neglect of our God-given outfit for social life*. There is a tendency to think that with the Book in hand we have all that is necessary to the following of its lead. Can we not be as irreverent toward our powers as toward the Book?

Society called Christian is a tangle of diverse ethical aims and judgments largely because it has no unit, no definite centre of ethical thinking, no track for its train of pity, kindness, and benevolent generosity, no ethical habit of mind.

Jesus is admittedly the ideal man and love to God the confessed animating purpose. But the truth is, God has set us in a concrete, tangible world, and while we are as nothing without the Spirit, our human construction demands a lower ideal than the divine—something nearer to us, more tangible, more workable for immediate use. The question, What would Jesus do? is interesting for discussion without general agreement; but the question, What must I do? requires me to take into consideration my powers in their relation to my fellows in a social world.

This means an ordered habit of thought, stable, yet adjustable to an ever-developing order of things. Otherwise we may prove ourselves piously irreverent by dissipating our powers in caprice.

To live without an organising, directing idea is to be chaotic, anarchic, futile, and foolish. If there is an impiety of "mere morality," there is an immorality of mere piety. Let us be good if we would be

God's. If we would do His will let us be moral. If we would love our brothers let us learn how to think about them to the end that we may grow skilful in the exercise of our social relations—our morals. Let us not think ourselves consecrated with our mind—our intellectual discrimination left out.

The culture of morals—personal and social—is a different thing from the “religion of culture” or of science or of ethics. Culture as culture is indeed lifeless. It has been shrewdly said that civilisation never civilises.

The Christ is the renewing, vitalising agency, but his Gospel demands the culture of morals. It does not permit the ignoring of powers; it expects the usefulness to society that can grow only by study and by practice. We are the trustees not alone of our property, but of our powers. *Faith and Love are not enough to enable us to administer that trust wisely.*

A practised moral discrimination and a

courage to act on it are essential to that social soundness which is moral. This is both more and less than being an ethical philosopher as such. Moralists are not necessarily moral. The moral discrimination must carry a God-consciousness with it, even though this God-consciousness is not morality. Mrs. Houghton calls attention to the French pessimism resulting from godless text books on morals.<sup>1</sup> Undoubtedly she is right, but while God is the ultimate sanction we must have a more distinctly human and social sanction. This we shall find to be the *Sanction of Justice*.

The truth is, the Church, if it would grow in efficiency as evangeliser and civiliser, must avail itself of the findings of sociological investigation. Science is the natural ally of the Church, which the Church is too slow to recognise.

That learned expert in foreign mission methods, Dr. Sidney L. Gulick, has told

<sup>1</sup> "Telling Bible Stories," p. 9.

us that the foreign mission will gain its highest efficiency when it assumes the character of a social settlement, when the missionary will not only proclaim the true religion in the abstract, but will labour to transform the entire social life of the people.

This means to clean the place with bucket and brush as well as to cleanse the heart with the "blood of Christ"; it means to take measures against insecurity of property and life, against ignorance, carnality, and disease; it means to teach help to the less favoured, public spirit and community solidarity, and mutuality of interests, reciprocity of rights and of duties—the essence of which is the *Charity of Justice*.

This sociological education indeed is necessary not only to the propagation of Christianity abroad, but in our own homes. "Unless a child," says President Nicholas Murray Butler,<sup>1</sup> "understands

<sup>1</sup> "The Meaning of Education," p. 27.

that though he is an individual he is also a member of the body politic, of an institutional life in which he must give and take, defer and obey, adjust and correlate, and that with all this there can be no civilisation and no progress, we are thrown back into the condition of anarchy—the anarchy of Rousseau—or the collectivism and stagnation of China, India, and Egypt.”

The Church is beginning to realise that it must recognise this matter of the body politic as a moral question or fail of its mission. Already we find the Church moving toward an active interest in organised labour, child emancipation, immigration, industrialism, and socialism. In all these questions justice-charity is the keynote and the intellectual directive. Love of man—Christian brotherhood—is the propelling force, justice lays the track. God the Father was the divine inspirational force, Jesus was the way. Jesus was incarnate justice, as he was incarnate charity. The two became one

in him. Never did he utter a more far-reaching, all-comprehending moral principle than when he said, "Render unto Cæsar the things that are Cæsar's and unto God the things that are God's." This is all that justice asks, all that love asks, all that charity asks.

Nor are we to regard the body politic or the institutional life as bounded by our national confines or the shadow of our flag. It means man. It was Phillips Brooks who said that "No man has come to true greatness who has not felt in some degree that his life belongs to his race and that what God gives him, he gives him for mankind."

The relation between man and man is moral, however truly it be rooted in religion. The very idea of the Kingdom of God is a corporate idea. It is a thing of modes, methods, manners. The movement against child labour is moral; politeness in the home, courtesy at court, are at bottom moral. Morality, as already said, necessitates training in dis-

crimination. It demands that the spiritual eye be trained to a far horizon, to a long look back for causes, forward for effects. It calls loudly for the imagination. The Golden Rule does not tell me *how* to wish that others should do to me. I must love my neighbour *as* myself, but how ought I to love myself?

For the want of a directed imagination and a trained mode of social thought I may violate these divine orders in my veriest zeal to carry them out. Well-meaning men vote against their own individual and social interests not necessarily because they are selfish or timid, but because they are short-sighted and prosaic. "Good" people encourage some forms of amusement because they are satisfied with an immediate pleasure and cannot see the tendencies of such courses in the distance. The teleological faculty, the telescopic vision, is undeveloped. Moral thinking is undirected. It wanders without a surveyed road ahead.

Such people are satisfied with the miti-

gation of pain by deeds of pity instead of preventing pain to the next generation by the culture, let us say, of justice, or of some other all-embracing moral ideal—if there be one. They would rather cure the man disabled by football than prevent the coaching that orders to “lay a man out” if necessary to winning.

They would rather raise money for a church by the vice of gambling, so that the church could fight vice, than prevent the very vice that the church ought to fight. They would rather be taxed for reformatories, prisons, almshouses, and hospitals than prevent a large need of supporting such institutions by pursuing a preventive policy with children.

When I say “they,” I mean people who are Christians in “good standing.” They want to be in good standing not for business reasons nor with any conscious hypocritical intent, but sincerely. They believe in God and advocate love and charity to all men, but they lack the vision of consequences and of causes. They can

imagine enough to pity, to sympathise, and in a degree to be kind; but they cannot see far enough to reach the heart of equity, of reciprocity, of equalisation, of the whole duty toward the Cæsar of brotherhood.

Here, then, is a matter of the use and cultivation of powers toward an ideal, social morality. Here is the constructive demand for the kingdom of uses. This means an ordered thinking of far-off cause and effect, a refined and apt discrimination, a sensitive courage.

It is not enough to say love, love, love. It is not enough to be sorry for sin and to aspire to heaven, or to accept a "plan of salvation," unless that plan includes the divine truth that our powers are not to be ignored or minimised simply because we profess a religion of love and faith. Just as great as that duty of love to God and faith in Christ is the duty of using what he has given us. Prayer and praise are no substitute for thinking and feeling and doing. We are in a moral

world—that is, a world of human and social relations, and we are bound to study the way to be moral or right in all our relations. “There is no true manhood without morality, for manhood rests in the social conscience, and God wants the best of manhood for His service, because the best of manhood can hold most of God.”

Now, if the moral thinking of Christians is as chaotic as we have just indicated and if the discrimination is as uncertain and as inexact, it is evident that there must be found a norm of education for the training of the moral discernment. This norm must become the axis or germinal centre of all our moral thinking. We must measure by it, direct by it, control by it. It must fix our goals and set the pace for running and light the way and clear the track. Love is the energising power, but love is not a trusty directive. Love needs wisdom. Where is it?

### III

#### GENESIS OF THE SENSE OF JUSTICE AND OF MORALITY

IF we watch the signs of feeling in young children under certain circumstances, we shall see how early and with what vigour the property sense develops.

A certain little girl in the home was spilling her kindergarten beads when her father rose to take them from her. With muscles tense in determination she clasped her little hands over her treasures and exclaimed, "*No!* those are *mine!*" The father with quick insight recognising her feeling, withdrew his hand. On this display of concession to the child's sense of property rights, she arose and said graciously, "Papa can take Rachel's beads now." The child had no wish to combat her father, nor even to

deprive him of the beads, but she wanted her property rights recognised.

Here was a sense of personal relations to persons and to things. It asserted property rights, forbade trespass, carried a question of give and take, distinguished offence and defence—in short, insisted on the recognition of *meum* and *tuum* and foreshadowed acknowledgment of personal accountability.

If we tie together the hands of a much younger child, he will struggle to free them. This is not necessarily because he wishes to employ his hands for some specific purpose at the moment, but because we violate his instinct of power. Very early indeed does the child declare by his actions a proprietary right in his faculties or powers. In truth, this is but an aspect of the law of self-preservation.

This proprietary sense is but an earlier, more subtle, more intimate, more fundamental form of the property sense, which term is better reserved for material possessions of things outside of us.

Froebel's aim was thoroughly fundamental, for it was to put the child in possession of his own powers.

It was to develop the resources of the individual to the utmost benefit of society. Hence the basal conception of the kindergarten is that of community life, developing the two essentials of individuality and mutuality—rights and duties, *meum* and *tuum*. The child is a member of a larger whole.

Now out of the proprietary sense, in connection with the recognition of human relations, springs the sentiment of *rights*. But it is impossible for the child or man to live in these human relations without his imagination opening to him an exchange of places with his neighbour. He cannot help but put himself in his neighbour's place under stress, and, in turn, demanding that his neighbour do the same for him. Thus the idea of duty and of reciprocity is begotten, and he becomes moral.

The regulation and control of these so-

cial relations, the securing of these rights, the implication that such security must be guaranteed to all or to none, develops a notion of a moral social order of which the controlling principle or master mode is that which we call fairness, equity, or justice. Fair play, the "square deal," is the first morality. The recognition of *meum* and *tuum*, working both ways as rights and as duties, is the bed rock of the moral life and the call of justice.

Morality and justice are at bottom one. They arise out of the very necessity of personal, individual, and social self-preservation. The first struggle of the child to free himself of bondage or to defend his property from trespass is not in the nature of kindness, generosity, or benevolence, but of establishing a stable and equitable social order, a reciprocity of rights and of duties, which in the total is the ideal of justice or the highest common good. "If ye have not been faithful in that which is another's, who will

give you that which is your own?" To be unfaithful to society is to suffer personal loss also.<sup>1</sup>

As the sentiment of justice is the earliest definite motive to develop in the individual, so does it appear to be the earliest in the history of the race. Very suggestive is George Matheson's interpretation of the story of Eden. His deduction is that the earliest moral appeal was the appeal to human justice.

Adam had experienced the sense of proprietorship. He "stretched his hand toward the trees of the Garden and said, 'They are mine.' Through the cool air a voice comes, 'They are not all yours; it is a divided ownership.' With that voice came the first possibility of actual transgression—of stepping into another's field. That other was here the Creator; there was no rival child to say, 'This part belongs to me;' therefore the Almighty said it. The first thing prohibited was

<sup>1</sup> Luke 16 : 12.

trespassing on the divine field—for the simple reason that there was no rival human field. The earliest moral appeal was an appeal to human justice. . . . It is not a demand for reverence, a demand for homage, a demand for sacrifice; it is a demand for bare justice. ‘We parted this field between us, you and I, let us keep to our contract. I gave you one side of the garden, I retained the other.’ . . . The common view is that it is a case of mere disobedience. I do not think that is the deepest idea of the picture. I hold that the primitive narration has attached itself not to the portrayal of obedience, but to the portrayal of justice. It is not a question of resistance to divine authority, it is a question of *interference with divine possession*. . . . The law which Adam seeks to violate is not a law of authority, it is a law of justice, of equity, of the relation of *meum and tuum*. . . . It is not the dependant forgetting the respect to his master, it is the partner ignoring his contract, the associate break-

ing his bond, the sharer of dual rights attempting to encroach upon the rights of the other. . . . Obedience is not the beginning of a child's morality. The difference between his and yours is the first thing which your child should know."<sup>1</sup> Here morality begins.

It makes no difference whether we wish to take the story of Eden narrowly as literal history or broadly as universal truth given by allegory. There is always this lesson in it which Matheson has so forcefully pointed out.

Similarly, the story of Cain and Abel may be taken either way, but it will always open the larger truth of modern sociology that each one is measurably responsible for the condition of all. In so far as we permit or even foster social degradation we are the successors of Cain. Referring to tenement conditions, Jacob Riis has said that it is as bad to kill a man with a house as with an axe.

<sup>1</sup> See Chapter VIII for a fuller discussion of this.

It is a little less direct, but in the end it is only a form of the implement of Cain. Modern manslaughter is a fine art.

Now note how this primitive aspect of trespass—primitive in the race and in the child—fits the finding of modern criminology. The first anti-social impulse which collides with the criminal law is the vagrant tendency. Vagrancy is a habitual trespass, an ignoring of bounds. The next anti-social impulse is against property; and the last is against the person. A vagrant loses interest in *meum* and *tuum*; this leads to the destruction against property, and finally to personal violence.

The sin against justice is the moral defection in all. The father who attempted to put his hands on his child's beads was an ignorer of limits, of bounds; his hands were vagrant. They forgot the right of property, and in some cases the father might have resorted to brutal violence to carry out his purpose.

Now while love is the greatest thing in

the world, the vital social binding force, the royal power, common experience shows that love can be unlovely (as already pointed out), because unwise, and because unwise, *unfair*. The throne, therefore, needs a trained counsellor, a premier to give it direction and to guide with steadied skill, the nice adjustment of human relations. And these relations grow more and more intricate.

Where, then, in the catalogue of human attributes—call them virtues, instincts, sentiments, or what you will—where, I say, will you find this premier? Which begins early and persists throughout life? Which is surest, most nearly universal, most capable of exerting a consistent control? Which combines in superior degree a deliberating intelligence with strong feeling? Which is the most rational equaliser, the most democratic, the most far-sighted, the exactest regulator? Which is incapable of being overdone, overestimated, or in practice driven too far? Which is the most elemental, the

most inclusive of all that makes for social equality, solidarity, stability, and moral efficiency?

There can be but one answer: It is this something that we call JUSTICE, or equity, or fairness. It dawns, as has just been shown, in early childhood and is never extinguished. It is larger than kindness, more economic than generosity, less emotional than pity, farther sighted than benevolence, for it carries and regulates them all.

Kindness without justice is only half kind; justice without kindness is on the road to being kind. Was it not Kant who expressed his surprise that there was so much kindness and so little justice among men? Ruskin, too, sees that if you do justice to your brother you will come to love him; but if you do him injustice because you don't love him you will come to hate him. The one divine work, the one ordered sacrifice, he insists, is to do justice; and "it is the last we are ever inclined to do." And Royce ob-

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serves that "mere kindness and plasticity accomplish nothing."

The kindly or benevolent motives have been well named the "duties of imperfect obligation." Necessary as they are, as accessories in social morals, they are in themselves flabby, inconstant, unstable, indefinite, sporadic, deflecting, unordered, chaotic, anarchic, sometimes suicidal. Under the master hand of justice, however, they become the queen's ministers.

Scarce an article as justice seems to be in human relations, it is the one thing for which human nature is always feeling and in which it rests as a right. Listen to the people's talk, look at your newspapers, magazines, books, your peace conferences, wherever there is discussion of clash and difference you will always find that the bottom word is "justice" or "fairness." An examination of the letters from the people to a leading newspaper, mainly on matters of public concern, shows that the word "Justice" re-

curs as a signature, incomparably oftener than any other—unless it be something like “Constant Reader,” which signifies nothing. It seems as though moral appeal could no farther go. It is the verbal ultimatum. Until the foot touches this rock the wrestle is all in the air. Conversely, no offence stings so deeply and smarts so long as the offence against justice. Injustice to childhood rankles through manhood.

You wish to pay a merited compliment to a man who brings you his picture, you say it does not do him justice. You do not say it is unkind or unbenevolent or ungenerous, for that would imply that he needed something not quite his own; and you want to imply that he has a fair claim on something in his countenance which has been held back—filched, as it were, by a chemical immorality. It is his proprietary right.

What wonder that Webster called justice “the greatest interest of man on earth . . . the ligament which holds

civilised beings and civilised nations together," adding that wherever it is duly honoured, "there is a foundation for social security." Demosthenes saw that "it is not possible to found a lasting power upon injustice." Harking back to the day of Abraham, we find the divine recipe for "keeping the way of the Lord" to be the doing of "justice and judgment." The Psalmist who begins his song (89) in the strain of singing of the mercies of the Lord forever proclaims the foundation of God's throne to be justice (or righteousness) and judgment.

Undoubtedly we all believe in something that we call justice, but we are not all ready to allow the subordination to justice of kindness, pity, and the benevolent or gentler virtues of "indefinite obligation." Much less are we all willing to admit that exacting justice is the pivotal morality, the tap root of our conception of duties, as well as of rights, and in fact the historical and psychological

base of moral control and of moral character, and of the social bond.

Anything but that! some will say. For instance, I chanced upon a sermonette on "Humility, the Foundation Virtue." How can humility have any discriminating, directing power in the adjustment of social relations? "The very essence of humility is service and love," says the writer. "One stoops not for the sake of stooping—there is no virtue in that—but to help some one else." Quite true; this is the divine attitude of love. But morality is a matter of adjustment of our relations one with another. How shall we "help some one else"? It is easy for love to harm him in the effort and so to be immoral. To the rule of justice we must turn for a basis of action and a mode of realising the moral relation. Humility is an attitude growing out of our conceptions of that which is above us. Justice is a mode of action for the common good, which is morality.

It has also been urged that we make

*honour* the basis of ethical instruction. But honour is a very indefinite obligation. There is no honour without justice, and just dealing is always honourable.

Have we not freshly before us the lesson of one of the greatest and most dramatic moral victories in history, turning entirely upon the question and the claim of justice? In the vindication of Alfred Dreyfus France was saved from probable disruption and no one knows what horrors, to law, order, and a truer stability. This was accomplished in the name of justice by the courageous, unprejudiced examination of facts. Arrayed against this single moral principle were powerful and long triumphant cliques and hordes of conspirators, passionately dominated by military and racial or religious antagonisms. For years this vile power seemed invincible. But the instinct of justice was stronger, and after twelve years prevailed.

What prospect of victory could have been possible had the conflict against this

intrigue, this strong military arm, been waged in the name of humility, or even of *kindness* to Dreyfus? Perhaps benevolence or kindness or pity obtained his pardon. But Zola said, "It is revolting to obtain pardon when one asks for justice." No! justice and justice alone had in it the virility, the investigating penetration, the energy, the courage, the moral vision to see the national threat and to avert and conquer it. No duty of "indefinite obligation" could have stood for a moment before the phalanx of entrenched infamy. Justice alone could see that the social structure of a free people was imperilled and justice alone was competent to redeem and establish it upon a firmer foundation than ever before in the history of the republic.

Thus we are prepared to examine more closely into the real meaning of justice through this discovery of it as the primitive moral sensibility. We have seen that it arises psychologically out of the very law of life itself and that it appears

to be the basal principle of the law of social as well as of individual self-preservation. Being the earliest social instinct, it is the natural point of departure for the moral-social education. Justice is in the nature of the case the efficient moral appeal and the axial centre of moral training.

But before we accept the proposition that the moral health of the world rests in the prescription of justice as a mode of education, we must look more closely into its true meaning in life, its universality as a virtue, and its place as premier in the ethical cabinet of which Love is the queen.

## IV

### MEANING AND SIGNIFICANCE OF JUSTICE

THE word "justice" has baffled many an effort at exact definition. But, like some other terms over which philosophers puzzle, it carries a *felt* meaning in the breast of the people—that primordial sense of proprietorship in one's own character and possibilities, that elementary sense of the balancing of owed and owing, of the reciprocity of rights and duties, the fair chance or the "square deal," and, most vital of all, the universal or common good.

But so long as justice has but a felt meaning it is liable to the errancy of other more benevolent emotions—love, pity, gratitude, generosity. It is in its proper development the intellectual emotion *par excellence*. Rather let us say it

is intellection warmed by emotion. In the highest degree it demands the exercise of the imagination, for its efficiency rests upon vision—long-distance vision, undistorted by fear, favour, or prejudice.

While justice is the primitive, the basal moral sentiment, it is the most educable because the most intellectual. More than any other is it ready to be trained into becoming a controlling and energetic habit of mind and a clear ground-plan of social morals. It is the *thorough* virtue because it sees *thoroughly*.

A blind man came cautiously feeling his way down the street one day when the sidewalks were newly covered with snow. As I approached him from an opposite direction a group of boys suddenly ceased their snow-ball fight in response to the appeal from one of the boys, who happened to see the sightless wayfarer moving toward them.

“Hold on, fellows,” I heard the boy say in a subdued, almost reverential tone, “hold on until this blind man gets by.”

The response was immediate. In the midst of the group the poor unfortunate and I passed each other free not only of molestation, but even of obstruction.

The usual explanation of such a proceeding would be that the boys were moved by pity or sympathy or kindness. And so they were.

But if we track the psychic history of this "pity"—call it that—we shall see that the boys were conscious that here was a man whom nature had placed at a disadvantage. He had lost one of his powers quite essential to a running of their gauntlet. As between him and them the conditions were uneven, they were not level, the deal would be anything but square.

The taking advantage of one who has thus been deprived of his powers is in a measure an act accessory to this deprivation. The imagination demands that we put ourselves in the unfortunate's place. For the moment we suffer the realisation of blindness and we arise to protect the

real sufferer as we would ourselves. We may call this the pity of sympathy, and so it is; but deeper down it is the pity of justice. We may call it kindness, and so it is; but it is the kindness of justice. We may call it charity, and so it is; but it is the charity of justice.

It is interesting here to note that in the Old Testament the Hebrew word *Zedakah* means both justice and charity. The Jewish charity box to-day is in strict Hebrew tradition and linguistic significance a "justice box."

The Hebraic idea of charity carried with it a sense of responsibility and obligation. Sharing was a positive duty. The helpless had a right to claim the assistance of the more fortunate. This reciprocity and equity was the very essence of righteousness. It is the ideal of Justice. The word "judgment," so often coupled with "justice" in the Old Testament, means (according to Moulton, the triumph of right over wrong.

