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JUSTICE AND ECONOMIC THEORY

A Dissertation Presented

By

BARRY STEWART CLARK

Submitted to the Graduate School of the
University of Massachusetts in partial fulfillment
of the requirements for the degree of

DOCTOR OF PHILOSOPHY

May, 1980

Department of Economics

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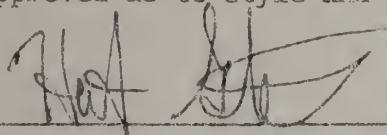
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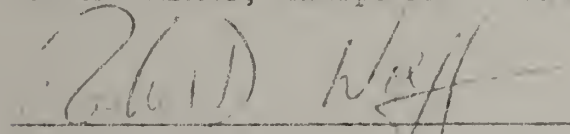
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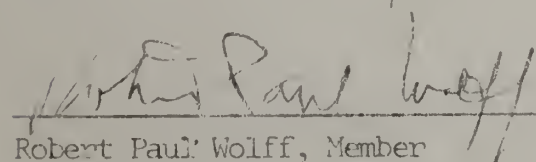
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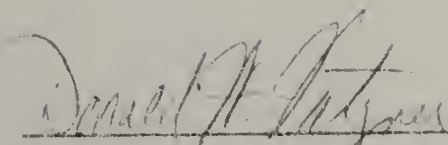
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DEDICATION

To Kristine, whose wholehearted love contributed greatly to the completion of this work.

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ABSTRACT

Justice and Economic Theory

May, 1980

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The purpose of this dissertation is to reexamine the works of past economic theorists in light of the perspective offered by John Rawls' A Theory of Justice. The fundamental task of liberal social theory is claimed to be the legitimation of a society based on private property and the maximum feasible range of individual liberties. This legitimation must be grounded in the consent of individuals, and yet, if contingency is to be avoided, an objective criterion of right must be formulated in order to determine that to which consent should be given. The objective criterion provides a basis for assessing the justice of society, but its viability depends on its ability to generate the consent of the individuals constituting a given society. Thus the major liberal theorists have sought to construct syntheses of rational and empirical criteria of right.

In the work of Locke, natural law provides the objective criterion to which rational persons will consent. Since Locke expects individuals to consent only to that which serves their interests, the criterion of natural law cannot bind men to social rules and authority which harm them.

Thus consent and natural law are consistent and mutually supportive only so long as the least advantaged rational person perceives his interests to be served through obligation to rules and authority. Locke's theory of justice is an embryonic version of Rawls' theory, and Locke's apparent justification of unlimited accumulation should be rejected as inconsistent with the whole of his theory of justice.

Adam Smith initially developed a theory of justice based on mutual recognition and approval between persons. However, his fears that market-oriented behaviour would corrupt morality led him to an economic theory of value as a method for justifying the outcomes of market transactions. The labor theory of value provided the objective measure of value, but it also revealed the extraction of surplus. Thus Smith turned to a "labor-embodied" theory, attempting to retain labor as the measure of value while legitimizing property income. His dissatisfaction with his own theory of justice led Smith to the threshold of utilitarianism.

John Stuart Mill found Bentham's utilitarianism to be an inadequate theory of justice since it provided no objective criterion of right capable of generating consensus among opposing class interests. Mill introduced a dynamic element, making the maximization of utility over time the objective criterion of right. Through competition, superior preference structures would develop so long as a class-neutral government maintained the conditions essential to fair competition.

John Rawls' recent reformulation of the theory of justice reveals

the extent to which liberalism must transform if it is to remain internally consistent in the face of an interventionist government and monopoly power. Responding to the failure of neoclassical welfare economists to construct rational norms for liberal societies, Rawls develops the maximin principle as a solution to the indeterminacy of the social welfare function. According to Rawls, this principle would be chosen by persons ignorant of their personal attributes and status and thus constitutes an objective criterion of right which is both appealing and compelling to rational persons. Yet Rawls has overlooked the prevalence of class divisions which would make both the choice of and the subsequent commitment to his principles of justice highly unlikely.

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I N T R O D U C T I O N

The appearance of John Rawls' A Theory of Justice in 1971 sparked a virtual renaissance of social philosophy. Yet Rawls' notoriety stems not so much from the ultimate persuasiveness of his arguments as from his willingness to make definitive statements about a topic which had been largely removed from the realm of respectable intellectual discourse. Specifically, Rawls believes that a single conception of justice exists which can be rationally defended. Such boldness demands considerable substantiation, and Rawls has risen to the task with a book which, given the initial response, will be the most controversial work in political philosophy of the twentieth century.

Ironically, the analytical rigor which has led modern philosophers away from the intense moral concerns of their predecessors is eagerly employed by Rawls to give weight to his deductions. Even as he rekindles interest in the issues of justice, fairness, and goodness, he urges that "we should strive for a kind of moral geometry with all the rigor which this name connotes."¹ Rawls' work is suffused with the formal precision of modern game theory, and much of the critical response to A Theory of Justice has been directed at the illogic of Rawls' deductions while largely ignoring the intrinsic merit or significance of his principles of justice. However, Rawls himself cautions that his work must not be judged solely on the basis of analytical rigor because his reasoning "is highly intuitive throughout."²

To fully appreciate Rawls' intentions and measure his success, his work must be situated within a series of efforts devoted to the con-

struction of a liberal theory of justice. The term 'liberal' is taken to refer to the advocacy of social arrangements which are based on the private ownership of property and the maximum feasible range of individual liberties. A theory of justice is a formal attempt to demonstrate how rights and duties, which are a necessary component of all social arrangements, ought to be distributed among individuals. What distinguishes a liberal theory of justice from ancient or medieval theories is that the stress on maximum individual liberty elevates the individual to a central role in assessing the justness of society. A liberal theory of justice must demonstrate that the exercise of individual liberties in the context of a private market economy will lead to a distribution of rights and duties which is sufficiently satisfactory to the participants to make them willing to continually affirm liberal institutions. Or, failing in this, the theory must recommend remedial solutions which are consistent with the institution of private property and the exercise of individual liberties.

My intention in this work is to analyze the evolution of the liberal theory of justice by focusing on the ideas of three prominent theorists-- John Locke, Adam Smith, and John Stuart Mill. Then, having developed an appreciation of the logical requirements facing a liberal theory of justice and the shortcomings of previous theories, I shall proceed to evaluate the Rawlsian theory of justice. The methodological difficulties underlying this task are enormous. Empiricism is certainly not a suitable method for evaluating theories of justice. On the other hand, logi-

cal analysis, which may reveal internal inconsistencies in a theory, cannot judge the theory's ultimate relevance in a given historical situation. Thus, I begin by rejecting what Mark Blaug refers to as the "polar opposites" of relativism and absolutism.³ The former views ideas as reflections of the contemporary social environment and usually searches for logical necessity in the evolution of social structures, while the latter focuses on internal coherence and logical necessity in the evolution of ideas. I reject both of these extremes as being partial or one-sided. The roles of ideas and the material world in shaping the course of history are themselves historically relative, and there can be no "general historico-philosophical theory."⁴

However, any analysis must be based on certain methodological assumptions; careful consideration of the factors specific to a particular historical epoch will yield little without an interpretive framework. For purposes of this paper, I shall adopt the relativist assumption of an intelligible connection between social structures and ideas. In analyzing theories of justice, it seems reasonable to presume that the social structure of a particular society generates a certain type of interpersonal relationship, which, in turn, gives rise to a particular way of assessing and evaluating other people and thus of judging how society's rights and duties should be distributed.

Having accepted the validity of the relativist position for this study, I also want to defend a partial reliance on the absolutist approach. Since my study is restricted to liberal theories, I assume

that the basic contours of the problem of justice have been the same for all theorists. Certain logical requirements face any liberal theory of justice, and hence these theories may be analyzed and assessed as detached intellectual discourse.

Employing both relativist and absolutist methods, I intend to analyze the manner in which changing material circumstances have interacted with a body of theory which is to some extent logically rigid. At the outset, I emphasize that liberal theory is not a homogeneous entity, but rather a collage of offerings from the various intellectual disciplines. By their very nature, some of these disciplines have been quite responsive to altered conditions while others have been compelled by the perceived logic of liberal society to resist challenges to orthodoxy. Thus, during periods of rapid social change, a certain degree of dissonance has typically arisen between the prevailing "vision" of society's economy, the "vision" of its political process, and the contemporary ethical paradigm. The ideal point of access for examining this tension is the works of the great theorists who have managed to encompass the different disciplines. Possessing "that passion for intellectual unity and simplicity which is a...legitimate...feature of scientific minds,"⁵ Locke, Smith, Mill, and Rawls recognized that their task required a comprehensive approach. The criterion of justice in a liberal society rests largely with the perceptions of individual citizens, and thus the theory of justice must encompass all aspects of experience in which the sense of injustice might arise. While a theory of distri-

butive justice for economic goods and political power is a central component of a liberal theory of justice, political and economic theory must be grounded in an ethical system which establishes the method for locating an ultimate value or hierarchy of values. Once the criterion of right has been determined, the relative worth of different persons can be assessed and society's rights and duties may be distributed 'to each according to his due'.

The liberal theory of justice has gone through several major transitions during its approximately three hundred year lifespan. To briefly preview the subsequent chapters, we may note that early theories were based on natural rights established by individual sovereignty over one's person and possessions. However, as the uneven accumulation of property proceeded, an increasing conflict developed between the inequality of property rights and popular demands for equal political rights. To resolve this tension, the natural rights doctrine was overturned in favor of utilitarianism. Rights came to be defined in relation to their consequences for social utility and hence were regarded as being contingent on circumstances. The central problem underlying a utilitarian theory of justice is that utility is a subjective experience and hence there can be no objective legitimacy for a specific pattern of rights. Although various theorists have attempted to construct objective measures of utility, their efforts have been thwarted by the fact that individualsensations are a function of the social environment and hence cannot serve as an independent criterion for assessing the justice of that environment.

During the twentieth century, a comprehensive and consistent formulation of the liberal theory of justice has been absent. In neoclassical economic theory, the issue of justice has been circumvented by relegating the determination of a fair distribution of assets to an unspecified social welfare function. Liberal political theory has been characterized by an unresolved tension between natural rights, utilitarian, and idealist conceptions of justice. This vacuum in liberal theory was relatively unimportant so long as liberal societies continued to generate empirical proof of their justice in the form of popular allegiance to liberal institutions. However, the growing crisis of confidence in Western societies demanded a viable and coherent theory of justice, and it is in this context that John Rawls' work must be judged. Aside from any problems of internal inconsistency, the criteria of success for the Rawlsian principles are whether or not individuals in a liberal society could be expected to (1) choose the Rawlsian principles as embodying their considered judgement on the issue of justice and (2) continually affirm the institution of private property once the Rawlsian principles had been realized. If either of these conditions is unrealistic, the Rawls has failed to construct a viable liberal theory of justice. I shall argue that he has failed and that his theory is inadequate on two counts; it is based on a faulty notion of ethical behavior, and it fails to comprehend the nature of private market economies.

FOOTNOTES, INTRODUCTION

1. John Rawls, A Theory of Justice, p. 121.
2. Ibid., p. 121.
3. Mark Blaug, Economic Theory in Retrospect, p. 2.
4. Karl Marx, quoted in John G. Gurley, Challengers to Capitalism, p. 20.
5. Bryce Gallie, Philosophy and Historical Understanding, p. 194.

CHAPTER I

JOHN LOCKE AND THE ORIGINS OF THE LIBERAL THEORY OF JUSTICE

As popular ideology, John Locke's theory of justice has been adapted with a straightforward simplicity which largely accounts for its perennial appeal. From this perspective, property is legitimate if gained through original claims to nature or through mutually agreeable exchanges, and justice is achieved when economic resources are rewarded in accordance with prices determined in competitive markets. Thus, the distribution of benefits is beyond challenge so long as productive assets are acquired through fair procedures.

The foregoing interpretation of Lockean justice has been sufficiently compelling that it still serves today as a major defense of private property and individual rights, despite extensive alterations in both social institutions and ideas during the intervening three centuries.¹ In sharp contrast to the popular view, a major theme of Locke scholarship and interpretation has been the accusation of incoherence. Peter Laslett, in his introduction to Locke's Two Treatises, claims that "Locke is perhaps the least consistent of all the great philosophers, and pointing out the contradictions either within any of his works or between them is no difficult task."² Thus, Laslett adds, "it is pointless to look upon his work as an integrated body of speculation and generalization, with a general philosophy at its center and as its architectural framework."³

Other authors support Laslett's view. J.W. Gough notes that

"Locke's theory is ultimately illogical if all its implications are pressed."⁴ W. von Leydon, in his introduction to Locke's Essays on the Law of Nature, refers to the tension between "Locke's hedonism and his belief in an absolute system of moral principles."⁵ Von Leyden doubts that inconsistency can be avoided by any theorist who subscribes jointly to "two doctrines which, if not altogether incompatible, are bound to produce vacillation and vagueness in the mind of him who holds them."⁶

In recent years, a trend has emerged in which the proclaimed inconsistencies in Locke's thought are either suppressed or synthesized into a coherent framework. Laslett refers disparagingly to this trend as the search for "some more remote and unrealistic principle of reconciliation (which) must be found to defend a great thinker."⁷ Perhaps the first formal attempt at such a reconciliation was made by Willmoore Kendall in his 1941 work, John Locke and the Doctrine of Majority-Rule.⁸ Kendall argues that Locke was a covert "collectivist" who masked his support of the general good with rhetoric concerning individual rights.

Continuing in this tradition, Leo Strauss overturned traditional interpretations and claimed that Locke deviously concealed his true Hobbesian inclinations. Locke "does not commit the absurdity of justifying (private property) by appealing to a nonexistent absolute right of property." Rather, he justifies private property "in the only way in which it can be defended: he shows it is conducive to the common good, to public happiness or the temporal prosperity of society."⁹ According to Strauss, Locke shared the Hobbesian view of men as having no moral claims on each

other. Thus they would willingly submit to an authoritarian government in return for the security of property essential to their "joyless quest for joy."¹⁰ Strauss's theme was further elaborated by Richard H. Cox in his Locke on War and Peace.¹¹

A not dissimilar approach to Locke was taken by C.B. Macpherson who claims that Locke "logically destroyed his natural law system" in his attempt to theoretically establish morally unfettered property rights.¹² Although Macpherson's work added a Marxist viewpoint to Locke criticism, his basic point had been recognized at least eighty years earlier by T.H. Green. In Principles of Political Obligation, Green argued that a state of nature governed by natural law could lead to "no motive to the establishment of civil government." Thus, natural law must not govern the state of nature or else the transition to political society must represent a "decline" from the state of nature.¹³ A variety of other authors have similarly concluded that Locke cannot be interpreted consistently without suppressing one or another aspect of his thought.¹⁴

Apparently, then, Locke may be interpreted in one of three ways. The intricacy of his ideas may be ignored, the tensions between aspects of his thought may be elevated to the extent that Locke's work no longer deserves the title 'political philosophy', or important aspects of his work may be suppressed in order to preserve a coherent philosophy. However, a fourth possibility presents itself in the writings of Locke scholars such as Hans Aarsleff, Ramond Polin, and Patrick Riley.¹⁵

Locke is viewed by these authors as having developed an elaborate and rather delicate juxtaposition of theoretical elements usually regarded as incompatible. Aarsleff asserts that "the overall tenor of (Locke's) dominant principles and ideas is not inconsistent."¹⁶ Polin makes a stronger statement; "we would like to show that (Locke's) metaphysics, morals, and politics are tightly interwoven and that the meaning of his political liberalism, a truly moral doctrine, can be understood only in the light of his philosophy considered as a really coherent totality."¹⁷

My purpose in this paper is to argue, in support of the fourth position, that Locke did develop a coherent theory of justice. In the first section, I shall illuminate Locke's intentions by outlining the major difficulties facing social theorists as the institution of private property gained ascendancy during the sixteenth and seventeenth centuries. Next, I shall cover Locke's resolution of those difficulties in the areas of moral and political philosophy. Much of the material in this second section has been adequately treated by Aarsleff, Polin, and Riley, but in the third section, I want to suggest that their analysis lacks an appreciation of the role played by Locke's economic thought in the totality of his theory of justice. Finally, I shall conclude that Locke's theory is relevant only to an economy based on exchange between independent producers. The coherency of his theory cannot sustain the legitimation of the uneven accumulation characteristic of capitalist development. If true, my claim would indicate that latter-day Lockeans are entirely misled in their attempts to employ John Locke's theory in the

justification of capitalist society.

I

Before turning to the evolution of theories of justice immediately prior to Locke, I want to describe the general problem to which a theory of justice is addressed. An integral component of any social system is the shared body of concepts by which individuals find purpose and meaning in their daily existence.¹⁸ In an on-going society, these concepts tend to develop quite spontaneously, become popular wisdom, and serve to channel individual intentions along lines consistent with the stable reproduction of that society. However, at certain historical junctures, this process is disrupted as people either develop new intentions which conflict with the old social order or else find that a changing social order impedes their original purposes. The popular response may be to seek to either hasten or reverse the change so that subjective and objective schemes are restored to harmony.

During these periods of discord, intellectuals are moved to employ their theoretical skills to hasten the return of social stability. They seek to describe a social order which is sufficiently grounded in 'objective truth' to command the consent of divergent interests and yet, at the same time, roughly congruent with subjective intentions so that inordinate sacrifices by individuals are not required. These intellectual constructs have come to be called theories of justice.

Medieval theorists faced the relatively easy task of grounding their

conceptions of justice in a transcendent order manifesting God's divine will. However, as private property and market activity gradually eroded the stability of the feudal hierarchy, the "whole conception of a social theory based ultimately on religion...was being discredited."¹⁹ The individual conduct characteristic of the emerging social order frequently violated the moral precepts of medieval society. Sensitive to the intensity of men's newly acquired motives, early liberal philosophers sought to buttress the transcendent mooring of medieval conceptions of justice with appeals to individual consent. Thus they found unacceptable any doctrine based solely on revelation. If moral precepts were to be established which would take precedence over the expediency of the market, they must have abstract appeal to and gain acknowledgement from all persons, despite conflicting religious convictions or differing economic status. From the beginning, then, liberal social theory was at least partially grounded in the consciousness of the abstract, isolated individual. This interiorization of the locus of legitimacy meant that the appeal of ethical, political, and economic norms would ultimately depend on what kinds of knowledge are possible. Epistemology attained prominence in liberal philosophy as an attempt to excogitate convincing norms in the absence of any criterion of validity.²⁰ The foundation stone of the moral edifice would no longer be found in 'the nature of things', but rather in the norms of cognition.

As liberal epistemology developed, two identifiable traditions emerged. According to the first, nature is orderly, and this order is intelligible

to the mind. Thus the innate and universal human capacity for reason is capable of discovering objective moral rules and universal principles which, when known, will serve to constrain the pursuit of arbitrary desires in accordance with the law of nature. The appeal of rationalism lies in the promise of a purpose to political and social conduct which is beyond the mere fulfillment of contingent private ends. It provides a deontological system of ethics in which the right is prior to the Good.

Rationalism remained suspect, however, because natural law, like God's will, was beyond demonstration. Thus a second epistemological tradition made sensory perception the sole source of consciousness and motivation. This empiricist epistemology implies a teleological ethics since the criterion of right must be immanent and subordinate to the Good defined as the satisfaction of individual desires. Theorists were not unaware of the shortcomings of empiricism. Whereas rationalism suffers from the necessarily abstract and formal nature of its criterion of right, empiricism must accept all desires as legitimate and thus cannot provide a genuinely normative criterion at all. Similarly, while the criterion offered by rationalism is so universal that it can provide only vague and general social rules, empiricism's criterion of right is necessarily arbitrary, capricious, and expedient. Recognizing these flaws, early theorists usually attempted a synthesis of the two by basing their theories on the consent of men, but, at the same time, searching for an objective criterion of right by which to determine that to which men would or wouldn't consent. Employing natural law theory to reason

about men abstracted from civil contingencies such as birth and fortune, they sought to generate norms which would have abstract appeal to and gain the acknowledgement of all persons.

To fully appreciate the difficulty of synthesizing rationalist and empiricist elements in a coherent theory of justice, consider the work of Hugo Grotius, one of the very earliest liberal theorists. Grotius employed natural law to argue that the state of nature had been characterized by the joint ownership of property and hence a natural equality of rights. Then, shifting to consent as the basis for defending private property and individual rights, he maintained that a social contract would be universally agreed to as a means to prevent quarrels over the use of nature. Grotius might easily have explained why men would consent to an equal division of the once jointly-held property, but universal consent becomes problematic when men are asked to agree to a contract which legitimizes inequality and undermines the natural equality of rights. Facing this difficulty, Grotius injected a further element of rationalism. Men, he claimed, have "a faculty of knowing and acting according to general principles"²¹ which leads them to perceive that private property is in accord with the law of nature because it preserves men's natural equality of rights to enjoy the fruits of their labor. Men are thus obliged by natural law to observe and respect established property rights. However compelling this argument may appear, it is open to fundamental challenges. One might ask how natural law can possibly oblige men to observe a social convention which may reflect the influence of arbitrary

desires and expediency. Furthermore, if property is a social convention, then couldn't a later, revised contract legitimately abrogate property rights? Grotius's theory offers no satisfactory response to these questions.