Modern philanthropy is arriving at this

very coalescence of interpretation. It insists that charity should be something more than a blind response to the feelings. It must see where actions lead to and it must look for causes. Ruskin, satirically criticising popular charity, says, "As much charity as you choose, but no justice." But this is the charity of mere emotion rather than the charity of justice. Jacob Riis, with his larger vision, sums it all when he says, "Charity in our day no longer means alms, but justice." Here we are by a process of evolution back at the ancient Hebrew standard—marvellously displayed throughout the nineteenth chapter of Leviticus, as well as elsewhere in Scripture.<sup>1</sup>

And yet we have arrived at no such clear definition as social education demands. The felt significance of the idea of one's right of self-proprietorship is

<sup>1</sup> See, for instance, Deut. 24:13; Isa. 32:16, 17; Psa. 106:3; Prov. 14:34; Deut. 15; Ex. 23:11; Deut. 16:11-14; 10-18; Isa. 58:7, 8; Ezek. 18:5-9; etc.

not enough. We are prone to use our powers unjustly to others, and therefore, by virtue of the social tie, in the long run unjustly to ourselves. Our ideas of justice become warped and limited. Worse than that, they become professional and technical and even penal. The very essence of justice drops out of sight, supplanted by a form of procedure. With many persons it stands for little else than retribution or punishment, or conversely, it stands for acquittal from an indictment for crime.

The felt significance of the term "justice" is not so much wrong *per se* as it is inadequate. This inadequacy results in wrong. The native sense, previously delineated, acquires a warp, a cant, and must be educated back to the primal feeling and out again toward a true intellectual conception of rights and duties which are the essence of the social organism.

A journal commenting editorially on the acquittal of a famous criminal, thus

quotes: " 'Human justice often errs,' said the moralist. 'True,' said the judge, 'but it's the only kind we've got.' "

If "the moralist" said this, he, too, was in need of a definition. Efforts at human justice err; but justice never. Errancy and justice are a contradiction. If this were not so we should have no moral anchorage, no fixity. Too well we know that pity may harden, that generosity may pauperise. But justice is the formative and the corrective, the sure point of departure in social safety.

And still we are looking for a concrete definition. Great thinkers, writers, and speakers in all ages have said many fine and true things about justice. But the working definition, the clear formula for a definite habit of mind, calls for search.

Justice Field called justice "the great end of civil society." It is no less the great means to its own end. Nothing begets justice like justice; Theodore Parker dignified it as "the keynote of the world;" Emerson claims that it "satisfies

everybody;" Carlyle classes it as "sanity and order," and "the everlasting central law of this universe;" Disraeli makes it "truth in action;" Wendell Phillips declares that "utter and exact justice" is "the one clew to success." We have already seen that Webster called justice the ligament which holds civilised beings and civilised nations together, and that Demosthenes saw that it is not possible to found a lasting power upon injustice. With Plato, justice is "the greatest good;" to Aristotle it includes all virtue.

If now we gather up these terse and radical declarations we shall find some elements common to many or to all. Like a composite photograph, these common points will be very much accentuated by correspondences in the pictures. We find, then, that it is the essential, all-satisfying, bond or moral ligament of ordered society; it makes for unity, is stable, immutable, exacting, impartial, virile; the root virtue; the moral base.

All this agrees with our view of the

genesis of justice and of the synonymous character of justice and morals as developed in the previous chapter. And it agrees with the law of justice-charity in the Old Testament and with the ethics of Jesus as comprehended in the Golden Rule, the "Render unto Cæsar," the parables of pounds and talents, the declaration of the unity of God and man, and other aspects of our Lord's teachings.

And yet as a habit of mind, a working principle, we have hardly reached a verbal formula or definition. We might still work for cure rather than for prevention, we might mistake the nature of the social bond, we might hope for the greatest good of all without knowing good when we see it, we might pray for universal virtue and truth without looking for the origin of vice and misery—much less recognising ourselves as its accountable abettor or producer.

We have only to go back to our analysis of the genesis again. We find there something else—the proprietary sense.

Now Ruskin's insight touches us more closely. He says, "Justice consists mainly in the granting to every human being due aid in the development of such faculties as it possesses for action and enjoyment."

Sure enough, we find here the recognition of the proprietary right of the individual in his natural and spiritual possibilities, which are the fundamentals of character. We obstruct justice when we interfere with the development of those possibilities or powers. This individual right of every one implies a correlative individual duty of every one. This is the moral sense that emerges in early childhood on the perception of personal powers and of human relations.

But for brevity and simplicity few definitions excel that of Justinian: "Justice is the constant and unswerving desire to render unto every man his own."

Necessarily this means that every one must give way to and work for the good of society. Ideally, therefore, justice to

one includes the idea of the good of all. Individualism or atomism is forbidden. It is the fundamental moral motive because its reach is unlimited. In the words of Dr. W. T. Harris, "it consolidates all intelligent will power into one power, so that the action of each assists the action of all. . . . The immoral man is perpetually annulling his own action." Make this also read, *The unjust man is perpetually annulling his own action*, and we have the root criticism. Conversely, the just man is perpetually abetting and reinforcing his own action. This brings us to Kant's great law: *So act that thy deed will not contradict itself if it is made the universal act of all intelligent beings.*

Another philosophy defines justice as that which respects the freedom of a moral being by holding him absolutely accountable for his deeds, and therefore returning upon him the exact equivalent. But however interesting and even true this may be as an abstraction, I find in it nothing to induce a habit of mind which

will make a man just to his neighbour. It ignores the causes by which a man has been brought to the committal of the deed, and is a hard, unbrotherly, anti-social rule, however logical within itself.

Indeed, its advocates admit that in practice the argument is modified by the fact that no being in the universe except a Perfect Being is amenable to justice. The divine attitude toward a growing universe, they say, is one of *grace*, which is that quality which sustains the imperfect so that it may develop. But the imperfect itself in proportion to its development craves responsibility for its deed, and so more and more as it approximates perfection it demands and rejoices in justice, because justice is the recognition of its attained freedom.

Briefly in this philosophy grace represents God's attitude towards a growing cosmos; we are not yet worthy of justice. And justice itself briefly is the recognition of freedom and maturity. Dr. Harris puts it that "Grace subserves and

also limits justice. . . . The new penology has therefore by degrees moved forward to a platform higher than that of abstract justice, which sought merely to return his deed on the doer.”<sup>1</sup>

Cosmically, in the divine relationship this is doubtless the final view. But as a working plan, a habit of mind for social man in his relations to man only, it is to my mind impracticable and unworkable. In truth, I am unable to see how we can talk about the justice of God. It is better to avoid these terms of human social relations so far as possible in speaking of God. The question was once asked by a good Presbyterian elder, “How can God be just in justifying the sinner?” God is love. That we can understand and live by. But he asks us to show our love to him and to our fellows by being just to our fellows. He wants the kind of love between man and man that is

<sup>1</sup> “Penological Papers N.P.A.” 1890. Quoted by Henderson in his “Introduction to Dependent, Defective, and Delinquent Classes.”

guided, directed, and *made efficient by justice.*

Now, as already said, because man never gets a full hearing, man never gets perfect justice from his fellows. The information demanded by absolute justice is impossible to obtain. Here, then, is where *mercy* comes in. *If one could be absolutely just, mercy would be needless.* As it is, mercy is necessary to fill the gap. It is but the acknowledgment of our ignorance or our indifference in dealing with our fellows. It is a sort of blind effort at supplemental justice. The largest part of our debt we pay in the gold of positive knowledge. The remainder we pay in a due bill of mercy, to be honoured in gold coin as divulged facts warrant. Justice is the active principle and mercy is residual and supplemental. "Too much mercy is want of mercy," says Tennyson. And Young, "A God all mercy is a God unjust."

Justice is orderly, systematic, intellectual, constant, and would know all;

mercy is sporadic, subservient, apologetic, occasional and knows nothing. In our fallible and ignorant state our necessary mercy will sometimes be unjust, but full ideal justice, were it humanly possible, would have no need for mercy.

Full justice, then, is humanly impossible and mercy is humanly necessary. But the first duty lies with the former. It is our business to know. It has been shrewdly said, if we knew all we could pardon all. In Hugo's "Les Misérables," the Bishop is thus described: "He never condemned anything hastily or without taking the circumstances into calculation. He would say, 'Let us look at the road by which the fault has come.' "

"He was indulgent to the women and the poor on whom the weight of human society presses. He would say, 'The faults of women, children, servants, the weak, the indigent, and the ignorant are the fault of husbands, fathers, masters, the strong, the rich, and the learned. . . . This soul is full of darkness and sin is

committed, but the guilty person is not the man who commits the sin, but he who produces the darkness. . . . Let us pray not for ourselves, but that our brother may not fall into error on our account.' "

Again, "An ugly appearance, a deformity of mind, did not trouble him or render him indignant; he was moved, almost softened, by them. It seemed as if he thoughtfully sought beyond apparent life for the cause, the explanation, or the excuse. He examined without anger, and with the eye of a linguist deciphering a palimpsest the amount of chaos which still exists in nature."

The culprit must be regarded as a victim of crime as well as a criminal. "All attempts at dealing with criminal problems which take no account of the conditions which tend to produce the criminal population are predestined to failure.<sup>1</sup> "

This is true not alone of the criminal, but of the offender in the school and in

<sup>1</sup> Morrison, "Juvenile Offenders," p. 41.

the home. Parents are prone to punish without seeing that what they punish is largely the legitimate fruit of their own home administration. They are punishing the imitations of and even a loyalty or obedience to themselves.

The inefficiency of our penal laws is largely due to the fact that they have ignored the individual and social conditions on which the movement of crime depends. "The criminal character of an offender is not always to be estimated by the nature of the offence." And yet how prone we are to punish more rigorously for breaking a fifty-dollar bit of Venetian glass than a five-cent flower pot! We spend too much time and money in repressive agencies and too little in righting the conditions which produce the criminal. This is true of home discipline also.

Parents have much to learn from criminology. They are in a majority of cases the contributory delinquents. The fox hunter's reason, as Jeremy Bentham gives it, is that it is right that the criminal

or fox should have a little start. This instinctive recognition is only a form of admission that we do not know all and may, therefore, be unjust if we are not merciful. The conditions which have created him a fox instead of a huntsman must be taken into account and allowed for. Out of a long life on the bench Justice Brewer declares, "It is certain that absolute justice cannot be administered by finite man." Injustice is a common heritage. It is because of this sureness of injustice that Secretary Hay wrote to his pastor that one ought to get more than he deserves.

It is worth while to quote here a few sentences from Justice Brewer of the United States Supreme Court:<sup>1</sup>

"Justice, absolute justice, requires that judgment be measured not alone by the concrete acts, but should take into account the differences caused by heredity and environment, for which the individuals are not responsible. In

<sup>1</sup> From *The Outlook*, June 24, 1905.

short, it is certain that absolute justice cannot be administered by finite man. We can never determine how much the character is affected by forces and influences over which the alleged criminal himself has had no control, and therefore we can never establish an accurate relation between his acts and the consequences thereof.

“More and more does the judge appreciate the presence of those forces and influences which in the truest sense determine the quantity of guilt, and yet because they are beyond the reach of human knowledge are ignored, and must be ignored, in the daily administration of the law. More and more does he realise that while the scientific student may have the possibility of certainty as the result of his study, he as a judge must ever act with a consciousness that there is a domain into which he can never enter, and yet a domain filled with considerations which affect in the highest sense the matter of perfect justice. . . . Can it be that that Infinite One makes manifest absolute truth in all the domain of the material world, but leaves the realm of the spiritual forever a chaos of

uncertainty, resulting in perpetual injustice to his highest and noblest work?

“One and only one alternative is presented. In some other time and place the failures of justice on earth will be rectified. Infinite wisdom will there search the past of every life, measure with exactness the influences of heredity and environment, and out of the fulness of that knowledge correct the errors which we are powerless to prevent. The inevitable failure of justice in this life is an assurance of a life to come. Outside of the declarations of revelation, and putting the thought I have presented one side, immortality is but a possibility. ‘Over the river they beckon to me,’ is only the voice of hope. To that hope and that possibility comes the strong testimony from the inevitable failure of human justice as contrasted with the full knowledge of the laws governing the material world, for it is abhorrent to our conceptions of an infinite being that He should endow us with the latter while investing the highest product of creative intelligence, the human soul, with a mysterious environment which no man can ever fathom and which to the end of its

existence will prevent that soul from receiving the exact reward which is essential to absolute justice. . . .

“Forty years of judicial life, as varied as that which falls to the lot of any, have given to me an answer to Cato’s question. I have looked into the faces of persons on trial before me for alleged crimes, or litigant in civil cases, have searched every item of testimony which the laws of evidence allow to be introduced, in the hope of gathering therefrom some knowledge of the influences which the past of heredity and environment have cast, and finding but little to guide or instruct, have yielded to the necessity of determining rights on the basis of only the concrete and visible facts. I have been over and over again oppressed with the limitations of finite nature, and longed to know something of those unseen and unknown influences which have brought the individual to his place before me. Conscious of these ever-present limitations, I have asked whether this is the best that God has done for man? And the answer which has come out of my long experience on the bench is that somewhere and some

time all the failures of human justice will be made good. Through the light of the judicial glass I have seen the splendid vision of immortality. Rising above the confused, conflicting voices of the court-room I have heard the majestic and prophetic words of the great apostle: 'For this corruptible must put on incorruption, and this mortal must put on immortality.'

"But the fact of immortality is one thing, its lesson another. Is it freighted with joy or burdened with despair? Does it mean merely the making certain the result of our wrong-doings? Is it nothing but an appeal to a higher court, in which a more just sentence will be pronounced, a change, as it were, from Jeffreys to Sir Matthew Hale? Will the exact pound of flesh be taken? On the even scales of the blind goddess will there be only the remorseless weighing out of just punishment?

" 'Is there no place  
Left for repentance, none for pardon  
left?'

"Must we look forward to immortality with the sure and only expectation that

the wrongs we have here concealed will be made known, and the doom we have evaded be cast upon us? I know that in human courts mercy is a futile plea. . . .

“Only in an appeal to the executive is there place for mercy. Pardon is not a judicial function. But in the great tribunal of eternity the same Being is both judge and chief executive.”

And yet in human relations we must make a distinction between mercy and pardon, if pardon is to be reserved as an executive function. There must be mercy in the law under which the judge acts as well as in the equity without statute. Kames says a court of equity boldly undertakes “to correct or mitigate the rigour and what in a proper sense may be termed the injustice of the common law.” That mercy, as has already been said, is the taking into account the probable causes and influences which are either invisible or beyond our ken. In the juvenile courts—and notably in the work of Judge Lindsey of Denver—we find freer

administration of "justice," completer and most effective as an educational force in the community.

Undoubtedly it is exceedingly difficult for the average lawyer to grasp the real significance of justice. With a case to gain and a reputation for success in view, and indeed as a victim of almost inevitable professionalism, justice comes to have for him a meaning little beyond that of process.

Judge Taft and others have spoken with no uncertain sound to show how the ends of justice are defeated by trivial, inconsequential, interminable, technical appeals. Our judges are perforce too often but "mild moderators of the game of chicanery in the court-room."

Judge Charles F. Amidon, of the United States District Court of North Dakota,<sup>1</sup> finds the fundamental defect of our legal administration to be the doctrine that "where error is found preju-

<sup>1</sup> *The Outlook*, July 14, 1906.

dice will be presumed." This, he contends, removes the cause at once from the region of reality and fact into the thin air of presumption and metaphysics. The real question is whether error in procedure has produced wrong judgment. Otherwise, we put technical error in process above moral justice, regarding practice above substance. So numerous and so obstructive are appeals growing in this country that Judge Amidon declares our administration of the criminal law to be an unworkable machine. The result has been not only that criminals, especially rich criminals, go unpunished, but that the sense of justice has been impaired, the meaning of justice perverted, and the tone of social morals lowered to the level of personal greed and ignored infamy.

It is when the average attorney changes the terminology of his thought to what he calls equity that he approaches more nearly to the real meaning of justice. But this is professional and technical rather than basal and moral. It has

been held by some, especially the earlier English writers on jurisprudence, that equity mitigates the hardships of the law where the law errs through being framed in universals. Would it not be fundamentally—that is, morally—truer to say that this is a function of mercy?

Justice Story admits<sup>1</sup> this professional limitation of ideas through technicality. Equity applied to jurisprudence, he says, is not as comprehensive as *natural* or *moral* equity. "Courts of equity afford relief in regard to those rights recognised by the jurisprudence of the state where the remedy of the law is doubtful, inadequate, or incomplete." They are courts of mercy or a more liberal and far-sighted effort at moral justice.

The definition of justice or natural law as already given by Justinian answers, says Story, to the general sense of equity as that which is founded in natural justice, in honesty, and in right. Equity

<sup>1</sup> "Commentaries on Equity Jurisprudence."

does not embrace (we are told by the same authority) a jurisdiction so wide and extensive as that which arises from these principles of natural justice. Even Roman law left many matters of natural justice wholly unprovided for, from difficulty of framing rules to meet them and from the doubtful nature of the policy of giving legal sanction to "duties of imperfect obligation, such as charity, gratitude, and kindness." Again, Aristotle defines equity as a better sort of justice, which corrects legal justice where the latter errs through being expressed in a universal form and in not taking account of particular cases.

That the legal mind has been suffering through its technique in this matter, I say, is evident. There ought not to be such terms as "natural justice" or "natural law," much less ought we to speak of a "better sort of justice" as over against "legal justice." The truth is there is but one justice, and that is simply the duty of the individual as a member of society

to seek the highest good of all other members of society. To this end he must, negatively, do nothing to obstruct the full development and right employment of personal powers and capacities for action and enjoyment. And, positively, he must render all positive aid to the same end. Anything less than this is a prostitution of the term which ought to be held sacred to the idea and the ideal.

Yet if we look back through the centuries, we find this lowered ideal through the technique of the bench and bar. In the codes of Henry I., of England, for instance, the differing grades of office bearers had different jurisdictions. The power of life and death, belonging to the greater lords of franchises, exercised *a haute justice*, while the lords of less dignity exercised a lower justice.<sup>1</sup> The distinction is intelligible but derogatory.

The classification of crimes and the difference of jurisdiction is right, of course,

<sup>1</sup> Stubbs, "Lectures on Early English History,"  
edited by Hassall.

but the emasculating of the word *justice* by using it simply as a name for a form of legal action has, without doubt, confused the public mind and lowered the standard of this fundament of public and even of private morals.

One has only to read the daily papers to see how the word "justice" has been stripped of its vitality and controlling significance. A man goes to a "court of justice" to get the better of his neighbour often through mere legal trickery or technicality, and imagines that he is seeking justice. Legal conditions may absolutely forbid justice to either party to the dispute. The law may be fulfilled, while justice is travestied.

The same association of the word "justice" with legal procedure has also begotten the idea that justice is a matter of punishment or reward. This obliterates that larger sense of the word, which demands of each one a rigorous interest in his neighbour's welfare, as a part of the common weal of society, without ref-

erence to legislative enactments or court orders.

As an instance, take a reporter's account of the apprehension and trial of a Philadelphia kidnapping case. After stating that the case was "railroaded" with great celerity, the news column says, "Nothing was allowed to interfere with the *inflicting of justice* upon the man who had deliberately brought days and nights of anguish to the parents of a little child." Here we find the too prevailing bias that justice is vindictive and retributive. So it may be; but the term is lowered when it is used as a synonym for punishment, or for anything but equity or fairness.

The distinctions between justice, natural and legal, and equity as made by the courts is wholly technical. But the words are in the root meaning the same, and are the equivalent of our English word "fair." Luther is wrong when he says "the strictest justice may be the greatest injustice; there must be not law, but equity."

If we go back to origins, we find that the root of "justice" is *yu*, to bind; of "equity," *eka*, one; of "fairness," *pak*, to bind (whence also pact, compact, and peace). The basal idea in these three words is that of a binding together in unity. Here again we see that justice, equity, or fairness is the essential ligation of society, the bond of surety, and the morality of peace. Luther meant right. But we must not admit that it is possible to be just to one if that requires injustice elsewhere.

These terms, one or all, are the social keynote, the essence of Christianity, as we find it especially in the Gospel of John—the Gospel preëminently also of love. Justice is methodised love.

It has been said that jurisprudence or legal science can no longer be called the science of rights but the science of human relations. This comes back to the proposition of infancy. When human relations are realised by the child, rights and duties become the two aspects of a con-

trolling sentiment. This develops as fairness or justice.

The world has never seen a more important movement toward the substitution of the *principle* of justice for a formal rule of procedure than in the establishment of the juvenile court as an institution of government.<sup>1</sup>

The editor of the Berlin *Lokal Anzeiger*, Herr von Kupfer, when on a visit to the United States in 1904, said that the most interesting phase of New York life was the care bestowed on the wayward or unfortunate children and youth. "The idea of a children's court," he says, "strikes one as novel, new to me, at least." Its educative value is preëminent, because it has an eye single to ideal justice as the basis of social life, and it exemplifies the principle in visible, concrete acts.

Students of sociology, criminology, education, and social reform have for

<sup>1</sup> The juvenile court is more fully presented in Chapter VII.

years been working in the direction of prevention rather than of mere suppression of evil. It has become apparent that as mothers and fathers are a principal cause of unruly children, that as teachers and school management are a fruitful cause of backwardness, as well as of positive arrested development, so, courts and penal institutions are producers of criminals.

Against these vicious tendencies of supposed disciplinary agencies have come the children's aid and protective societies, the anti-child-labour movement, and the juvenile courts. Along with this has grown the conception of the contributory delinquency of parents as a cause of youthful delinquency recognised by statute.

Judge Lindsey, of Denver, the unique hero of justice, looks, as did Hugo's Bishop, at the road by which the deed came. He takes into account the influences out of which the crime was begotten. His aim, in short, is the ideal of

justice, because it mercifully takes into account everything that is humanly possible to consider as causative and constructive. The result is, Judge Lindsey finds little real criminality among children, even though he finds much law-breaking. The distinction is vital, and when people have learned to *think justice*, when they have, through this single moral ideal, become discriminate, we shall sight the oncoming era of peace and virtue.

In the retrospect: justice is the basis of the social life. As between man and man it is the universal, the unerring moral guide. It is formulated charity; love in economic action. It is the essence of social unity, the ground plan of brotherhood. It preserves to society the full value of each individual, and to each individual the full value of his membership in society. Every act that limits the action of another without adding to the general good is an act of injustice.

Justice is teleological, large visioned,

seeing all of life in each act of life. It is a view-of-the-world. It thinks things through. It considers how the present came to be what it is and what will be. Justice in the best sense is preventive, formative, and constructive; while secondarily it is repressive, corrective, retributive, re-formative.