Thomas Hobbes was another early liberal thinker who struggled to find the mixture of rationalist and empiricist elements which would produce a viable theory of justice. Suspicious of rationalism, Hobbes sought to base his theory of obligation predominantly on empiricist arguments. He did, however, make use of natural law theory to conclude that reason, as a mere instrument of desire, was incapable of arbitrating in the conflict between men in the state of nature who legitimately believe that they have a right to everything. The chaos resulting from the unrestricted pursuit of private ends and the resulting desire for security would generate universal consent for political authority. Yet Hobbes, like Grotius, still had not offered an adequate basis for on-going support of and obligation to rules and authority which govern over vastly unequal property holdings. Such a demonstration requires, in Macpherson's words, the "postulate that the individuals of whom the society is composed see themselves...as equal in some respect more fundamental than all the respects in which they are unequal."²² Hobbes appealed to both the equality of persons before the law and the equal subordination of persons to the impersonal mechanism of the market.

Given Hobbes's emphasis on the primacy of economic interests in motivating persons, the formal nature of equality before the law could not be

expected to inspire consent to rules and authority which are perceived by some people as thwarting their economic interests. Therefore, the burden of Hobbes's theory of obligation is thrown onto the equal status of all persons as buyers and sellers of commodities in the market. Yet if individuals have fundamentally different economic prospects, their status as buyers and sellers has only a formal sense of equality and could generate obligation only if men judged that their economic interests would be best served by a particular set of social rules. Thus Hobbes's theory is precariously tentative. If any individual perceives that his interests would be better served by an alternative organization of society, he could deny having ever agreed to the social contract and his obligation would cease. This inadequacy should come as no surprise; any criterion of right based exclusively on empiricism can only be immanent, and so obligation to social rules can only be tentative. When individual perceptions of self-interest change sufficiently, former rules lose their legitimacy.

Unwilling to follow Grotius in appealing to rationalism, Hobbes turned to a positive law criterion of right. This strategy reduces justice to legality; "the laws are the rules of just and unjust."²³ Although Hobbes has been accused of abandoning liberalism, he did offer a liberal justification of absolute State power. Positive law derives its legitimacy, Hobbes argued, from the fact that individuals have voluntarily consented to transfer some of their natural rights to the sovereign in return for security of property. However, hidden in this

logic is a ploy which is unacceptable and destroys the viability of the Hobbesian theory of justice. He has restricted the choice of individuals to one of two options; they can either remain in the state of nature and endure chaos and insecurity or they can consent to the establishment of rules and authority and enter civil society. Hobbes does not, however, permit the choice between alternative rules and forms of authority. Once civil society is established, consent becomes inoperative and individuals are obligated to whatever form society may take. Clearly, such a theory locates no grounds for the continued affirmation essential to an on-going society.

By the mid-seventeenth century, a viable theory of justice for the emerging liberal society had yet to be developed. The task was indeed formidable. Any criterion of right based on natural law lacked demonstrability and could be appropriated by radical political groups to argue that inequality in property holdings violated the natural equality of rights. A criterion based on consent, on the other hand, was necessarily contingent unless one accepted the Hobbesian state with its absolute power. In response to this impasse, John Locke sought to develop a theoretical framework in which natural law and consent, rationalism and empiricism, would support and require each other. In the next two sections, I shall argue that Locke managed, through a rather ingenious interweaving of apparently conflicting strands of thought, to form a coherent, internally consistent theory of justice.

II

Nowhere in Locke's work do we find anything resembling an extended thematic treatment of justice. Yet Polin claims that for Locke, "the idea of justice...constituted the center of reference around which his metaphysical conception of the world, his theory of man, and his moral and political doctrines are coherently organized."²⁴ Polin's statement is controversial, but to argue that Locke's fundamental purpose was the construction of a viable theory of justice is hardly to search for "some more remote and unrealistic principle of reconciliation."²⁵ Seventeenth century England was a society in turmoil, and it would be more surprising if Locke had not been keenly aware of the pressing importance of restoring a sense of justice. In what follows, I shall argue that justice was Locke's major theme and that the apparent inconsistencies within his work may be viewed as essential to his purpose.

The ontological and epistemological assumptions of classical liberal philosophy were designed to appeal to an ascending class whose livelihood was based on market exchanges. Thus men were viewed as autonomous agents who confronted each other from positions of moral sovereignty. To the extent that they recognized moral obligation, it must be consistent with their rational self-interest. The task of the early liberal theorists was to show that obligation to rules and authority that protected private property was in the interest of all persons. Their strategy was to simultaneously argue that each person benefits from a system of private property (and thus obligation follows from self-interest) and that private property is consistent with an objective moral order (so that

any perceived interest in violating property rights is both immoral and shortsighted).

In developing the objective grounding for his theory of justice, Locke relied on natural law. The natural law, which is "as intelligible ...as the positive laws of commonwealths."²⁶ dictates that men have property in their own person and that they may, by injecting their personality into nature through labor, gain a proprietary claim over parts of nature. By establishing property rights in the state of nature, Locke resolved a problem which had troubled earlier natural law theorists. If property was a natural right which could obligate others without their prior consent, then property rights could not legitimately be abrogated by any legislative body. With property viewed as an extension of the self, Locke could place property rights on an equal footing with individual rights to life and liberty.

Natural law, however, was only one basis for Locke's theory of justice. He held that even a perfectly rational moral principle could not function as a law unless it were willed by a superior being.

To establish morality...upon...such foundations as may carry an obligation with them, we must first prove a law, which always supposes a law-maker; one that has a superiority and right to ordain, and also a power to reward and punish according to the tenor of the law established by him. This sovereign law-maker who has set rules²⁷ and bounds to the actions of men is God, their Maker.

Locke buttressed natural law with divine law because he regarded reason as "only a faculty of our mind"²⁸ which could assist in locating moral principles but could not constitute those principles as law.

It is plain that human reason unassisted failed men in its great and proper business of morality. It never from unquestionable principles, by clear deductions, made out an entire body of the law of nature. (If reason alone uncovered laws,) mankind might hearken to it, or reject it as they pleased; or as it suited their interest, passions, principles or humours. They were under no obligation.²⁹

However, Christian revelation was quite a different matter.

Here morality has a sure standard that revelation vouches and reason cannot gainsay nor question; but both together witness to come from God the great law-maker.³⁰

Divine law was thus "the only true touchstone of moral rectitude,"³¹ and it gave natural law both its content and its authority.

Even natural law backed by divine law was held by Locke to be inadequate as a basis for a theory of justice.

Though the law of nature be plain and intelligible to all rational creatures, yet men being biased by their interest, as well as ignorant for want of studying it, are not apt to allow of it as a law binding to them in the application of it to their particular cases.³²

Locke's rationalism had always left room for error in understanding. He claimed that "without the help and assistance of the senses, reason can achieve nothing more than a labourer can working in darkness behind shuttered windows."³³ Since sense perception provided reason with the material from which to deduce the law of nature, any partiality in perception might preclude full knowledge of one's duties. This possibility was reinforced by Locke's theory of representative perception which asserts that reason must work with ideas which may or may not adequately repre-

sent the real world. We all "see but in part, and know but in part, and therefore it is no wonder we conclude not right from our partial views."³⁴

Given that knowledge of objective laws is unreliable, Locke turned to an empiricist criterion of right. In the Essay Concerning Human Understanding, he concluded that "good and evil...are nothing but pleasure and pain, or that which occasions or procures pleasure or pain to us."³⁵ Locke's hedonism can be reconciled with his natural law theory by arguing that pleasure and pain are the means by which God guides man to moral conduct. However, Locke apparently shunned such a facile solution, noting that

Men have a natural tendency to what delights and from what pains them. But that the soul has such a tendency to what is morally good and from evil has not fallen under my observation and therefore I cannot grant it.³⁶

In the Essays on the Law of Nature, Locke offered a resounding denunciation of a purely empiricist ethics; "if the ground of duty were made to rest on gain and if expediency were acknowledged as the standard of rightness, what else would this be than to open the door to every kind of villainy."³⁷ He roundly criticized those who

seek the principles of moral action and a rule to live by in men's appetites and natural instincts rather than in the binding force of a law, just as if that was morally best which most people desired.³⁸

Can Locke possibly avoid inconsistency in both advancing and denouncing an empiricist ethics? An affirmative answer holds only if these apparently contradictory claims function as poles within a syn-

thetic framework. Locke realized that a viable liberal theory of justice must be grounded in the consent of men, yet he was certain that general consent alone could not provide an adequate criterion of right.

...there is almost no vice, no infringement of natural law, no moral wrong which anyone who consults the history of the world and observes the affairs of men will not readily perceive to have been not only privately committed somewhere on earth, but also approved by public authority and custom.

Locke's dilemma is evident. On one hand, he trusted neither consent nor natural law to curb "the corruption and viciousness of degenerate men."⁴⁰

On the other hand, he believed that a divinely-based natural law was 'the only true touchstone of moral rectitude' and that nothing can obligate a person "to any Earthly Power, but only his own Consent."⁴¹

His solution was to propose that the gulf between the ideal and the real be bridged by the authority of "a known and indifferent judge"⁴² with power to establish and execute civil law. Reluctantly, he concluded that "for the bulk of mankind...hearing plain commands is the sure and only course to bring them to obedience and practice."⁴³

The civil authority Locke had in mind could not be a king since "even the princes of the world are...as well infected with the depraved nature of man as the rest of their brethren."⁴⁴ Only through a system of majority rule could the partiality of particular interests be subjected to the public test of reason. Unlike Hobbes, Locke attributed 'natural political virtue' to mankind. Men have a capacity for awareness of the relation between private and public good and are able to construct rules for mutual security without granting absolute power to the civil

authority. Moreover, Locke believed that the rationality of man would increase through 'exercise', and thus active citizen participation in public affairs would result in a civil code in conformance with the law of nature. As a result, men would be led to consent to, and only to, rules and authority which are objectively just.

Locke did have two major reservations concerning majority rule. First, he would limit political participation to property holders since only they have demonstrated sufficiently rational conduct to permit them to play a role in public decision-making. Second, Locke held that reason alone was incapable of knowing the full extent of divine law, and hence public policy should refrain from interfering with conduct which is 'indifferent' from the viewpoint of social tranquility (e.g., religious beliefs and practices). So long as property rights are faithfully observed,

...men of different professions may quietly unite under the same government and unanimously carry the same civil interest and hand in hand march to the same end of peace and mutual society though they take different ways towards heaven.⁴⁵

The foregoing analysis has shown that Locke succeeded in constructing a theory of justice in which natural law and consent are both consistent with each other and mutually supportive. Without natural law and its divine sanctions, men would lack sufficient motivation to respect the rights of others and fulfill their duties. On the other hand, without a 'known and indifferent judge', which is the product of consent, natural law is incapable of obligating men. The interpretations of

Laslett, von Leyden, Gough, Kendall, Strauss, Cox, Green, and Macpherson all miss the fundamental point of Locke's writings; men are obliged to consent to those rules and authority which protect their natural rights. Conversely, they are under no obligation to recognize the legitimacy of rules and authority which are contrary to the law of nature.

III

The Lockean theory of justice is certainly relevant to a society based on the private appropriation of property. Having rejected the traditional doctrine of the communal ownership of nature prior to civil society, Locke could argue that property, a natural right, was not dependent on the consent of men. Thus civil law, which is a product of consent, must have as its basis the absolute protection of property rights if it is to conform with natural law. If the general consent which is essential to the legitimacy of civil law is to be forthcoming, men must perceive not only that social rules preserve their natural rights, but also that continued obedience to those rules will promote their individual interests. Furthermore, since these interests are taken by liberal theory to be economic interests, a satisfactory theory of justice must demonstrate not only the justice of private appropriation, but the fairness of market exchanges. Property is ultimately a claim on the benefits accruing to a productive asset, and it is not immediately evident that market exchanges will result in a just distribution of benefits. Due to this inadequacy in the early liberal theory of justice, philosophers become increasingly

interested in a theory of economic value.

Value theory supports a theory of justice if market prices can be shown to converge on a value which is determined independently of the market process. However, a theory of value alone does not constitute a theory of economic justice. In addition, economists postulate certain 'constants' which embody the "natural, psychological, and institutional factors which affect the process to be analyzed without themselves being affected by the latter."⁴⁶ These constants delineate the necessary constraints within which the economic process occurs, and they, in conjunction with the independent variable provided by the theory of value, form an image of an economy governed solely by the interaction of ultimate values and necessary constraints. Since that which is necessary is not susceptible to value judgement, a theory of economic value buttressed by constants in the theoretical system forms a theory of economic justice. In this section, I shall outline the process by which value theory became essential to the liberal theory of justice and then examine the relation between Locke's theory of value and his natural rights theory of property.

Justice consists of 'equal treatment for equals', and thus the realization of justice requires some common dimension between persons by which their similarities or differences may be assessed. From the perspective of early liberal philosophy, men differ by what they desire, but they share a rational capacity for knowing the world in the same way.⁴⁷ Since the pursuit of means to fulfill arbitrary desires yields no common dimension between persons, the concept of justice was not applied to the dis-

tribution of economic goods. Justice was held to be relevant only in the arena of reasoned public discourse, and theorists thus subsumed the theory of justice under the theory of political obligation. Since the inherent justness of individual claims was indeterminate, the justice of the political order would be assessed by its ability to generate consent and obligation through the equal protection of all interests. Hence justice was initially viewed by liberals as the equal subordination of every member of society to the civil law.

However, the attempt to confine justice to the political sphere was extremely tenuous because early liberal theorists viewed economic interests as primary and regarded political activities as instrumental. The Hobbesian analogy between the equal subordination of citizens to the law and the equal subordination of buyers and sellers to the market might satisfy those concerned merely with protecting established claims, but it did little to assuage the demands of the dispossessed for greater substantive equality. Certainly, the political power of radical groups such as the Levellers and the Diggers was insufficient to undermine the viability of the early liberal conception of justice, but powerful material changes were gradually setting the stage for a major reorientation of social theory. In a society based on immovable wealth, the ownership of property was visibly linked with power over people, and hence it was inconceivable that economic theory should be separate from political and moral philosophy. However, as production was increasingly geared toward exchange rather than use and movable wealth gained primacy over

immovable wealth, the economy emerged from its political and ethical fetters. Coinciding with the increasingly visible autonomy of the economy was the emergence of economic theory as a distinct body of thought.

The process by which economic theory came to play a central role in the liberal theory of justice began as markets and exchange gradually supplanted custom and tradition as the fundamental determinants of distribution. The theory of the just price, as developed by Aquinas, distinguished between distributive and commutative justice. Distributive justice is concerned with the distribution of goods among members of society or "the proportion between things and persons." Commutative justice relates to transactions between individuals and requires the equalization of "thing with thing." Aquinas claimed that distributive justice "prepares the field for commutative justice"⁴⁸ (i.e., justice in exchange is conditional on a just pattern of factor ownership.) Due to the lexical ordering of distributive and commutative justice, market prices could easily diverge from the just price.⁴⁹ In fact, the market process, whereby an equality of thing with thing is established, would satisfy commutative justice only when distributive justice has secured the appropriate relations between person and person.

Aquinas was able to develop a theory of economic justice because, unlike the early liberal theorists, he located a common dimension between persons extending into the economic sphere. Each person had dignitas in proportion with his contribution to felicitas or the good

of society. Distributive justice required a pattern of ownership in accordance with the relative dignitas of each person. The early liberal theorists, on the other hand, discarded the doctrine of the just price as a potential obstruction to the free functioning of the market. Not only could it hinder the competitive pricing mechanism, but it implied that profit-making was an extractive phenomenon. As late as 1580, Montaigne could write, "the profit of one man is the damage of another... no man profiteth but by the loss of others."⁵⁰

Liberals were instead attracted to a subjective theory of value which, like an empiricist ethics, measures the Good by what men desire. Grotius considered need to be the most natural measure of value, although he admitted that since man "desires many more things than are necessary," desire would also be a measure of value.⁵¹ Pufendorf observed that "the foundation of the price or value of any action or thing is, fitness to procure either mediately or immediately, the necessaries, or conveniences, or pleasures of human life."⁵² Hobbes held that "the value of all things contracted for is measured by the appetite of the contractors, and therefore the just value is that which they be contented to give."⁵³ The problem with a subjective theory of value is that it leads to the same impasse as an empiricist ethics. If value is dependent "upon the mutable minds, opinions, appetites, and passions of particular men,"⁵⁴ then no objective standard exists by which to assess the justice of market transactions. So long as the theory of justice was conflated with the theory of political obligation, the absence of an objective criterion of right

in the economic sphere was ignored. Such a strategy, however, became increasingly untenable. Seeking to free the economy from the fetters of general morality, liberal theorists needed to demonstrate that the logic of the economy was oriented toward the good of society. To this end, an objective theory of economic value was developed.

John Locke's economic theory was by no means built on a fully articulated theory of value and distribution.⁵⁵ However, while Locke lacked the rigor of later economists, he clearly had a labor theory of value in mind when he claimed "tis labour indeed that puts the difference of value on every thing."⁵⁶ Similarly, he held that "ninety-nine hundredths (of costs) are wholly to be put to the account of labour."⁵⁷ Although Locke never explained why he turned to a labor theory of value, it seems reasonable to assume that he viewed it as a natural extension of his labor theory of property. If a person obtains a juridical right to dispose of a thing by embodying his labor in it, then he would, in long-run equilibrium, freely exchange it only for those things which embody at least an equal amount of labor. Since each buyer and seller would behave in this manner, goods would always exchange according to the ratio of labor time embodied in their production. Thus Locke translated the natural right to appropriate property into a right to the value-equivalent of the product of one's labor--a right which society is obliged to recognize if justice is to be realized.⁵⁸

With apparent inconsistency, Locke also espoused a subjective theory of value. Echoing the earlier liberal theorists, he claimed that "the

intrinsic, natural worth of any thing (is) its fitness to supply the necessities, or serve the conveniences of human life."⁵⁹ In another work, he asks "...what is the measure that ought to regulate the price for which any one sells so as to keep it within the bounds of equity and justice." The answer, according to Locke, is "the market price at the place where he sells."⁶⁰ Locke's attraction to a subjective theory may have been motivated by his practical concerns with trade during the mercantilist era. The labor theory of value couldn't explain the gains from international trade, and it required the awkward distinction between 'contingent' and 'permanent' causes of price. However, Locke appears to have turned away from the problem of justice. To equate the just price with the market price is to lose any objective criterion of right for the market process. Supply and demand are not independent variables, and hence a supply and demand theory of value cannot provide the basis for a theory of economic justice.

Once more, inconsistency seems to appear in Locke's work. Yet I propose that Locke's supply and demand theory of value is no more inconsistent with his labor theory of value than is his consent theory of obligation with his natural law theory. Locke realized that market prices, as empirical facts, must be legitimized by a liberal theory of justice. At the same time, that very legitimation required an objective measure of value to which prices must conform. Locke could hold both subjective and objective theories of value without inconsistency so long as he could argue that market prices, where subjective elements play a

role, tend, in the long run, toward values representing just prices. In that case, subjective and objective value would coincide; in long-run equilibrium, reward would be proportionate with effort and satisfaction would be proportionate with difficulty of attainment. In short, individual satisfaction would correspond with individual effort. Locke's dual theory of value was not merely expedient, it was an ethical proposition. The theory of supply and demand, like the theory of consent, simply provided recognition of the intentions of individuals. Just as the market may experience day-to-day contingencies, the political process may be temporarily swayed by particular interests. In both spheres, however, rationality will prevail and the justice of social outcomes will be assured.

IV

I have argued that Locke did develop a thoroughly consistent and comprehensive theory of justice. Moreover, his theory dictates certain institutional criteria of the just society. It must permit and preserve the right to privately appropriate property. In the political sphere, decisions must be subject to majority rule by property holders. Thus one might be led to conclude that Locke's theory can be taken as adequate justification of a capitalist economic system in conjunction with a limited political democracy. In this final section, I shall argue that such a conclusion is mistaken. Locke's theory is relevant only to an economic system based on exchange between independent producers

with roughly equal access to nature. His apparent justification of the unlimited accumulation characteristic of capitalist development cannot be consistently situated within the whole of his theory of justice.

In the fifteenth and sixteenth centuries, English society was based predominantly on a simple exchange economy. Most labor was in family workshops or on peasant holdings, and wages were usually supplemented by some direct access to means of production. By the seventeenth century, however, the uneven accumulation which accompanies capitalist development was sufficiently advanced to generate a number of dispossessed persons who were forced to bid against each other for access to nature and the means of production. Once this condition appeared, Locke's labor theory of property was no longer the theoretical equivalent of a labor theory of value. A person could now command the value-equivalent of not only the products in which he had embodied labor, but also the products of other people's labor which he controls through the ownership of property. Locke was apparently aware of this problem since he initially attached egalitarian stipulations to his theory of property. Property was to be a natural right only when appropriation was limited by a dual requirement; individuals may appropriate only what they can use without spoilage, and appropriation is legitimate only so long as "there is enough, and as good left in common for others."⁶¹

Yet Locke apparently amended his theory in a way that made these limitations inoperative. By consenting to the use of money, he argued,

men tacitly "agreed to a disproportionate and unequal possession of the earth."⁶² The use of money negates the 'spoilage' constraint since a person "may fairly possess more land than he himself can use the produce of, by receiving in exchange for the overplus, gold and silver, which may be hoarded without injury to any one."⁶³ Locke also sought to circumvent the second constraint by assuming that appropriation and accumulation would benefit all persons in society. The 'industrious' and 'rational' individuals would employ their 'quarrelsome' and 'contentious' neighbors and thus improve the general standard of living. Justice, it would seem, no longer requires a distribution of benefits in accordance with individual labor, but instead is based on the tendency of differential property rights to release the human energy which will maximize the preservation of all.

Neither of the preceding arguments can be reconciled with Locke's theory of justice. The use of money cannot be taken as evidence of consent to vastly unequal property holdings because consent is obligatory only for rules which conform to the law of nature. The Lockean law of nature states that men gain property rights by 'mixing' their labor with nature, not by purchasing the labor of others. The opportunity to purchase labor undercuts the correspondence between effort and reward. Locke himself was explicit on this point; money "transfers that profit, that was the reward of one man's labour, into another man's pocket. That which occasions this is the unequal distribution of money."⁶⁴

The assumption that unequal accumulation will benefit every person

is thoroughly utilitarian and hardly fits with the delicate equilibrium which Locke established between natural law and consent as bases for the criterion of right. In earlier writings, he had vehemently rejected an unlimited freedom to appropriate; "when any man snatches for himself as much as he can, he takes away from another man's heap the amount he adds to his own, and it is impossible for anyone to grow rich except at the expense of someone else."⁶⁵ Locke was equally certain of his opposition to a utilitarian criterion of right.

For what reason is there for the fulfillment of promises, what safeguard of society, what common life of man with man, when equity and justice are one and the same as utility? ...the rightness of an action does not depend on its utility; on the contrary, its utility is a result of its rightness.⁶⁶

I am led to conclude that Locke did not intend to justify unlimited accumulation. He simply 'reasoned' that society as a whole would benefit when men continued to produce beyond what they could immediately consume, and thus money could legitimately serve as a store of value. Similarly, he found the stipulation requiring "enough and as good left in common for others" to be impractical in a community where all land had been appropriated. Locke's intention, though, was to relax the constraints on appropriation, not to eliminate them. Inequality would be in conformance with the dictates of justice only so long as the majority of 'rational' persons deemed it beneficial. Through consent, the objective criterion of natural law would assert itself over the accumulation of capital. In fact, Locke's definition of political power was the "right of making laws

...for the regulating and preserving of property...for the public good."⁶⁷ He gave to the political authority "a power to appoint ways of transferring properties from one man to another."⁶⁸ Thus men could, through their consent, empower the political authority to abridge the inviolability of property rights whenever the public interest was jeopardized.

Locke's strategy was not necessarily utilitarian nor did it violate natural law theory. Consent was the product of reasoned discourse in the political arena, and, in the end, men would consent only to that which was objectively right. Unlimited accumulation violates natural law because it potentially forecloses access to means of production for some individuals. According to Locke, a man is obliged to fulfill his duties to others only "when his own preservation comes not in competition."⁶⁹ When the claims of others threaten a person's well-being, self-interest takes precedence over duties to others. Men's other-regarding capacities would be suppressed as they sought to protect themselves from disenfranchisement, and the moral order would disintegrate.

In fairness to Macpherson and other critics who find an advocacy of unlimited accumulation in Locke's writings, it should be pointed out that Locke placed little emphasis on the necessity of restraints on property. He viewed private accumulation as a prerequisite for expanding social welfare, but had he foreseen the emergence of vast concentrations of wealth, he would surely have been more explicit in his reservations concerning absolute property rights. For just as an on-going dialogue

between rational men is essential to reaching right political decisions, so lively competition among many buyers and sellers is essential to achieving right prices. Economic monopoly is as much a threat to justice as is political dictatorship.

John Locke's theory of justice is a magnificent tribute to the ingenuity of a great mind. Yet theoretical finesse could not disguise the fact that the theory was becoming irrelevant even as it slowly evolved during a lifetime of intellectual endeavor. Locke's continuing popularity in certain circles stems from the fact that he has been interpreted as providing objective justification for unrestrained accumulation. Yet we have seen that his theory of justice collapses when pressed into such a mold. Accumulation must conform to a criterion of right which would be potentially appealing to every rational person, even the least well-off. Thus in Locke we find the Rawlsian theory of justice in embryonic form.

FOOTNOTES, CHAPTER I

1. For an example of a modern revival of Lockean principles, see Robert Nozick, Anarchy, State, and Utopia.

2. Peter Laslett, Introduction to Locke's Two Treatises of Government, p. 82.

3. Ibid., p. 86.

4. J.W. Gough, John Locke's Political Philosophy, p. 101.

5. W. von Leyden, Introduction to Locke's Essays on the Law of Nature, p. 72.

6. Ibid., p. 72.

7. Laslett, op. cit., p. 88.

8. Willmoore Kendall, John Locke and the Doctrine of Majority-Rule, pp. 63 ff.

9. Leo Strauss, Natural Right and History, p. 242.

10. Ibid., p. 251.

11. Richard H. Cox, Locke on War and Peace, p. 72.

12. C.B. Macpherson, Democratic Theory: Essays in Retrieval, p. 232.

13. T.H. Green, The Principles of Political Obligation, p. 72.

14. See, for example, Philip Abrams, Introduction to Locke's Two Tracts on Government, p. 89. Other critics who have taken this same approach are Harold Laski, Carl Becker, and Bertrand Russell.

15. Hans Aarsleff, "The State of Nature and the Nature of Man in Locke," in J.W. Yolton (ed.), John Locke--Problems and Perspectives. Aarsleff, "Some Observation on Recent Locke Scholarship," in Yolton, op. cit. Raymond Polin, "Justice in Locke's Philosophy," in Carl J. Friedrich and John W. Chapman (eds.), Nomos VI: Justice. Polin, "John Locke's Conception of Freedom," in Yolton, Ibid. Patrick Riley, "On Finding an Equilibrium Between Consent and Natural Law in Locke's Political Philosophy," in Political Studies, Vol. XXII, No. 4, pp. 432-452.

16. Hans Aarsleff, "Some Observations on Recent Locke Scholarship," in Yolton, op. cit., p. 263.

17. Polin, "John Locke's Conception of Freedom," in Yolton, op. cit., p. 1.

18. For further elaboration of this point, see Talcott Parsons, The Structure of Social Action, or Karl Marx, The German Ideology, or Dorothy Emmett, Rules, Roles, and Relations.

19. Quoted in Alfred F. Chalk, "Natural Law and the Rise of Economic Individualism in England," Journal of Political Economy, Vol. 59, August, 1951, p. 338.

20. See Ernest Gellner, Legitimation of Belief, chapter 2.

21. Quoted in Hannah Sewall, The Theory of Value Before Adam Smith, p. 33. Also in James Bonar, Philosophy and Political Economy, p. 50.

22. Macpherson, The Political Theory of Possessive Individualism, pp. 272-3.

23. Thomas Hobbes, Leviathan, p. 211.

24. Polin, "Justice in Locke's Philosophy," in Friedrich and Chapman, op. cit., p. 262.

25. Laslett, op. cit., p. 88.

26. John Locke, Two Treatises of Government, p. 293.

27. Locke, "Of Ethick in General," in Lord King, The Life of John Locke, Vol. II, p. 133.

28. Locke, Essays on the Law of Nature, p. 111.

29. Locke, "The Reasonableness of Christianity," in The Works of John Locke, Vol. VII, pp. 140-141.

30. Ibid., p. 143.

31. Locke, An Essay Concerning Human Understanding, p. 475.

32. Locke, Two Treatises of Government, p. 369.

33. Locke, Essays on the Law of Nature, pp. 147-149.

34. Locke, "On the Conduct of the Understanding," in The Works of John Locke, Vol. III, p. 208.

35. Locke, An Essay Concerning Human Understanding, p. 474.
36. Ibid., p. 67n, cited from Noah Porter's "Marginalia Lockiana," New Englander and Yale Review, July, 1887.
37. Locke, Essays on the Law of Nature, p. 211.
38. Ibid., p. 213.
39. Ibid., p. 167.
40. Locke, Two Treatises of Government, p. 370.
41. Ibid., p. 365.
42. Ibid., p. 369.
43. Quoted in Abrams, op. cit., p. 92.
44. Ibid., p. 95.
45. Ibid., p. 98.
46. Adolph Lowe, On Economic Knowledge, p. 169.
47. On this point, see Roberto Unger, Knowledge and Politics, pp. 38ff.
48. Quoted in Stephen T. Worland, "Justum Pretium: One More Round in an Endless Series," History of Political Economy, 9:4, 1977, p. 506.
49. This view is challenged in Raymond de Roover, "The Concept of the Just Price: Theory and Economic Policy," Journal of Economic History, Dec., 1958, pp. 418-434. However, the proposition that the just price cannot be equated with the competitive market price is ably defended in George W. Wilson, "The Economics of the Just Price," History of Political Economy, #7, 1975, p. 63. See also Worland, op. cit.
50. Quoted in Jacob Oser, The Evolution of Economic Thought, p. 10.
51. Quoted in Sewall, op. cit., p. 37.
52. Ibid., p. 39.
53. Hobbes, op. cit., pp. 124-125.

54. Sir William Petty, quoted in Guy Routh, The Origin of Economic Ideas, p. 46.
55. Ronald Meek argues that Locke developed only a labor theory of use value, not exchange value. See Meek, Studies in the Labor Theory of Value, p. 21.
56. Locke, Two Treatises of Government, p. 314.
57. Ibid., p. 314.
58. This view is supported by Halevy; "Locke's theory of value was, at the same time and indivisibly, a juridical theory of the rights of property." Elie Halevy, The Growth of Philosophic Radicalism, p. 96.
59. Locke, "Some Considerations of the Consequences of the Lowering of Interest, and Raising the Value of Money," The Works of John Locke, Vol. 5, p. 42.
60. Locke, "Venditio 95," reprinted in John Dunn, "Justice and the Interpretation of Locke's Political Theory," Political Studies, Vol. XVI, No. 1 (1968), pp. 68-87.
61. Locke, Two Treatises of Government, p. 306.
62. Ibid., p. 320.
63. Ibid., p. 320.
64. Quoted in Macpherson, The Political Theory of Possessive Individualism, p. 206.
65. Locke, Essays on the Law of Nature, p. 211.
66. Ibid., pp. 213-215.
67. Locke, Two Treatises of Government, p. 286.
68. Quoted in Laslett, op. cit., p. 366fn.
69. Locke, Two Treatise of Government, p. 289.

CHAPTER II

BETWEEN NATURAL LAW AND UTILITY: ADAM SMITH'S THEORY OF JUSTICE

Despite the intense reexamination of Adam Smith occasioned by the recent bicentennial of The Wealth of Nations, a general consensus on interpreting his works is still wanting. The bicentennial collection, Essays on Adam Smith, reminded one reviewer of "the truth of the old Indian tale about the blind men and the elephant."¹ We should not, however, conclude that no progress has been made in moving toward consensus. Perhaps the most significant area of agreement among contemporary critics concerns the fact, if not the nature, of continuity between Smith's two major works--The Theory of Moral Sentiments (TMS) and The Wealth of Nations (WN). This viewpoint contrasts sharply with earlier interpretations which stressed discontinuity, if not contradiction in Smith. Most prominent in the earlier tradition were the German economists, Hasbach, Leser, and Oncken, who posed "Das Adam Smith Problem". They found irreconcilable differences between Smith the moral philosopher, who relied on sympathy as the basis for social cohesion, and Smith the economist, who apparently claimed that the unrestrained pursuit of private interests was sufficient to generate social order.

Other writers who found themselves unable to reconcile the two Smiths have tended to view his work as marking a watershed in the history of liberal social theory; in the interval between the publication of TMS and WN, a scientific conception of a self-regulating social and economic realm assumed

dominance over what had previously been an exclusively moral and political domain. This position is taken, for example, by Elie Halevy who distinguished between the rationalism underlying Smith's economics and the naturalism which formed the basis of his views on politics and ethics.² Similarly, Jacob Viner claimed that "there are divergences between (TMS and WN) which are impossible of reconciliation." Viner admired WN because "it abandoned the absolutism, the rigidity, the romanticism which characterized the earlier book."³ Denying that Smith was an ardent champion of laissez-faire, Viner proposed that the doctrine of a divine order of nature had been jettisoned to reveal "defects in the order of nature without casting reflections on the workmanship of its author."⁴ Sheldon Wolin also points to Smith as a key figure in the transition from 'polity' to 'economy'.⁵ Finally, a recent version of this line of argument is Albert O. Hirschman's claim that by reducing all desires to the desire for economic gain, Smith destroyed the moral significance of the term 'interests'.⁶ Thus, with WN, the justification of capitalism ceased to be moral and political and became purely economic.

In contrast, the increasingly accepted approach to Smith stresses continuity between his two major works. Empirical support for this position is found in the fact that Smith left the content of TMS basically unaltered in the fifth and sixth editions which appeared after the publication of WN. Furthermore, Smith's Lectures on Justice, Police, Revenue and Arms of 1763 reveals that his economic doctrines were substantially developed prior to his contact with the Physiocrats who supposedly converted him to reliance on self-interest rather than sympathy.⁷ Those authors who support the inter-

relatedness of Smith's works fall roughly into two groups. On one hand, WN is viewed as a special case of the framework developed in TMS. Advocates of this position include A.L. Macfie who states that WN "gives merely a particular development of the broader doctrine" of TMS.⁸ Similarly, J. Ralph Lindgren views WN as an elaboration of a single aspect of Smith's moral philosophy--that of prudence or utility.⁹ Finally, Andrew S. Skinner speaks of "the degree of abstraction involved in Smith's formal economics, where he was concerned with a part only of the range of experience which had been delineated in the TMS."¹⁰

On the other hand, several authors have emphasized a greater degree of consistency running through WN and TMS. Joseph Cropsey proposes that the mechanistic psychology of TMS translates into an economic determinism in WN. Moreover, Cropsey concludes, the commercial economy "generates freedom and civilization", so that Smith was consistently a moralist in advocating capitalism "for the sake of freedom, civil, and ecclesiastical."¹¹ Alternatively, Glenn R. Morrow claims that "the doctrine of sympathy is a necessary presupposition of the doctrine of the natural order expounded in WN." Thus, "it was an ethical, and not merely an economic, individualism which Adam Smith held up as an ideal."¹²

Given these widely diverging interpretations of Smith, is it possible to perceive 'the whole elephant'? Is there a viewpoint from which the alternative interpretations can be seen as a coherent whole? I believe so, and the perspective I intend to develop is indebted to John Rawls insofar as he has reminded modern thinkers of the central role played by the theory

of justice in the whole of social theory. Employing this insight, I intend to show that Adam Smith built two successive intellectual edifices around the same basic intention--namely, the construction of a theory of justice. The differences and continuity between the two edifices can be more clearly understood by revealing their common base. A hint of this approach is given by R.D. Collison Black who refers to Smith's work as "a system of thought which placed economic problems firmly in the context of ethics and jurisprudence and which was informed throughout by a concept of justice."¹³

I shall begin by mapping out the contours of moral philosophy in the mid-eighteenth century. It will be necessary to examine in some detail the nature of the advance which Smith's philosophy represented over previous traditions. In the second section, I shall argue that the economic theory of WN was shaped by Smith's intention to both revise and augment the theory of justice developed earlier in TMS. Thus the moral philosophy of TMS is incoherent without the economic theory of WN, and, conversely, Smith's economic theory is puzzling unless its relationship with moral philosophy is understood. I conclude that Smith's incorporation of economic theory into his theory of justice was based on his recognition of the incompatibility between market activity and the model of moral development set forth in TMS. Yet despite the revisions, Smith did not succeed in constructing an internally consistent theory of justice, a fact which accounts for his ambivalent attitudes toward most of the major institutional features of capitalist society.

I

Eighteenth century British social theory may be understood as a set of alternative responses to the impasse presented by the Lockean theory of justice. The coherency of Locke's theory required roughly equal access to the means of production for all persons, or, should this condition be violated, a general consensus that unequal access served the interests of every person. The events subsequent to Locke effectively violated this condition. While the seventeenth century English economy had been based primarily on petty production in agriculture, the enclosure movement and the destruction of the open field system resulted in a massive transformation of society between 1688 and 1750.¹⁴ By the latter date, petty production had been largely replaced by capitalist social relations of production with large landlords, tenant farmers, and wage-laborers. Such a class structure was incompatible with the Lockean theory of justice.

However, eighteenth century philosophers did cling to perhaps the most important aspect of Locke's method. They sought to develop a criterion of right which was neither purely subjective nor abstractly rational. The criterion should appeal to the interests of concrete persons in contingent circumstances, yet it should reflect more than the mere fulfillment of any desire regardless of its quality. On the other hand, it should be rational and yet not transcendental. In the words of Hegel;

Philosophy demands the unity and intermingling of the two points of view; it unites the Sunday of life when

man in humility renounces himself, and the working-day when he stands up independently, ¹⁵ is master of himself, and considers his own interests.

Thus Adam Smith began with a full awareness of the inadequacy of either empiricism or rationalism alone as a basis for a theory of justice. He rejected Hobbes's empiricist-based criterion of right by arguing that a morality based on desire or self-love must reduce to one of two moral systems. If we desire the good of society because of the indirect advantages to ourselves, then Hobbes's philosophy "runs into that principle which gives beauty to utility."¹⁶ On the other hand, if we approve of things which do not affect us, then we have a morality based on sympathy. In Smith's words, "that whole account of human nature...which deduces all sentiments and affections from self-love" has "arisen from some confused misapprehension of sympathy."¹⁷

The notion of a morality based on reason was also unacceptable to Smith. Rejecting the natural law theory of Grotius and Pufendorf, he denied the possibility of a rational ethics; "it cannot be reason which originally distinguishes" between vice and virtue, because "reason cannot render any particular object either agreeable or disagreeable to the mind for its own sake."¹⁸

Smith also rejected the theories of other eighteenth century philosophers who had sought to transcend the empiricism/rationalism perspective. Shaftesbury and Hutcheson had established a moral philosophy based on an autonomous moral sense which would restrain the potentially destructive pursuit of individual desires. Smith argued that any innate attri-

bute of the individual would necessarily lack impartiality and therefore could not be relied upon to generate social order. Thus he rejected "every account of the principle of approbation which makes it depend upon a peculiar sentiment distinct from every other."¹⁹

Finally, despite his great admiration of David Hume, Smith was unable to wholly accept Hume's moral philosophy. Since Hume laid much of the groundwork for Smith's thinking, it will be useful at this point to examine Hume's theory of justice. Hume steered British social theory away from its reliance on innate individual attributes. Viewing reason as a mere "instrument" or "slave" of the passions, he made knowledge depend solely on sense experience.²⁰ Positive social rules could not be based exclusively on natural sentiments, claimed Hume, because the passions always incline men to give preference to those familiar and close to them and thus cannot be the origin of impartial rules.²¹ In fact, he rejected any natural foundation for social rules; "the rules of equity and justice depend entirely on the particular condition in which men are placed."²² Justice was therefore an "artificial virtue", and the sense of justice could only develop through the experience of the advantages and disadvantages which followed from certain rules of conduct. The artificiality of justice was also due to the fact that its goodness must refer to the advantages accruing to society as a whole. Unlike the natural virtue of benevolence, whose goodness is evident in every single act, justice may be contrary to our sense of humanity in a particular instance. Thus, "It would as often be an instance of humanity

to decide contrary to the laws of justice as conformable to them."²³

Such a situation could arise, for example, when "judges take from a poor man to give to a rich" or "bestow on the dissolute the labor of the industrious."²⁴

For Hume, "public utility is the sole origin of justice, and...reflections on the beneficial consequences of this virtue are the sole foundation of its merit."²⁵ Hume was not, however, a classical utilitarian, weighing one man's loss against another's gain.²⁶ By utility, he meant only the common good or the general interest of society in maintaining social order through absolute security of property. He could base justice on utility without involving himself in interpersonal comparisons because he maintained that "every individual person must find himself a gainer" from the observance of social rules designed to preserve property.²⁷ This conclusion hinges on the strategy, first employed by Hobbes, of comparing only two states--the existing distribution of property and "that savage and solitary condition, which is infinitely worse than the worst situation that can possibly be supposed in society."²⁸ Employing this strategy, Hume was able to recommend "that everyone continue to enjoy what he is at present possess'd of."²⁹ Attempts to equalize property would prove futile in raising the general standard of living;

Render possessions ever so equal, men's different degrees of artifice and industry will immediately break that equality. Or if you check those virtues, you reduce society to the most extreme indigence; and instead of preventing want and beggary in the few, render it unavoidable for the whole community.³⁰

As we have seen, Hobbes's attempt to construct an empiricist-based theory of justice led to a positive law criterion of right and the authoritarian state. If the conception of justice is ultimately based on the assessments of particular individuals, then the rules of justice would seem to be subjective and potentially arbitrary without the moral force of the State behind them. Hume disagreed; "the rules of justice are not arbitrary"³¹ because "the intercourse and sentiments in society and conversation makes us form some general unalterable standards by which we may approve or disapprove of characters and manners."³² This intersubjective perspective from which men could derive a common conception of justice was based on Hume's notion of sympathy which, though too partial and weak to serve alone as the basis for justice, could be trusted to maintain commitment and obligation to social rules. In Hume's words, "self-interest is the original motive to the establishment of justice, but a sympathy with the public interest is the source of the moral approbation which attends that virtue."³³

Hume conceived of sympathy not as a private virtue or an element of human nature, but as actual participation in the sentiments of others. Thus he viewed the development of moral consciousness as a social process with an 'objective' moral criterion emerging from mutually shared sentiments. By the mid-eighteenth century, then, liberal social theory had already begun to transcend its initial vision of the isolated and autonomous individual from whose attributes a criterion of right could be deduced. Clearly, such a transition was required if the reliance

on natural law and rationalism was to be reduced. However, Hume's accomplishments also posed difficulties. Basing the theory of justice on the subjective assessments of self-interested persons in contingent circumstances is a potentially dangerous tactic for liberal theory. If obligation is founded on utility or interest rather than consent or contract, the obvious conclusion is that social rules can be justified only so long as they generate widespread support. Each individual must believe that his interests are best served under existing arrangements; otherwise, if the perceived advantage ceases, the obligation to existing rules ceases. This flaw in Hume's theory could only be overcome by advancing to a full-blown utilitarianism, where the social good takes priority over individual interests.