No man knows enough to be perfectly just, but he will grow in knowledge under the rule of the ideal of justice as a working theory. He will find it a perpetual spur and challenge to his thoroughness and his courage. Mercy is love's apology for the injustice that grows out of our ignorance. The moment we say mercy is anything but love's apology for its limitations and unwisdom, we are losing our hold on justice as the fixed basis of social life. We are putting justice into the limbo of the duties of imperfect obligation. It is because we have done this that justice has been so travestied.

We properly resort to mercy because on

the one hand we are so ignorant of the causes and conditions of any one act, and on the other hand, because we know so well that every individual is so largely indebted to or is the victim of social and natal heredity as well as to his immediate environment. Mercy is therefore a kind of supplemental justice—love's struggle to be fair.

Justice as a duty is the guaranteeing to every one the right to the development of his capacities and his powers for action and enjoyment so far as they contribute to the social efficiency. Justice is preëminently the virtue of the will. It demands absolute self-control, for it requires the suspended judgment, incessant revision, and right of choice. It is the agent of freedom. It has been said that the whole possible scope of human ambition is the satisfaction of being heard. Justice grants a universal hearing.

Justice, equity, and fairness are to all intents and purpose one. They stand for human mutuality, unity, and the highest

efficiency before God. They stand ready to invest sympathy, pity, kindness, benevolence, charity, and love with that clear-eyed wisdom, intellectual industry, and brave energy which give them their full value in the cabinet of virtues. And they stand for the subordination of the individual to the social order.

*Justice is a mode of morals actuated by a constant and unswerving desire to render unto every one his own in the larger interest of the common good.*

## V

### UNIVERSALITY AND PERSISTENCE OF THE SENSE OF JUSTICE

MORE than a century ago, that dynamic genius of the French Revolution, Danton, said of his king, Louis XVI, "We have no right to be his judges, it is true; well, we will kill him." This declaration of the man who had been the Minister of Justice appears to me to epitomise the whole moral problem of man.

First, here is the natural obeisance to right and the irrepressible desire to be *thought* right, and next, there is the surrender to the antagonistic impulse or passion of the time. In one degree or another this is the history of every one of us—oscillation, vacillation, lack of focus, unstable anchorage, neglected orientation. Not that we are all alike,

for with some the perception of what is right toward others in any concrete situation is clearer and the habit of tenacity stronger; while with others the surrender is easier.

There can be no question about the natural universal desire to be thought right. Men differ very much as to what right is, and as to the ways of being or doing right. But it is always the theoretical fixed point in their thinking. They measure themselves as near to it or far from it. They often prefer the wrong, but they try to make themselves and others think the wrong is the right. This is true of the pirate, the bandit, the Sultan, and the persecuting churchman. The vision is defective. Much that passes for sin in theological codes is simple ignorance, unconscious imitation, short or blurred moral vision, lack of imagination, supposed heredity, or real social inheritance. Otherwise theology itself must be sinful, for it cannot all be right—to say nothing of our strained,

warped, self-interested, unimaginative, prosaic interpretations of Scripture. This is not to excuse error or guilt, but rather to give it its proper *location* in order that we may not only correct and reform aright, but construct and direct new life aright.

The moral discernment of right, when it takes the form of *justice*, in the child is the least obstructed and the clearest. We may well doubt whether it is ever really extinguished, however befogged it may become by convention and the selfish struggle of life.

It is the purpose of this chapter to show by illustrative examples how variously the sense of justice manifests itself from early childhood upward, and also how and why this primal virtue is at once universally sensed and rarely practised. We have cited Danton as the type—the clear vision befogged for the moment and the surrender to the immediate passion.

I have already referred to the case of the little girl with the kindergarten beads

—her clear conception both of her own right and of her duty to her father. Add to that now the case of a little boy of five years passing a comment on a tournament or series of contests between the guests of two rival, yet very friendly, summer hotels. The first match was in bowling, the second in tennis. The house of which the youngster was a guest gained the bowling contest. Amid the loyal huzzahs the little fellow philosophised: "I think it was nice for us to beat at bowling and I think it would be nice for the others to beat at tennis—*for that would be polite.*"

The child was groping among the elements of social ethics. What he called politeness was his budding sense of equity both as a right and as a duty—the two cannot be separated as motif in social morals, and at bottom there is no other. This youngster was fast coming into that perception of human relations with which, as we have seen, the moral sense emerges.

A certain mother, offended by her boy's conduct, gave him the alternative either to do as she wished or to leave the room. After a moment's reflection the boy replied, "That's fair!" President Eliot, noting this household incident, said, "I would give more for that judicial comment—for its effect on the boy's later life than for any amount of accurate figuring." This boy was older, farther along in his moral development, than the child previously quoted. Fairness had become more fundamental as a working principle than mere obedience. His duty to act, even against his inclination, was conditioned upon the recognition of his free will and right of choice. That he was willing to act when the situation was *just*, was of more consequence to him than the conquest of arithmetic. Justice was the one voice that he would obey.

This boy was not an ethical philosopher, not precocious, not unusual. Youth is exacting in the domain of the universal. The learned man in Kant puzzled

over justice in relation to kindness; the child in Kant visioned the law: So act that thy deed will not contradict itself if it is made the universal act of all intelligent beings.

Miss Rye of the Howard Association, London, tells of a little girl, child of burglars, who, on being received into an institution, began to steal, and was threatened with a whipping. Bursting into tears the child wailed, "Where I comed from they whipped me if I didn't steal; and now you are going to whip me because I do." The *wrong of stealing* had not occurred to her, but there was an *unfairness* somewhere toward her, which was at once self-evident and cruel.

There is deep significance here for us all. Children in the best of homes and in the best of schools are not yet fully conventionalised or socialised beings. But they have become so in spots. Hence, they do not know the reason for much of the privation, suppression, and punishment which they suffer. But they

do know that it is wickedly unfair to treat them as though they had the experience and the formed habits of an adult. They do not reason this out, but they feel it out. All this, however, works toward the injury of that original sense of justice which ought to be preserved to them for society's sake if for no other reason.

Some years ago Professor John Dewey in order to get concretely at the theory of ends and motives which actually control thinking upon moral subjects, asked one hundred students to state some typical early moral experience of his own, relating, say, to obedience, honesty, and truthfulness; and the impression left by the outcome upon each upon his own mind, especially the impression as to the reason for the virtue in question. Without following the results in detail, let us note this one item: "A sense of justice / seems to have been the first distinctly moral feeling aroused in many. This, not on account of the wrong which the child did others, but of wrong suffered

in being punished for something which seemed perfectly innocent to the child. One of the distinct painful impressions left on my own mind by the papers is the comparative frequency with which parents assume that an act is consciously wrong and punish it as such, when in the child's mind the act is simply psychological—based, I mean, upon ideas and emotions which, under the circumstances, are natural.”

One of the students remembered being driven from a field where he was picking berries, and so led to question the right of others to be so exclusive. But he remarks that the effectual appeal always lay in his being led to put himself in the place of others. This, together with what Dr. Dewey says of the feeling of injustice, tallies with what is claimed in the third chapter to be the genesis of the sense of justice in young children. It is a combined sentiment of rights and duties arising out of the proprietary sense by aid of the imagination as affected by rela-

tions to the human world. Morality lies not in things but in relations.

Who is there that does not carry in vivid recollection some act of injustice toward him in his childhood by some one in authority over him? Whatever else is forgotten, that at least rankles on. I well remember being marked for a yell in a school-room. Our teacher was a man of distinction in science, a member of the Society of Friends, and not otherwise unfriendly. The deed was done by a boy directly back of me, who had not the justice to offer himself as the real delinquent. I protested, but was given no hearing. My protest extended to my father, who reinforced my contention of innocence, but without avail. Many years after, when a lecturer myself, I was startled to see my old professor in the front row of my audience. The opportunity was irresistible. Immediately on closing I made myself agreeable to him by rehearsing the long bygone affair of injustice.

Of course he did not remember it. But I had at last got as "even" as it was possible to get, for he had been in the benches and I in the chair on this night, and the reprimand was left to work itself out in his own soul by simple reference to it—all good natured as it was. Justice was satisfied with its "hearing."

I think I have never told this story to any one without my getting the reply, "I have an experience very similar in my own life." So common is this persistent memory of childhood's suffering from a denied hearing of its case, or an unjust suspicion or punishment, that it seems scarcely worth while to record any further instances.

Many persons remember how strongly tempted they were to run away from home in childhood, and often because of some unfair attitude or action against them. The sense of being misunderstood is most common, and this is but the result of the gag of injustice that denies the right to a hearing.

Here is a typical case from the *London Spectator*:

Perhaps my experience on this subject may interest some of your readers. When I was a little girl of about five, I was, together with my sisters, being brought up by a Puritan lady of very strict, austere views. One day there was a great row in the house. A peach which was ripening on the garden wall, and which we had been forbidden to touch, was found to have been pinched and somebody's thumb-nail dug into it. Suspicion fell on me, and was confirmed by my nail appearing to fit the mark. I had had nothing to do with it, but I was shaken, whipped, and locked up with nothing to eat except some bread and water and a cold rice-pudding, until such time as I confessed my fault.

How well I remember all my misery and the long weary hours, until the brilliant idea occurred to me to confess the act, innocent as I was, and get liberated. I rushed to the door, kicked it, and screamed out my penitence with sobs and tears, that were as much rage and hunger as anything else. But I had not looked

far enough. "I was certain she had done it," exclaimed Mrs. F—— triumphantly, "and to think of the way she denied it with the most innocent face! Go back in there, you wicked little girl, and think of what happens to such children as you." The key was again turned in the lock, and I was left with the rice-pudding, now fast growing slimy and mouldy-looking. By this time my sufferings had touched the conscience of the real delinquent, the kitchen-maid, who at this point confessed it was she who had pinched the forbidden fruit.

You would have thought that at least some reparation would have been made to me for all I had so unjustly suffered. Not at all. Mrs. F—— said I must be an artful limb of the devil. I was whipped again, worse than before, and when finally I was admitted back to the family circle it was with a large placard with "Liar" written on it fastened to my back. I have often wondered whether Mrs. F—— had the faintest idea of the chaos of fury and bewilderment that filled my soul. I do not think so. I believe she honestly thought she was training us right, and I remember that when in

after years I met her again she expressed herself as having been always so very fond of me, and described the pleasure it had given her to guide my infant steps into the path they should go.

Here is a bit of personal reminiscence from the pen of Edward Bok:

During my early boyhood my father was led into some gold-mining investment, and at the dinner-table he discussed the fact with my mother. Of course I was at once alert. Boylike, I caught nothing of the conversation except the single fact of the gold mine. Naturally, I felt that my father could do nothing by halves, and so, to my mind, my father had bought an entire gold mine. Next day I duly conveyed this precious piece of information to my playmates. To their credit, I must say, they received it at first with some incredulity, but finally my eloquence won the day and they were convinced! All but one boy; he pooh-poohed the whole idea. He was older than I, but that made no difference. He must be convinced. My father's capacity to buy a gold mine, or a whole city of gold

mines if he wanted them, must be established in that boy's mind. And so I set to work. Diligently I argued every phase of the question with that boy, but somehow or other he wouldn't have it. However, I was not discouraged. Seeing that I could not argue it into him, I proceeded to literally pound it into him. My father's reputation, I felt, must be established, no matter what the cost. I was engaged in this exhilarating form of argument when the owner of the gold mine himself appeared on the scene, and—evidently seeing that I was getting much the worse of the argument—seizing my ear, disentangled me from the embrace of my opponent, and delivering one or two "love-pats" upon me himself, marched me home! I do not think I blamed my father so much for extricating me from the warm embrace of my unconvincible opponent as I did for his failure to ask me, after we had reached home, the reason of his finding me in such close quarters! Instead of instituting inquiry he simply constituted himself a court of action.

The child's sense of moral evenness, or

equity is well illustrated in the following:<sup>1</sup>

A boy of seven, told not to carry his basin of sand to a preëmpted corner of the porch, did so a second time. He was warned that the next time would be under penalty. A week later (a week during which his mind had been distracted by a household calamity), he was found in the same spot with his sand. His mother's reproving eyes brought him to his feet. Without a word of self-justification he walked beside her into the house. After a trying interview, he slipped one sandy hand into hers, saying, "Truly, mamma, I forgot, but I thought you ought to whip me, as you promised; that was only fair."

A little girl, less than three years old, childishly fond of unripe apples, was warned and guarded, but not always successfully. Finally the threat of punishment was uttered, together with a prophecy of illness. The next day she came and laid an apple-core in her mother's lap. "I ate an apple, mamma. You may punish me

<sup>1</sup> Reported by Rebecca Smylie in *The Sunday School Times*.

now, but I know God won't let me get sick. He knows a spanking is enough for one little apple."

A child told that a specific punishment will follow a certain course of action feels that he is free to choose between the two. Frequently he is intercepted in his designs, but gets the punishment as if he had attained the forbidden delight. This, to the child mind, is manifestly unfair. "You didn't say you'd whip me if I *tried* to go swimming," protested a detected runaway. "I was willing to take a whipping if I got a swim."

A former headmaster of Rugby (later, the Archbishop of Canterbury) is spoken of in a Rugby boy's letter as being "a beast, but a *just* beast."<sup>1</sup> This was complimentary.

After the "pardon" of Dreyfus, his heroic defender, Zola (already referred to), thus wrote to Madame Dreyfus:

"It is revolting to obtain pity when one asks for justice, and all seems to have been preconcerted in order to bring about

<sup>1</sup> Reported by Principal Philips, of West Chester, Pa

this last iniquity. The judges, wishing to strike the innocent in order to save the guilty, seek refuge in an act of horrible hypocrisy, which they call mercy."

George Fox, in prison for conscience' sake, refused to leave his disgusting incarceration by the proffered king's pardon because he had done no wrong. He would not accept pardon for justice.

This unextinguished sense of fairness or equity, this earliest born sense of justice, has not been lost even in the criminal classes, but it has become limited and perverted. Indeed, these classes are chiefly the *product* of the world's lack of justice.

Note a few cases reported by MacDonald. A thief at Milan said, "I do not steal, I only take from the rich that which they have too much of; and do the merchants do otherwise? Why, then, should I be accused and they left undisturbed?" Another said, "I steal, it is true, but never less than 2000 francs; to attack so large an amount seems to me less a theft than a speculation." A third

said, "If I had not stolen I could not have enjoyed myself; I could not even have lived; we are necessarily in the world; without us what need would there be of judges, lawyers, gaolers? It is we who give them a living." A fourth said, "We are necessary. God put us in the world to punish the stingy and bad rich; we are a species of plague from God. And besides, without us what would the judges do?" A fifth, justifying the use of violence in robbery, said, "We bound them for our own safety, as the gaoler does when he puts the handcuffs on us; it was their turn—to each his turn."

Dr. MacDonald cites these cases<sup>1</sup> to show that the moral sense of criminals is "radically defective" or that moral sense is "incomprehensible to them." I am citing them to show that while the moral sense of the criminal is decidedly defective, moral sense is by no means wanting in, or incomprehensible to him.

<sup>1</sup> "Criminology," p. 159 ff.

Every one of these men has a sense of justice. Every one wants to be thought right; each one wants to think himself right. To this end he employs a sophistry and a process of self-deception really no more absurd than do thousands of our "respectable neighbours" who go to their daily tasks and walk the streets with heads up in fearless confidence.

Observe also the note of reciprocity, of equity, as much as to say that even if they are wrong, they are little different from their legal accusers. Some indeed claim that they are discharging a duty to society, and to judges and lawyers in particular. Some moral sense, however erratic, is writ large in the confessions of these men, who are but types.

The English criminologist, W. Douglas Morrison, speaking of the homes of the children of the Liverpool Industrial School, says, "I have been greatly astonished, when talking to the children, to find what a vast amount of vice and indecency they had listened to without be-

ing aware that there was anything wrong in it."

I think it is safe to say that every one of them carries in his untutored breast a *sense of fairness*, however inoperative it may be; and here is the point of contact for the basis of moral appeal.

"It is the feeling of injustice," says Carlyle, "that is insupportable to all men." It is man's injustice to man that makes so many malefactors with such blunted moral sensibilities, and with so much satisfaction in their own sophistry and self-deception.

The man who cheerfully confessed to having stolen gold bars from the mint maintained to the end of his incarceration that the government had been unjust to him and morally owed him thousands of dollars of back pay. The claim was absurd, but it was made in the name of common fairness for all that, unfair as he himself was in committing the theft.

It is from the study of the extremes that we arrive most quickly at basal facts.

Criminals may be taken as the type of extreme mental states, and we may therefore look a little further at the finding of criminologists.

As we pursue this interesting study two facts will become more and more evident: first, that the original sense of justice is seldom or never wholly obliterated; secondly, that it has become weakened, warped, and tortured out of its own countenance. We have seen this already in the cases cited.

The wish to be thought right and to offer excuses which are supposed to justify are pretty sure to crop out even in the most blatant criminals. They appear to feel, even though ever so weakly, that there must be a stable norm of right somewhere. They may glory in their departure from it, but this is only a form of confession of its claims. An extreme case of this kind was reported in the daily press not very long ago.<sup>1</sup>

<sup>1</sup> *The Press*, (Philadelphia) despatch dated July 12, 1906.

The case was that of a professional man who was arrested for forgery. In the police station he is reported to have said: "My one great regret in life is that I have fallen a slave to the morphine habit, and to resist its use have failed in my ambition to become the greatest criminal of the age. I glory in crime and am a criminal *because it is impossible for me to be anything else.*"

This man claimed that he had criminal instincts by heredity and that this was beyond remedy. But observe that he had sufficient sense of right and sufficient desire to be thought right to offer as an excuse for his wrong his belief that he could not help it. The germ of right was still in this ambitious criminal.

Lombroso, the distinguished criminologist and advocate of this much strained and, I believe, untenable heredity theory, cites the case of a man who, after twenty years' imprisonment, was visited by a spectre or vision of the Virgin while in his cell. She appointed him to a mission

in her name, and the man became, so it is reported, a philanthropist. This could not have been but for the reawakening of the original sentiment or sense of justice, or absolute right to all men.

Again, a horse thief admitted having taken a horse because the leader of a band could not be expected to go on foot; but he denied that the act was theft.

MacDonald<sup>1</sup> notes that thieves consider a bankrupt worse than themselves. But his immunity inflames their sense of fairness and reacts through their revenge on society. One thief shared his booty with the poor out of a confessed sense of what he called natural justice. But for the artificial justice or prescriptions of law courts he cared nothing.

MacDonald concludes that the criminal is more likely to think right than to feel right. For the lack of the proper feeling the criminal lacks the will power to follow his idea. Hence, the doctrine of

<sup>1</sup> "Criminology," p. 164 ff.

“honesty among thieves,” which is practically the sense of justice with the emotional side obliterated, or, at least, misdirected. Of course this is not the true, efficient sentiment of justice, but its degradation to merely an economic idea. When we come, then, to think of justice as a *mode of education* we must not omit the training of the feelings<sup>1</sup> as an essential to this aspect of social reform. The feelings are racial, social; hence their important function even in the highly intellectual sentiment of justice. An idea acts only according as it is felt.

In Flynt and Walton’s “Powers that Prey,” two criminals are discussing the conviction of an innocent friend, for murder. Says one, “Seems like a gun can’t do nothin’ any more ’thout bein’ pinched for somethin’ else.” The other replies, “I’d sooner be pinched for what I didn’t do ’n what I done; it riles a bloke’s sense

<sup>1</sup> See “The Natural Way in Moral Training,” chapter on Nurture by Atmosphere, by Patterson DuBois.

o' justice to be accused false and helps him put up a front." The innocent convict himself says, "I ain't turnin' soft and kickin' 'bout goin' to the chair—not me! It's up to me to sit in it, that's straight. An' I've done enough to deserve croakin' ten times over; but, Jackson, it ain't up to me to stand for the killin' of Hooper. . . . I don't mind croakin' for anything I done, but I hate like hell to croak for somethin' I didn't."

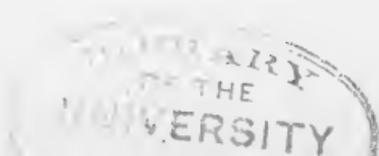
Very clearly does the sense of fairness come out in this incident. The murderer has no objections to his capital punishment, provided the punishment is for a deed which he has committed. The equity would be all right had he done the act, and although he has escaped punishment for many other crimes, he is riled for this one miscarriage of judgment.

A criminal telling of his release from the Auburn penitentiary after a five years' term says:<sup>1</sup>

<sup>1</sup> "The Autobiography of a Thief," recorded by Hutchins Hapgood, p. 197.

I knew that there was nothing in a life of crime. I had tested that well enough. But there were times during the last months I spent in my cell when, in spite of my good resolutions, I hated the outside world, which had forced me into a place that took away from me my manhood and strength. I knew I had sinned against my fellow-men, but I knew, too, that there had been something good in me. I was half Irish, and about that race there is naturally something roguish; and that was part of my wickedness. When I left stir I knew I was not capable, after five years and some months of unnatural routine, of what I should have been by nature.

It would appear, then, that, as claimed at the outset, justice is the earliest moral feeling to develop and the surest to persist through life. Despite Judge Taft's decision that the motive of justice is naturally in the Anglo-Saxon breast, but absent in the Porto Rican and the Filipino, and despite the contention in some quarters that it is much stronger in men than



in women, I believe it to be more nearly universal, can be counted on more surely as a moral appeal, than any other virtuous sentiment or instinct. There are good reasons why it might *seem* weaker, or at least might be less obvious and operative in women than in men. But that does not vitiate the main contention of universality.

It is impossible for me to see how there can be any difference caused by sex in the spontaneous generation of the sense of proprietary rights and the relation which these rights bear to others. The rights and duties of humanity develop just as surely in one sex as in the other. But it is not impossible that the training and the sort of relation which men and women bear to the community may cause a divergence in the mode of display of the original sentiment, and even result in a greater or less degree of its inoperation.

Meredith Townsend in his book on Asia testifies that, "The idea of justice is almost as instinctive as the idea of differ-

ence between right and wrong, and an Asiatic submits more humbly to a just sentence than a European."

So sacred was the idea of justice in the Middle Ages, that, as Hallam writes, "the courts of a feudal barony or manor required neither the knowledge of positive law nor the dictates of natural sagacity. In all doubtful cases, and especially where a crime not capable of notorious proof was charged, the *combat* was awarded, and God, as they deemed, was the judge."