Perhaps sensing the utilitarian implications of Hume's theory (along with the corresponding degradation of natural rights), Adam Smith was determined to show that justice arises from natural sentiments rather than utilitarian calculations. Smith's method can be fully appreciated only with the understanding that, like Locke, he was seeking a synthesis of empiricism and rationalism as bases for a criterion of right. He was committed, in part, to Hume's view of reason as being insufficiently autonomous to shape the social order, yet he perceived that if reason is a slave to the passions, then man must lack the autonomy of a moral agent. Without the presumption of some degree of moral autonomy, the theorist is left with two strategies for grounding the social order--either a divine will must direct the affairs of men or else the empirical fact of social co-

hesion must be taken as evidence that the pursuit of passions by amoral individuals is conducive to social order. Interestingly, Smith has been variously interpreted as falling into both of these camps. Some critics have emphasized his optimistic theism as the basis for his arguments resolving private interests and the social good. Others have lumped him together with Mandeville in concluding, through observation, that 'private vices' work for the common advantage. Neither of these positions is satisfactory for a liberal theory of justice. The former is insufficiently secular and thus lacks popular appeal, while the latter is necessarily contingent. Smith rejected both position as he sought to inject a rational, yet not transcendental, element into Hume's theory of justice.

Smith's initial commitment to an empiricist-based criterion of right is unmistakable; "the general maxims of morality are formed, like all other general maxims, from experience and induction."³⁴ He followed Hume in relying on the operation of sympathy to generate intersubjective judgements. Sympathy alone, however, could not provide a means of moral discrimination since it was "fellow-feeling with any passion whatever."³⁵ Smith argues that prior to the expression of sympathy, we assess the propriety of the other person's behavior relative to the given situation; "Sympathy, therefore, does not arise so much from the view of the passion, as from that of the situation which excites it."³⁶ Thus a certain degree of rationality is involved in the sentiment of sympathy. Although we strongly desire to enter into the sensations of others, we feel sympathy

only to the extent that the behavior of others corresponds with our own sense of propriety.

Besides a desire to sympathize, we also desire sympathy. Knowing that we can sympathize only with those sentiments of which we approve, our desire for sympathy translates into a desire for approbation. Thus we are led to constantly assess ourselves from the standpoint of others in order to better determine how we may gain approbation. This continual process of adopting the perspective of others gradually enables us to transcend the particular viewpoint of both ourselves and distinct others in order to achieve an objective view characteristic of an 'impartial' and 'well-informed' spectator. Smith used the notion of the impartial spectator to argue that "the sentiment of approbation always involves in it a sense of propriety quite distinct from the perception of utility."³⁷ We approve of the exercise of prudence, justice, generosity, and public spirit because they appeal to the impartial spectator, not because we have calculated their consequences.

Smith rejected a utilitarian basis for morality because he was concerned to demonstrate that the criterion of right has a degree of independence from individual interests. He granted that the utility of virtuous actions might be sufficient to recommend them to "men of reflection and speculation," but utility "is by no means the quality which first recommends such actions to the natural sentiments of the bulk of mankind."³⁸ Instead, because "the sentiments which (our acts) naturally excite in others are the objects of a much more passionate desire or aversion than all their

other consequences,"³⁹ rules derived from the experience of the approval and disapproval of others are "the only principle by which the bulk of mankind are capable of directing their actions."⁴⁰ Yet even this strategy for grounding social rules merely transfers the source of morality from the individual's own interests to the equally arbitrary interests and opinions of others. Smith, however, dealt with this problem by arguing that "man naturally desires not only to be loved, but to be lovely, or to be that which is the natural and proper object of love."⁴¹ The desire for praiseworthiness establishes an internal standard of conduct which extends beyond the subjectivity of self-interest or desire for approbation. Smith ultimately appeals to "reason, principle, conscience, the inhabitant of the breast, the man within, the great judge and arbiter of our conduct" as the source of intentions which are "capable of counteracting the strongest impulses of self-love."⁴² The moral person responds "to the applause of his own breast, as well as to that of others."⁴³

Although conscience is initially a product of the opinions of others, Smith portrayed an internal spectator capable of becoming more objective than actual spectators. Due to this autonomy of conscience, "real magnanimity and conscious virtue can support itself under the disapprobation of all mankind."⁴⁴ Clearly, despite his empiricist grounding of morality in popular opinion, Smith sought to elevate the voice of conscience above popular opinion and thus give morality an objectivity which it would otherwise lack. Undoubtedly, the voice of conscience represented, for Smith, the voice of God, although his secularism restrained him from making this

explicit. At one point, though, Smith offered the following consolation for persecuted persons: "Religion...alone can tell them, that it is of little importance what man may think of their conduct, while the all-seeing judge of the world approves of it."⁴⁵

The moral philosophy presented in TMS is an intricate construction whereby empiricist and rationalist elements are interwoven and become mutually supportive. Smith quite obviously believed that a benevolent God had designed nature for the purpose of promoting the happiness of mankind, and hence he saw no necessary contradiction between an empiricist theory of morality and a rationalism which was little more than a mask for religious faith. However, because he perceived the theoretical weakness of basing morality exclusively on either method, he elaborated a model of moral development which contained sufficient viability to be subsequently resurrected by Mead, Durkheim, and twentieth century phenomenology. Central to this model is the notion of reciprocity or mutuality. Moral development becomes a function of the quality of interpersonal relations since standards of conduct emerge only when approbation emanates from others whose authenticity is respected.

II

Thus far, we have described a moral philosophy in which the human capacity for reason is nurtured through reciprocal interaction based on mutual respect. Yet this very condition troubled Smith, even in TMS. He perceived that in a market economy, "the natural course of things" may

"produce effects which shock all (man's) natural sentiments."⁴⁶ For example, "the general rules by which prosperity and adversity are commonly distributed...are by no means suited to some of our natural sentiments." Whereas our natural sentiments would prefer to see rewards bestowed upon virtue, the market "pays little regard to the different degrees of merit and demerit which (persons) may seem to possess in the sentiments and passions of man." The market will reward an "industrious knave" and overlook and "indolent good man."⁴⁷

Market activity also posed a threat to moral development insofar as it promoted a depersonalized form of social interaction. A market society functions as an association of interchangeable individuals, identical in nature, and interacting anonymously and mechanically through external ties. The inner world of values and motives becomes irrelevant except as expressed in outward acts. Yet Smith had argued that genuine sympathy and beneficence would occur only when individuals became conscious of their relation to the social totality and internalized the morality of the impartial spectator. In the absence of shared intentions and mutual interests, moral development would be stifled.

Despite his reservations, Smith was unwilling to launch a moral condemnation of the market economy. To begin with, he argued that such posturing would be futile since "the natural course of things cannot be entirely controlled by the impotent endeavors of man: the current is too rapid and too strong for him to stop it."⁴⁸ Moreover, despite its offensiveness, the system of rewards effected by the market is

"useful and proper for rousing the industry and attention of mankind."⁴⁹

This essentially utilitarian defense of a system in which "violence and artifice prevail over sincerity and justice"⁵⁰ should surprise us since Smith argued that utility "is by no means the quality which first recommends...actions to the natural sentiments of the bulk of mankind."⁵¹

Can Smith expect popular support for a system whose appeal is discernible only through reflection on its future consequences? Certainly the rationality of the masses could not be relied upon to ascertain this truth, so Smith posited a 'deception' which, by reconciling sympathy with the selfish desire to accumulate, would accomplish the task of which reason was incapable.

The deception consists of believing that "the pleasures of wealth and greatness...(are) well worth all the toil and anxiety which we are so apt to bestow upon it."⁵² Smith consistently denies that the wealthy derive much more pleasure from their enhanced ability to consume, but because we believe that they do, we sympathize with what we imagine to be their satisfaction and are led to desire and work for wealth ourselves. Upon attaining this goal, we will find "that wealth and greatness are mere trinkets of frivolous utility."⁵³ However, the actual benefits of wealth follow from the fact that we are more likely to gain the approval of our fellow men than if we were poor; "mankind are disposed to sympathize more entirely with our joy than with our sorrow."⁵⁴ Thus Smith has ironically managed to base ambition not on a self-seeking materialism, but on the desire for sympathy. It is not greed but fellow-feeling which motivates

economic pursuits.

Having injected an ethical element into market-oriented behavior, Smith was still concerned about the effects of the 'deception' on the moral fiber of society; "this disposition to admire, and almost to worship, the rich and powerful...is...the great and most universal cause of the corruption of our moral sentiments."⁵⁵ If we seek the respect and admiration of mankind, we are presented with "two different models... according to which we may fashion our own character and behavior." Unfortunately, the model of wisdom and virtue elicits the admiration of "but a small party," while "the great mob of mankind are the admirers and worshippers...of wealth and greatness."⁵⁶

Only competition could guide the pursuit of economic gain into conformity with ethical behavior. For those who are subject to competition, "the road to virtue and that to fortune...are...very nearly the same." This happy congruence follows from the fact that "the success of such people...almost always depends upon the favour and good opinion of their neighbors and equals." The wealthy, on the other hand, are more independent from competitive forces, and hence their "success and preferment depend, not upon the esteem of intelligent and well-informed equals, but upon the fanciful and foolish favour of ignorant, presumptuous, and proud superiors."⁵⁷

Smith constructed a dilemma which may be best understood by reviewing the following points: (a) market outcomes conflict with natural sentiments, (b) this conflict may be resolved by a rational apprecia-

tion of the consequences of market outcomes, but most people lack the capacity to gain this appreciation, (c) an alternative resolution to the conflict requires a deception, but this deception corrupts the natural sentiments. Thus Smith is left with the conclusion that market activities, though they may encourage industrious and prudent conduct, will result in a society which is either unacceptable to moral persons or, if it is acceptable, gains support only through a corruption of morality. Admittedly, if all persons had the capacity to view society "in a certain abstract and philosophical light," they would find that it "appears like a great, an immense machine, whose regular and harmonious movements produce a thousand agreeable effects."⁵⁸ They would discover that the rich "are led by an invisible hand to make nearly the same distribution of the necessaries of life which would have been made had the earth been divided into equal portions among all its inhabitants."⁵⁹ Alas, the majority of people are preoccupied with what is near and familiar to them and cannot fathom such distant advantages. Most people "despair of finding any force upon earth which can check the triumph of injustice." For them, the only solace is the "hope that the great Author of our nature...will, in a life to come, render to every one according to the works which he has performed in this world."⁶⁰

Smith had developed a view of man as a social being who realizes his human capacities and achieves the good life through developing his reason. Why, then, was he unwilling to place a greater burden on rationality to support the position that individuals could affirm market

outcomes without falling prey to a deception which corrupted them? Part of the answer, as we have already seen, lies with Smith's acknowledgement that the pursuit of economic gain actually destroys the conditions for moral development among large sections of the population. More importantly, however, Smith was committed to a portrayal of society as a natural process which human reason could only frustrate but not alter. While he was concerned to support a certain degree of autonomy for reason, he refused to allow reason to stand against the "natural order of things". If reason were completely autonomous, then men could, in the name of reason, seek to impose political restraints on the market process. By grounding reason and morality in the natural sentiments of man, Smith was able to portray political intervention as an infringement on a natural moral order.

In TMS, Adam Smith developed a coherent theory of justice. Through role switching, self-interest and sympathy are fused into individual conscience. Society's moral code and rules of justice slowly evolve out of the consensus of individual consciences. Smith did not seek to define the content of justice and morality since rules are products of experience and hence will vary with experience. To give positive definition to morality would be to assert the autonomy of reason against experience. Thus Smith referred to justice as merely "a negative virtue, (which) only hinders us from hurting our neighbor." To emphasize the absence of positive content in the term justice, Smith claimed that "we may often fulfill all the rules of justice by sitting still and doing nothing."⁶¹

In restricting justice to the prevention of injury of one person by another, Smith was following the Aristotelian notion of 'commutative justice'. However, commutative justice does not, by itself, constitute the whole of justice. Individuals can be expected to desire not only fair procedures, but also outcomes which conform to a conception of justice. An implicit criterion of distributive justice can be found in TMS. Smith believed that "that action must appear to deserve reward, which appears to be the proper and approved object of gratitude."⁶² Moreover, due to an 'irregularity' of the natural sentiments, a person's merit is judged by his actions rather than by his intentions. The man "whose whole conversation and deportment express the justest, the noblest, and most generous sentiments, can be entitled to demand no very high reward" unless he has produced an actual good or service which entitles him to compensation.⁶³ On the other hand, "wealth and greatness, abstracted from merit and virtue...almost constantly obtain" our respect.⁶⁴ It is "this disposition of mankind to go along with all the passions of the rich and powerful" which provides the basis for "the distinction of ranks and the order of society."⁶⁵ However, as previously noted, this 'disposition' corrupts morality, and hence Smith could locate no moral justification for the distribution of wealth and the consequent pattern of rewards.

If we were to portray Smith's original notion of distributive justice in the economic terminology of WN, we would say that everyone in society jointly labors to produce output, but that the quality of labor differs according to the social rank of each individual. Distributive

justice would entail a division of the social product in accordance with the amount and the quality of effort by each individual. This viewpoint is made more explicit in Smith's transitional works.⁶⁶ He described the natural price of a commodity as the equivalent of the wages necessary to maintain labor in a given industry. Commodities would exchange at ratios determined by embodied labor time, where labor would be weighted according to the social rank of the producer.

In the transitional works, Smith also expressed doubts that commodities were jointly produced by everyone. He noted that "the division of opulence is not according to work. The opulence of the merchant is greater than that of all his clerks, though he works less...Thus, he who as it were bears the burden of society, has the fewest advantages."⁶⁷ Smith implicitly acknowledged that labor produces a surplus and that, as a result, productive effort no longer corresponds with reward. However, so long as he clung to his wage theory of natural prices, the existence of surplus remained an anomaly in his theory of production and distribution.

At this point, I turn to WN in order to assess the relationship between Smith's moral philosophy and his economic theory. At the outset, I propose that Smith was fully aware of the shortcomings of his moral theory and that his growing interest in political economy was motivated, at least in part, by his desire to provide a more adequate theory of justice. Smith was initially committed to a theory of value in which commodities exchange at ratios determined by embodied labor time. He implied that labor is the sole productive agent and hence should naturally receive

the whole of its product.⁶⁸ However, he was careful to distinguish between two stages of history. Prior to the accumulation of land and capital, the value of a good was determined by the quantity of labor necessary to produce it, and the laborer received the whole of his product. In modern society, the laborer must share the product with the capitalist and the landlord, and hence profits and rent become component parts of the natural price.

In interpreting Smith's theory of value, two dominant and opposing traditions have emerged. According to one view, Smith rejected the labor theory of value as inapplicable to modern society.⁶⁹ The realization that 'labor-embodied' could not be the determinant of value in modern society forced Smith to substitute a 'labor-commanded' theory whereby the value of a good is measured (rather than caused) by the labor for which it can be exchanged. In modern times, the 'regulator' or cause of value is simply the cost of production as determined by the sum of the natural levels of wages, rent, and profit.⁷⁰ Thus Smith finally arrived at an 'adding-up' theory, where the natural rates of wages, rent, and profit, as determined by supply and demand, are taken as independent components of value.

A second interpretation maintains that Smith did intend the labor theory of value to apply to modern society and that he was thus led to a 'deduction theory' of rent and profit.⁷¹ Both interpretations, I propose, fail to capture the full measure of Smith's intentions. If we view the economic theory of WN as being at least partially motivated by Smith's desire to solidify the theory of justice presented in TMS, we perceive

that Smith was not, in his own mind, being inconsistent in proposing alternative theories of value. The labor theory was essential to locating an objective criterion to which market prices must conform if justice is to be realized. On the other hand, Smith sought to legitimize competitive market prices which, he recognized, must cover the prevailing rate of profit and rent as well as wages. In order to reconcile the empirical fact of rent and profit with the criterion of labor as "the real measure of the exchangeable value of all commodities,"⁷² Smith developed the 'labor-commanded' theory. He was convinced that he had preserved the objective criterion of his theory of justice while, at the same time, accounting for the empirical fact that commodities do not exchange in accordance with embodied labor time.

Smith's theory resolves the paradox of surplus, but by placing the determination of value exclusively within the realm of exchange, it severs any objective grounding for the component costs of production. The 'labor-commanded' theory takes as given the very distribution of wealth whose legitimacy an adequate theory of justice must assess. Smith's principle error was not, as many critics have claimed, to ignore utility, but rather it was to lose any objective measure of real cost.⁷³

If we compare the theory of justice developed in WN to that of TMS, some interesting analogies appear. In TMS, moral standards are the product of individual consciences developed through social interaction. However, the operation of the impartial spectator imparts to those moral standards an objectivity which makes them somewhat independent of the opinions of mankind.

The degree of autonomy, however, is held in check by public opinion and a sense of fair play. Thus Smith sought to ground his theory of justice in both a subjective and an objective realm. He presented a criterion of right which is simultaneously the product and the regulator of individual desires and social behavior.

In WN, the checks and controls on individual self-interests appear to be absent. Instead of a community of moral persons seeking mutual approval, society is portrayed as an aggregation of individuals abstracted from particular identities or purposes. Smith was content to rely on this abstract individualism, which he had rejected in TMS, because he perceived that the impersonal market process could accomplish the same ends as the impartial spectator. References to internal moral conflict are absent in WN precisely because individual moral rectitude was no longer regarded as essential to socially useful conduct. With the market process guiding individual conduct into socially useful channels, reason became an attribute of the market rather than the individual. Whereas Locke had appealed to reason to oblige men to restrain their desires, Smith believed that the full pursuit of desire would, in the context of a competitive market, establish natural rights and social order.

Even Smith's value theory bears a resemblance to his moral philosophy. Just as the interplay of opinions would converge on moral standards, so interaction of supply and demand in markets would determine the natural rates of wages, rent, and profit. In TMS, Smith sought to synthesize the relativism of opinion with the notion of absolute standards. In WN, the contingent

value of a commodity (i.e., its market price) would converge on an objective standard of measurement expressed in labor time. In neither case were the objective standards fixed; for Smith, the absolute was itself relative to circumstances.

III

Smith's mature theory of justice involved not so much the displacement of ethics by economics as a synthesis of the two. He sought to demonstrate that in both the moral and the material realms, the free interaction of individual interests would both establish standards of right and generate outcomes which conformed to those standards. Moreover, the moral and material realms would be mutually supportive. In TMS, Smith expressed the view that society could subsist in the absence of mutual moral obligations so long as persons refrained from harming each other.⁷⁴ By the time of WN, though, he had apparently swung around to the view that complete justice requires the operation of the impartial spectator which, we recall, requires a moral atmosphere for its development. Smith was quick to criticize any group which subverted the interests of society as a whole by its unbridled pursuit of self-interest.⁷⁵

Not only was justice dependent upon the functioning of the impartial spectator, but ethical behavior would be fostered by the justice of competitive markets. Smith noted that "when the greater part of people are merchants, they always bring probity and punctuality into fashion, and these, therefore, are the principal virtues of a commercial nation."⁷⁶

It would appear, then, that Smith managed to resolve the conflict between markets and morality which had troubled him in TMS. He attributed most of society's misery and vice to social factors which he viewed as exogenous to the operation of the market. Specifically, we can locate five aspects of society which Smith treated as institutional or biological datum. First, he undoubtedly believed that the bulk of inequality among persons was attributable to "the avarice and injustice of princes and sovereign states."⁷⁷ Second, population would grow at a rate sufficient to exert a downward pressure on the standard of living of the working class. Smith observed that "the demand for men, like that for any other commodity, necessarily regulates the production of men."⁷⁸ A third factor was "a certain propensity in human nature...the propensity to truck, barter, and exchange one thing for another."⁷⁹ The trucking propensity was held by Smith to be the cause of the division of labor and thus was indirectly accountable for all the misery which accompanies that phenomenon. Smith blamed the division of labor for the virtual ruination of human dignity. In a commercial society, he observed, "all the nobler parts of the human character may be, in great measure obliterated and extinguished in the great body of the people."⁸⁰ A fourth factor was the limited availability of land. Smith predicted that a stationary state would set in when a country "acquired that full complement of riches which the nature of its soil and climate, and its situation with respect to other countries, allowed it to acquire."⁸¹ In the stationary state, both wages and profits would be very low, while rents would be high. Finally, Smith took the distribution of property as an in-

stitutional datum. He offered no philosophical justification of property, but simply recognized that private property belonged to a few and took this as an inevitable fact; "it would be to no purpose to trace further what might have been (the) effects upon the recompense of wages of labour" if property had not accumulated so unevenly.⁸²

It would be tempting to conclude that Smith upheld the sanctity of market outcomes by portraying the market as valiantly struggling to establish justice despite the inherent obstacles posed by nature and history. On the contrary, he repeatedly revealed his opposition to market outcomes. Perceiving that the power of wealth would consistently be put to the task of subverting the competitive market, he railed against the inequity of market distributions. Capitalists were "an order of men, whose interest is never exactly the same with that of the public, who have generally an interest to deceive and even to oppress the public and who accordingly have, upon many occasions, both deceived and oppressed it."⁸³ Landlords "love to reap where they never sowed."⁸⁴ Smith argued that both fairness and efficiency dictated a larger share of the social product for labor.⁸⁵

The argument can even be made that Smith was willing to employ the power of the state to correct the injustices of the market. He assigned to government "the duty of protecting, as far as possible, every member of society from the injustice or oppression of every other member of it."⁸⁶ Moreover, he explicitly advocated intervention in certain cases; "those exertions of the natural liberty of a few individuals which might endanger the security of the whole society are, or ought to be, restrained by the

laws of all governments."⁸⁷ If working class resentment over the 'deceit' and 'oppression' of the owning classes swelled to the point of threatening the social order, then Smith's maxim would dictate government restraints on the rights of property. In order to minimize the likelihood of this action, Smith was quick to condemn the "sacrifice (of) the ordinary laws of justice to an idea of public utility, to a sort of reason of state; an act of legislative authority which ought to be exercised only... in cases of the most urgent necessity."⁸⁸

Smith's continual equivocation concerning the merits of the market has puzzled many readers. Yet, if we assume that underlying all of Smith's work was the notion of a theory of justice, his various positions merge into a whole. He was seeking to demonstrate that subjective intentions result in objectively right outcomes. In order to establish an objective criterion of right, he had recourse to a rationalist methodology inherited from Locke; the labor theory of value showed that the market works for justice. On the other hand, Smith sought a criterion of right which would correspond with subjective intentions as manifested in empirical facts. His empiricism revealed that non-laborers received part of the social product and hence that the market was perpetrating injustice. With this realization, Smith could have called for a major reconstruction of the economic order, but, observing that society was stable and prospering, he concluded that the benefits of the market more than offset any violations of natural liberty, and thus it ought to be supported.

Smith was on the threshold of a utilitarian theory of justice wherein any 'natural' criterion by which the justice of society can be assessed is abandoned. Like Hume, he seemed to recognize that the justification of market outcomes ultimately required an appeal to consequences and hence a utilitarian standard of right. Smith also perceived, however, a flaw in utilitarianism which Hume, and subsequently Bentham, failed to comprehend. Without an objective basis for the criterion of right, the liberal theory of justice was contingent and ultimately groundless. Should the justice of the market be contested, there could be no basis for reasoned arguments in defense of the status quo. Thus, much to the bewilderment of later economists, Smith hung onto the labor theory of value. His tenacity reflected not ignorance (even Locke had known that prices are determined by supply and demand), but rather a keen appreciation of the requirements of a liberal theory of justice. The inadequacy of a natural law criterion in the justification of market outcomes made an appeal to utilitarian considerations inevitable. Smith, though, stopped short of a full-blown utilitarianism, content to believe that the wisdom of a benevolent God would not permit natural law and utility to be in ultimate conflict.

FOOTNOTES, CHAPTER II

1. William F. Campbell, review of Essays on Adam Smith, edited by Andrew S. Skinner and Thomas Wilson, History of Political Economy, Summer, 1978, p. 334.
2. Elie Halevy, The Growth of Philosophic Radicalism, pp. 141-2.
3. Jacob Viner, "Adam Smith and Laissez Faire," in Adam Smith 1776-1926, p. 120.
4. Ibid., p. 127.
5. Sheldon Wolin, Politics and Vision, pp. 291-2.
6. Albert O. Hirschman, The Passions and the Interests, pp. 110-3.
7. See Glenn R. Morrow, "Adam Smith: Moralistic and Philosopher," in Adam Smith 1776-1926, p. 176. Other authors strongly deny that Smith's economic theory was developed prior to his visit to France. See Louis Dumont, From Mandeville to Marx, p. 83.
8. A.L. Macfie, The Individual in Society, p. 75.
9. See J. Ralph Lindgren, The Social Philosophy of Adam Smith.
10. Skinner and Wilson, op. cit., p. 8.
11. Joseph Cropsey, Polity and Economy: An Interpretation of the Principles of Adam Smith, p. 95.
12. Morrow, op. cit., p. 178.
13. R.D. Collison Black, "Smith's Contribution in Historical Perspective," in The Market and the State, edited by Andrew S. Skinner and Thomas Wilson, p. 62.
14. See Karl Marx, Capital, Vol. I, pp. 713-774; Immanuel Wallerstein, The Modern World-System, pp. 102-129; William Lazonick, "Karl Marx and Enclosures in England," The Review of Radical Political Economics, Summer, 1974, pp. 1-59; Maurice Dobb, Studies in the Development of Capitalism, pp. 221-254.
15. G.W.F. Hegel, Lectures on the History of Philosophy, p. 92.

16. Adam Smith, The Theory of Moral Sentiments, p. 464.
17. Ibid., p. 466.
18. Ibid., p. 470-1.
19. Ibid., p. 479.
20. David Hume, A Treatise of Human Nature, pp. 415, 413, and 458.
21. Ibid., pp. 488, 491, and 581. See also, Hume, An Enquiry Concerning the Principles of Morals, p. 229.
22. Hume, Enquiry, p. 188.
23. Hume, Treatise, p. 579. See also p. 497.
24. Ibid., p. 579.
25. Hume, Enquiry, p. 183.
26. Hume, Treatise, p. 502.
27. Ibid., p. 497.
28. Ibid., p. 497.
29. Ibid., p. 503-4.
30. Hume, Enquiry, p. 194.
31. Hume, Treatise, p. 484.
32. Hume, Enquiry, p. 229.
33. Hume, Treatise, pp. 499-500. See also pp. 575-580.
34. Smith, op. cit., p. 469.
35. Ibid., p. 5.
36. Ibid., p. 7.
37. Ibid., p. 271.
38. Ibid., p. 276.

39. Ibid., p. 218.

40. Ibid., p. 186.

41. Ibid., p. 166.

42. Ibid., p. 194.

43. Ibid., pp. 241-2.

44. Smith, Letter to Sir Gilbert Elliot, October, 1759. Quoted in D.D. Raphael, "The Impartial Spectator," Essays on Adam Smith, edited by Skinner and Wilson, p. 91.

45. Smith, The Theory of Moral Sentiments, p. 176.

46. Ibid., pp. 238-9.

47. Ibid., pp. 237-9.

48. Ibid., p. 239.

49. Ibid., p. 239. See also p. 263.

50. Ibid., p. 239.

51. Ibid., p. 276.

52. Ibid., p. 263.

53. Ibid., p. 261.

54. Ibid., p. 70. See also pp. 810-1.

55. Ibid., p. 84.

56. Ibid., p. 85.

57. Ibid., pp. 86-7.

58. Ibid., pp. 463-4.

59. Ibid., pp. 264-5.

60. Ibid., p. 240.

61. Ibid., p. 117.

62. Ibid., p. 94.

63. Ibid., p. 154.

64. Ibid., p. 86.

65. Ibid., p. 73.

66. Smith, Lectures on Justice, Police, Revenues and Army and Early Draft of Part of the Wealth of Nations.

67. Smith, Lectures, p. 163.

68. "The annual labour of every nation is the fund which originally supplees it with all the necessaries and conveniences of life." Wealth of Nations, p. lvii. Also, "the produce of labour constitutes the natural recompence or wages of labour." Ibid., p. 64.

69. The view that Smith's theory of value is a labor theory is refuted by at least three prominent historians of economic thought. Mark Blaug claims that "Smith did not try to formulate anything properly called a labor theory of value," Economic Theory in Retrospect, p. 54. Maurice Dobb argues that Smith's theory "essentially replaced older thinking couched in terms of 'natural right'." Dobb quotes Lionel Robbins to the effect that Smith's "arguments are so consistently utilitarian in character." Theories of Value and Distribution since Adam Smith, pp. 38-9. Finally, Joseph Schumpeter states that Smith's "theory of value is no labor theory at all." History of Economic Analysis, p. 189.

70. "Wages, rent, and profit are the three original sources of all... exchangeable value." The Wealth of Nations, p. 52.

71. This view is supported by Gunnar Myrdal; "the theory of property of the school of natural law...was the starting point both of the labor theory of value and the doctrine of economic liberalism." Furthermore, "there can be no doubt that notions of property and value (based on natural law) underlay Adam Smith's proposition that labour is the only real source of value and hence its only correct measure." The Political Element in the Development of Economic Theory, p. 71. Further support is offered by Elie Halevy; "Adam Smith follows Locke in his definition of value...because he is, consciously or unconsciously, similarly preoccupied (with showing) the natural price to be the just price." The Growth of Philosophic Radicalism, p. 97. Louis Dumont argues that Smith's reliance on natural law would have been more explicit were it not for Hume's definitive critique of that notion. Nevertheless, he claims, Smith's "argument can be construed as a straight natural law argument: the state of nature tells us that, in principle or in essence, value is labor, or consists of labor, whatever complications or irregularities may be found in the civilized or developed state of society."

From Mandeville to Marx, p. 190. Finally, Ronald Meek states that "it is absurd to suggest...that (Smith) rejected (the labor theory of value)." Studies in the Labor Theory of Value, p. 80.

72. Smith, The Wealth of Nations, p. 30.

73. Although Smith did say that "those (things) which have the greatest value in exchange have frequently little or no value in use," (WN, 28) he did not mean to dismiss desirability as a precondition for value. In fact, he stated just the opposite; if something is produced for which there is no demand, "it would be of no value in exchange, and could add nothing to the wealth of society." (WN, 341) By the term 'value in use', Smith meant utility for society as a whole and not appeal to individual desires. Smith never denied the role of individual utility in determining market prices, but his analysis of exchange value was restricted to long-run static positions of equilibrium under conditions of constant cost. From this perspective, only costs of production would affect exchange value. See H.M. Robertson and W.L. Taylor, "Adam Smith's Approach to the Theory of Value," Economic Journal, 1957. See also Samuel Hollander, The Economics of Adam Smith, pp. 133-43.

74. "Society may subsist, though not in the most comfortable state, without beneficence; but the prevalence of injustice must utterly destroy it." The Theory of Moral Sentiments, p. 125.

75. See The Wealth of Nations, pp. 98, 128, 250, 428-9, 434, 438, 460-1, 565, 578.

76. Smith, Lectures, p. 255.

77. Smith, The Wealth of Nations, p. 27.

78. Ibid., p. 80.

79. Ibid., p. 13.

80. Ibid., p. 736.

81. Ibid., p. 94.

82. Ibid., p. 65.

83. Ibid., p. 250.

84. Ibid., p. 49.

85. "It is but equity...that they who feed, cloath and lodge the whole body of the people, should have such a share of the produce of their own labour as to be themselves tolerably well fed, cloathed and lodged." Ibid., p. 79. "The liberal reward of labour...increases the industry of the common people. The wages of labour are the encouragement of industry, which like every other human quality, improves in proportion to the encouragement it receives." Ibid., p. 81.

86. Ibid., p. 651.

87. Ibid., p. 308.

88. Ibid., p. 507.

CHAPTER III

JOHN STUART MILL'S THEORY OF JUSTICE

John Stuart Mill's contribution to social theory is generally thought to consist of insightful, but limited, advances in the areas of methodology, ethics, and economic and political theory. Conversely, the consensus among most interpreters of Mill holds that he utterly failed to construct an internally consistent theoretical system applicable to any one, let alone all, of the aforementioned disciplines. A brief survey of the literature confirms this point. The theme of "muddleheadedness and inconsistency" appears repeatedly. For some critics, Mill's theoretical confusion reflects his identity crisis and the resulting inability to choose between conflicting doctrines. This psychohistorical approach is most prominently represented in the work of Mazlish, but can also be found in books by Britton, Borchard, and Halliday.¹ Other critics simply find Mill's intellect inadequate to the task at hand. According to Plamanatz, "he was often bewildered by the intricacies of his own thought, unaware of the implication of what he had said and of what still remained to be proved." In a similar observation, Sabine concludes that Mill's theories "were always inadequate to the load that he made them carry."²

The specific charge against Mill is that he attempted to encompass and synthesize diametrically opposed viewpoints. Anschutz contrasts the naturalistic and deterministic approach of A System of Logic with the

romantic notion of self-determination found in On Liberty. Himmelfarb finds an analogous conflict between the absolute principle of liberty in On Liberty and the liberalism found in Utilitarianism which recognizes "such other values as justice, virtue, community, tradition, prudence, and moderation." Ryan concludes that there is no "way of patching up Mill's system which will make it both systematic and persuasive."³

Mill's reputation has not fared much better in the hands of historians of economic thought. Jevons set the tone for subsequent opinion when he labeled Mill's mind "essentially illogical" and described his philosophy as "intricate sophistry." Roll claims that Mill's "economic theory lacks the logical rigour and his social philosophy the unflinching consistency which are the outstanding characteristics of the 'system-builders'." Gray exemplifies the long-standing belief that Mill lacked originality; "Apart from certain elaborations of the theory of foreign trade, it is doubtful whether Mill added much, or anything, to the body of economic doctrine." Finally, in a less than enthusiastic assessment, Schumpeter praises Mill for his "stimulating discrepancies of doctrine."⁴

Those few theorists who have found a consistent theme in Mill have often done so by simply suppressing important facets of his thought and thus portraying him as a dogmatist of some particular hue. Cowling accuses Mill of "more than a touch of something resembling moral totalitarianism." Furthermore, Cowling adds, "Mill's liberalism was a dogmatic, religious one" and his "principle of individuality is designed to detract from human freedom, not to maximize it." In a less polemical

work, McCloskey also cautions that "Mill was seriously exposed to the danger of becoming...a moral totalitarian."⁵

Recently, however, several authors have argued for a comprehensive unity in Mill's work. Most notable is John M. Robson who finds "a unity underlying Mill's mature thought, a unity both of purpose and method, hidden often in a welter of detail, seldom explicitly formulated, but always present." Similarly, John Rees persuasively rejects the notion of deep-seated conflicts within or between Mill's major works. In fact, Rees proposes that Mill's conception of liberty cannot be fully understood apart from his treatment of rights in Utilitarianism.⁶

I would like to propose that the diversity of opinion among Mill scholars is indicative of a widespread misperception of Mill's self-conceived intention as a social theorist. The impetus for my claim is John Rawls' recent attempt to reconstruct the liberal theory of justice.⁷ In addition to its contemporary relevance, Rawls' work makes us more sensitive to the strengths and shortcomings of previous theorists. In the case of Mill, much apparent inconsistency may be resolved if his theoretical constructions in the areas of methodology, ethics, politics, and economics are viewed as components of a more or less conscious attempt to forge a coherent theory of justice in which conflicting class interests are both recognized and granted legitimacy. Thus I shall join with Robson and Rees in arguing for an underlying unity in Mill's thought, but I shall attempt to show that the theme of that unity is justice.

In the first section of this chapter, I examine the material and

intellectual trends leading up to Mill. Toward the end of the eighteenth century, changing material conditions rapidly eroded the legitimacy of Adam Smith's theory of justice. The two major candidates for a post-Smithian theory of justice, Benthamite Utilitarianism and Ricardian political economy, were insufficiently comprehensive in light of the increasing class divisions of the period. Bentham's theory lacked an objective criterion of right capable of appealing to conflicting interests, while Ricardo's system left no room for subjective intentions and aspirations.

The second section contains an interpretation of Mill's ethical theory as furnishing the objective criterion of right which was lacking in traditional utilitarianism, while in the third section, I shall argue that Mill's theory of justice was designed to appeal to the aspirations of an emerging working class. From this perspective, Mill will appear not as a muddleheaded romantic, but as an intellect who, more than any other liberal social theorist of the nineteenth century, was acutely aware of the requirements facing a coherent liberal theory of justice. Mill's reputation has suffered precisely because he did not shrink from the task of constructing a comprehensive rational criterion by which the justice of society could be assessed; he pursued the implications of that criterion even to the extent of questioning major institutional aspects of capitalism. In the end, the inadequacy of Mill's theory stems not so much from internal inconsistency as from his inability to grasp key elements of capitalism. In the fourth section, we shall see

that the Millian theory of justice assumes that individual preferences will follow a path of rational development toward virtue and self-actualization, but in practice, a capitalist economy poses obstacles to individual moral development which Mill failed to comprehend.

I

Beginning around 1780, England entered a period of accelerated social change. The mutually reinforcing phenomena of technological advance and a resurgence of the Enclosure movement led to increases in both the supply of and demand for free and mobile wage laborers. The ascendancy of mobile property and competitive market relations placed a growing strain on prevailing notions of justice which incorporated elements of natural law. The tension, felt most acutely by intellectuals and theorists, had several facets. First, appeals to either reason or natural sentiments were viewed as insufficiently objective. Prejudices could masquerade as legitimate norms and no grounds would exist for rational assessment. This fear became more pronounced with the perception that opposing class perspectives would undermine moral dialogue. The prominence of natural rights in the ideological justification of the French and American revolutions served to discredit natural law and appeals to reason as bases for liberal theory. We should not conclude, however, that natural rights were jettisoned simply to avoid their revolutionary implications. Progressive thinkers perceived that inviolable property rights posed an obstacle to social harmony. In certain instances,

the good of society could be advanced through the limited abrogation of property rights.

A second motive for rejecting natural rights came from the incoherence of Adam Smith's theory of justice. His backward-looking notion of justice entailed linking rewards with effort (i.e., labor expended). Yet, by Smith's own admission, the uneven accumulation of land and capital caused product prices, and hence factor payments, to diverge from the labor standard. Smith's weak attempt to avoid the conclusion of exploitation by resorting to a 'labor-commanded' theory of value was apparently not persuasive even to himself, as indicated by his numerous remarks on the inequity of the market system. By switching to a forward-looking theory of justice, where consequences become the standard of justification, theorists hoped to eliminate all notions of fixed entitlements or duties.

Another aspect of Smith's theory of justice gave rise to a third motive for eliminating appeals to reason or natural sentiments in liberal theory. Smith had carefully described the interpersonal process by which rampant egoism would be held in check by an 'impartial spectator' within each person. Central to Smith's theory of moral development was the phenomenon of mutual recognition and approbation between persons based on shared values. Smith voiced his fears that the market process would impede the formation of individual conscience, and subsequent theorists saw little evidence that egoistic behavior would be curbed in an impersonal, exchange-oriented system of social relations. Optimism concerning social stability would have to be based on an assumed harmony of interests so that individuals could simul-

taneously be egoistic and fulfill their moral obligations.

The attack on natural rights served a dual purpose; a purpose that was conservative and, at the same time, progressive. The elimination of any natural criterion of right which might be employed to challenge the justice of the status quo freed the accumulation process to follow the course of the maximum self-expansion of capital with no a priori constraints on the resulting contours of society. In addition, however, disposing of natural rights opened the door to working class interests, so long as appeals were couched in terms of consequences rather than deserts. This dual nature of early nineteenth century liberalism reflected the paradox of defending, on one hand, the legitimacy of property against the challenge of the developing working class movement and seeking, on the other hand, to extend liberalism's base of support in order to solidify its strength against the landed aristocracy. The primary appeal which liberal theorists offered to the working class was a strong opposition to fixed status, hierarchy, and arbitrary authority. Property would be a social convention, and hence the rules of justice would be open to revision in the light of new knowledge and revised circumstances.

The opposition to natural rights, under the leadership of Jeremy Bentham, took the form of Utilitarianism. Bentham sought a doctrine which would have widespread appeal and, at the same time, not stir up the revolutionary fervor which had engulfed France. Although Bentham never used the term, Utilitarianism can be viewed as 'a theory of justice'. It offers a criterion of right which is purported to be both appealing and compelling. Bentham claimed to

have constructed a rational basis for determining rights and duties simply by taking human nature and society as they exist. Individuals were assumed to be pleasure maximizers and thus infinitely desirous of consumable objects. Society was taken to be nothing more than the aggregation of these individuals. If individuals are infinite consumers, then clearly all desires or intentions cannot possibly be met. In order to avoid social unrest, this disappointment must be seen to flow from an impartial and equitable process. In other words, each individual's inability to fully realize his essence must be attributed either to personal inadequacy or to 'necessary' conditions imposed by nature. If this is accomplished, disappointment should not translate into resentment or envy toward those who have fared better, and social stability can be maintained.

In order to generate consensus on questions concerning rights and justice, Bentham wanted to prove the existence of a single criterion of right which no rational man could reject. Although he recognized the legitimacy of both deductive and inductive proofs in other areas, Bentham admitted that the single criterion of right, by its very nature, was unsusceptible to formal proof. Thus his approach consisted of refuting all candidates for the criterion other than the principle of utility. He rejected appeals to right reason, common sense, natural law, or moral sentiment on the grounds that they provided no "extrinsic ground" for moral judgements. From Bentham's view,

What one expects to find in a principle is something that points out some external consideration as a means of warranting and guiding the internal sentiments of approbation

and disapprobation; this expectation is but ill fulfilled by a proposition which does neither more nor less than hold up each of those sentiments as a ground and standard for itself.