That the sense of justice or right and the consequent respect for virtue are never wholly obliterated from the degenerate mind is the theme of a striking passage in that lofty yet almost forgotten epic, Pollok's "Course of Time":

Virtue, like God, whose excellent majesty,  
Whose glory virtue is, is omnipresent.  
No being, once created rational,  
Accountable, endowed with moral sense,  
With sapience of right and wrong en-  
dowed,

And charged, however fallen, debased,  
destroyed;  
However lost, forlorn, miserable;  
In guilt's dark shrouding wrapt, however  
thick;  
However drunk, delirious, and mad,  
With sin's full cup; and with whatever  
damned  
Unnatural diligence it work and toil,  
Can banish virtue from its sight, or once  
Forget that she is fair.

The question now arises why, if the race has such an instinctive sense of justice, such a desire indeed to be thought right, why is there so much injustice in the world?

The answer was given at the start. In a degree we are all like Danton. Our sense of fairness has been too little practised. Other virtues, imperfect and uncertain, have been too easily substituted and magnified for the cardinal moral regulator. The result is just what we see to-day in our civilisation. Our vision is too contracted and too astigmatic. We do not take to heart the truth that unless

one understands that as a member of the body politic, or institutional life, if he fails to give and take, defer and obey, adjust and correlate, he is unjust, anti-social, and immoral.

Not that benevolence, generosity, pity, kindness, patience, humility, gratitude, forgiveness, etc., can have no place in social ethics—life would be intolerable without them; but rather that they *get their full value* under the visé signature of the master moral insight of Justice—which can be neither misplaced nor partial nor overdone when it is real.

What Christians need is a more exact and courageous moral discrimination and feeling; less sophistry; a confirmed habit of thinking things through to the ultimate moral issue and result. In this school Justice is the headmaster; in this empire of universal brotherhood Justice is the premier as Love is the throne.

## VI

### EXTENSION AND FURTHER ELUCIDATION OF THE PRINCIPLE

JUSTICE is more than a basis of ethical training. It is essential to the full efficiency of all forms of right influences of man upon man. It underlies all true education as means and as end.

Something that looks like social reform or moral improvement or a closer brotherhood or a truer unity or a higher freedom or a firmer peace can be accomplished through the indefinite motives that we call philanthropy and benevolence.

But if such reform has been wrought at the expense of a true equity, it must in the end prove a delusion. Unless philanthropy has confided its cause to the exacter thought and the even, steady

hand of justice it has failed of its divine mission. Upon this distinction moral education must focus.

In view of what has been said in the foregoing chapters—the testimony of Scripture, of great minds, of the child's instincts, of the criminal's complaint, of the trend toward brotherhood and peace, and of the social-moral obligation—this would seem to be a truth, simple and obvious enough to need no restatement.

Yet there are good men and thoughtful men who, rightly preaching the gospel of love, too easily overlook the fact that love can be unlovely (as Christianity may be un-Christian), but that love's justice or justice-love can be neither unjust nor unlovely—nor un-Christian. Such men have restricted their outlook to the salvation of the individual, ignoring the fact that the Gospel of Christ is a social Gospel, the Lord's Prayer a social prayer and the kingdom of Heaven a corporate idea.

Take, for instance, this declaration

from an influential religious journal: "No man lives who can afford to be just, for no man could live if he received justice." Rather let us contend that no man fully lives until he receives justice and gives justice. Humanly speaking, there is no complete moral life but in equity. In this rights and duties coincide and become one. We have seen that although no one man can be entirely just, every man can take social justice as the norm of his moral life.

But to continue the quotation: "We get more blessings than we deserve, better treatment from God and men than we are entitled to, every day of our lives." How? Is not every man by the law of justice entitled to the very best that can be done for him to make him an efficient member of society? Does any little child get better—*better*—at the hands of society than he is entitled to?

One man may receive in some respect more than his share, but this is because he is unjust to society and society is, so far,

unjust to him. The sooner he becomes a just man, the sooner will he receive justice—which is his desert. To say that no man can live if he receive justice from his fellow-men is to imply that social life is possible only through injustice. This is moral anarchy. To say that the social order rests upon injustice is practically a contradiction in terms. Justice is sanity and order.

The truth is, that no man can afford to be *unjust*, because by any other plan of life he is perpetually annulling his own action, as has already been shown. This is what every member of society is suffering from. Society is having a head-on collision with itself because of the lack of a unified ideal and plan of justice. The man who contributes to an election fund to be expended in depriving him of the full value of his vote is in collision with himself.

To promote hollow and bogus concerns is to weaken that public confidence which even the promoter needs. To break the

law regulating road speed is to reduce the protection which one gets from all law. He who thinks to save himself trouble by half-washing a milk bottle may bring back trouble in an epidemic. The man who gambles with the captain endangers the vessel on which he is a passenger. The editor who incites to crime by exciting headlines may suffer at the hand of criminals whom he has helped to cultivate. And the social edict that throws the man of forty-five out of employment to make room for younger men returns with a blow upon the head of society by increasing the number of its dependants.

All such courses are anti-social—ignoring the equitable interdependence of men, and are therefore personally immoral.

To be unjust to one is, by ever so little, perhaps, to unbalance the social order—which is worse than the direct damage to the individual. To him as a member of society a larger, though indirect, dam-

age returns. The sooner we educate to this the better.

No man has ever received his due at the hands of man. No criminal but carries a score against his sometime environment, whichever score society may reckon against him. To no one has society guaranteed full righteous development of his powers even for society's own sake. Society has suffered a partial paralysis by its drug habit of injustice.

But justice under the name of preventive philanthropy is moving in multitudinous ways. For the handicapped child surgery has been substituted for scolding and castigation. For the messenger boys liable to ruin by night calls at houses of vice, for very little children toiling through a long night in cotton mills, for children in the glass factories and for boys in the coal breakers, the voice of justice is rising to preserve and restore to them the filched property of their possibilities. To the city child of the dark tenement and the narrow alley are open-

ing the opportunities of parks, playgrounds, gymnasiums, baths, vacation schools, reading clubs, libraries, healthful social centres, and, let us say, juvenile courts—even though Judge Lindsey reminds us that “if the juvenile court is designed to keep children out of prisons and gaols, we ought to have something to keep them out of the juvenile court.”

If it were always possible, the best thing we could have would be a justly ordered home and family life. Indeed one may wonder whether the well-to-do home is not in danger of being neglected in the partial struggle for prevention. Our homes have their peculiar liabilities to unjust discrimination and inequality. In the zeal to be just outside a mother or father may forget the bench at the fire-side.<sup>1</sup> This is to be unjust to society at the most vital place.

It ought now to be evident that man can never be just to man by starting with

<sup>1</sup> See “Fireside Child Study.” Also “Beckonings from Little Hands.” Both by the present author.

men. It may be confidently asserted that no one arrives at maturity properly matured. Every one has been more or less despoiled of his possibilities in childhood and youth. The losses of the past cannot be wholly regained, even though Mother Nature is wonderfully forgiving and restoring.

This spoliation of youth, reduced to its lowest ethical denominator, is injustice; and it is the chief cause of much of the subsequent misery, delinquency, disorder, and crime to which society is such an easy prey. And much of this must be laid at the door of the well-to-do, enlightened, Christian home. Misery does not primarily root in the slums.

How slow we have been to see that we never can put the adult world where it ought to be by beginning with the adult world! Repression, punishment, relief for body and mind, purification and adult correction and support, are good as far as they go, but they do not insure against the same rôle for the next generation.

They clear the school-room floor, but do not prevent its disorder again. Jesus went about doing good to all ages and stages of life, but he made it very emphatic that the beginning of life is the place to begin with ideal life.

We are coming to see that this divine attitude is not one of sentimentality but of common sense. But we still cherish the almshouse, the reformatory, and the prison. Do we help to make men dependent and delinquent so that we can exercise charity in relieving and correcting them? It is indeed a wonderful irony, this so-called civilisation of ours.

But the juvenile court, the anti-child-labour movement, the children's aid societies, and the kindergarten are pushing on. Let the homes of the well-to-do establish their fireside court,<sup>1</sup> where the "suspended judgment" is the rule, where physical defect or disorder is not rated as moral delinquency, and where child-

<sup>1</sup> See "Fireside Child Study."

ish feelings, ambitious, and energies are not suppressed under selfish parental threats. And so of the school. And the Church? When will it throw a right emphasis on the child, not thinking itself dutiful by torturing the child into the mould of a dwarfed man? And when will the Church lead in social reform?

The educator of to-day regards the developing personality of the pupil as the centre of his activity. So did Jesus. To this developing personality the manifold of interests must be referred back at all times. This is the plea of proprietary simultaneous rights and duties—the moral plea of justice.

This right to one's own developing personality is the spiritual right of character. But its realisation is possible only to him who recognises it as making for the general good and subject to adjustment of the rights of others. All rights beget moral duties; all moral duties preserve rights. Rights and duties are a single *motif* of brotherhood.

Even in material things the sense of rights of possession must be carefully guarded and trained. "How and in what spirit is it my duty to use my power or prerogative? What law can I lay down for myself so that my powers shall not be a source of evil to me and to others?" asks President Woolsey. "In our partial view, justice may sometimes seem to demand that we waive our rights and it may be our duty to do so. But, all the same, it is our duty also to respect our rights of possession, since *these lie at the root of all our charity and generosity.*"

Manifestly we cannot bring up a child to be kind, generous, and charitable *unless that child is conceded a possession of powers and property*, in withholding which he could be unkind and ungenerous. The sense of rights as a social sense comes, therefore, to be at one with a sense of duties.

And so we find the moral sanction gravitating every time to the principle of jus-

tice as the primal substructure of ordered society. "He that is unjust in the least is unjust also in much," because justice is coöperative and interdependent. "If ye have not been faithful in that which is another's, who shall give you that which is your own?"<sup>1</sup> Your injustice to another so disturbs the social relation that it returns upon you.

Sure enough. This is not spite, but the insight that one cannot rob his neighbour without, morally at least, robbing himself.

Justice is the universal touch, the all-sided connectedness, the cosmic responsibility. The "duties of imperfect obligation" turn at last to justice as their only safe regulator—lest in their blind sympathy they undo their own well-doing.

Can one break any of the last six items of the decalogue without offending ideal justice? Can one lie without robbing another of his own? Is not adultery a

<sup>1</sup> Parable of the Unjust Steward.

blow at the integrity of the social relation and organised efficiency? Is not calumny killing, and is killing not robbery of powers? Can one injure himself without injuring society, and so returning the injury upon himself again?

What a beautiful equity we find in the model, or Lord's, prayer: "On earth as in heaven"; "Forgive us our trespasses as we forgive those who trespass against us." The prayer assumes social interdependence.

Trespass? Have we not seen that this was the root sin of Eden? that the first moral principle on record was the principle of justice—the inviolate proprietorship, the guarantee against trespass? Young childhood feels this, and the growing child must be educated to live by the discernment of it.

Justice has no place for inertia and irresponsibility. It not only forbids our causing another to stumble, but it demands that we exert ourselves to prevent his stumbling. This principle is finely il-

lustrated, so far as it goes, in the laws of the Norman kings of England. Under Henry I., for instance, says Stubbs<sup>1</sup>; "If any one kills a Frenchman and the men of the neighbourhood do not within a week take the slayer and bring him before the justices to show why he did it, they—that is, the men of the hundred—are to pay for the murder, 46 marks. Here you see the neglect to help the carrying into effect of the law is made punishable."

Justice as a sentiment is the constant and unswerving desire to render, let us say to guarantee, to every one his own. This means not only that we avoid obstructing any one's proper development, but that we give him his share of our direct aid. We shall not only punish the miscreant, but we shall remove the causes that have made an evil doer of him; we shall not only help the unfortunate out of poverty, but we shall abate the condi-

<sup>1</sup> "Lectures on Early English History," p. 52.

tions which make his misfortune possible. A journal asks this searching question: "More than a hundred thousand persons united in seeking to secure the release of a convicted murderer. How many of that hundred thousand will work together to help the young man who has not been convicted of any crime, but who is working hard to get an honest living and educate his children?"

Justice thus becomes the guide to and the guarantee of freedom. From its origin in the proprietary sense of right in one's own powers it compasses the whole moral obligation to secure a similar proprietorship to every one in the social organism. What is now popularly known as the sense of human brotherhood is little else than a revived sentiment of justice come by the utilitarian or sociological road. It is the voice of freedom—the struggle for which is the history of the race.

Justice, liberty, peace. These three terms are but variants of the thought of

the perfect social structure or organism. The word *peace* itself is in its root idea the pact or union, as are the words *justice*, *equity* and *fairness*.<sup>1</sup>

On the walls of the War and Peace Museum at Lucerne there is inscribed this paragraph from Elihu Burritt:

People may laugh at the plan of arbitration, but in my opinion the warlike plan is infinitely more ludicrous. The inequality of horses, a disparity in the power of wielding the sword, or the possession of high powers of strategy in a general are circumstances which the merest child can understand and have no connection either with justice or national honour.

This was uttered years ago. Why is Burritt so sure? Because those things which condition success or defeat in war have no essential root in justice. There is the pivotal point in Burritt's argument. He knew that social control, that stable conditions of order, were impossible ex-

<sup>1</sup> See Chapter III.

cept they be grounded in ideas of justice. This is the moral rock on which is written the law of liberty and the pact of peace. Perhaps universal peace is to come through the feeling of the masses for justice and in a universal revival of the sentiment that "a man's a man for a' that."

Note how Phillips Brooks's definition of liberty<sup>1</sup> coincides with our view of justice: *Liberty is the fullest opportunity for man to be and to do the very best that is possible for him.* It is justice that secures to him this opportunity. And this is possible only under conditions of peace.

This principle is as true in the home as it is in the counsels of the nations. Parental triumphs not rooted in fairness or justice, but which rest on the accident of superior physique or other weight of power, mean moral war in the household—however quiet the régime seems—and disaffection and possible delinquency later

<sup>1</sup> Addresses based on John 8 : 31-36, p. 105.

in life. And this leads to social rupture on a larger scale.

It has been said that earthly injustice argues for immortality. Let it also be that justice safeguards the dead. The leader of a Sunday-school class was once drawing the customary moral from the text "Gallio cared for none of these things"<sup>1</sup>—the lesson against indifference to the claims of Christ on us. "Is it a true parallel?" asked a hesitating teacher. "Well, it *is* a lesson for us," said the leader. "But is it fair to Gallio?" persisted the teacher somewhat deferentially. There is a deal of unfair reflection on the characters of the past for the sake of making a point. Does it hurt them? It hurts their influence, to which they have still a right. It hurts us when we misconstrue.

Take the case of the Philippian gaoler, asking, "What must I do to be saved?"<sup>2</sup> A Sunday-school "lesson help" says, "Evi-

<sup>1</sup> Acts 18 : 17.

<sup>2</sup> Acts 16 : 30.

dently he was convicted of sin." I say not "evidently." But the theologian's wish is father to the cocksure interpretation. It *may be* so, but fairness to the gaoler demands that his meaning rest on something else than our exegetical or homiletical convenience.

Justice feels; it embraces the soul of sympathy, pity, forgiveness, kindness. Justice thinks; it weighs conditions, searches for causes and effects, calculates the equity of opportunity, the reciprocity of rights and duties and discriminates and fixes moral values. Justice imagines, visualises, sees the whole, penetrates, puts the self in the place of others, grasps the universals. Justice wills, acts; it is a doer. Education for justice is therefore preëminently an education by doing.

Shall we forget to be merely kind, pityingly benevolent, similingly forgiving, heartily generous? These duties of imperfect obligation are duties still, but the more they place themselves under the guidance of the virile and heroic sense

of justice, the more true to themselves they will be. We shall then cease to "kill with kindness," to impoverish with benevolence, to weaken with over-assistance, to invite crime with too easy pardon, to create offenders in the effort to correct them.

Is it, then, that we cannot err in the name of justice as we are liable to do in the name of love, kindness, or charity? Of course the finite mind is not inerrant and absolute justice is a thing of the Infinite Mind.

But justice more than any other of love's ministers has a definite plan of thought. It is conscious of its principle. If the vision and reach of the human mind are not infinite, they mean to be exact as far as they go and to go farther. The just mind, although limited, is neither slow nor hasty; it sees no more reason for "railroading" one criminal because of popular indignation than deferring the sentence of another because of his supposed respectability or his obscurity.

The just mind, conscious of its limitations, is not debarred by them from learning all that can be learned in any case. It is not satisfied to judge a child's actions by similar actions in the adult. It is impossible fully to understand a child, but human justice, partial and imperfect as it may be, consists in the admission of the difficulty instead of assuming to know it all. Its prime effort is to *locate the real evil or the real peril*.

Hence, finite as man is, justice is conscious of a certain finality in its plan and purpose as simple benevolence cannot be. It is economic and quantitative. It is a habitual process of thought, a prescribed mode of morals. It abhors bias, is all-sided. It is kindness set in the infinite form. It is altogether and always humane.

The newspaper told us not long ago of a young man who robbed his employer because he wanted to marry, and bought a little house for a prospective home. His sweetheart, in tears at the magis-

trate's court, said, "Whatever he has done has been for my sake, and I'll never give him up. He did all this because he loved me. I'll stay by him to the end."

Justice did not require that she give him up, but neither did it permit her to condone his guilt because it was for her sake. Love might err here where justice could not. And yet the magistrate might justly consider the motive. The road by which the man came to his fall is to be taken into account. Justice to her would likewise condone in her, to an extent, the closing of her eyes to everything but a certain loyalty. Justice to society would demand both that the culprit suffer and that society suffer for not having educated him to the prevention of his becoming a thief. And so forth: the process of cause against cause, effect against effect, is really an infinite one, but it is untiringly intelligent, planful, coöperative, actuated alike by sympathy and reason, in the interest of the larger social good.

Even an old criminal may not be the

same man at the time of his sentence as he was at the time of his crime. Canon Mozley,<sup>1</sup> writing on the reversal of human judgment, says, "Some one who did not promise much comes out at the moment of trial strikingly and favourably. . . . The act of the thief on the cross is a surprise. Up to the time he was judged he was a thief, and from a thief he became a saint. For even in the dark labyrinth of evil there are unexpected outlets. Sin is established by habit in the man, but the good principle which is in him also, but kept down and suppressed, *may be secretly growing too.*"

Yet quite unjustly we continue to think of him as the same old thief and are surprised when told that he is ready to enter paradise. By the same sort of unreversed judgment we make children naughty, criminals more criminal at heart, and hinder their reform—for children and

<sup>1</sup> "University Sermons," 6th ed., p. 92.

men build themselves largely out of our judgments of them.

An ex-policeman pleading guilty to sixteen robberies, when about to receive his sentence, asked and was given permission to address the court:

“Your Honour,” he said, “I have committed many crimes, and the law says that crime must be punished. I bow to the mandates of the law. In many cases it is, however, impossible to punish the guilty without making the innocent suffer also. In my case this is particularly true, because the imposition of a heavy sentence will be a blow to my aged mother, whom I love better than my life.

“Having had time for reflection in prison, I cannot think what possessed me to do the things that I have done. It could not have been love of gain, because the results of my crimes have been vastly exaggerated. I took for the most part only hats and umbrellas. I committed no violence, and never carried a gun in my life. Since my arrest I have made a full confession, and have made every effort to make full restitution, and I ask your

Honour to temper justice with mercy, so that when I come out of prison I may find my poor old mother still alive, and can redeem myself in the eyes of my fellow-men, and be a comfort to my mother's declining years, and be with her when she dies. That is all I have to say. I thank you for your attention."

"Your appeal is a strong one," said the Judge in reply. "I feel that if your love for your mother is as sincere as you say it is, and I have no reason to question it, it is a very commendable feeling on your part, but it is a great misfortune that you were not controlled by it before you committed these crimes. However, it is not for the Court to regard the sentimental aspect of each particular case, but the bearing it has on the general public. Reflecting on your case, however, I have concluded that a lighter sentence than was suggested at the time you pleaded guilty will fulfil the ends of justice."

This is not sentimentality. It is taking all circumstances into account. It is recognising that the good principle in a crime-ridden man, kept down and sup-

pressed, had been growing, nevertheless. The first motive of the State is not to punish, but to make good citizens. And parents should be under the same rule.

Formative and constructive justice, as has been said, must begin in the family. The child must be understood; he, or his nature at least, must have a hearing; his errors must be located; his good impulses recognised and fostered. He must be conceded an individuality with a right of choice, subject to the general good—which general good also limits and directs the choices of his parents no less than his own. Thus, justice to the child becomes a mode of his education to a just mind.

The home attitude must be that of a desire to be fair in all things. It must show itself in common conversation. The equitable note must be sounded even though the subject be far out of the child's understanding and interest. Justice must hold itself a standing home critic on gossip, exaggeration, suspicion,

and personal feelings. Injustice must be held as the bane of the reporter's overstatement and over-publicity; of legal garnishments, detective "sweating" processes, rebates, bosses, child slavery, cruelty to animals, corporal punishment, church heresy trials, capital oppression, trade, clerical, medical, and legal imposition, food adulteration and so forth.

Justice asks one to rinse out a public drinking cup after using it as surely as before; it keeps lead pencils out of the mouth of the pencil borrower; warns the woman in the sealskin coat not to fan her delicate neighbour in the front pew; points the newcomer to the foot of the line at the ticket office; keeps dirty boots off of car seats; considers the passenger back of the open window; orders punctuality as a social virtue; never demands that a cook shall be infallible with a worn-out stove or without good utensils; issues no conflicting orders to employees without apology and self-reform; abstains from marking public library

books; refuses to spit on floors; recognises that the success of a church may depend as much on the fidelity of a sexton or janitor as upon the pastor or the treasurer; forbids that an audience scatter itself in rear seats, expecting the speaker to exert himself to be heard when the front seats are empty; sees that the labourer's mind, or that of the house servant, needs the relief of change and variety as does that of his master; believes that a public officer may be honest and able and yet make a mistake; denies to the chauffeur the murderous right of way simply because of his willingness to pay a fine; refuses to stigmatise every law breaker as a criminal or always to emphasise the fact that it is a negro and never that it is a white man, or to put the released criminal under a perpetual ban.

Justice first took the shackles from the insane and provided schools for the blind, the deaf, and the imbecile—giving them the greatest possible opportunity for the

development of their powers and the giving to them a place in the organised social energy. Justice must go farther and prevent insanity, imbecility, and other afflictions. The employer must relieve the monotony of his treadmill and the mind of the least must have a varied outlook. The justice of cure must be put out of business by the justice of prevention. This idea at least must dominate the moral regimen. In a thousand such ways the youthful sense of justice must be conserved and strengthened by suggestion and practice.