Bentham's goal of eradicating the influence of feeling on morality and subjecting moral judgements to rational assessment was quite different from Locke's conception of uncovering a rational natural law. Reason, for Bentham, was not an 'inner light' to be consulted in the quest for right, but rather a calculating assessment of objectively measurable consequences flowing from acts or rules. Any theory not grounded in consequences, whether it appealed to reason or to sentiments, was, according to Bentham, 'subjective' and hence incapable of offering a principle which could command the assent of different persons. Thus in the hands of the Utilitarians, the classical liberal methods of rationalism and empiricism underwent a peculiar transformation. By disclaiming any reliance on subjective knowledge, the Utilitarians firmly aligned themselves with the empiricist side of liberal theory as developed by Hume out of Locke's dual epistemology. Yet the Utilitarians were actually rationalists insofar as they believed that reason could disclose objective grounds for moral decisions. They believed that their rationalism avoided the subjectivity of Lockean rationalism because they focused on interpersonally verifiable consequences rather than a priori assumptions. Yet Utilitarianism does involve assumptions of a nonempirical nature. First, all individuals are assumed to have roughly equal capacities for happiness. Second, it is assumed that no qualitative differences exist between pleas-

ures so that pleasures and pains are susceptible to being the objects of a rational calculus. Third, pursuit of pleasure and avoidance of pain are assumed to be the sole motivating forces behind human behavior and the maximization of utility is made the criterion of right; thus the moral person is obligated to act so as to maximize social utility.

The Utilitarians were also mistaken in thinking that the measurement of pleasures and pains resulting from acts and rules can be an entirely objective process. The ultimate ramifications of any particular act are potentially infinite, and thus assessing consequences must necessarily involve a subjective judgement as to which consequences are reasonable to include. More significantly, pleasures and pains are themselves subjective phenomena, and although Bentham went to great lengths to describe the various dimensions of pleasure and pain and thus to make plausible the notion of measurement, he acknowledged that sensations were not interpersonally commensurable.

Tis vain to talk of adding quantities which after the addition will continue distinct as they were before, one man's happiness will never be another man's happiness: a gain to one man is not gain to another: you might as well pretend to add twenty apples to twenty pears, which after you had done that could not be forty of any one thing but twenty of each just as there were before.⁹

After affirming the incommensurability of pleasures, Bentham then argues that we must proceed as though the opposite were true.

This addibility of the happiness of different subjects, however, when considered rigorously, it may appear fictitious, is a postulatatum without the allowance of which all political reasoning is at a standstill.¹⁰

Thus Bentham's defense of the principle of utility is ultimately an appeal

to faith. The principle could only remain practicable as a basis for social organization if it was assumed that major institutions and prevailing patterns of behavior were naturally oriented toward the maximization of utility. Bentham made this assumption; he posited a natural harmony of interests, at least in the economic sphere, and thus a laissez faire policy would maximize social utility.

Another consequence of the harmony of interests assumption was that individuals motivated purely by pleasure could pursue their interests without violating their moral obligations to serve the general interest.¹¹ Bentham did recognize short-run conflicts of interest that might arise due to insufficient education. Thus, in the political sphere, the legislator should create an artificial harmony of interests by providing incentives and punishments to insure that individuals would associate their own pleasure with the general well-being of society. Even in the economic sphere, utility maximization may require some redistributive intervention on the part of the State. If all persons have equal capacities for pleasure, then, assuming a diminishing marginal utility for money,¹² it would seem to follow that utility would be maximized with a perfectly equal distribution of wealth. Bentham initially agreed; "The more nearly the actual proportion (of wealth) approaches to equality, the greater will be the total mass of happiness."¹³ However, other considerations must enter into a redistributive scheme. Since "property is only a foundation of expectations...of deriving certain advantages from the thing said to be possessed,"¹⁴ any threat to the certainty of this

expectation may be destabilizing and destroy the original harmony of interests. Thus Bentham rejected the supposition that greater equality will necessarily increase social utility; "When security and equality are in opposition, there should be no hesitation: equality should give way."¹⁵

Just as Bentham believed that the long-run interests of society would be best served by a laissez faire economic policy, he held that the need for legislative intervention in the political sphere would decrease as time passed. His optimism was based on his belief in a human proclivity for benevolence, sympathy, and a disinterested viewpoint;

the general and standing bias of every man's nature is, therefore, towards that side to which the force of the social motives would determine him to adhere. This being the case, the force of the social motives tends continually to put an end to that of the dissocial ones.¹⁶

James Mill's associationist psychology persuaded Bentham to formulate the 'law of progressive sympathy'. As society developed, the process of industrialization and socialization would cause people to become "everyday more virtuous than on the former day." They "will continue to do so till, if ever, they naturally shall have arrived at its perfection."¹⁷

Utilitarianism was viewed by its proponents as providing a theory of justice superior to those of Locke and Smith which had been based at least partially on natural rights. By rejecting a natural criterion of right, Bentham believed that he had freed social theory and social policy from any metaphysical entanglements which might pose obstacles to the most rapid possible expansion of social utility. Yet it was precisely the absence

of a natural criterion which rendered Bentham's theory inadequate as a theory of justice. Both Locke and Smith had perceived that a theory of justice based solely on empiricism will fail to provide an objective criterion of right capable of appealing to conflicting interests. Bentham's claim to have developed an objective criterion (i.e., maximum social utility) remains plausible only so long as a natural harmony of interests prevails. If any conflict of interest is admitted, then interpersonal comparisons of utility must be made in order to ascertain the position of maximum social utility. At that point, Bentham's theory loses its objectivity as class interests vie with one another to determine whose pleasures and pains will count most. Political obligation becomes totally contingent as each individual assesses the advantages of obedience versus resistance. Bentham fully recognized this implication; he noted that for each person, the decisive factor in deciding whether or not to revolt must be "his own internal persuasion of a balance of utility on the side of resistance."¹⁸

Ironically, then, Utilitarianism, which had begun as a theoretical device for eliminating dogma and inflexibility from liberal theory, ended with destroying any objective justification for the capitalist system. By focusing on the forward-looking notion of consequences rather than the backward-looking notion of merit, Utilitarianism undermined the ordinary conception of justice as reward in accordance with merit. The very definition of rights was made the object of contestation. Those groups having the political power to weight consequences in their own interests would

thereby have the power to determine rights and justice. Thus Bentham's utilitarianism could serve as a functional ideology only so long as a widespread belief in a natural harmony of interests prevailed. By 1840, the emerging class consciousness of the working class effectively destroyed this condition.

I turn now to the other major intellectual trend connecting Adam Smith and John Stuart Mill--David Ricardo's political economy. Unlike Smith, who concentrated on the growth of national income, Ricardo was more concerned with its distribution among the three classes--landlords, capitalists, and laborers. While Ricardo's theory is not usually thought of as a theory of justice, it served the purpose of demonstrating that those aspects of the distribution process which were dependent on human intentions did conform to an objective criterion of right. However, the fundamental determinants of the division of the social product were, according to Ricardo, phenomena over which society had no control and hence they could not be called either just or unjust.

Ricardo constructed his economic theory around three natural phenomena--the fertility of the soil, the rate of population growth, and the development of technology in agriculture. According to Malthus' population theory, long-run wages would be determined by the subsistence standard of living.¹⁹ Profits per worker, in turn, would be determined by the difference between the marginal product of labor applied to the marginal, or least fertile, land under cultivation and the subsistence wage. Then, given the fertility of the soil and agricultural productivity, rent was simply the surplus over

and above wages and profit on all inframarginal land. From the Ricardian viewpoint, the economy advanced when improvements in agricultural productivity led to increases in profits (determined by the surplus over wages for production on the no-rent, marginal land). In turn, rising profits would increase the rate of capital accumulation which would result in a larger 'wages-fund' to advance to workers as wages. However, rising wages would cause the population to increase which would necessitate the cultivation of inferior land, leading to falling profits, a slower rate of increase in the 'wages-fund', and finally a slowing of population growth. Thus the long run distribution of the social product was portrayed as an objectively determinate process. The technical conditions of production in agriculture determined the prevailing rate of profit, the subsistence standard of living determined the wage rate, and rent comprised the remainder of the value of output. Only one element is missing. Unless it is assumed that the economy produces only a single product, some measure of value is needed in order to compare the total value of the different distributive shares through time. Since Ricardo sought to ground his theory of distribution exclusively in the conditions of production, he rejected Smith's 'labor-commanded' theory of value. He argued that labor-commanded "is subject to an many fluctuations as the commodities compared with it," and therefore it cannot serve as "an invariable standard, indicating correctly the variations of other things."²⁰ Ricardo believed that only a 'labor-embodied' theory of value could provide an invariable standard. He was not troubled by the fact that commodities did not actu-

ally exchange at ratios determined by embodied labor time because he understood that different capital/labor ratios and durations of the production process in different industries would cause actual exchange ratios to deviate from the ratios of embodied labor time. For Ricardo, this phenomenon made the labor theory of value inexact, but he still considered it the best theory of relative prices.²¹

A determinate theory of the economic process cannot, by itself, remove the distribution of output from the realm of moral assessment. Conceivably, state intervention could alter the initial conditions of the economy so as to give a preferred outcome. Thus, if Ricardo's theory is to serve as a theory of justice supporting market outcomes, it must show not only that those outcomes are determinate, but also that the initial conditions underlying those outcomes are acceptable to rational persons. This second requirement can be met by demonstrating a natural harmony of interests in capitalism. For this purpose, the labor theory of value can be employed to show the justice of the static laws of exchange in competitive markets. However, Ricardo's dynamic theories of population, rent, wages, and profits reveal fundamental conflicts of interest between the classes. Since rent is the residual after wages and profits have been deducted from the social product, the interests of the landlords are opposed to those of both capitalists and workers. Furthermore, Ricardo's claim that wages and profits vary inversely with each other would seem to indicate a clash between the interests of workers and capitalists. Yet, aside from vol-

untary limitations on population growth, Ricardo believed that high profits and rapid accumulation held the only hope for improvement in the workers' standard of living. Thus he does argue for a certain degree of harmony between capitalists and workers, but he was more concerned to show that any attempts by workers to forcefully push up their wages would necessarily result in lower profits.²² Conversely, any successful attempts by employers to push down wages would result in higher profits. Significantly, both these cases (i.e., workers combining to raise wages and employers combining to lower wages) are based on violations of the rules of the competitive market. Thus Ricardo might be defended as having demonstrated a harmony of interests between capitalists and workers within the rules of competitive markets. Yet even this qualified statement cannot be supported. In the third edition of his Principles, Ricardo argued that if more capital were invested in machinery, then less capital would be available to pay wages. Thus the ordinary process of accumulation and investment creates unemployment as machines displace workers. We must conclude, therefore, that Ricardo did not support the notion of a harmony of interests between any of the classes in capitalist society.

Without the harmony of interests doctrine, Ricardo's theory collapses as a theory of justice. True, he had located an objective criterion of right (i.e., abstract labor time), and he delineated the determining role of the 'natural' constants; distribution was portrayed as the outcome of individual effort operating under 'natural' constraints. However, Ricardo

took as a constant something that was increasingly the subject of conflict--the distribution of property. His dismal prognostications assumed man's powerlessness to alter the conditions of his existence. One of these conditions was supposed to be the prevailing distribution of property, yet the Utilitarians were engaged in destroying the 'natural' aspect of property rights. Simultaneously, the working class began to exert its newly realized political clout. With the legitimacy of property rights under attack, the labor theory of value could be employed to reveal exploitation rather than harmony arising from the exchange of value-equivalents in a capitalist market. Under these conditions, the need for a reformulation of the liberal theory of justice was urgent. Both the Utilitarian's forward-looking appeal to consequences in terms of pleasure and pain and Ricardo's backward-looking appeal to abstract labor time had failed to provide an objective criterion of right for a society built around fundamental conflicts of interest. The search for a viable liberal theory of justice would occupy the bulk of John Stuart Mill's intellectual energies for the next several decades.

II

The complexity of Mill's philosophy demands a step-by-step reconstruction of his theory of justice. In this section, I shall examine the methodological underpinnings of Mill's ethics before proceeding to a full elaboration of his theory of justice in the following section. At the outset, I acknowledge the inherent difficulty of developing a

consistent interpretation of a philosopher who has alternately been labeled a rationalist and an empiricist, a nominalist and a realist, a materialist and an idealist, and an advocate of free will and determinism. Clearly, I must demonstrate a great deal of ingenuity on Mill's part in order to argue that he successfully spanned these diametrically opposed philosophical traditions. I begin by outlining the alleged conflicts within Mill's logic and scientific method.

Mill aligned himself firmly with the school of experience as opposed to intuition, and thus he was attracted to inductive logic. Normally, induction can only lead to empirical generalizations, but Mill sought a demonstrative theory of inductive proof. The very notion of inductive proof presupposes a thoroughly rationalist conception of nature, and Mill's cosmology presents just such a view.

Nature means the sum of all phenomena, together with the causes which produced them; including not only all that happens but all that is capable of happening; the unused capabilities of causes being as much a ²³part of the idea of Nature as those which take effect.

Thus, for Mill, experienced phenomena must always be analyzed by connecting them with underlying natural laws. In terms of logic, particulars are simply expressions of underlying universals.

Mill postulates a law of universal causation behind all phenomena. This law is discovered empirically and proven inductively, but, once proven, it permits inference from "particulars to particulars". Mill's notion of inductive proof seems to lead him to the conclusion that certainty is attainable through scientific experimentation. His theory of

the syllogism, on the other hand, states that universals are merely collections of particulars, and thus all inferences must be uncertain. Actually, this switching from a realist to a nominalist theory of universals is more apparent than real. Mill's universal laws of nature are more accurately described as inferences from his cosmology rather than as inductions from experience. He maintained that

the nature and laws of things in themselves, or of the hidden causes of the phenomena which are the objects of experience appear²⁴ to us radically inaccessible to the human faculties.

The conflict between Mill's realism and his nominalism is further lessened if we understand that the particulars in the theory of the syllogism are, from Mill's viewpoint, the sensations of states of consciousness produced by the universal laws of nature. Thus Mill's deductive or ratiocinative method should actually be less uncertain than he admits, while his inductive method, with its reliance on rationalist assumptions, provides nothing approaching proof or certainty.

The overwhelming tendency of Mill's philosophy supports the view that inductive generalizations can never be fully proved. Even when empirical laws are connected by deduction with previously postulated laws of nature, they must still be only approximations of an unknowable reality. What, then, is to be gained by the postulation of universal laws? To answer this, we must understand that Mill's dual motivation in refining methodology was to both demolish the intellectual stranglehold which intuitionism held on moral reasoning and to establish a new scientific basis

for moral and political theory. Thus his efforts to develop a theory of inductive proof were aimed at depriving intuitionism of "the appeal it is accustomed to make to the evidence of mathematics and of the cognate branches of physical science."²⁵ Yet despite his adherence to 'the school of Locke and Bentham', Mill was not an empiricist. He always maintained that while experience furnishes all the material of knowledge, experience must be connected with universal laws before it can provide a suitable basis for understanding.

Being unable to examine the actual contents of our consciousness until our earliest, which are necessarily our most firmly knit associations, are fully formed, we cannot study the original elements of mind in the facts of our present consciousness. These original elements can only come to light as residual phenomena by a previous study of ²⁶the mental elements which are confessedly not original.

Mill was convinced that with the concepts of sensation and association, he had uncovered the basis for a science of the formation of character. Furthermore, since "human beings in society have no properties but those which are derived from and may be resolved into, the laws of the nature of man," Mill holds that "the laws of the phenomena of society are, and can be, nothing but the laws of the actions and passions of human beings united together in the social state."²⁷ Thus social science will be deductive because it begins with "the laws of nature of individual man". Social science cannot be inductive because in social affairs, a "plurality of causes exists in almost boundless excess and effects are for the most part inextricably interwoven with one another."²⁸ Yet Mill

does not dismiss the role of observation and experience in social science.

He notes that

the ground of confidence in any concrete deductive science is not the a priori reasoning itself, but the accordance between its results and those of observation a posteriori. Either of these processes, apart from the other, diminishes²⁹ in value as the subject increases in complication.

We may conclude that Mill's logic and scientific method are built around a synthesis of a realist and nominalist theory of universals and also a synthesis of an a priori and an experientialist theory of knowledge. The connecting thread for this curious amalgam is Mill's cosmology; Nature is an arena of orderly cause and effect relations. Consciousness, fully a part of this natural process, can register sensations and make associations, but the laws of the universe are effectively removed from the realm of certain knowledge. We must rely on experience and observation, but, at the same time, we will be unable to decipher Nature without the aid of a priori reasoning. Paradoxically then, Mill's commitment to experience does not deny the existence of universal laws, nor does his commitment to a priori postulates deny the necessity of observation. Mill's fundamentally rationalist cosmology combined with his experientialist epistemology allows him to have it both ways.

Turning now to Mill's ethics, we find similar conflicts apparent in his writings. His cosmology leads to a thoroughly naturalistic view of man as a locus of interacting laws of nature. Mill was thus drawn to a deterministic view of man and a relativistic view of knowledge. At

the same time, however, he admired the free-will doctrine for "keeping in view precisely that portion of the truth which the word Necessity puts out of sight, namely, the power of the mind to co-operate in the formation of its own character."³⁰

Mill's appreciation of free-will does not, however, prevent him from asserting the determining effect of circumstances in the last instance;

Our character is formed by us as well as for us; but the wish which induces us to attempt to reform it is formed for us...by our experience.³¹

Thus we do have the power to alter our character so long as we wish to use it, and Mill places a moral obligation upon mankind to alter both the conditions of existence and individual character.

The duty of man is to co-operate with the beneficent powers (of nature), not by imitating but by perpetually striving to amend the course of nature--and bringing that part of it over which they can exercise control more nearly into conformity with a high standard of justice and goodness.³²

The artificially created, or at least artificially perfected, nature of the best and noblest human beings, is³³ the only nature which it is ever commendable to follow.

By what standard would Mill have men determine the ethically superior role models and conditions of existence? Again, we find apparent conflict. Mill seemingly wants a deductive ethics; he stresses the need for a first principle in moral philosophy if human conduct is to be rationally justified;

There must be some standard by which to determine the goodness or badness, absolute and comparative, of ends or objects of desire. And whatever that standard is, there can be but one: for if there were several ulti-

mate principles of conduct, the same conduct might be approved by one of those principles and condemned by another; and there would be needed some more general principle as umpire between them.³⁴

The standard Mill proposes is, of course, the principle of utility. Yet he is unwilling to accept its Benthamite version; Bentham's abstract deductive reasoning was based on an overly simplified account of a complex empirical reality. Mill noted that under Bentham's influence, progressive thought had become "abstract and metaphysical", while conservative thought, as exhibited by Coleridge, at least had the strength of being "concrete and historical".³⁵ Utilitarianism tended to ignore the aspirations and experiences of individuals in its determination of rights and duties. Mill's introduction of the doctrine of Individuality and of qualitative distinctions between pleasures was intended to make Utilitarianism more concrete and inductive rather than, as most critics have claimed, to inject a rational or metaphysical element into Bentham's philosophy. The confusion arises from the supposition that Mill wanted a standard of pleasure as a basis for a deductive ethics and hence a justification for a reorganization of society along elitist lines. Quite to the contrary, he objected to modeling moral science after Newtonian physics. According to Mill, the task of the scientist in the moral disciplines is to develop empirical laws on the basis of observation and then verify these laws by deducing them from the postulated laws of human nature. But the empirical laws cannot determine the correct behavior for an individual nor the correct policy for a legislator because they can only be applied to the fulfillment of separately determined ethical ends.

The formulation of these ends falls under the category of Art rather than Science.

Mill's ethics can be described as concrete and inductive in yet a more fundamental way. Mill was willing to grant the validity of the principle of utility only if utility was "grounded on the permanent interests of man as a progressive being."³⁶ At the same time, he was unwilling to define the content of these interests since to do so would require a purely deductive ethics. Mill's solution was to encourage a diversity of lifestyles and let experience prove which ones are superior.

The worth of different modes of life should be proved practically...Unless there is a corresponding diversity in their modes of life, (men) neither obtain their fair share of happiness, nor grow up to the mental, moral, and aesthetic stature of which their nature is capable.³⁷

Implicit in Mill's proposal is the assumption that individuals, in their drive to maximize utility, will compare personalities and lifestyles exhibited by others when choosing their own. More importantly, the cogency of Mill's position depends on the further assumption that individuals exposed to different lifestyles will indeed choose those which are ethically superior. In a sense, this second assumption is tautological, since Mill proposes that in any situation of choice between alternatives, "the judgement of those who are qualified by knowledge of both, or if they differ, that of the majority amongst them, must be admitted as final."³⁸ Thus the fact that certain lifestyles are popular should serve as prima facie evidence of their ethical superiority, but Mill is uncomfortable with such extreme relativism. In its present imperfect condition, society

does not afford many individuals the opportunity to experience diversity and thus be cognizant of preferred lifestyles. The pressure for conformity is immense and tends to stifle the desire to alter one's personality. Thus, while knowledge of alternatives is a necessary condition for the transformation of preference, individual initiative is the sufficient condition. Mill believed that one or both may be absent in society.

To sum up Mill's ethics, then, we may recognize the potential incompatibility of his varying degrees of commitment to deductive and inductive methods, determinist and free-will doctrines, and experientialist and rationalist criteria of right. Yet underlying these tensions is Mill's unwavering commitment to the belief that Nature, including man, is more than just exhibited phenomena. It includes "the unused capabilities of causes...as much...as those which take effect." The moral duty of mankind is to fully realize the potential inherent in Nature, but to fulfill this obligation, both knowledge and desire are necessary. We must not fall into

the error of expecting that the regeneration of mankind, if practicable at all, is to be brought about exclusively by the cultivation of what (many of our social reformers) somewhat loosely term the reasoning faculty; forgetting...that, even supposing perfect knowledge to be attained, no good will come of it, unless the ends, to³⁹ which the means have been pointed out, are first desired.