There is no subject, no occasion, involving the relation between man and man which is not under the regulative moral eye and hand of justice. A few of the more familiar types have just been enumerated—familiar, yet not so commonly thought of as matters of justice. The home has there a large educational field.

There are other types. Take the physician who makes an egregious error of diagnosis, which involves the patient in

large expense for a course of treatment subsequently admitted to have been entirely erroneous; or the physician who visits too often because his own funds are low; or the patient who is slow to pay his bill because it comes so long after his recovery; or the extortion of a specialist without regard to a certain claim upon his skill by the social inheritance which has made it possible; or the lawyer who unduly postpones and appeals on errors which do not affect the justice of the judgment; or the editor who orders an expert article and then refuses to take it—costing the author days of research, perhaps, and literary labour;<sup>1</sup> or the editor who, more moved by fairness, pays for an article and sup-

<sup>1</sup> I am aware that an editor is supposed to know unerringly what is good for his paper and what his constituents want, and also that the paper is his, and that no one need write for it if he does not wish to. The plea is plausible, but I, for one, have never believed in editorial infallibility. In fact, being an editor may be the best reason for not knowing always what the public wants or ought to

presses it without giving the author the opportunity of using it elsewhere; or the church court that tries a minister for heresy by a vast assembly necessarily prejudiced, inexperienced, heated, and without calm personal deliberation on proper evidence.

Right here, also, let us pause to consider the matter of church statistical reports. In some of the larger denominations—and I speak with surer knowledge of my own—essential comparisons of the local churches are impossible to a fair mind. Certain totals are absolutely deceptive or meaningless. Lack of uniformity in method results in misconstruing and in the over- or under-estimating of relative strength, zeal, or efficiency. The out-

have. Professionalism is a bar to progress. I say this as an editor. Great reforms and great discoveries have often been unprofessional. A contributor may be a better judge, sometimes, than an editor. In any case, an author from whom an article is ordered has a certain claim to recognition. I say this not without knowing that the subject is complex and difficult and the lines of cleavage indefinite.

come is an unjust rating of ministers or of organisations. Many ministers appear under these statistics as successes, others as failures in one way or another, while the truth is the comparisons are farcical, and some are unduly exalted while others are unduly lamented or blamed. This is bad suggestion for the young folk of the church.

This unsystematic system of the churches is more or less evidenced also in some of the philanthropic institutions under the Church's care. In a semi-voluntary organisation some looseness and indefiniteness is perhaps to be expected. But the truth is the Church has made so little of social equity or justice, as the foundation method of love—that she has no ethical spine. She has been so afraid that somebody might substitute morality for religion that she has lost the sense of Christian proportion.

Of course there are glorious exceptions among church officers and workers. Our great philanthropies, in which love is

working out as justice, are largely manned by professing Christians. It is the Church as an institution that is suffering from suppressed equity and that needs nothing more than to teach and practise the morality of justice.

The injustice of ecclesiastical formalism reaches the absurd in the following, which is clipped from *The Literary Digest*:

The scandal caused by the protest of the Rev. S. D. Brownjohn against the confirmation of Bishop Temple as Archbishop of Canterbury was not so much the scandal of his interruption of the ceremony as it was the scandal and sacrilege of the refusal to hear his protest. After full public notice "given to all and singular opposers" of the election of Dr. Temple as Archbishop to come to St. Mary-le-Bow Church on December 22d to make their objections, Mr. Brownjohn appeared. The royal mandate was read in the presence of eight bishops commissioned by the Crown to confirm the election, citing all opposers, if any, to appear. Mr. Brownjohn arose

and said that he desired to protest against the confirmation of Dr. Temple's election because of his belief in doctrines which the protester believed to be absolutely "incompatible with fidelity to the teaching of the Book of Common Prayer." Thereupon he was told he could not be heard and that it had long ago been decided that the Court had no power to entertain such objection. The Archbishop of York concurred, and the opposer was silenced. The ceremony went on, and the august company was told that the new Primate was a prudent and discreet man, eminent for his knowledge of the Scriptures and in every way suitable to the position. Then the Apparitor-General proceeded slowly down the aisle crying:

"Oyez! Oyez! All ye and sundry who have any objection to the confirmation of the Rt. Rev. Frederick Temple as Archbishop of Canterbury, come forward and *ye shall be heard.*"

Thereupon Mr. Brownjohn arose, and again tried to make his protest; but was again silenced, and told by the Archbishop of York that he could not be heard. Then to cap the absurdity of it

all, the Vicar-General denounced as contumacious those who had failed to present their objections:

“I accuse the contumacy of all and singular the persons as aforesaid cited, intimated, publicly called and not appearing, and I pray them to be pronounced contumacious.”

But, after all, we come back to childhood and youth—sensitive, discerning, imitative—as the time of life when injustice does the most mischief, and the home and the school as the places where it counts for most. The boy may forget the unfairness of his playmate, but he is likely to remember that of his preceptor. Just one more illustration from a school journal: “A boy in a New York public school was accused by his teacher of breaking a pane of glass in a window. He denied the charge and explained that he was some distance from the place; but he saw that the teacher did not believe him. This occurred almost fifty years ago, when there was much severity em-

ployed in the treatment of schoolboys. The attitude of the teacher was so threatening that the boy stayed away from school. A relative going to California consented, at his earnest request, to take him West. After thirty years he returned and sought his old teacher, whose first words were, 'Horace, I found out that it was not you who broke the glass.' Until then Horace had kept his grievance."

That the sense of justice is probably never wholly obliterated from any human breast is strongly indicated in previous chapters. But that it may become too weak to prevent an unjust motive in the same human breast is also true.

One of the first ways to weaken the moral development of the child is to violate his instinct of justice by dealing unjustly with him or with any one within his view—being inconsiderate of the proprietary rights and the personality of will in others.

Our own self-regimen will consist pri-

marily in *thinking justice* until it becomes a settled habit of mind, manifesting itself outwardly in action.

The training of others will consist largely in this personal attitude by suggestion. Our thought habit will show itself less in philosophising or didactics than in an obvious intention to hear all sides, to avoid snap judgments; in a calm mental control, a readiness to apologise and to forgive, a remembrance of past good record in the face of a present aberration or failure, a right valuation of intentions, an allowance for difficulties of overcoming, and an inflexibility of purpose to be fair. In other words, *justice must be taught chiefly by justice.*

Love is power; it tells us we must love our neighbour. Justice directs; it tells us we must love him as we love ourselves. This is the justice-love of Scripture. In it rights and duties merge as the one common social-moral obligation. Brotherhood is real, for righteousness and peace kiss each other.

PART SECOND



*APPLICATION*



## VII

### SPECIMEN APPLICATIONS

To discuss the ethical value of justice is one thing and to practise it as the fundamental moral duty is another.

The average mind—and too often the mind far above average—finds it difficult to apply abstract principles to the concrete situations as they emerge in life. We may go a little farther and say that many such minds are not troubled with this difficulty, for they simply do not think of there being any relation between the principles and the immediate conditions.

It is not uncommon to see the child-study psychologist fail utterly to adjust himself by his own recipes to children in the real. The laws of child nature he has never discerned as duties to children.

Similarly, we may philosophise on the origin, nature, and function of justice; we may accord to it its basal importance in the scale of social virtues; we may even plead a public cause in the name of all that is equitable and right or don the judicial robe on occasion—and yet when it comes to being simply fair, or just, in the kaleidoscopic commonplaces of life we ignominiously fail. We not only deny the right of a hearing to cases, but we do not even discern cases. We toss off judgments without a thought of their remote but probable consequences.

It has already been said that the basal rule of practice is to *think justice*—to do this as an acquired *habit of mind*. In a degree this will involve a consciousness of all that the term stands for in the unity of a true human brotherhood. It will quicken our sense of the duty to render unto every one his own and to aid every one to develop his highest efficiency toward the general good.

Thinking justice will require our taking all contributory circumstances into account. We shall have to take persons—children or adults—exactly where we find them, no matter by what road they came, yet considering that road as a criminating or excusing factor in their present position.

As justice is the earliest moral interest, we shall have to appeal to our fellows with their natural interests and instincts in mind, since these indicate the directions which nature has pointed out for the development of their possibilities and the realisation of their powers. This realisation is their primal right and its recognition is our primal moral duty.

Now let us step into the common walks of life and see how we should go about applying the principle or adopting the method of justice in practice. Manifestly the first thing in any criticism or judgment of our fellows is to give them a hearing. This, in the hurly burly of social life, cannot mean that every one

must be formally questioned and cross-questioned. But it does mean that we are to take contributory causes and circumstances—including obstacles and motives into account so far as possible.<sup>1</sup> It prohibits the snap and demands the suspended judgment. “He that answereth a matter before he heareth it, it is folly and shame unto him.”<sup>2</sup>

Mr. Plumblin lived in a large city at the corner of two broad streets. He had been annoyed at times by the pounding of a hard ball against his back board fence. The two objections were that it was unpleasant to hear, and that it threatened to damage the fence. One day just as Mr. Plumblin was about to go out the shouts of the boys and the irregular rhythm of the pounding began. As he crossed the street at the front end

<sup>1</sup> See “Fireside Child Study,” by the present author, for a more particular exposition. Also “Beckonings from little Hands.” (Dodd, Mead & Co.)

<sup>2</sup> Proverbs 18 : 13.

of the property his first impulse was to call to the boys to stop their game or go elsewhere.

He halted and said to himself, "If I do, I shall incur the enmity of the boys and probably accomplish no good. Why might I thus incur their enmity? Because by such a course I do not recognise certain instincts and interests of theirs perfectly proper and in fact necessary to their development. Enmity does not make for the integrity of the social bond or presage peace. At the same time, to maintain my property rights will in a degree abridge their personal freedom. These boys want, and ought to have, free exercise. They have no place to go to get it between school sessions. We all have to yield something."

One group of boys stood on Mr. Plumblin's sidewalk, another stood on the opposite side of the street. They were throwing the ball across from one side to the other. When the boys on Mr. Plumblin's walk missed catch, the ball

hit the fence just behind them with the menacing thud.

“Now,” mused Mr. Plumblin, “I will permit a certain amount of this nuisance in the interest of the boys’ enjoyment and need of exercising their muscles in a favourite pastime. Next to the necessary outlet of youthful spirit and energy (which the world needs), the basal motif of this play is skill in throwing and catching. Youth has a good sense of fairness, so my property rights fairly brought to their notice will appeal to them provided also I recognise that they have proprietary rights<sup>1</sup> in the development of their powers and the acquirement of cheerful character.

So Mr. Plumblin walked down the street, avoiding any appearance of vindictiveness as he approached the group on his sidewalk. “Boys,” he said, “that ball is rather hard on my fence, you know. It’s all right for you to play here, of

<sup>1</sup> See Chapter III.

course, but you'll have to try to do better catching, and then that will save the fence. Try your skill a little better, won't you?" "All right, sir, we will," said the boys as Mr. Plumline walked away. The nuisance was abated, no enmity was visible. Very pretty story—in theory, do you say? It is a real case. That such a course will always be possible or will always succeed is by no means here claimed. One cannot always make it his business to educate the boys in the street. But the principle is the one demanding first consideration.

Take another case. When school is out the boys and girls, whose release is a signal for physical demonstration, are often a source of annoyance to the neighbourhood. They want fun in exchange for the compulsory earnestness of the classroom. They are not necessarily bad, but the removal of organised restraint results in trespass or depredation on abutting properties.

Mr. Fairbrother's back gate was usu-

ally left unlocked, and complaints had come from the kitchen that the boys were bad. Happening to look out of an upper window one day, he saw a youthful invasion of his back yard. In a few moments he dashed from the kitchen door into the midst of the astonished group and closed the gate, thus imprisoning a few of the trespassers. Immediately they all scaled the fence except one, whom Mr. Fairbrother held fast.

“Don’t you know that this is my property?” asked the owner, with perfect calmness.

“Yes, sir,” replied the boy; “but the other fellows push me in here, and I can’t help it.”

There was no just reason for disputing this statement, but neither was there any reason why Mr. Fairbrother should not give the boy a ground of appeal to his fellows, if his excuse were true, or make an appeal to himself, if it were not true.

“Do you think it fair to come in here in this way, without permission?”

"No, sir."

"If you had a private property, would you think it fair in me to do as I pleased with it?"

"No, sir; but I couldn't help it."

"Well, I'll believe you, but you tell the fellows that it isn't a fair thing, will you?"

"All right, sir."

The boy was discharged without reprimand or threat or ill will. His own instinct of justice had been appealed to, he had been trusted, he had not even been scolded. The youthful irruptions were heard of no more. This is another real case. Such a course might not have ended successfully with other boys. Nor can one always employ such means in cases of malicious mischief. But it demands first consideration.

Now it is true that that boy's father might have been a "grafter" politician, thus committing far worse, although invisible, depredations on Mr. Fairbrother's property. He may have been

a well-to-do merchant or manufacturer—adulterating Mr. Fairbrother's daily food or selling to him commodities of sustenance with false weights. In a dozen other ways he may have invaded Mr. Fairbrother's personal rights in one way or another, if not directly, at least indirectly, by business methods afflicting the body politic; for, as has been sagely said by a noted preacher, the immoralities and persecutions of the Middle Ages were not further behind Christ's example than are the predatory corporations, the ill-gotten fortunes and some of the business standards of our own time.

These business standards and methods create the atmosphere in which youthful depredation flourishes, and so long as we tolerate and even contribute, perhaps, to that atmosphere ourselves we cannot justly lay all blame on the young energy that fattens on it. There is any amount of lawlessness among the sober and "respectable" members of society, and this filters down to the children. The fathers

are beyond our common reach. The main thing is to train the rising generation into a keener sense of social obligations by treating them with all the considerations demanded by the equitable and coöperative spirit principle.

An instance in which the provocation was similar to the preceding, but the treatment was different, comes from the columns of a contemporary:<sup>1</sup>

A gentleman who had purchased a house found upon occupying it that a corner of his yard was made a passageway by boys from two families which dwelt on opposite sides of his house. They climbed over his fence, broke down bushes in their ruthless haste and were regardless of all appeals to desist. They had no respect for the maid who called to them, and laughed at his wife who chided them. What could he do? He might have notified the police or have sent word to the parents, but he would thereby have antagonised the boys and provoked them to mean retaliations, re-

<sup>1</sup> *The Watchman.*

garding him as a mean old curmudgeon, and he would have created ill feeling on the part of the parents. He came to a quick decision to take down the fence at one point, lay a board walk so that the boys would take that route and do no harm to the shrubs.

The writer of this note then comments: "Was not this the best solution? He has no further real cause of annoyance, the parents are not antagonised, and possibly the boys are touched by more generous treatment."

Much would depend upon the way in which this was done. The boys may have regarded themselves as victors and chuckled over their conquest, in which all the advantage was theirs without there being any reciprocity or recognition of the man's property right. A judicious conversation with the boys, making a point of their natural desire to shorten their path, would have given some educational value to the affair; but a basis of reciprocity, such as that of the first case

above cited, would have gone to the bottom and helped the boys more surely toward good coöperative citizenship. Barring the fact that the man did what he did for sheer self-protection, with no educative intent beyond that, his action might be called kind or generous or forgiving, but hardly equitable. Kindness is immediate and circumscribed. Justice is social and far reaching.

The late Dr. H. Clay Trumbull used to tell a story of his own youth, which is of interest. His biographer thus records it:<sup>1</sup>

Henry had been assigned to the engineering and pay department, in which he later became paymaster of construction. The young clerks in the office had fallen into the habit of borrowing from the chief engineer's desk, in his absence, an inkstand containing a special ink. Henry accepted this habit as one of the office practices, and one day was using the inkstand when his chief, Mr. Samuel

<sup>1</sup> From "The Life Story of Henry Clay Trumbull," by Philip E. Howard.

Ashburner, needed it at once. Sending into the room where the clerks were working, Mr. Ashburner had the young scribe and the borrowed inkstand brought before him.

"Henry," he said, with kindly emphasis, "I want that inkstand to remain on my desk at all times. You must never take it away."

"I'll bear that in mind, sir," answered the young man, and went back to his work.

A few days later the ink was missing when Mr. Ashburner had occasion to use it. Stepping to the door of the clerks' room, he called sharply, "Henry!" Young Trumbull quickly followed him into the next room. [Trumbull was nothing if not alert.]

"Henry," he exclaimed, "what did I tell you about that inkstand?"

"You told me not to take it away again."

"Yes, and I meant it. Now bring it to me at once!"

Henry passed into the clerks' room, lifted the missing inkstand from the desk of another, and carried it to his chief. As he placed it in its proper place and

started to leave the room, Mr. Ashburner looked severely at him.

"Henry," he said, emphatically, "never let this happen again."

"I'll bear in mind what you say, sir," was the quiet answer.

Later in the day the clerk who had been at fault manfully explained the whole matter to his superior. Henry was at once summoned. With an earnest and troubled look Mr. Ashburner received him. "Why didn't you tell me this morning that you hadn't taken that ink-stand?"

"You didn't ask me, sir," replied Henry.

The chief was somewhat nonplussed. He had found men ready enough to lay blame upon others, but not so ready to keep still when even a word of denial might clear them. Henry Trumbull's refinement of moral vision was a revelation to him. The interview was closed with an apology from the chief, and Henry went back to his desk. He was building character while helping to build railroads.

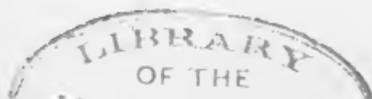
A very interesting ethical question

arises here. What was Henry's motive for taking blame until he was asked whether he committed the deed? What was his habit of mind in such a case? That he had "a contemptuous disregard of consequences when doing the right," as his biographer claims, is unquestioned. That the occasion was taken by Trumbull as an opportunity for self-conquest must also be placed to the credit of his discernment and resolute self-mastery. But the question remains whether these virtues might not have been equally exercised without permitting the employer (or chief) to act as a false accuser. It remains true, also, that the employer was unjust in passing judgment upon Henry without interrogating him. Henry taught his chief a lesson in justice without an insolent word. Certainly this was masterful. And still the question presses: Did duty require Henry to suffer a false charge of disobedience? Did duty demand that the chief must be left to discover his own error, or that some

one else should reveal it to him? The question must be settled upon a basis of equity or justice. It cannot be settled on a basis of benevolence or unguided love.

A twelve-year-old boy was locked up for thirty days in his father's attic until released by official action. When detectives visited the house—so the report reads—the mother conducted them to the boy's place of confinement.

The boy appeared to be a remarkably bright little fellow, but he was evidently losing interest in life, owing to his solitude. The room was almost devoid of furnishings and was poorly ventilated, a stool or small table being all that the prisoner had to sit upon and all the fresh air that he could get came in through a space about four inches wide in the west window, which was raised that distance and securely nailed. The front window was found to be tightly nailed down and darkened by a heavy curtain which was tightly secured. The detectives say that the boy when thirsty was compelled to lower a bottle to the ground by means



of a string, and if any one happened to notice it they would fill it, when he would hoist it up and drain it through the small opening in the window.

When the detectives inquired why the lad was so severely punished, his mother, who is an intelligent-appearing woman, said he was first locked up for a few days for staying out late at night. A few days afterward the next-door neighbour missed \$5 in cash and a watch. It was found that the lad had gotten out of a window into the neighbour's house, and had taken the articles. The watch he took apart while trying to find some amusement in his solitary confinement.

For this offence his father sentenced him to a month in jail, four weeks of which he had served. He was sentenced to solitary confinement, and the window of his prison-room was fastened to prevent his escape.

This father is the type of a very large class of persons who mean well. Instead of cultivating formative justice as their habit of mind, however, they cultivate retribution or punishment as their habit of mind, and hence contribute to the

world those elements which make for discontent and disruption instead of the brotherhood or moral unity of society.

We see the boy committing theft not for plunder but as an outlet for his pent-up interests and energies. We have no record of the parents' life and treatment of the boy prior to this occurrence. If we had, we might find them directly guilty of that "contributory delinquency" which Judge Lindsey of Denver so exposed as a cause of juvenile error.

My own doctrine has long been that every parent is at least indirectly his erring child's contributory delinquent. Many parents apprehending this truth in a degree, think to save themselves by avoiding something which they call "indulgence" and by making repression, restriction, interference, and castigation their habit of mind. Did they but know it, they more easily become contributory delinquents through this habit than through that of "justice"—which concedes to the child his right to self-devel-

opment under a suggestive environment.

Judge Lindsey was the first judge to send a father to jail for lack of proper companionship with his son. He has saved many a boy and girl by going back of their deeds to the parents and punishing them. When street waifs of either sex discover that the judge means to give them "a square deal," he virtually has them in complete control. So great is the power of just dealing that this inspired judge can send accused boys to the industrial school or place of detention without an officer. The culprits take their own commitment papers and the money, and go alone.

Of children who have been found guilty of crimes which in other days or in other places would send them to a reformatory or prison Judge Lindsey says, "It is not right to brand these children with the name of criminals when they are for the most part enterprising youths who have not been taught an ideal right doing."

Commitment is a last resort and is often

at the request of the culprits themselves. But the Judge makes it plain that he is not angry, but wants to keep them from growing up "bums" and outcasts. He wants them to live on their honour. Sometimes he takes the boys to his own home and sends for the mothers too. His good mother says, "He is harder on the mothers who go to parties and clubs and neglect their children than he is on the ones who get drunk even."<sup>1</sup>

It is some years since Judge Lindsey became inspired with the truth that a large proportion of the criminals who are an expense and a menace to society is but a natural boomerang—a return upon society of its own unjust treatment of children and youth. Bérenger, the author of the famous French Bérenger law, arrived at the conclusion that the laws and the penal institutions were largely responsible for the increase in the number of criminals. His

<sup>1</sup> Reported in *The World To-Day*.

law is very easy on the new offender. In more than ten years of its operation the number of second offences has been greatly reduced.

Victims of an unwholesome and evilly suggestive environment, victims of unjust judgment, whose cases are never truly heard—here, is the condition to be met, rather than anything self-determinedly bad. In such a case youth needs a friend—and needs to see that he is truly friendly. Crime is not to be made light of or justified, but into the judgment of it enters the way which has made crime easy to pliant youth.

The old and the new methods have been so well put that I quote at length:<sup>1</sup>

Heretofore the state has been concerned with the reclamation of stolen property and the punishing of criminals, without any due regard to the salvation of the little offenders. As a result children have been arrested, disgraced, imprisoned and allowed to mingle with hardened crim-

<sup>1</sup> Editorial in *The Arena*, April, 1906.

inals; and often the slight offender has through this cruel and unjust process become a confirmed law-breaker, a menace to society, a constant expense to the state, and a curse to his family and to himself.

All this, so far as Denver is concerned, is past, and the results that have followed have more than justified the most sanguine expectations of Judge Lindsey and his co-workers. Hundreds upon hundreds of children have been saved to the state without the humiliation and degradation attending the old methods. Hundreds of children are to-day among the brightest and most promising of Denver's young citizens who under the old system would have been in reform-schools or prisons, or Ishmaelites of civilisation, embittered by the deep conviction that the state was their enemy and with the feeling that they had little or no chance of a fair show in life.

Often children innocent of some offence charged against them, but with a questionable record, are haled before the court. Under the old system they were quickly examined, judged, and punished, with the result that the child was disgraced for a crime he did not commit.

He thus hated the state because the state had been unjust to him. He went forth from the reform-school ruined. Henceforth society had an Ishmael to deal with, while under just and loving treatment he might have become a high-minded and useful citizen. Let us illustrate with a typical case:

One day a boy was brought to court by a judge and a physician who lodged the complaint. The judge insisted that the prisoner had thrown a stone through the car window as the car passed the school-yard. The judge's face was badly cut, and both he and the physician insisted that they saw the boy who had been arrested commit the offence. Judge Lindsey examined the boy in private. The lad freely confessed to many misdemeanours, but stoutly affirmed that he was not the one who threw the stone. As a result of a thorough questioning Judge Lindsey became convinced that the boy was telling the truth. He returned to the accusers and amazed them by telling them that he was morally certain that the boy was innocent. They immediately demanded that he find the guilty one. He set out for the school which was the

scene of the offence. Here he explained to the boys that he was in trouble; that he was not willing to have an innocent boy judged guilty of an offence that he believed the prisoner did not commit; and he appealed to the youths present to help him out of his trouble. He asked the one who really cast the stone to confess. After this heart-to-heart talk one little fellow rose and said: "Judge, I heaved the stone."

Scores of other cases could be cited showing that under the old method the innocent child would have been judged guilty, all because of the criminal indifference of judges and of society to the tremendous importance of punishing only the guilty and of saving the young to the state instead of making them enemies of the state and a curse and an expense to society.

In the case of the misjudgment by a teacher of the present author when a schoolboy, suppose the erring professor had taken the pains that Judge Lindsey took in this case, how different the result!

That children in unfavourable environments are longing for help to do better

is evidenced by the fact that Judge Lindsey has them coming to him by the hundred seeking aid and protection. And that boys can be trusted when they see that they are trusted and justly regarded, is shown from the following incident, which I quote also from the editor of *The Arena*:

Six years ago many of the boys in the state industrial school were seen in the yards with balls and chains attached to prevent them from running away. Under the new order all this has been changed. When the Grand Army encamped at Denver the boys in the reform-school naturally longed to be present to see the soldiers, to hear the music and to behold the city in gala dress. Judge Lindsey proposed to give them the opportunity to spend the day in Denver under no surveillance and with no pledge other than their own word given to him that they would return voluntarily to the school at a certain hour. The believers in the old order were horrified at the proposition. They deemed it reckless. They did not understand the new spirit

that had come with the inauguration of a system of divine justice or justice illumined by love. The judge went to the boys and said: "Boys, how many of you would like to go to Denver and spend the day?" Of course the whole school was eager for the great holiday. Then the judge told them that he believed in them; he believed that no boy in the school would give him a pledge and then break it; and believing that, he had given his pledge that every boy would be back in his place at a certain hour if they were allowed to go. All the boys promised and the school of over two hundred went to Denver, and every boy returned at the appointed time.

On the other hand, a boy sent alone to the reform-school at Utah discovered a court officer shadowing him. The boy had given his word that if trusted and sent unattended he would go to the reformatory. He went and bought his ticket and was waiting for the train when he sighted an officer watching him from a distance. The natural, let us say, perhaps, the *just*, result was that he threw

away his ticket and fled. When caught, he declared that he had no intention of escaping until he saw that the state was breaking faith with him by distrustfully watching him.

I cite Lindsey's methods as illustrations easily at hand to show what can be done. And if such results can be accomplished by a judge of the court, what may not parents upon similarly just principles accomplish at home? The juvenile court might almost go out of business if every father would follow his methods of winning and of deserving confidence through love's sympathetic arm of justice.

In young children—say under ten years of age—we often see the sense of justice acting as critic, not belligerently, but simply in wonderment at the absence of equity and fairness:

A little girl of ten on handing her monthly school report to her parents remarked, "Our reports are awfully funny. If you stay away you get a better mark than if you are there."

A child of nine told her father that her Sunday-school teacher had marked two children in the class "good" when they were bad. "Last Sunday," she said, she marked them good because they didn't know they were doing what they oughtn't and so she wouldn't count it against them, but next Sunday she would mark them bad if they acted the same way. And now she marked them good when they were just as bad." The child evidently approved the equity of the first marking, but not the equity of the second. The child was absolutely free from jealousy.

A teacher in a class of older girls than the foregoing made it a point that every girl had a right to know how she stood and why. She was notoriously uneven in her marking, and when she was asked to explain the record she charged the girls with insulting her by doubting her fairness.

These are all typical cases and are introduced here not for novelty, but as warnings to teachers against even the

appearance of injustice in matters that look possibly transient and slight.

It is the business of justice to interrogate the case, and this is not always easy. Not only is suspended judgment essential on the main question, but one must be careful to be fair in the very language in which he addresses himself to the subject under examination. This applies to critics of all kinds—for a critic's office is judicial. It applies equally to the chief justice on the bench, to the mother in the nursery, to the book reviewer, and to the hearer of a public speaker.

It has been wisely said<sup>1</sup> that we should attempt no paraphrase of an opponent's views, and that in characterising another's doctrine we should never affix such adjectives as "mere," "bare," "dead," "abstract," etc., which bias the case before it is fairly heard. To be just in discussion is exceedingly difficult, and

<sup>1</sup> "Article on Belligerent Discussion and Truth Seeking," *International Journal of Ethics*, by Richard C. Cabot.

is to be accomplished only through what Mr. Cabot calls "the inclusive attitude"—that is, the enlargement of our ideas so as to include our opponent's doctrine, to the extent that we feel a strong tendency to accept it. Otherwise, we exclude ourselves from legitimate and fair discussion, by putting our opponent's plea out of the range of our own vision.

In our judgments of children we are habitually guilty of this self-exclusion. Whatever the young child does, there is at least a partly legitimate reason for his doing, and this we should see and assent to in order to acquire the inclusive attitude. Moreover, the catalogue of adjectives by which we prejudice the child's case in our own view of it is large and luring. All such terms as "disobedient," "wilful," "stupid," "cruel," "naughty," "indolent," "incorrigible," etc., are snares to unjust judgments and unwise dealing.<sup>1</sup>

<sup>1</sup> This is more fully treated in the "Fireside Child Study."

Surely enough has now been said by way of illustration and exemplification to show how theory may be translated into practice by thinking justice as a habit of mind acquired with a definite view to the common good.

It is worth while, however, to add a few words on a more didactic teaching of justice than that of being merely just to the children themselves. This is, of course, to be done through appeals to their sense of fairness, through story, and through their attitude toward the brutes.

Queen Victoria is quoted as saying that "No civilisation is complete which does not include the dumb and defenceless of God's creatures within the sphere of charity and mercy." We have already seen that in the Scriptural and in the modern sociological sense charity is justice. And it has been argued in this book that mercy is justice in the making—just in motive, but with a conscious ignorance of conditions. We may, therefore, substitute the word "justice" for "charity

and mercy" in the good queen's declaration.

As an illustration of practice in discernment of the equity of a brute's case an excellent little story appeared some years ago,<sup>1</sup> the essential points of which were about thus: A little girl, Jennie, had been switching her kitty for catching and eating a bird. When Lena took Jennie to task for her treatment of the cat, Jennie took Lena to task for not loving the innocent little birds. Lena contended that she did love the birds, but that she would never think of blaming a cat for catching them. Jennie's cat was trying to provide for six little kittens, and it was her mother instinct that led her to get all the food she could. On the other hand, Lena could not bear to see girls' hats ornamented with birds, while Jennie confessed her weakness for the beauty of that kind of millinery. Lena took the "inclusive attitude." She saw from

<sup>1</sup> "The Rights of Pussy," in *The Sunday School Times*, January 14, 1899, by Mary S. Potter.

Jennie's and the cat's points of view—and was fair.

Homely as the story is, it indicates a line of training toward just discrimination, a suspended judgment and the all-round sympathy that true equity and the universal good demands.

Thus we may train the young into a more virile morality, and a better citizenship, both by practising the art of just discrimination, as well as by being just in our own judgments of others.

Indeed, the further we go into the investigation of animal life, the more extended do we find the truth that all nature seeks its own conservation and progress by the maintenance of peace and cooperative relations between individuals. Strife is not the natural law even of wild life.<sup>1</sup>

Animals of the same species at least tend toward the maintenance of mutual and coöperative social relations. Ants,

<sup>1</sup> "Government not Founded in Force," by Leander Chamberlain.

bees, birds, and many mammals furnish evidence of this. Animal life suffers from the inanimate powers of nature, but Mr. Chamberlain ventures that even among mammals not one in fifty perishes by the attack of predacious enemies. Man is the predatory and destructive animal. Man is at once capable of reaching the highest degree of social union or brotherly coöperation, and of sinking to the lowest level of a selfish, anti-social, unbrotherly and destructive spirit. Within his own species, the beast is moral; within his, man is perpetually falling into immorality—despite his opportunities.

It would be interesting, if it were possible, to count how many points toward deterioration from a just habit of mind result from the passion for unfair killing-sports, that is, where mere sport is the sole motive. War, as we have seen, certainly tends to obliterate the power of rendering just judgments. Perhaps this may be reckoned as one of the chief

residual moral evils of offensive wars, or conflicts for conquest—if not for all wars. It is often said that the demoralising effects of war remain long after the conclusion of peace. But the benumbing and the warping of the sense of justice is not usually thought of as a chief of moral evils.

Now in general, and in the retrospect: The first immorality is trespass on the rights of another—appropriating his property or interfering with his powers. This is the allegory of Eden. In this view we have seen that the violation of any of the last six commandments, any or all, is a violation of justice.

Therefore, we must be watchful against loose and easy-going moral interpretations—the blurring of boundary lines—trespass in any wise.

We must respect the child's sense of possession, since out of it grows his sense of duty to the possession of others. He must not be too strenuously persuaded to give up a favourite toy even

for charity's sake. How can you teach the duty of giving to any one who has nothing to give? He can give his powers even though he has no property to bestow. But how can he appropriate powers when, by superior force, you take virtual possession of them under the name of authority? Instant, mechanical, unconditional obedience, what sense of possession does it permit? The sense of justice is offended and rebellion follows. Then offended justice looses its hold on social order, becomes itself unjust—as Sophomores haze because they were hazed, and fathers whip because they were whipped.

No one thing is so patently a type of possession as money. Train the mind to talk honourably about other people's money. Train the hands to handle other people's money. On this point more hereafter.

Create contempt for the spirit of getting something for nothing—do it indirectly. Evidence your respect for the

rule of suspended judgment by refusing to condemn others until the case has been heard beyond mere rumour. Be careful that ethics is not set against itself—defending the wrong by ingenious appeals to, and the misapplication of the names of virtues.

Then practise the finer shadings, the nicer discriminations. The sense of personal rights must suffer modification. Justice-culture, through proprietorship, must concede the truth that nothing is altogether one's own, for we have an inheritance from the past which is the common property of the ages. The very language in which we think and express ourselves is a common property, and nothing is exclusively one's own. Justice must take the larger view. Rights and duties appear simply as different aspects of the human bond and the human obligation.

“The deeper and larger sense of social duty,” as Charlotte Perkins Gilman says—“not the personal balancing of rights,

which is easy to even the youngest mind, but the devotion to the service of all, the recognition that the greater includes the less—this must be shown by personal example long before it can be imitated.”<sup>1</sup>

<sup>1</sup> “Concerning Children,” p. 112.

## VIII

### LOYALTY *vs.* OBEDIENCE

A MOTHER having an errand to go, just before dark, told her little girl to see that all the chickens were housed before she went indoors. The father, not knowing of the mother's order, as darkness approached appeared at the door and told the child to come in. There was one stubborn fowl yet uncaged, and the child replied that she would come in a minute. The bird gave her some trouble, and when again the father appeared it was with an imperative order and a reprimand for disobedience. When the mother returned, she found the daughter searching the Scriptures in order to see whether there was any prescription there for honouring both parents when their orders conflicted. She had turned to the

book of Ephesians, and when discovered was puzzling over Paul's recommendation, "Children, obey your parents, in the Lord, for this is right."

Manifestly, obedience to both was impossible. She was looking for the key to a deadlock. There must be such a thing as a just and proper disobedience and an unjust and improper obedience. She had no ground to stand on. That she felt the injustice of the situation, however innocent of such intent the parents were, there can be no doubt. Mere obedience, in view of the possibility of such a dilemma, cannot be a virtue *per se*.

Shocking as this is to most good persons, who can solve that conscientious child's problem? How could she obey two conflicting orders? Were not both parents of equal authority?

Many will contend that parents must see to it that they are not in conflict. But that is another subject. The simple point is that if obedience *per se* were a duty, then the child had a duty of do-

ing two contrary things at once, which is the injustice of absurdity.

Human fallibility, then, is a factor to be considered. There can be no question but that obedience to God is *per se* a duty, for God is always right. Yet so important was it that man should learn the art of living equitably with men, that the story of Eden really turns upon this moral art, however true it may be that Adam was disobedient.<sup>1</sup> Regard that story as literal or allegorical as you please, its pivotal point is ethical, even though God was one of the parties to the transaction. It rests on the basal social virtue—that of rendering to every one his own. Obedience is incidental to it. Otherwise, the transaction seems to have been unnecessary.

If the world was to be peopled and men were to live harmoniously and co-operatively with men, it was important that they should understand the very

<sup>1</sup> See Matheson's exposition Chapter. III.

fundament of this social-moral life at the start. This was the childhood of the race.

Very aptly does Dr. Matheson pursue his exposition thus: "You cannot teach your child morality by teaching it obedience. . . . Obedience is not the beginning of a child's morality. What is the beginning of a child's morality? I say it is justice, the inculcation of fair play. Whether in the garden or in the playground, it is the primary moral lesson of youth. *The difference between his and yours* is the first thing which your child should know. Let him see the limits of his own Eden. . . . Never prohibit for the sake of prohibition. . . . Prohibition in itself is not helpful . . . but justice is helpful. Justice sanctifies prohibition. . . . The temptation of young Adam is the temptation to his justice; the fall of young Adam is his fall from the height of justice."

In this view, the first sin is the sin of violated human rights—or immorality.

The child's first conscious relations are human relations. From these he works out to a clearer sense of his relations to God. This is why the lesson of Eden was primarily social-moral.

It is true, then, as Matheson insists, that obedience, *per se*, is not the beginning of a child's morality. A child may obey a very immoral command to the letter. Is the act then moral? If not, it must be true that "you cannot teach your child morality by teaching it obedience" to fallible humanity. You must rest your moral education on something else, and the story of Eden shows that we must rest it on justice—or the rule of *mine and yours*.

"Those who trespass against us" are the immoral ones, and our morality begins by obeying this moral law of boundary. In this we become coöperative, interdependent, brotherly. We render unto every one his own in the interest of the common good.

Now absolute, instant, unqualified obe-

dience we must often exact from children and from men; that is one thing. But this does not make obedience to fallible man the fundament of morals; that is another thing. Authority we must have; that is one thing. But human authority may be exerted immorally; that is another thing. Our relations to an infallible God as obedient children we are not now considering.

The great mistake that parents make is in supposing that when a child executes an order immediately and to the letter he is thereby obedient in soul as well as in body; and that he is, therefore, developing a moral discipline. It is possible to be obedient and rebellious at the same moment. Here emerges the important distinction between the obedience that is only mechanical response and the obedience that is heart loyalty.

It is this loyalty that love's justice really wants. The child cited at the opening of this chapter was loyal to both parents; obedient to both she could not be. Her

spiritual loyalty was fine. There lay the test of love's morality. She studied to please and to serve both, but without full obedience to either. Set your heart on this result, O parent, without fretting yourself about the literal response, loyal or disloyal.

This is no plea for the abandonment of parental or any other form of governmental authority. Nor is it to encourage children to be the "arbiters of their own conduct" or to steer their canoes by a pocket compass of their own construction—as Dr. Parkhurst vividly puts it. This is not written for children.

But it is to controvert the same able critic when he says that "the best and most fundamental lesson a child ever learns is to obey." If the argument of this book, with the authorities it quotes, is worth anything, the most fundamental moral lesson is that of fair play, of justice, of *mine and yours*, of a reciprocal brotherly unity.

The loyalty of soul to this immutable

law of justice, the rendering unto every one his own in the larger interest of the universal good, is better than a blind, servile, and unfeeling obedience to human caprice, whim or notion, necessary as that servility, in our imperfect social conditions, may even be.

The short road to securing this spiritual obedience of loyalty is the loving heart enlightened by the wisdom of justice. The parent or teacher whose course grows out of the just habit of mind will not need to worry much about the securing of obedience. The child is quick to resent injustice, and this resentment means a weakening of the spirit of loyalty. No less quick is the child to respond to a manifest desire of the parent or teacher to be fair; which means a strengthening of the loyal spirit or true heart obedience. This is the very essence of freedom under law, or liberty, which Dr. Parkhurst finely says is "a genius for obeying, and consists not in our successful escape from ordinance, but in the

graceful facility with which we are able to execute it." That is, the spirit of justice recognises the social will as above that of the individual and the common good as returning to bring the highest good to the individual.

Obedience, in the common sense of literal response to orders, is sometimes right and sometimes wrong and sometimes impossible. It may be necessary and may be unnecessary or positively inadvisable. The Japanese success against Russia was in part due to a certain amount of initiative allowed to the under ranks. As a whole the army was a solid mechanism, but without making mere obeying machines of the individuals when the use of their own judgment could increase their efficiency and responsibility.

But young children have no developed judgment. Very true. That throws a larger responsibility on their overseers to be absolutely just and in all respects to stand for sanity and social order. This

begets the loyalty that should be. We have a weakness for commanding, for being obeyed. To see a child or a dog do exactly as we say flatters our sense of power and self-importance. The result is, we command too easily and therefore issue many commands which were far better not obeyed. But as the children cannot be the arbiters in such cases, we must cultivate the habit of thinking and executing justice before we indulge the slippery habit of command. We must study to give no command the obedience to which would not be in the highest degree righteous.

We must not study our own ease in governing, but the child's growth toward self-government. This will come back to us in ease to ourselves as well as in development to the child.

Our relation to the child must be the same as our relation to society—reciprocal and coöperative. We must work with him instead of against him. When he sees that we are in community of inter-

ests, he will show a loyal deference to our larger experience. Obedience must be mutual. We have no right to command except we first obey the laws of God and of man and the laws of the child's developing nature. When we become thus obedient, we may expect that higher obedience which is heart loyalty from the child toward his justice-loving superiors. Child nature, like all nature, is commanded by obeying it. Obedience to Heaven's fundamental law? Yes! Obedience to whimsical, self-important, fallible, unjust men? Sometimes.

## IX

### FAILURE AND IMMORALITY OF CORPORAL PUNISHMENT

THE question of corporal punishment is one on which pretty much everybody holds a ready-to-hand opinion. That punishment of any sort should be such a familiar subject to all sorts and conditions of men is to be lamented. If it were a rare and exceptional thought among parents there would be less need of it, and if there were less need of it in the home, the same would be true of the state.

The pity is that the more conscientious and consecrated an inexperienced young parent, the more likely is he to think of himself as a commissioned punisher. That punishment is necessary in this fallible and unjust world is true enough.

But it is no less true that much of its necessity grows out of the universal tendency and temptation to rely on it as the great moral specific. Punishment must be regarded as a drug whose usefulness on occasion may beget its own incurable habit.

This book stands for prevention. If children were treated justly from the start—if parental love would consent to be enlightened, guided, or advised by the principle of constructive justice, the need of punishment would be immensely reduced and two or three generations would find society a very different moral proposition from what it is to-day.

The matter of punishment in general is too large for treatment here. Suffice it that we consider briefly the vexed question of corporal punishment.

It would seem to be self-evident that no parent ought to punish without a distinct purpose in view. Shall this purpose be personal revenge, or shall it be to protect society by preventing a repetition of

the offence, or is the moral improvement of the child to be the conscious intent? Punishment may be merely deterrent, to prevent annoyance to the parent or others without any real motive of moral formation or reformation.

Most parents suppose that they punish to make their children better, although such is not really the case. They do it largely to save themselves vexation and trouble, if indeed there is not present an element of personal retribution and vengeance. But all conscientious parents would agree that whatever their purpose or whatever their method, they should do nothing that would be likely to *hinder* reformation. Their immediate impulse might be to make the child less objectionable, but they would admit that in doing this they ought not in the long run to make him more so.

This brings us to the real issue. I believe that in a vast majority of cases corporal punishment *does hinder reformation*. It may cure a child of slamming

the door, of invading the jam pantry, of soiling his rubbers, of mutilating his books, of pinching his baby sister, or of any other misdirected energy. It may save annoyance and vexation of spirit to the adult house in the immediate present. But it has not raised the child's moral standard, nor purified his intentions, nor opened his vision to a working ideal. How can a thrashing help the discrimination of right from wrong?

On the contrary, it has set a seal of approval on the method of the brute; it has driven the victim to think more of his body and less of his soul. This is the tendency of corporal punishment, whether administered in school or in the family or by the courts of the State; and whether it be in the form of old-fashioned tortures or simple flogging.

Just for a moment let us look at the other side. It has been popularly presented over and over again, but take a few sentences from a public teacher, whose searching insight, lofty motives,

public spirit, and incisive pen entitle whatever he says to consideration.<sup>1</sup>  
Listen :

There is evident just at the present time a growing belief in the efficiency of the whipping-post as a punishment for criminals. If children were chastised more, they would stand less in need of it after they become adults. At one end of life or the other we all need to be whipped, and by one kind of lash or another are likely to be; and one stroke while we are still tender is worth a dozen applied after we have become tough.