The realization of Nature's potential must be pursued artistically as well as scientifically, inductively as well as deductively. The good society will both reflect individual desires and facilitate the development of new and superior desires. Mill is a moral relativist to the ex-

tent that he acknowledges man's inability to discern an objective criterion of right, but he is an absolutist insofar as he believes that competition among diverse views must converge on a superior position. This fundamental necessity for diversity leads Mill to the belief that moral advancement requires liberty, and that liberty, in turn, must be based on justice. In the following section, I shall analyze Mill's theory of justice.

III

Mill came to intellectual maturity in an increasingly polarized political environment. The natural harmony of interests doctrine had been discredited, but without it, liberal social theory was adrift; there was no longer an ethical basis for laissez faire, yet neither were there any functional norms to guide alternative policies. Having eliminated any basis for the a priori determination of rights, the Utilitarians themselves could not offer an effective criterion for the weighing of consequences. Thus the Benthamite theory of justice made the definitions of right and just the objects of social conflict.

Mill was acutely aware of the ideological vacuum left by Bentham and of the urgency of filling that vacuum in the face of the increasing challenge of socialism;

Even those who take the most unfavorable view of the changes in our social arrangements which are demanded with increasing energy on behalf of the working classes, would be wise to consider that when claims are made which are partly just and partly beyond the limits of justice, it is no less politic than honest to concede with a good will all that is just, and take their defensive stand on the line, if they are able to find it, which separates justice from injustice.

In order to understand how Mill drew the line between justice and injustice, we begin with his principle of liberty which may be expressed as follows:

The only purpose for which power can be rightfully exercised over any member of a civilized community is to prevent harm to others.⁴¹

Clearly, the cogency of this principle requires some specification of what sorts of disutilities experienced by others are to be counted as 'harm'. Mill states that any psychic disutility arising from actions which are merely offensive to another persons values must be tolerated and cannot serve as grounds for an infringement of liberty. The closest Mill comes to defining 'harm' is a reference to "injuring the interests of...another... which ought to be considered as rights."⁴² But this leaves us in no better position than before; we now need a definition of rights.

The Benthamite notion of rights is too vague for Mill because it leaves the individual open to possible subjugation in the interest of advancing social utility. In their short-sightedness, legislators may give insufficient weight to the benefits over time of maintaining diversity. Yet Mill was determined not to abandon the principle of utility since without it, morality would lose the essential single criterion of right. The dilemma facing Mill is thus to define rights and explain the claims of justice in utilitarian terms while simultaneously defending an absolute principle of liberty and developing a theory of justice which conforms with common notions linking rewards to merit or desert.

Mill approaches the task by acknowledging that justice is frequently thought of as having a basis in natural instincts and thus posing an alter-

native criterion of right to the principle of utility. Mill even agrees that the original source of the sense of justice is the animal desire for retaliation which comes from "the impulse of self-defence and the feeling of sympathy."⁴³ But these sentiments are not, in themselves, moral and do not become so until they are;

united with a conviction that the infliction of punishment in such case is conformable to the general good, and when the impulse is not allowed⁴⁴ to carry us beyond the point at which the conviction ends.

When the sentiments underlying the sense of justice have been fully moralized, we will observe

just persons resenting a hurt to society, though not otherwise a hurt to themselves, and not resenting a hurt to themselves, however painful, unless it be of the kind which society has a common interest with them in the repression of.⁴⁵

So far, Mill has only shown that mankind has the capacity to develop a sense of justice. He still needs to explain the requirements of justice and to prove that they do not conflict with the principle of utility. In an effort to differentiate the requirements of justice from other moral obligations, Mill claims that justice entails "duties of perfect obligation... in virtue of which a correlative right resides in some person or persons."⁴⁶ This is hardly a satisfactory explanation of justice; to say that the rules of justice are transgressed when a person's rights have been violated is tautological and hence vacuous. However, Mill subsequently clarifies his position;

When we call anything a person's right, we mean that he has a valid claim on society to protect him in the possession of it, either by force of law, or by that of education and opinion.⁴⁷

We begin to suspect that we are being led in a circle, but Mill does explain that these 'valid claims' may arise on the basis of formal laws or simply from a tacit understanding concerning consideration among persons. If laws are violated, the government should intervene, but for the mere disappointment of a legitimate expectation, "the offender may...be punished by opinion, though not by law."⁴⁸ Mill warns of the danger of allowing government to punish violations of justice which do not break the law;

We should be glad to see just conduct enforced and injustice repressed, even in the minutest details, if we were not, with reason, afraid of trusting the magistrate with so unlimited an amount of power over individuals.⁴⁹

Does Mill's theory of justice, then, effectively reduce to a Hobbesian positive law theory where civil laws become the criterion of right? Not at all. Mill admits the possibility of unjust laws and differentiates between moral rights and legal rights. Positive laws, and indeed all social rules, derive their ultimate legitimacy from their contribution to social utility. Known and rigid rules are expedient because they both simplify moral choice and encourage moral behavior;

As mankind are much more nearly of one nature, than of one opinion about their own nature, they are more easily brought to agree in their⁵⁰ intermediate principles...than in their first principles.

To be held to rigid rules of justice for the sake of others develops the feelings and⁵¹ capacities which have the good of others for their object.

However, Mill finds the greatest utility of rules of justice to be their contribution to security;

We depend on (security) for all our immunity from evil, and

for the whole value of all and every good, beyond the passing moment; since nothing but the gratification of the instant could be of any worth to us, if we could be deprived of everything the next instant⁵² by whoever was momentarily stronger than ourselves.

Now, either Hobbes or Bentham could have offered a nearly identical explanation of justice, so we have clearly not yet uncovered the unique aspect of Mill's theory. Mill's contribution may be described as charting a middle course between Hobbes and Bentham so that security is not given such priority that the rules of justice become inflexible and, at the same time, expediency is not permitted to dictate violations of common-sense notions of justice as fairness. Thus we find Mill warning of;

the error of setting up such unbending principles, not merely as universal rules for attaining a given end, but as rules of conduct generally; without regard to the possibility, not only that some modifying cause may prevent the attainment of the given end by the means which the rule prescribes, but that success itself may conflict with some other end, which may possibly chance to be more desirable.⁵³

Mill believed that the dictates of justice cannot be static because they are at least partially a function of the social environment;

The entire history of social improvement has been a series of transitions, by which one custom or institution after another, from being a supposed primary necessity of social existence, has passed into the rank⁵⁴ of an universally stigmatized injustice and tyranny.

Having avoided the Scylla of security, Mill still needs to steer clear of the Charybdis of expediency if the dictates of justice are to possess the firm commitment to fairness demanded by men's natural sentiments. To compound the difficulty, justice as fairness must be subsumed under, or at least made consistent with, the principle of utility if Mill is to avoid

having two competing criteria of right. It is precisely this latter condition which some critics claim Mill cannot possibly meet; a distributive ideal, they say, cannot logically be subsumed under an aggregative one.⁵⁵ In a static sense the critics are right, but Mill is concerned with the dynamic maximization of utility and hence with the development of capacities for pleasure as well as the satisfaction of existing desires. According to Mill, the essential conditions for the development of human potential are an awareness of superior preference structures and a desire to attain them. These conditions, in turn, require for their fulfillment a diversity of lifestyles and personalities, which can only flourish in a fair and just society. Thus fairness is both central to and consistent with Mill's principle of utility.

The exact manner in which justice fosters utility will bear some further examination. Mill's rejection of both Bentham and Ricardo was motivated by his perception that neither of them effectively appealed to the individual aspirations of persons. In Ricardo's case, the conditions of justice were imposed by immutable laws of nature, while Bentham's utilitarianism left the individual's fate in the hands of societal calculations of pleasure and pain. Both theories viewed the requirements of justice as something imposed (by nature or society) on the individual and then sought to legitimize the constraints. Mill, on the other hand, believed that justice can only be realized when individuals actively aspire to initiate programs of self-development based on the expectation of increasing their capacities for enjoyment in the future;

Morality consists of two parts. One of these is self-education--the training by the human being himself, of his affects and will...The other and co-equal part, the regulation of his outward actions, must be altogether halting and imperfect without the first.⁵⁶

This requirement that self-development be a preferred goal carries with it major implications for both the political and economic contours of society. In the next section, I shall examine the nature of social institutions dictated by Mill's theory of justice.

IV

If ethically superior preference structures are to emerge, different lifestyles and personalities must compete on a fair basis. Mill was not so idealistic as to believe that virtuous, but economically nonviable, lifestyles would be deemed worthy of emulation by large numbers of people. Thus the focus of his economics was the determination of those conditions under which society's rewards would be distributed so as to foster the maximum development of human capacities and hence the most rapid possible expansion of social utility. For Mill, distributive justice was backward-looking in the sense that reward should correspond with merit, but this theory of justice was ultimately forward-looking because merit should reflect the potential as well as the realized development of capacities.

The theoretical task which Mill set for himself may be summarized as follows: which aspects of a capitalist economy are consistent with the encouragement of human development and which aspects suppress development? Mill predicted that "attacks on private property" would continue "until

the laws of property are freed from whatever portion of injustice they contain."⁵⁷ He sought to demonstrate that private property has "no necessary connection with all the physical and social evils which almost all socialist writers assume to be inseparable from it."⁵⁸

Competition was the most attractive aspect of capitalism for Mill. In order to show that competitive market exchanges are consistent with justice, he, like Smith and Ricardo, was attracted to the labor theory of value; "the value of commodities, therefore, depends principally...on the quantity of labour required for their production."⁵⁹ However, Mill could not accept Ricardo's simplifying assumption of equal ratios of capital to labor in all industries. Thus he concluded that costs of production would not be proportional to the labor embodied in different commodities. To resolve this problem, Mill adopted the subjective approach to real cost which had been initiated by Smith and Nassau Senior. This approach treats the abstinence of the capitalist who refrains from present consumption as a disutility comparable to labor and hence equally deserving of compensation;

As the wages of the labourer are the remuneration of labour, so the profits of the capitalist are properly, according to Mr. Senior's well-chosen expression, the remuneration of abstinence. They are what he gains by forbearing to consume his capital for his own uses, and allowing it to be consumed by productive labourers for their uses. For this forbearance he requires a recompense.

By maintaining the distinction between the physical productiveness of the factors of production and the rewards accruing to their owners, Mill could defend that part of property income which called forth abstinence, skill, and energy while condemning income accruing to inherited or landed

wealth. Thus he recommended stiff inheritance taxes but opposed progressive taxation;

to tax the larger incomes at a higher percentage than the smaller, is to lay a tax on industry and economy; to impose a penalty on people for having worked harder and saved more than their neighbors.⁶¹

Mill would have favored appropriation of land by the State, but he foresaw a greater potential for injustice arising from State power than from private ownership of land;

the land ought to belong to the nation at large, but I think it will be a generation or two before the progress of public intelligence and morality will permit so great a concern to be entrusted to public authorities without greater abuses than necessarily attach to private property in land.⁶²

While Mill was attracted by the incentives and reward structure associated with competition, he condemned the injustice of the existing distribution of rewards;

The distinction between rich and poor, so slightly connected as it is with merit and demerit, or even with exertions and want of exertion in the individual, is obviously unjust.⁶³

Mill attributed the bulk of injustice to an exogenous historical factor-- the forcible and fraudulent seizing of land and wealth prior to the strict observance of contractual rights. He was unwilling to advocate the expropriation of property acquired through improper means, but he favored programs aimed at dispersing wealth such as inheritance taxes, universal education, and limitations on the rate of population growth. Mill even supported the trade union movement in their efforts to bargain for higher wages. Having rejected the Classical notion of the wages-fund, he believed

that unions could be effective in raising the total income going to the laboring class.

Distributive equity is a necessary but not sufficient condition for fair competition among alternative lifestyles. Just as an unfair distribution of rewards would undermine the viability of potentially superior practices, so would government suppression of individual liberties. Thus Mill defended an absolute principle of liberty which permits intervention only when one persons actions infringe on the rights of others. As we have seen, Mill's principle of liberty rests on the definition of rights developed in his theory of justice. The only rights whose violation demands intervention are those established by civil law. These laws, in turn, ought to protect those individual claims on society which serve to maximize the expansion of social utility. Clearly, then, Mill's principle of liberty is not a defense of 'absolute' liberty, but rather a principle which ought to be applied absolutely in the defense of those liberties deemed advantageous to society.

Many critics claim to have detected a fatal flaw in Mill's principle of liberty. They view Mill as being forced to choose between an absolute principle of liberty (in which case he becomes a libertarian) or a principle of liberty which defends only those interests which advance social utility (in which case he becomes a moral totalitarian). Yet Mill falls into neither of these simplistic models; he doesn't defend 'absolute' liberty, and, at the same time, he doesn't claim any a priori method for determining precisely which rights and interests ought to be protected. For Mill, utility must

be "grounded on the permanent interests of man as a progressive being," and he admits that the nature of these interests will only gradually become evident as mankind progresses through experience.

The obvious objection to Mill is to ask who will determine the legitimate rights and interests at any particular time. The theoretical elegance of a concept like "the permanent interests of man as a progressive being" does not preclude the necessity of rigid laws based on specified rights. With his forward-looking, dynamic criterion of right, Mill could not follow his Classical predecessors in relying on the market mechanism as the source of the standard of value; market values simply reflect the expression of existing desires which may or may not be consistent with man's 'permanent interests'. Thus Mill turned to the political process as an arena for the rational determination of the proper ends of society.

The tension in Mill's political theory is a reflection of an underlying conflict between his rationalist cosmology and his experientialist epistemology. On one hand, Mill believed that Nature, including man, is rife with unrealized potential, but, on the other hand, he claims that man can have no direct access to knowledge of the ultimate state of Nature. Thus Mill wavers between an elitist view of politics whereby the more knowledgeable members of society fashion laws designed to maximize utility, and a democratic view which will permit popular judgement based on experience to guide society.

Mill's elitist tendencies are most pronounced when he voices his pessimism concerning the rationality of the masses. He expressed admiration for

the toryism of Wordsworth and Coleridge which was;

duly sensible that it is good for man to be ruled;
to submit both his body and mind to the guidance of
a higher intelligence and virtue.

In contrast;

liberalism, which is for making every man his own
guide and sovereign master, and letting him think
for himself and do exactly as he judges best for
himself (is based on a)...thorough ignorance of
man's nature, and of what is necessary for his hap-
piness or what degree of happiness and virtue he
is capable of attaining.⁶⁴

Mill envisioned political leaders who were dispassionate and knowledgeable.

In On Liberty, he argued that the only means by which the masses could rise
above mediocrity was "by the counsels and influence of a more highly gifted
and intructed One or Few."⁶⁵

Yet Mill also exhibited strong democratic tendencies; in Considerations
on Representative Government, he makes two strong defenses of democracy.

the ideally best form of government is that in which
the sovereignty, or supreme controlling power in the
last resort, is vested in the entire aggregate of the
community; every citizen not only having a voice in
the exercise of the ultimate sovereignty, but being,
at least occasionally, called on to take an actual
part in the government, by the personal discharge of
some public function, local or general.

the only government which can fully satisfy all the
exigencies of the social state is one in which the
whole people participate; that any participation,
even in the smallest public function, is useful; that
the participation should everywhere be as great as
the general degree of improvement of the community
will allow, and that nothing less can be ultimately
desirable than the admission of all to share in the
sovereign power of the State.⁶⁶

Both of these statements contain qualifying phrases, but Mill's attraction to democracy was authentic and more than just a facade to mask capitalist inequality. He believed that participation was itself an important element in raising the general level of intelligence.

Having stressed the value of participation, Mill sought to defend inequality of participation. Equal voting is, from Mill's viewpoint,

in principle wrong, because recognizing a wrong standard, and exercising a bad influence on the voter's mind. It is not useful, but hurtful, that the constitution of the country should declare ignorance to be entitled to as much political power as knowledge.⁶⁷

To guard against equal voting, Mill advocated plural voting whereby the more successful members of society would be allowed two or more votes.⁶⁸ He suggested that inequality in participation should not disturb the common man if "this superior influence should be assigned on grounds which he can comprehend, and of which he is able to perceive the justice."⁶⁹ Thus Mill believed that plural votes should be granted on the basis of education rather than ownership of property.

In comparing Mill's political and economic theories, an analogy emerges which reflects the central importance of justice in virtually all of his work. Mill does not oppose unequal advantages when they correspond to relevant inequalities of merit. In the economic sphere, the criterion of merit is sacrifice and contribution as measured by either labor or abstinence. In the political sphere, the criterion of merit is intellectual and moral contribution as measured by level of education and range of experience. In both spheres, Mill opposed any "inequality of privilege grounded on irrelevant

or adventitious circumstances."⁷⁰

The ambiguities which appear so evident in Mill's writings on politics and economics cannot be resolved without penetrating into his moral philosophy and particularly his theory of justice. There we discover that the conflicts between positive and negative freedom, laissez faire and intervention, elitism and democracy, and an adding-up theory of value and a subjective real cost theory of value all boil down to a basic dilemma; an objective truth exists but we have no way to discover it except through experience. Because he believed in an objective criterion of right, Mill supported a positive notion of freedom, state intervention, elitism, and a subjective real cost theory of value. All of these were designed to ascertain and fulfill the requirements of justice.

At the same time, Mill believed that the objective criterion of right could only become evident through a gradual competitive process whereby alternative lifestyles, characters, and ideas proved their worth in practice and hence became desired ends for the mass of people. In other words, the objective criterion of right could only function in society when individuals came to it through their own initiative and found it congruent with their subjective aspirations. This perspective leads Mill to support a negative conception of liberty, laissez faire, democracy, and an adding-up theory of value.

The tensions in Mill's theory are no more than the tension between being and becoming. Humans are simultaneously bundles of desires whose interests lie in fulfilling those desires and self-conscious entities who have a

strong interest in realizing their potential capacities. In deference to the autonomy of the individual, the good society must recognize the legitimacy of and seek to satisfy the desires of its citizens. When Mill takes this perspective, he is a thorough realist and utilitarian. However, the good society must also foster the development of superior personalities, and to do this, judgements must be made by both individuals and legislators as to the rightness and wrongness of actions and the truth or falsity of opinions. For this task, Mill proposed the only standard available to a theorist who has cut himself off from any reliance on innate instincts, reason, or intuition; experience alone could instruct men in the fashioning of higher ends. Yet Mill's notion of experience, as described in the second section of this chapter, dictates that perceptions alone cannot give knowledge. Experienced phenomena can be understood only by linking them with the natural laws embodied in Mill's cosmos. Hence judgement requires prior knowledge; only the highly educated minority is capable of ascertaining right and wrong.

We might conclude that Mill succeeded in developing an internally consistent and coherent theory of justice. He correctly perceived the requirement of postulating an objective criterion of right on which subjective intentions might reasonably be assumed to converge. He was perhaps the first liberal theoretician to recognize that individual desires are the product as well as the cause of social institutions. In a period of intense class conflict, he saw the wisdom of limited abrogations of property rights and universal suffrage on one hand, and the protection of earned privileges and

minority opinions on the other hand. Mill can be compared to the captain of a ship which is heading into uncharted waters. He wants to deliver his crew safely to the most ideal terrain, but he doesn't know in advance where this piece of land is located or what it looks like. He welcomes the assistance of his officers who are on the deck with him examining the different landing sites. He even believes that the decision would be aided by other opinions, but the deck can only accommodate a limited number of persons. However, he has ordered the crew members who work below to enlarge the deck so that gradually they can come up to assist in charting the course of the ship. In fact, the captain strongly suspects that the ideal site won't be known until all the ship's crew had had an opportunity to participate in the decision. However, the limited size of the deck prohibits this for the present, and so the task of the captain and his officers is to steer the boat in the right direction while encouraging the enlargement of the deck.

This metaphor captures Mill's conflicting commitments to democracy and elitism, social equality and privilege. The resolution, for Mill, requires time. In the interim, public education, higher standards of living, and perhaps most importantly, restraints on population growth are prerequisites to a just society. By appealing to a future just society while upholding the basic institutions of existing society as being essential to achieving the future society, Mill would appear to have developed not only an internally consistent, but also a viable theory of justice. Yet it is on the issue of viability that Mill's theory encounters its fatal weakness.

The cogency of Mill's theory of justice requires the functioning of a

private morality which stresses the principle of self-realization. Moreover, if ethically superior personalities are to be consistently preferred, the basis on which individuals assess alternative personalities must be independent of the system by which expressed desires are satisfied. In short, Mill must assume that the system of rewards effected by the competitive market is congruent with the choice of ethically superior personalities. Several objections may be raised against this assumption. First, the competitive market economy develops according to efficiency criteria, and hence those personalities oriented toward abstinence, labor, and material rewards will be reinforced by the market. Second, market efficiency may dictate a structure of work in which narrow and routinized tasks are promoted at the expense of more stimulating and fulfilling work experiences. Again, the personalities which are compatible with routine work will be rewarded and hence will, at least to some extent, become preferred role models.

The foregoing criticisms would not apply to Mill if he claimed that the personality types engendered by the competitive market were indeed ethically superior. But Mill denies this;

I confess I am not charmed with the ideal of life held out by those who think that the normal state of human beings is that of struggling to get on; that the trampling, crushing, elbowing, and treading on each other's heels, which form the existing type of social life, are the most desirable lot of human kind, or anything but the disagreeable⁷¹ symptoms of one of the phases of industrial progress.