This tone of suggestion is not motivated by any sanguinary desire to have the poor little things set aching; but a considerable percentage of the elements composing our nature is as definitely brutal as anything that appears in the dog or the ox, and settled brutality can be matched only by more of the same. A school-teacher who is forbidden to resort to corporal punishment is already beaten on her own ground. It may not be safe to allow her

<sup>1</sup> Dr. Charles H. Parkhurst in *The Munsey*,  
for April, 1906.

that prerogative, but she is herself defeated if it is not allowed to her, for she is almost certain to have pupils into whom respect for authority can only be wrought by the discipline of physical pain. I would not myself teach in the average run of common school where a ferrule is not recognised as an essential piece of school-room furniture. If it is there, it may not be needed; if it is not there, it will almost certainly be needed.

This is dogmatic enough certainly, and scarcely less plausible. But observe, it has no word of constructive justice. It apparently never supposes that the child may be so guided as to preclude the necessity of retribution. It is absolutely sweeping. The whole emphasis is on our duty after the offence is committed, instead of on our duty to prevent the child from becoming an offender in the first instance.

True, it might be urged that corporal punishment was the particular subject. But it is not safe to address the public on the subject of punishment at all without

showing the dangers of moral damage through its unjust administration. The fact is that very few parents or teachers can be trusted with a ferrule. Very little punishment of any sort is strictly fair, for reasons apparent in the first part of this book. And, for reasons to appear presently, corporal punishment is almost sure to be unfair, to say nothing of demoralising by brutalising.

If children were chastised more, would adults need less of it? Were our criminal classes never whipped? Whipped children curse the world. Is it true that the brute in us must be matched by the brutal? or ought we to be helped to rise above our bruteship? If the school-teacher who is forbidden to whip is already beaten on her own ground, isn't her ground wrong? Is there no such thing as the development of respect for authority without the agency of physical pain? Corporal punishment may deter from committing the same particular offence, but will it deter from other of-

fences? Will it reform the moral ideal? Will it help the discrimination? Will it strengthen atrophied moral sense?

Let us quote again:

When the matter of putting the rod back in the New York public schools was up for discussion, in 1904, a minority report favouring such step urged—in the language used conjointly by the Male Principals' Association of Manhattan and the Bronx and the Principals' Association of the city of New York—that “every child has the right to demand of us that we train him to a wholesome respect for the law.” Also that “physical pain is nature's mode of punishment, and it is unfair to state that it is an insult to the child whose only avenue of sensibility is through his integument.” It is sentimentality rather than sentiment that antagonises the re-introduction of corporal punishment into the schools—a condition of mind not likely to infect the judgment of teachers themselves, who come face to face with the situation; and the report just quoted concludes by saying that “out of two hundred and sixty-nine principals, corporal

punishment is favoured by two hundred and twenty-three"—that is, by more than eighty-two per cent.

The fact that so large a percentage of principals favoured corporal punishment is significant—of something. But of what? Are they not more concerned with the child's immediate submission to authority than with his development into a morally self-governing being? The difference is wide. Undoubtedly the teachers face a difficult and trying situation, and the temptation to coercion by the short cut way is very great. The brutalising way is often the royal road to immediate results, no doubt. But justice demands moral development, rather than isolated enforced deeds. Mechanical obedience, we have seen in the previous chapter, is not loyalty. The child has a right to demand that we "train him to a wholesome respect for the law." But brute means engender no such educative respect, even though they terrorise into

abject submission and secure certain immediate results.

So much for the argument for defence of corporal punishment. The principal reason given by the father for having whipped his child is that the offence was never committed again—or at least not soon again. But this view is too limited. It gives no indication of the real attitude of the victim's mind and heart. It does not show that the terrorised soul has become a loyal soul. And the inference is that it has become hardened and brutalised rather than loyal and trustful.

We must, then, take a larger view. We must look for effects upon both punisher and punished—that is, for results far beyond the present situation of particular cases.

As a general proposition: *Corporal punishment as a mode of moral education is a failure.*

I. As a method, it is usually irrational, since it bears no correlative or sequential relation to the offence. It does not,

therefore, educate the mind either of the offender or of the punisher or of the spectator. Having no thought of making the retribution fit the deed, it becomes a sort of universal prescription, degrading because indiscriminating.

2. No form of punishment is so easy to administer suddenly, excitedly, without opportunity for fair judgment of the case. This results in over-punishing and the moral damage wrought by hastily assuming too much. It begets the animus that might (instead of justice) makes right and induces the strong to take unfair advantage of the weak. The punisher imagines himself doing right because the passionate demonstration relieves his own irritation and gives an outlet to his sense of vengeance. This self-indulgence is gratifying to his animal nature, and the gratification seems to him like the approval of a conscience sensitive to duty.

3. Fostering the idea that "might

makes right," corporal punishment becomes a self-perpetuating institution, just as men who were hazed become hazers. The result is that the pugnacious spirit is contagious. Corporal punishment is a species of battle; and boys fight because their parents sanction fighting by fighting them. This stays the progress of brotherhood and peace among men.

4. Mere bodily power or gladiatorial skill becomes a substitute for justice and hence a menace to the integrity of the whole social structure.

5. There are physiological and pathological reasons against corporal punishment. Children are often injured for life by injudicious penal strokes. Apart from this, a better result is to be expected by those gentle measures<sup>1</sup> which tend to exert a calming, quieting, and soothing influence on the mind as a means of repressing wrong and encouraging right action, than measures which tend to

<sup>1</sup> "Gentle Measures," by Jacob Abbott.

agitate and irritate the mind. Violent methods tend to excite angry resentment and this does not make for loyalty and trustful devotion. The very principle of self-preservation arouses antagonism and casts suspicion on the claim that the lash is intended for the victim's betterment. There is at least this moral peril to the developing mind if there be, indeed, no physical injury.

6. No argument against corporal punishment rests upon a broader base and means more to an open mind perhaps than the historical. It is not my purpose to elaborate this here. Suffice it to indicate the significant truth of the trend of the world's movement.

Thus, we find a rapidly growing abhorrence of war and of the apotheosis of might. Justice is pushing its claim as the only arbiter among nations. War is declining as a corrective and directive. We have peace conferences and congresses and arbitration treaties. Men are addressing themselves less to the

sword and the bullet than to the law of unity and universal brotherhood.

See how many classes of offences in England were formerly subject to capital punishment. Note the decline of bodily torture as a means of making men faithful and loyal. It is little more than ten years since flogging was abolished in the British army. Fifty years ago every parish in England had its stocks in use.

Is corporal punishment so insisted upon because of its severity, or its convenience, or its intelligible appeal? I have already shown that its convenience is responsible for much hasty and unjust administration. As to severity, it is said that criminals do not return to the state where the whipping post is their dread. Well, then, are they reformed, or do they simply cross the border and pursue the criminal life elsewhere? That is the question.

Nor is severity a guarantee of reformation. Speaking of the advantage of the "indeterminate sentence," an expert edi-

tor<sup>1</sup> thus shows up the popular fallacy of the educating power of mere severity in corporal punishment:

It is not easy always to measure the deterrent force of laws; we can tell something about it by their effect. The history of penology shows very positively that variations in the force of penalties do not have proportionate effect as deterrents. If that were so then we should expect that the severest penalty would be the best deterrent. The history of centuries refutes the supposition. The application of the most terrible physical punishments, such as mutilation and death, did not prevent petit larceny. In the thirty-seven years of the reign of Henry VIII. it is reported that 37,000 were executed. Even as late as 1818 two women were hung in England for passing forged one-pound notes. But this did not stop forgery or larceny. These punishments were discarded not only because they were inhuman, but because they were ineffectual.

<sup>1</sup> *Charities and the Commons*, December 29, 1906.

Charles Dickens drove a vast deal of corporal punishment from the schools of England. It had been little less than barbaric in its forms and in its frequency. He saw also the relation between a child's food and his conduct—that a poorly nourished child was liable to punishment arising from his anemia and that nourishment was often a better cure for delinquency than punishment could be. "No other writer," says Inspector James L. Hughes,<sup>1</sup> "has attacked so many phases of wrong training, unjust treatment, and ill usage of childhood." His books describe no less than twenty-eight schools. He abated not only actual corporal cruelty, but also the terrorising of children.

Dickens was the prophet of a reform, noting which, our former Commissioner of Education, Dr. William T. Harris, says: "The habit of finding in the good tendencies of the child the levers with

<sup>1</sup> "Dickens as an Educator," by James L. Hughes.

which to move him to the repression of his bad impulses has placed in the hands of the professional teacher the means of governing the child without appeal to force except in the rarest cases."

Of the work which the juvenile court and its accessory, the probation officer, are doing toward the abolition of irrational and undeserved punishment—even of lawbreakers I have already spoken. But this mighty reform is all in the world trend which makes for a truer human brotherhood.

Once more, the insane are no longer outcasts or criminals, but sufferers from disease. Houses of incarceration and detention have become hospitals; guards have become attendants and nurses. Irons and straight jackets, once among the corporal inflictions, have been put into the museum to be studied historically or gazed on with horror. All this is indicative of the way the world is moving—toward more rational, more fitting, more adjustable, more efficacious, more

educative, more humane ways of punishment and reform.

7. Further. The trend is toward prevention as better than cure. The more a parent thinks about punishment of any kind, the more he will punish—and punish unfittingly and unjustly. And the more he punishes, the more is he likely to resort to the corporal method. It makes him feel that he is doing something, gives him a sense of his own prowess, swells his head and contracts his heart. The only person I can think of as possibly deserving a flogging is the flogging parent or caretaker. The flogger brutalises himself as well as the child he flogs, and this results in brutalising, and so lowering, the moral tone of society, and perpetuating the practice to coming generations.

Justice waits not until the evil deed is done, so that punishment may be inflicted, but so fairly deals with the individual that he shall not be tempted to become an evil doer. Justice labours to

enable each individual to realise his fullest capacity for contributing to the universal good. This is morality. Toward such an end corporal punishment is a failure and its tendency is therefore immoral.

## X

### MONEY AS A MEANS OF MORAL TRAINING

As a means of training the mind and the hands to moral uses, no other agency is so resourceful as money. It is the commonest and most familiar representative of value all through life, and as such it is a symbol of the property sense—in which the sentiment of justice originates.

The fact that the love of money for its own sake is the root of all, or of much, evil, coupled with the fact that we cannot get along without it, gives it a high practice value in moral training. But this also suggests another fact—that it is easy to misuse it in seeking this very end.

There are many persons whose minds are more honest than their hands. Small

peculations frequently arise from the fact that the hands have not been trained to hold other people's money. Of course a thoroughly established just habit of mind will control the hands, but not many persons have attained to such a fixed habit of mind. So they peculate, or are at least loose and careless in handling other people's money without classing themselves as dishonest or criminal. This has been demonstrated by experiment with groups of men of equal morality, but who have and have not been trained to handle other people's property.

On the other hand, many a one is trusty with funds who really has no higher general religious and moral standards, yet whose money handling is honest largely because of long training in it. The feel of trust money awakens no personal cupidity or begets no carelessness. Scrupulosity has become a habit.

It is apparent, then, that any thought of money as a training instrument must take cognisance of two aspects of the sub-

ject—our own money and other people's money.

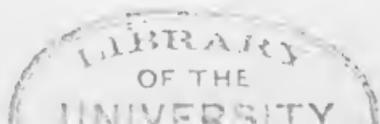
Children, especially as they approach or are entering adolescence, should be entrusted with small funds not their own. It is evident that this has a larger training value than that of simple honesty. It begets not only moral trustworthiness, but general executive or administrative reliability; it demands thoughtful care, self-inspection, self-control, order, courage, exactness and even, as a side result, punctuality.

There are various ways of thus entrusting children with money, such as errands, treasurerships, the payment of bills, and the temporary custody of small sums for apparent purposes. It will be seen that the critical faculty, the judgment, as well as the emotions and the will, can all be brought into healthy exercise in this matter. Trustworthiness is begotten by being trusted, and the moral backbone of many a child is stiffened by seeing that he is trusted. Similarly, rogues are not

infrequently the creatures of our distrust, for children and men are likely to grow to what we repute them to be. Money is an easy and effective agency in this feature of character-building.

Much more might be said about the just handling of other people's money, but this chapter means to be little more than suggestive of principles, and much that is involved in stewardship or trusteeship is essential also to the discussion of the children's money as their own.

The subject divides naturally under four heads: (1) Earning; (2) Saving; (3) Spending; (4) Giving. Or we may use the four little verbs, *get, keep, use, give*. While lending and borrowing are a very important part of the world's business life, great care is necessary in guiding children in this class of transactions. Many schoolboys and girls fall only too easily into the habit of borrowing. In almost any class one is pretty sure to see the borrowing pupil, who, to avoid the trouble of carrying his own books or



other school utensils; depends upon the easy lender to help him through. Here is a violation of the law of common fairness in a very contemptible form when it becomes a fixed habit.

The parent must use a fine discrimination here. The child should be cautioned against *dependence* on borrowing, even though in emergency it is the right thing to do. On the other hand, he should be trained to discriminate between that habitual lending which encourages habitual borrowing and that occasional lending which is right and proper. Justice is the arbiter just here. The ultimate aim is a true coöperative spirit, a unified purpose, a community of interests. The boy who relies on borrowing, expecting his good-natured mate to do his carrying, is anti-social, unjust, and immoral. So, too, is the boy who makes it a rule never either to lend or to borrow. As children grow in their "teens," they will gradually come to see the use and abuse of borrowing in business life. As a general rule

the hand-to-mouth borrower is to be shunned for his own sake as well as for that of the might-be-lender.

1. *As to earning.* It has been a much discussed point as to whether children should be encouraged to earn their own money or whether they should have an allowance, or both. The question cannot be answered by an unvarying rule. But this is sure; when parents pay their children for service, it should be the kind of service which is not strictly a child's home duty simply as the child of his parents. Many little services must be rendered for love's sake, lest a sordid spirit arise.

I knew of a father who had a "den" or shop, where he recreated himself with carpentry or other mechanical work. He paid his little children three cents a week to keep the shop in order. As they grew older, he raised the wage to five, then to ten, then twenty-five cents, and ultimately a dollar. But the shop cleaning in time fell into irregularity and neglect,

even though the reward grew as an increasing allowance.

When children are paid for service, the service should be strictly rendered. There should also be conditions in the contract, if possible, as an educative feature.

One of the best educative plans for aiding a child to earn money intelligently and at the same time begetting a methodical business habit was one devised by a father for a girl of thirteen. The child was to be given certain kinds of bills to pay, and to receive a commission therefor. One advantage of this plan was that it taught her to handle other people's money, even to carrying it about the city, and at the same time gave her a chance to earn her own income.

The arrangement was that "downtown" bills—that is, bills to be paid at business houses in the centre of the city, say two miles distant from home—were to be graded thus: Bills up to five dollars, five per cent. commission; bills of five to ten dollars, two per cent.; ten to twenty-five,

one per cent.; over twenty-five, one-half per cent. Bills in the home district up to twenty dollars, one per cent. Servants' wages, one-half per cent. If the latter were neglected until over two days overdue, there was no commission. An error in calculating the percentage in any case reduced the commission one-half. When the child increased in years the rate of commission was increased. The girl kept her account, which was settled monthly, she signing the book at the foot of each page.

It will be seen that this arrangement naturally led to inquiry: "Why is my percentage less as the amount of the bill increases?" Because it takes just as much time and costs as much walking or carfare to pay five dollars as ten. A commission of five per cent. on fifty dollars would be a little heavy on the father. For a bill of this size one-quarter per cent. might be enough on the foregoing basis, but when it is considered that the child's responsibility in carrying so much

money was so much greater, it was fair to remunerate her in a measure for the care necessary to its safety.

The principles involved in the foregoing scheme are (1) easy quantitative measurements; (2) grading to teach relative conditions of valuation; (3) penalty of neglect or error; (4) as the child grows into conventional ways and appreciation, the scale of commissions changes. Or, to put it more succinctly, the percentage is adjusted by the amount, distance, responsibility, punctuality, sacrifice and accuracy. Here is a large educational value.

If children aid their father in his business, they should usually be paid for it. If they address or deliver circulars, do boxing, labelling, copying, bookkeeping, dusting, or anything that is commercial, it should be regarded commercially. Especially is this true if the service is regular and by agreement rather than the mere lending of hand to help a father because he is a father.

I take the liberty now of quoting at some length from a valuable article on "Child-training by Bookkeeping," by Mrs. Jane Marsh Parker.<sup>1</sup> It is very complete in its way and is worthy of study, although I should prefer to see it modified when applied to a boy only six years of age. Mrs. Parker says:

I found the other day in a collection of old papers the account-book opened with my eldest son when, upon his sixth birthday, an allowance of twenty-five cents a week was given him. Out of that he was to give to the Sunday-school five cents weekly. He was to use his own judgment in spending his money; but he was to give an account for every penny on Saturday night, when his father went over the account with him, and settled it for the week. A schedule of charges for misdemeanors was fixed upon at the outset; the child decided what they should be, and signed a contract to pay the same cheerfully when required. He was to be paid extra for doing certain things, like shovelling snow, weeding the

<sup>1</sup> *The Outlook*. August 11, 1906.

garden, etc. Added to this, an account was kept of gifts of money; making all in all quite a bit of bookkeeping, demanding regularity and accuracy of entries. That account-book, with pencil attached, was kept within easy reach. Alas that it was often the source of tears! Here are a few items on the debit side:

Losing my hat.....	.03
Spilling ink on baby....	.05
Skipping bath.....	.05
Saucy to cook.....	.03
Muddy shoes in house..	.03

His [father's] bookkeeping system for children permitted advance loans—advised them when needed—but a debt was to be paid as soon as possible. Pleasuring and goodies were not to be invested in with a debt on one's shoulders. There was always honest work for boys to do whose allowance was not equal to paying debts.

At one time it looked not a little as if we were cultivating what might turn out to be stinginess in the boy, so severely frugal did he wax under pressure of insolvency. That was the chance for teaching discretion in giving—for mak-

ing lasting impression of what avarice can do in transforming character—as there happened to be one or two striking demonstrations available for illustration, and the most was made of them.

A wholesale dread of bankruptcy, of having to draw on his bank account rather than add to it another five dollars, is the best kind of a curb-bit on an impulsive, wide-awake boy. . . . A spendthrift child is not easily taught frugality, and if strict accounting for an allowance will not do it, his is a hopeless case indeed. . . . The weekly balancing of that account by parent and child becomes an important feature of the family life, promoting that community of interests without which disintegration of the home is sure to follow.

The spirit of this method is very fine. In some particulars, however, I should doubt the expediency, especially in the average household. Here are evidently exceptional parents in more ways than one. For a child of double their child's age, and more, the plan would seem to me in all details more applicable. Mrs.

Theodore Birney also advocates strict accountancy and balances. But we may be too exact with children of six or eight. A certain amount of *unaccountability* goes with young childhood. The kindergarten age is not the age for mathematical precision. Balances are too intellectual. But the ideal of promoting community of interests is a kindergarten ideal, and the spirit of this arrangement is true and good.

It is possible, too, to attempt to fix money values to childish acts with too much precision. Money may become too prevailing and too exacting a thought in the child's life. The danger of stinginess referred to by the writer was met by wholesome teaching, but not every parent is so discerning as this.

Once more, it were better that so young a child should not sign a contract. He must be made trusty by trusting him implicitly. Contracts are for men in the complex relations of business life. Better begin life with an emphasis on the simple

strength of yea, yea; nay, nay. By all means omit the written contract with so young a child unless merely as a memorandum.

The climax of cleverness in this matter of training young children is reached in Carl Ewald's masterly sketch, "My Little Boy."<sup>1</sup> The child was given a penny a week, with the privilege of disposing of it as he pleased. The arrangement was to last until the summer holidays, a period of fifteen weeks.

Accordingly, his father divided a drawer into fifteen compartments, and in each compartment he put a penny. This gave the child a survey, at any moment, of his resources. The spectacle of fifteen shining coins fills him with mad delight, and he begins the week with the purchase of a stick of chocolate, which disappears in five minutes.

The father tells him about a top that he might have bought. After much

<sup>1</sup> *The Strand Magazine*, June, 1906.

tribulation the top is bought the following week, and in three days is lost. Then a skipping rope is wanted, but it costs fourpence. The paternal advice is to buy nothing the next three weeks, and then on the fourth there will be the fourpence in hand.

The boy, however, has had youthful counsel, and he proposes that his father lend him the fourpence, for which he will give twenty pennies back. The father refuses, showing the child that he has only thirteen pennies at best.

They go and study the aspect of the drawer—the boy in dismay. The father next proposes that he take the boy's penny and advance him four, noting that the three succeeding weeks the pennies in the drawer will come due to the father. This is accepted and the debt liquidated in instalments each week.

On the second week the boy wants a stick of chocolate, but is told that he must wait until the debt is paid. The boy sees that what's gone is gone. The novelty

of the rope has worn off. The boy proposes to draw on a compartment beyond the appropriated funds, and takes the penny farthest off—just before the holidays. Thus begins a species of speculation, which is continued until all is gone and there are five empty compartments between him and the summer holidays. This is poverty, and father and child sit every day contemplating the empty drawer. The experience is painful, but it is hoped will prove profitable when the new set of pennies is started after the holidays.

Nothing could exceed this as a practical training in the morals of finance. The whole philosophy is visible at any time in hard pan. It looks, too, as though it were better that the boy had not earned the money, since under the arrangement the expenditure could be prescribed.

Of course this scheme has no direct thought of saving or giving, and is therefore limited. But as a discipline its reach

is farther than might at first appear. It exposed the child to a temptation the insidious nature of which he could soon see for himself. To an extent, it indirectly suggested the need of saving by not appropriating money better kept in hand for future need. As the plan exposed the boy to temptation, so it gave him opportunity to study relative values, prospective needs, and methods of adjustment. The child and the father together could ponder and devise and enjoy and suffer. In that drawer a lifetime was compressed and illustrated with simplicity and suggestiveness.

Under this general head of earning or getting we must not neglect a side thrust at the most insidious cause of moral degeneracy to which we are liable. I mean the growing vice of gambling—the aim to get something for nothing. Money won by betting, by lottery, or by any other form of chancing is not earned. No return is made for it. The gambler is not a producer, not a factor in legiti-

mate trade, not a giver of value for value.

Very early should the child be taught the dangers of the hope to get something for nothing. Not only ethical principle but the civil law condemns under the class name of gambling this chief among social vices.

All my life I have been an abstainer and I yield to none in the wish to see King Alcohol dethroned forever. But his extinction will not remove his coadjutor, the gambling spirit, from power. The two often coöperate, but not necessarily always. The motive of something-for-nothing begins long before liquor is tasted and in places where alcohol is unknown.

Of the two I believe it to be the more insidious and surreptitious. To the common eye it is much more evident where the first glass may lead to than where the first "chance" or "bet" may lead to. The first drunk is an alarming warning; the first stake, either lost or won, is an

invitation to continue, with no red signal of the tightening grip of habit.

In England, justices, magistrates, and moralists are growing alarmed at the mad spreading of the betting and gaming habit. The temperance cause is gaining ground, but the gambling spirit is rampant—"bridge" being among the leading incitements, although by no means the only one.

That betting or gambling has become as prevalent here as in England may be a question, but that it is rapidly sapping the moral sense in all grades of society is beyond doubt. If it has not yet reached the point of a national evil here, now is the time to prevent it. And home teaching is the first teaching. A gambling home is far worse than a gambling saloon, since the home is the first place of sanction or of condemnation in the moral life.

Briefly, gambling is defined as "the determination of the ownership of property by appeal to chance."<sup>1</sup> By chance we

mean those natural forces or conditions or mutations that cannot be controlled. All gain by gambling is unjust, but not all unjust gain is gambling.

Many persons are brought up to abhor this seductive vice of gambling, yet they lack just that ethical discrimination for the culture of which this volume pleads, and so they do not perceive wherein the evil really lies. The result is that they sometimes condemn the legitimate and sometimes condone immoral proceedings, and are unable in either case to account to inquiring children for their judgments.

In a succinct way, then, let us see what the sin of gambling consists in—viewing its tendencies and the demoralisation that follows in its train.<sup>1</sup>

It involves the denial of system and of rational control and social order in the apportionment of property. It is an organised rejection alike of reason and of

<sup>1</sup> John A. Hobson in "Betting and Gambling a National Evil," edited by B. Seebohm Rowntree. (Macmillan).

industry. It plunges the mind into a world of anarchy, where things come and go without human regulation or control. It thus inflicts a graver damage on the intellect than theft, for, rejecting reason, it puts its devotees in an atmosphere of chance and generates an emotional excitement that tends to inhibit those checks which reason puts upon emotional extravagance. Rational control is a necessary factor of civilisation. It means plan in life, order in society, progress in humanity. To all this gambling is a blow, which sends the human mind reeling to a less human plane of living. It is easy to become a gambler, especially in some stations of life void of variety and recreation.

Monotony begets the gambling spirit. There is fascination in the unexpected and in the hazardous, and men will seek it as a relief from monotony and the humdrum of existence.

All this means a "descent to a lower plane of thought and feeling." "Per-

haps no other human interest," says Mr. John A. Hobson, "not based on purely physical craving, arouses so absorbing a passion; alcoholism itself scarcely asserts a stronger dominion over its devotees." The uncertainty, the hazard, the possibility, the feverish awaiting, all lay a deadly grip on the moral sense. Sympathies for others in their losses are extinguished. Misfortune is rated a part of the game of life. The opium habit is hardly more insidious and irresistible. Says Mr. W. D. Mackenzie, "In the making of a bet, a man resolves to repress the use of his reason, his will, his conscience, his affections; only one part of his nature is allowed free play and that is his emotions." He lives in an unnatural strain, a stranger to prudence and industry.

Lying, fraud, theft, personal antagonisms, and self-destruction follow in the wake of gambling. Many embezzlements are the result of it. The family as well as the individual is wrecked by

it. It becomes an infectious social disease with all attendant evils. Slow and legitimate accumulation is not suffered, healthy activity is paralysed and government itself is threatened with a rotten deterioration.

Is it possible that such a horrid picture comes back in any sense to our Christian homes? To a large extent, yes. The principle of "least effort," indolence, or laziness; the excitement and fascination of hazard and irresponsible chance, these make the way easy for the motive of something-for-nothing. This motive itself is invited and stimulated in many ways and through various agencies. Most of these may not be wrong or evil in themselves, but they conspire to the intrusion of the gambling spirit.

First among these conspirators is language itself. The free use of such words as "luck" and "bet" tends to level the thought to the thing signified in the speech. Then comes the passion for special privilege, and the "parasitic feel-

ing.” Next the more specific inducements to get something for nothing in the shape of a “prize with every package,” free gifts with no visible string to them, prizes for game winning, a free piano, prize guessing, etc. It is not contended that these are gambling, but only that they conspire to inflame the motive of something-for-nothing, of which gambling is the ultimate evil. Three times in a few months have I had very tempting offers of free gifts from publishers. The first two I accepted, with the result that I was afterward pestered to subscribe to books. The third I resolutely ignored, on the principle that something for nothing never pays.

Again come the more directly evil inducements to bet, often in fun, more often in earnest. The popular “bridge” is begetting hosts of “respectable” betting people, and money passes freely in homes and in clubs. To this must be added the raffle and the organised lottery. Travellers abroad fall into gambling

snares "just to try it." A lady told me that she always charged her gaming losses at Monte Carlo to travelling expenses. She said she knew it was gambling and would not dare to do it at home.

The home *attitude* toward all these conspiring agencies influences the children. An atmosphere free from these taints makes them repugnant when they are met with outside. A pronounced anathema against the shiftless greed that is always looking for something without giving return will prove a wholesale preventive. When our common law declares certain things to be immoral and destructive, the weak-kneed Christian may invoke it as his reason for refusing to participate in bets, raffles, lotteries, or other forms of gaming mechanism no matter where or in what interest they are held.

If this attitude toward this indolent and unfair something-for-nothing spirit can be made pronouncedly antagonistic in the

home, the whole moral life of the children will be better insured than if there is simply a limp, goody-goody talk, punctuated with "luck," prize packages, special privileges, "bridge" ball-game and election bets, and raffles—all of which are unequitable and anti-social.

Bishop Brent of the Philippine Islands in an article in the *Manila Times* thus reiterates the substance of a sermon of his which created a hostile sensation:<sup>1</sup>

My assertion is that moderate gambling is a vice, and it is as respectable to be a moderate liar, a moderate adulterer, a moderate thief, as to be a moderate gambler. The effect on the character, if not equal, is at any rate similar. . . . I reassert that gambling is contemptible in any one who pretends to self-respect, and reprehensible to God and His Son Jesus Christ. I maintain that the difference between poker and cock-fighting, between bridge whist played for money and pangingue, is a matter of white-wash. . . . Poker I think is a contempt-

<sup>1</sup> Quoted from *The Outlook*, Sept. 8, 1906.

ible game; if it were not for the money risked, poker would drop out of existence. Whist is entirely different; it is a good game, a game of the intellect and a game of skill, and I commend it; but I maintain that when bridge whist is played for money or for expensive prizes as distinguished from a trophy held, but never owned, by a winner, as it is in Manila, it isn't a bit different from the cock-pit or from the roulette-table at Monte Carlo. The only distinction is that the thing called 'society' has dipped its brush in whitewash and has whitewashed bridge whist played for money.

2. *As to Saving.* Justice is essentially economic. It means that every one shall have his due. Therefore, a child or youth who has had no training in the economics of life is likely to be robbed of his best resources sooner or later. He will be his own robber. Economy is not limited to finance, but is the bottom factor in effort and a condition of efficiency.

The idea of saving must not press too hard upon very young children, as they

cannot yet appreciate the relations of persons and things. The practice of true economy must grow with the youth's years. It is no use to preach the necessities of a far-off future to young children. Their experience is too narrow to make such admonition effectual. Indeed, a young child has no conscious business with his possible adulthood.

The nicer point is to beget a saving habit without inducing stinginess and penuriousness—which is anti-social and inequitable. The method of Ewald, already cited, probably demonstrates the motive of saving as well as any method can. The bottom idea is that money is only good for what it can bring in exchange and is valueless in itself. Mere hoarding, therefore, violates the law of justice, since it deprives society of a useful instrument.

A contributor to the *Kindergarten Magazine* some years ago gave his experience in training the economic sense in children. After noting that he believes in allow-

ances and in saving for the sake of accumulating, as well as for some definite purchase, and that he does not believe in paying children for ordinary domestic services, he says:

“Five years ago we were boarding, and my children were aged nine (boy) and eleven (girl) years. They had no idea of the money value of anything except candy, nuts, cakes, etc. I thought it would be well to give them a practical education in this line, and one day told them that I would in the future pay them regular wages of \$6 per week; from this they should pay their table board, \$4.50 per week, and with the balance they would have to pay for all their clothes, etc. We started at Christmas, and each put down in a little book under the headings “Money received” and “Money spent” the details of the accounts. Occasionally I would borrow from them a dollar or two for a week, giving my note and paying the exorbitant interest of 5 per cent. a week for it. Receipts were given by the children and demanded by them for money paid out, unless there was a sales ticket to file. An extra stock

of clothes made it necessary for them to borrow at times, and then they gave their notes, as I had done. My boy when less than ten years old came to me one night with 'Papa, how much money do you think I've spent this year?' (He had just bought a suit and overcoat and had little left.) I answered, 'I don't know; how much?' 'I've had \$190, and it's all gone but \$2.23—it costs money, papa, to live, don't it?' His sister—a quiet child—learned the same lesson. We would often discuss their expenditures, and they learned the value of clothes, etc., better than they could have done in any other way. Their mamma, of course, 'shopped' for them, but they were always consulted or advised.

"I simply told them that a certain percentage of the money spent for the family was theirs, paid it to them as wages. Often, however, I gave them an opportunity to do work for me, such as writing out an article I wanted copied or going on an unusually long errand, for which I paid carfare, which they would save by walking. The work done for me was planned so it would have to be done during their usual play hours, and so they

would learn the difference between work and play.

“Neither of the children are stingy, but both know how to spend money to get the most good out of it, and both have money loaned at interest. They will walk and give the carfare to a needy person or give up some longed-for pleasure to aid one in distress.”

3. *As to Spending.* Spending is as much an economic matter as saving. Proper spending *is* proper saving. As soon as a youth understands how it may be more economical to spend \$2 than to spend \$1, he has a grip on a great principle.

Parents are liable to go to one of two extremes: They either dictate how the child's money shall be spent or they take no part at all in directing him. Many girls grow up to be young ladies without having had a voice in selecting their own clothes or in otherwise exercising a choice in the purchase of their necessities. It is better that they should make some mistakes than that their

spending should always be under absolute dictation.

This freedom, within limits, should be accorded to young children also. They can be led almost without knowing it. Their tastes, their wills, their judgments, are thus trained into discriminating energy.

A word about the economy of the Church. How frequently do we see looseness here! Even good business men fall into a happy-go-lucky way when the business is that of Church finances. If the Church should not be a model of strict accounting and cutting the coat according to the cloth, what should?

The Church ought to be an example to its youth in all matters of exactness, promptness, regularity, economic coördination of agencies, and general management. It is often said that it is no part of a pastor's work to collect or appeal for money—the pastor's business being spiritual. But is loose business management compatible with spirituality? Is

uneconomic administration of other people's money a thing apart from morality or spirituality?

Children carefully trained at home are sometimes put in moral jeopardy when they see their church so loose-jointed and irresponsible in its ways and means of livelihood.

4. *As to Giving.* To touch even lightly on all phases of this important subject would not be possible or even desirable here.

In their laudable zeal to prevent their children from becoming selfish and to incite them to kindness and generosity, parents often do damage to certain valuable instincts and propensities.

It is not uncommon to so work on a child's feelings that he will part with some things which it were better for him to have kept for his own. Children become attached to certain playthings, for instance, which attachment is a form of sentiment upon which much of our higher culture depends. We see that at Christ-

mas time. Many a parent knows that a new set of toys may make a momentary excitement, after which the child will gravitate to an old, half-broken hobby.

Then there is the matter of giving away discarded things. Nice discernment is needed here, for the children themselves are discerning. A little boy on being advised to give away some broken toys to a children's charity institution replied, "But how can they use them if I can't?" On the other hand, a little girl being advised not to do just that thing, replied, "But the boys have tool boxes, and they like these broken things so that they can mend them." Enough to show that many things must be taken into account in directing a child's giving.

But we are more particularly concerned with money. How far is it advisable to attempt the formation of the giving habit in young children who have no money of their own to give? Would the child gain or lose, spiritually, by waiting for a certain period before being permitted

to contribute to the Sunday-school missionary box?

The real pedagogy of this "giving" habit has not pressed its way to the front. Yet at no point should the home and the school be more closely in accord.

The dominant idea appears to be that the sooner a "penny" can be shaken from a child's hand into the offertory plate, the surer will be his training in the financial support of the Lord's cause.

Here, for instance, is the annual report of a flourishing primary school. It has contributed so many dollars for missionary or benevolent purposes, and of this total the "cradle-roll" babies have given a generous share—"out of their own pockets," a waggish church officer remarks.

The intention is excellent. It is to form and fix good habits early. The general proposition is good: Begin soon and stick to it.

But this is not all. A man will not be a more liberal contributor for having first

dropped a penny into a box at three or at six months of age than for having first done the same thing at three or at six years. The reply may be that while the child is not really giving his own, or himself, or giving (in form) with any realisation of the meaning of the act, he is at least forming the habit.

I doubt it. He is not forming the habit of giving in the same sense that he is forming the habit of walking. His feet are his own and he is learning to use them for all time. But the money is not his own, and the habit of giving his father's money is not the habit of giving his own, or for all time.

But, waiving this distinction, it remains true that an act which ought to be thoughtful *may begin too early to grow into the desired habit.* The quasi-habit of missionary benevolence may wear out before the child has arrived at the real stage of development when it should begin. Later than the cradle age *true giving of one's own may begin with the*

*effectual self-initiative* and so inaugurate a genuine spiritual habit. Giving is correlative to having.

If it be argued that the primary child (to say nothing of the cradle-roll babe) has some appreciation of joint missionary support, then, logically, he must be conscious that he is contributing some one else's property and not his own. Is this good education?

But not to push the argument too far, let us strain a point favourably to the common practice, and admit that the "penny" is called the child's before he gives it. The first idea I wish to press is that in the very nature of the case the practice must be purely nominal and formal, if the money has been given to the child simply to *transmit* it, and would not have been given him had not the offertory been prescribed as its only admissible end.

It is questionable whether such an act can be the real inception of a truly benevolent attitude and habit. I am quite

aware that a habit of action will beget a habit of feeling. Forcing ourselves to smile will help to make us cheerful and doing good deeds will make us kindly. But how far this is true of the child who takes no initiative is at least worthy of inquiry.

The second idea which I wish to press is more directly constructive. Suppose the children were taught that giving is a privilege as well as a duty, and that they can come into that privilege just as soon as they have something representing their own selves—their personal energies or their peculiar possessions—to volunteer. Would not the offertory gain in sanctity and meaning? Do we have them come to the communion before they “discern”? Is not that a privilege? This means, of course, the translation of energies or sacrifices into money values and this part of the pedagogic will primarily fall upon the parent and the home. So the school must oversee the home in this respect.

I am not prepared to advise the shutting off of the primary offertory entirely. But I do want to force into prominence the fact of its too nominal and mechanical nature, the possibility of a richer spiritual culture in this field by *looking forward to a day of privilege*—a day when the child may enter the guild of those who truly give themselves in giving of their little substance. The question of the mere swelling of funds is another story.

A writer in *The Outlook*<sup>1</sup> giving an account of the Rev. Thomas K. Beecher, says that one of his three rules for the Sunday-school was that every pupil should put something into the collection.

“Upon the latter point he elaborated at some length. He said it was not the money he was most after, but the habit of responsibility and of bearing one’s fair share in all coöperative enterprises. Therefore, he ordained that the contri-

<sup>1</sup> March 10, 1906.

bution should be at least one cent. He preferred the children to earn this cent by some little errand rather than to ask their father or mother for it at the last minute. And when, through poverty or ill fortune, a cent was not obtainable, the pupil should cut out a little piece of paper, round like a cent., write "one cent" on one side and sign his name on the other. This perfected his status concerning the contribution, for he knew that no one would avail himself of this unless it was necessary."

Much of the exhortation and the reasoning in this matter appears to me to need thoughtful scrutiny. Here, for instance, is an extract from an article by a clergyman in a current religious journal:

"Cheerful, joyful as well as direct giving is so lofty a grace that it has to be learned. Cheerful giving is a real Christian grace, so classified, so named one of the seven fundamental means of grace. (2 Cor. 8:7.) This grace must be developed, therefore, as any other grace

must—viz., by the power of the Holy Spirit operating upon the heart and in the heart through Christian culture. This culture should be commenced in youth. *Children should be taught as clearly and conscientiously to give unto the Lord as to pray unto Him.* Parents should teach this, Sunday-schools should teach it, catechists should teach it. It is the truth; it is Scriptural truth; it is St. Paul's doctrine; it is the will of the Master. It is a law that applies to all. If this grace is taught in youth, it will never be lost sight of as children grow older. They grow up to be Christian 'givers.' (Prov. 22:6.) As the twig is bent so will the tree grow."

Now note. There are other ways of giving to the Lord than by simply transmitting some one else's money. But suppose money were the only acceptable gift to the Lord. Is praying to be put on the same basis as money to a moneyless child? Note again. "If this grace is taught in youth, it will never be lost sight of." This is not questioned or controverted. The point is as to *when* the

privilege of money-giving "in youth" is to begin. The article just quoted makes no distinction between a child of three and a youth of thirteen. It is upon just this distinction that I am asking for careful thought from an educational, not a mere money-gathering, point of view.

Much depends on where we put the main emphasis. If our moving desire is to get as much money as possible, then we need give no further heed to what I have just argued.

If our prime interest is the *education* of the child, then the question becomes a psychological and a pedagogical one.

If the giving habit were better installed at ten years of age than at five, would we be willing to lose the money by the abolition of a mechanical offertory? Of course if the giving habit is more surely rooted at three than at nine, by all means begin it at three, provided this advantage is not offset by a false conception on the part of the child—that he is giving his own when he owns nothing to give,

but is transmitting another's. We cannot do better than hold the question at least as an open one, on both sides of which there is much to be said, and one involving very important moral principles.

That giving can be taught and wrought into habit is beyond question. But the essential thing in the training is to make the habit discriminating and in a measure systematic. Yet it must not be so systematic as to become mechanical and irresponsive to the appeal of the sympathies. In any case it is essential that we recognise and cultivate the sense of possession or proprietary right, for, as we have seen, this lies at the root of all our charity and generosity. When it is trained to see beyond self to the proprietary rights of others, and the common good is the dominant motive, rights and duties are at one and the conception of justice has become the rule of life.

Love moves, justice directs. When love and justice, like rights and duties,

move together as one, guaranteeing to every life its own in the interest of the social whole, then shall we realise the meaning of both the Fatherhood of God and the Brotherhood of Man. We shall not be less than kin, but we shall be more than kind.



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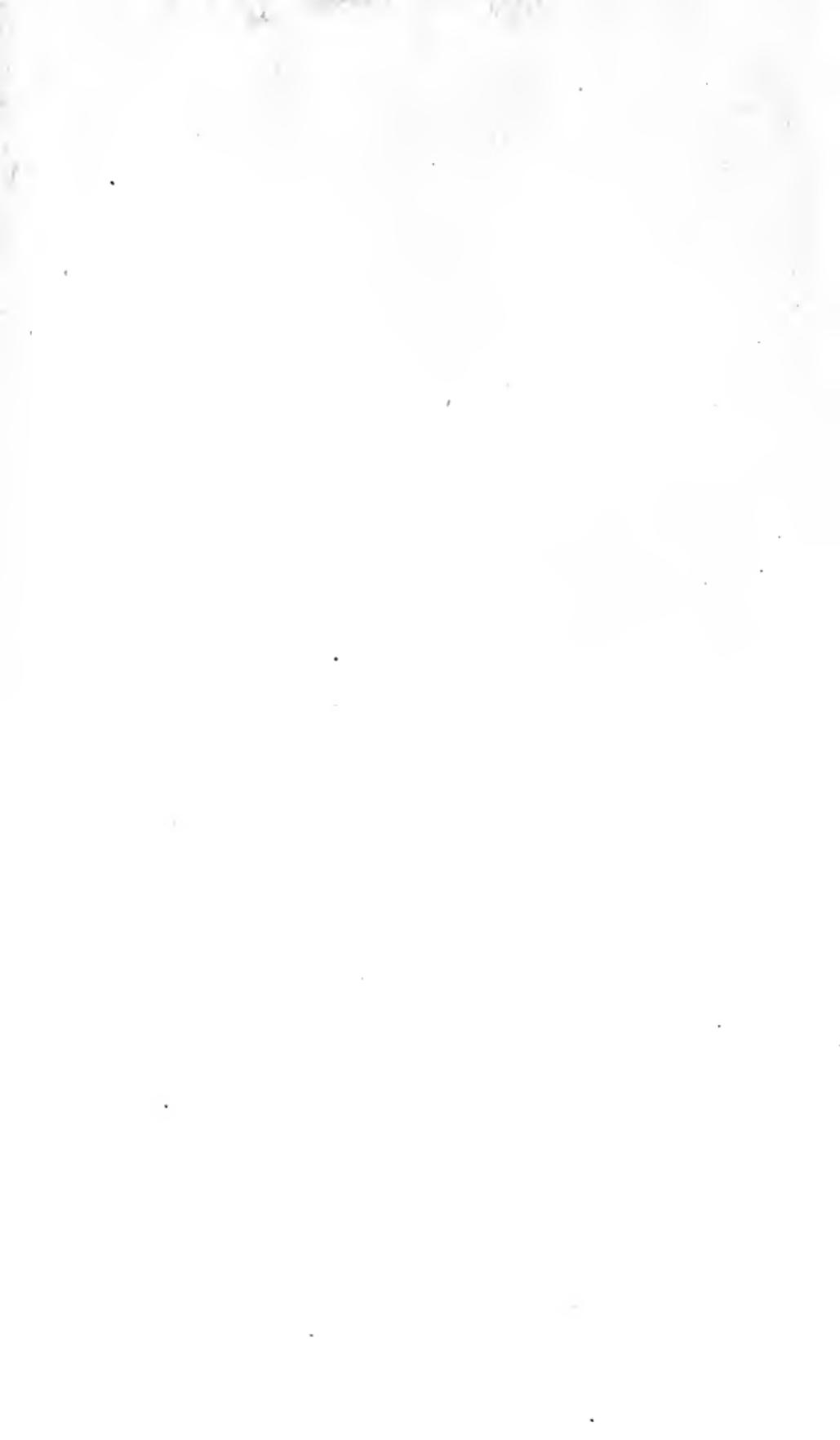
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