At one point, Mill actually abandoned his appeal to individual initiative in the choice of preferred lifestyles;

That the energies of mankind should be kept in employment by the struggle for riches...until the better minds succeed in educating the others into better things, is undoubtedly more desirable than that they should rust and stagnate. While minds are course, they require course stimuli, and let them have them. ⁷²

This statement illuminates the essential conflict between Mill's theory of justice and the operation of a capitalist economy. In his effort to legitimize the system of private property and individual competition, Mill must destroy the coherency of his theory of justice. He consistently denied that moral rectitude could be imposed on persons; the individual must actively aspire to develop a superior personality and this desire can come only from personal assessments of the worth of competing lifestyles. Yet Mill now admits that in the present society, the mass of men are doomed to a narrow and uninspiring existence;

Hitherto it is questionable if all the mechanical inventions yet made have lightened the day's toil of any human being. They have enabled a greater population to live the same life of drudgery and imprisonment, and an increased number of manufacturers and others to make a fortune. ⁷³

Mill's theory of justice is not viable for a laissez faire capitalist economy, and thus his ultimate recourse is an appeal to rational and disinterested politicians who will undertake the interventions required to maintain justice. However this solution runs afoul of Mill's observations on the effect of class power on political decisions;

In every country where there are rich and poor, the administration of public affairs would, even under the most democratic constitution, be mainly in the hands of the rich...Political power will generally be the rich man's privilege, as heretofore. ⁷⁴

Moreover, it cannot be supposed that the rich will rule wisely and benevolently;

All privileged and powerful classes, as such, have used their power in the interest of their own selfishness, and have indulged their self-importance in despising, and not in lovingly caring for, those who were, in their estimation, degraded, by being under the necessity of working for their benefit. I do not affirm that what has always been must always be, ...but though the evil may be lessened, it cannot be eradicated, until the power itself is withdrawn.⁷⁵

If politics must remain class-biased until the power of the privileged class is withdrawn, then Mill as much as admits that State intervention cannot be the source of justice.

In the final analysis, Mill's belief that the system of private property and individual competition is necessary to the realization of justice can be reduced to his optimistic, and rather unfounded, opinion that education and knowledge would free men from class prejudices and that the 'united authority of the instructed' would prevail over the divisive and narrow interests of the classes. Mill's optimism stems from his faith in an objective criterion of right, but we must remember that Mill denied that reason could bring men to a consensus on this criterion. Instead, he relied on experience, yet he does not show that the experience of living in a class society will foster a widespread commitment to the objective criterion of right. Maurice Cowling offers an insightful description of Mill's optimism;

Mill's situation, as a highly articulate, intellectually ambitious member of a middle-class, literary intelligentsia with little opportunity to exercise open, conventional political power, made it likely that his claims to political

authority would be based, if based on authority they were, on intellectual rather than social superiority. Looked at from one point of view, that is what his moral and political writings are--claims to supersede leadership based on social, by leadership based on intellectual, superiority.⁷⁶

I conclude that the viability of Mill's theory of justice for a capitalist economy is shattered by an incapacity to deal with the on-going reality of class conflict. An adequate theory must demonstrate the material conditions under which class conflict would disintegrate as men reached mutual agreement on a criterion of right. Instead, Mill simply posits the erosion of class divisions as a precondition for the realization of justice. Thus, despite the underlying unity of his thought and his valuable contributions to the liberal theory of justice, John Stuart Mill, like Locke and Smith before him, was unable to offer a satisfactory legitimation of capitalist society.

FOOTNOTES, CHAPTER III

1. Bruce Mazlish, James and John Stuart Mill. Karl Britton, John Stuart Mill. Ruth Borchard, John Stuart Mill the Man. R.J. Halliday, John Stuart Mill.
2. John Plamenatz, The English Utilitarians, p. 122. George H. Sabine, A History of Political Theory, p. 706.
3. R. P. Anschutz, The Philosophy of J.S. Mill. Gertrude Himmelfarb, On Liberty and Liberalism, p. xxii. Alan Ryan, The Philosophy of John Stuart Mill, p. xx.
4. Eric Roll, A History of Economic Thought, p. 353. Alexander Gray, The Development of Economic Doctrine, p. 262. Joseph Schumpeter, History of Economic Analysis, p. 450.
5. Maurice Cowling, Mill and Liberalism, pp. xii, xiii, 98. H.J. McCloskey, John Stuart Mill: A Critical Study, p. 97.
6. John M. Robson, The Improvement of Mankind: The Social and Political Thought of John Stuart Mill, p. ix. John Rees, "A Re-reading of Mill on Liberty," Political Studies, Vol. VIII (1960), pp. 113-129. John Rees, "The Thesis of the Two Mill's," Political Studies, Vol. XXV, No. 3 (1977), pp. 369-382.
7. John Rawls, A Theory of Justice.
8. Jeremy Bentham, Works, Vol. 1, p. 8.
9. Quoted in Elie Halevy, The Growth of Philosophic Radicalism, p. 495.
10. Ibid., p. 495.
11. David Lyons argues persuasively that Bentham's utilitarianism places a duty on the individual to promote the general interest only of those persons under his direction. Thus the legislator is obligated to serve the general interests of society, while the individual, in his private affairs, need not consider the interests of others who may be affected by his actions but who are not under his direction. See Lyons, In the Interest of the Governed, p. 32.
12. Bentham did assume a diminishing marginal utility for money; "the quantity of happiness produced by a particle of wealth (each particle being of the same magnitude) will be less and less at every particle; the second will produce less than the first, the third less than the second, and so on." See W. Stark, Jeremy Bentham's Economic Writings, Vol. 1, p. 113.

13. Bentham, Works, Vol. 1, p. 305.
14. Ibid., Vol. 1, p. 308.
15. Ibid., Vol. 1, p. 320.
16. Jeremy Bentham, Principles of Morals and Legislation, p. 264. However, in analyzing economic affairs, Bentham was not nearly so optimistic about men's motives. He maintained that natural scarcity and desire for power would cause the dissocial motives to be "under all circumstances most unhappily copious and active." Stark, op. cit., Vol. III, p. 430.
17. Bentham, Deontology, Vol. I, p. 562.
18. Bentham, Works, Vol. I, p. 288.
19. Although Ricardo is usually associated with 'the iron law of wages', he actually leaned toward a culturally determined notion of subsistence. As the standard of living rose, so would expectations, and hence the subsistence level would be pulled upward. Ricardo noted that "the friends of humanity cannot but wish that in all countries the labouring classes should have a taste for comforts and enjoyments, and that they should be stimulated by all legal means in their exertions to procure them. There cannot be a better security against a superabundant population." See Works, Vol. 1, p. 100.
20. Ricardo, The Principles of Political Economy and Taxation, p. 7.
21. See George J. Stigler, "Ricardo and the 93 Per Cent Labor Theory of Value," in his Essays in the History of Economics, pp. 326-342.
22. Ricardo's argument is based on Hume's price specie-flow mechanism. Capitalists cannot pass on wage increases in the form of higher prices because the higher prices will cause the balance of trade to deteriorate, lead to an outflow of gold, a contraction of the money supply, and reduced spending. Thus profits will necessarily absorb the impact of higher wages.
23. John Stuart Mill, Three Essays on Religion, p. 5.
24. Mill, Dissertations, i. p. 409.
25. Mill, Autobiography, p. 158.
26. Mill, Examination of Hamilton, p. 178.
27. Mill, A System of Logic, p. 573.
28. Ibid., p. 298.

29. Ibid., p. 585.
30. Ibid., p. 551.
31. Ibid., p. 550.
32. Mill, Three Essays on Religion, p. 65.
33. Ibid., p. 55.
34. Mill, A System of Logic, pp. 620-1.
35. Mill, Dissertations, i, p. 403.
36. Mill, On Liberty, p. 24.
37. Ibid., pp. 305 and 316.
38. Mill, Utilitarianism, p. 35.
39. Mill, "Writings of Junius Redivivus," Monthly Repository, p. 269.
Quoted in Robson, op. cit., p. 126.
40. Mill, Dissertations, iv, p. 265.
41. Mill, On Liberty, p. 10.
42. Ibid., p. 70.
43. Mill, Utilitarianism, p. 63.
44. Ibid., p. 95-6.
45. Ibid., p. 64.
46. Ibid., p. 61.
47. Ibid., p. 65.
48. Mill, On Liberty, p. 70.
49. Mill, Utilitarianism, p. 60.
50. Mill, Dissertations, i, p. 384.
51. Mill, On Liberty, p. 311.

52. Mill, Utilitarianism, p. 66.
53. Mill, A System of Logic, p. 618.
54. Mill, Utilitarianism, p. 74.
55. See Ryan, op. cit., p. 228. See also, Ryan, J.S. Mill, p. 121.
56. Mill, On Bentham, p. 30.
57. Mill, Principles of Political Economy, p. 203.
58. Ibid., p. 209.
59. Ibid., p. 458.
60. Ibid., p. 404.
61. Ibid., p. 489.
62. Mill, Letters (ed. Elliot), II, p. 243. Quoted in Robson, op. cit., p. 254.
63. Mill, Newman's Political Economy, v, p. 444. See also Principles of Political Economy, pp. 208ff and Consdierations on Representative Govern-ment, pp. 126-7.
64. Mill, Letter to Sterling in Collected Works, Vol. XII, p. 84.
65. Mill, On Liberty, p. 124.
66. Mill, Considerations on Representative Government, pp. 207 and 217.
67. Mill Utilitarianism, p. 288.
68. In his autobiography, Mill stipulated that his advocacy of plural voting was dependent on the establishment of universal suffrage. Otherwise, the minimal influence which the working class presently exerted would be further decreased. See Autobiography, p. 181
69. Mill, Considerations on Representative Government, p. 137.
70. Mill, Utilitarianism, p. 288.
71. Mill, Principles of Political Economy, p. 582.
72. Ibid., p. 749.

73. Quoted in Donald L. Losman, "J.S. Mill on Alternative Economic Systems," American Journal of Economics and Sociology, January, 1971, p. 89.

74. Mill, The Rationale of Political Representation, p. 347. Quoted in Graeme Duncan, Marx and Mill: Two Views of Social Conflict and Social Harmony, p. 281.

75. Mill, Principles of Political Economy, p. 760.

76. Cowling, op. cit., p. 136.

C H A P T E R I V

JOHN RAWLS AND THE DEMISE OF THE LIBERAL THEORY OF JUSTICE

After 1870, the rapidly declining authority of John Stuart Mill's social theory reflected more than just the rejection of Classical political economy. Mill marked the end of a liberal tradition which offered both an empirical analysis of a private, market society and an unabashed justification of that society as the only rational form of organization for realizing the most rapid and extensive development of human capacities. After Mill, changing material conditions created increasing tension between analysis and legitimation.

Classical liberalism was based on the assumption of free competition between self-interested persons with ground-rules laid down by a neutral State. With the rise of a working class movement, increasing monopolization of the economy, and the growth of State power, the tension between the ideals of classical liberalism and the reality of contemporary liberal society proved to be greater than a single theoretical framework could bear. Thus out of Mill's work emerged the two rival strands of modern liberalism. The humanistic vision of classical liberalism was incorporated in the idealist political theory initiated by Hegel and developed by T.H. Green. In contrast, neoclassical economic theory retained the hedonistic and empiricist aspects of Utilitarianism.

The conflict between the two strands is exemplified by the efforts of each school of thought to claim Mill as a member. Green claimed that Mill had really deserted the hedonistic calculus of Utilitarianism in

favor of a self-realization principle,¹ while Sidgwick observed that

the distinctions of quality that Mill and others urge may still be admitted as grounds of preference, but only in so far as they can be resolved into distinctions of quantity.²

I shall argue that the strength and coherency of liberal social theory has been seriously undermined by the schism which developed during the late nineteenth century. My interest here is primarily with the difficulties faced by neoclassical economists as they sought to develop rational norms for the organization of society while explicitly rejecting both the existence of and the need for an objective criterion of right. They have either consciously avoided the topic of justice or else have sought to smuggle considerations of justice into their theories disguised as scientific analysis. The latter tactic has inevitably been discredited by more intellectually honest colleagues, while the former has become increasingly untenable in light of both the internal and external challenges to the legitimacy of liberal societies.

Given these developments, it is hardly surprising that John Rawls recent attempt to synthesize the rationalist and empiricist strands of liberalism has been received with widespread interest if not approval. In constructing his theory, Rawls has judiciously returned to the social contract traditions, yet, at the same time, he affiliates himself methodologically with neoclassical welfare economics and the formal rigor which accompanies that tradition. As if the foregoing combination were not sufficiently heterogeneous, Rawls infuses his entire work with Kantian ethics.

I maintain that his peculiar amalgam of various aspects of the liberal tradition is incomprehensible without an appreciation of the historical development of both liberal societies and liberal theories of justice. Rawls has been criticized for illogic and internal inconsistency, but the ultimate test of his theory must be its viability as a description and legitimation of a liberal society in which rewards and duties would be distributed in such a way as to foster continual affirmation of that society by its members.

As a prelude to analyzing Rawls' theory, I shall devote the first section of this chapter to the series of unsuccessful attempts by neo-classical economists to develop welfare criteria based solely on considerations of efficiency. Understanding the impasse reached by neoclassical welfare economics will make us more appreciative of the methodology employed by Rawls. In the second section, I shall briefly sketch Rawls' theory of justice. The third section consists of a rather lengthy critique designed to show that Rawls has not presented a compelling argument for obligation to a capitalist state and thus has failed to construct a viable liberal theory of justice. Finally, I shall devote the fourth section to some reflections on the future of theories of justice.

I

In 1871, the 'marginal revolution' ushered in neoclassical economics. For our purposes, we may note two distinctive changes which the neoclassical orientation brought to liberal notions of justice. First, rational

choice came to be equated with market behavior; Mill's conception of an objective hierarchy of pleasures was scuttled. Second, all efforts to legitimize the prevailing distribution of productive assets were ostensibly placed beyond the scope of economic theory. Given these developments, we might conclude that neoclassical economics has little relevance for our historical analysis of justice. However, despite their attempts to rigidly dichotomize positive and normative elements, neoclassical economists prior to Pareto consistently blurred this distinction. After Pareto, considerations of equity found a home in the branch of the discipline called welfare economics. Since this historical progression is extremely relevant to understanding Rawls, I shall briefly summarize the efforts by neoclassical economists to develop rational principles for the organization of society.

Jevons led the neoclassical attack of Mill's theory of justice. Mill's objective criterion of right had permitted a contrast between the dictates of justice and the prevailing pattern of distribution. Even though his experientialist epistemology constrained him from actually judging the ethical status of specific preference structures, the moral force of Mill's theory of justice rested on the interpersonal comparability of pleasures. Furthermore, it is precisely this aspect of Mill's theory which, if taken in isolation, potentially leads to the illiberal conclusion that society has an interest in suppressing inferior and promoting superior preference structures. Thus Jevons and the other pioneers in neoclassical thought may be viewed as reasserting the sovereignty of the individual during a time when the State was becoming a contested instrumentality through which

group interests sought expression. Jevons explicitly rejected interpersonal comparisons of utility; "every mind is thus inscrutable to every other mind, and no common denominator of feeling seems to be possible."³

Since Mill had denied the practical feasibility of comparing preference structures, we must wonder whether Jevons was motivated solely by the noble effort to rescue the individual from Millian totalitarianism or whether he simply sought to reconstruct the moral justification for laissez faire. After all, Mill's advocacy of intervention was severely limited, but he had raised the spectre of widespread injustice inherent in the very institutional make-up of capitalist society. Mill encouraged a continual questioning of the status quo and experimentation with alternative lifestyles and even economic systems. Thus it is plausible that Jevons was concerned more with Mill's radical individualism and the implied destabilization of the status quo than with any centralist tendencies which can be read into Mill's work.

Further evidence for this interpretation of Jevons's conservatism can be found in his reversion to a Benthamite harmony-of-interests doctrine. Jevons boldly stated that "the supposed conflict of labour with capital is a delusion," and that "in economics... (we) should regard all men as brothers (rather than looking) at such subjects from a class point of view."⁴ With a harmony of interests, all exchanges must be mutually beneficial, but Jevons makes a jump in logic to conclude that "perfect freedom of exchange, therefore, tends to the maximizing of utility."⁵

Clearly, such a conclusion is relative to a given distribution of productive assets, but Jevons makes no attempt to justify the existing distribution.

Thus we find the early neoclassical economists seeking to legitimize laissez faire on grounds of efficiency but then making the unwarranted jump to arguments that an efficient allocation of resources is ethically superior to an inefficient one. Their arguments are couched in terms of positive analysis and they protest vigorously against allowing ethical considerations to enter economics. Thus Menger remarks that;

One of the strangest questions ever made the subject of scientific debate is whether rent and interest are justified from an ethical point of view or whether they are "immoral"...Wherever the services of land and capital bear a price, it is always as a consequence of their value, and their value to men is not the result of arbitrary judgement, but a necessary consequence of their economic character.⁶

Menger has managed to imbue the distribution of income with an objective necessity only by assuming that the distribution of productive assets is an objective necessity. Yet by offering no ethical justification for this latter assumption, he must certainly fail to lift the distribution of income above the realm of moral assessment.

In addition to Jevons and Menger, Walras is usually regarded as a founding father of the neoclassical approach. His unique contribution was to portray a competitive economy as a general equilibrium model in which a set of simultaneous equations would yield a consis-

tent set of prices. Yet Walras also falls prey to the temptation to add moral force to his mathematical model; "The equations we have developed do show freedom of production...procures the maximum of utility."⁷ This widespread tendency to identify the outcomes of a competitive market with a utility maximum reflects more than just an implicit validation of the prevailing distribution of assets. The assumptions that utility is cardinally measurable and additive also underlie early neoclassical analysis. In fact, despite the proclamations to the contrary, these neoclassical economists were engaged in interpersonal comparisons of utility. They were able to avoid explicit comparisons only because they implicitly assumed that equal amounts of income gave equal amounts of utility to all persons. Thus their comparisons of utility could be presented as comparisons of money amounts. The problem with this assumption was that it carried the implication that utility maximization would require a perfectly equal distribution of income.

As neoclassical economics developed during the last quarter of the nineteenth century, many of the presumptions of the originators were rejected as being metaphysical or, applying Occam's razor, as unnecessary. Edgeworth discarded the notion of equal capacities for pleasure among all persons. Marshall and Böhm-Bawerk claimed that economics need have no basis in a hedonistic psychology. As the science of rational choice, economics could drop the assumption that what people do is necessarily good for them.

The intention behind these revisions was the drive to make economics more scientific. Yet the unforeseen effect was to undercut arguments that a private, competitive economy was necessarily desirable. In Schumpeter's words, the neoclassical proof that competition maximizes utility "boils down to a definition of rational action and can be paralleled by analogous theorems for a socialist society."⁸ Wicksell noted that "an exchange between a rich man and a poor man may lead to a greater total utility if it is effected at a suitably fixed price than if left to free competition."⁹

Having effectively destroyed the normative implications of competitive equilibrium and private enterprise, Marshall and Edgeworth (and later Pigou) evaded these implications by covertly reintroducing the notion of identical capacities for pleasure into their public expenditure theory. Edgeworth implicitly makes such an assumption in defending the rule of equimarginal sacrifice in taxation. Marshall's concept of consumer's surplus is based on a specific demand curve which must reflect the prevailing distribution of income. Any policy recommendations based on the size of the consumer's surplus require the assumption of identical capacities for pleasure if interpersonal comparisons of utility are to be avoided.

Our overview of the neoclassical treatment of justice would not be complete without consideration of John Bates Clark. Perhaps more than any other neoclassical economist, Clark was acutely aware of the importance of applying economic theory to the problem of justice.

If it is humanly possible to thus settle the questions at the basis of the law of wages, no scientific work can be more immediately and widely beneficial. These questions tend, if rightly answered, to public order; if wrongly answered, to communism; and, if unanswered, to agitation and peril.¹⁰

Moreover, Clark recognized the need for an objective criterion of right in order to justify the distribution of income. The preface of The Distribution of Wealth begins with the following statement:

It is the purpose of this work to show that the distribution of income of society is controlled by a natural law, and that this law, if it worked without friction, would give to every agent of production the amount of wealth which that agent creates.¹¹

Clark's "productivity ethics" states that each person is morally entitled to the marginal product of the factors of production which he owns. Exploitation occurs whenever any factor receives income less than its marginal product. This theory was buttressed by Wicksteed's proof that under certain assumptions, rewarding factors in proportion to the marginal contribution to output would precisely exhaust the total product.¹²

Clark purported to show that the distribution of income depends only on technical information embodied in the various production functions that that distribution is thus independent of any specific type of economic system. However, by listing the three factors of production as labor, capital, and entrepreneurship, he included a type of activity (i.e., providing capital) which is specific to a private property system. More importantly, in referring to 'providing capital'

as a productive activity, Clark confused the productivity of capital with the productivity of the capitalist. Finally, he seems to have overlooked the fact that the existing pattern of factor endowments will affect the marginal productivity of each factor by shaping both the pattern of demand for final goods and the relative intensity of employment of the various factors. Thus, despite its sophistication, Clark's theory fails to provide the objective criterion of right essential to a liberal theory of justice.

Alfred Marshall was also deeply concerned with the ethical aspects of economics. Drawing on the notion of subjective real cost, he substituted the term "waiting" for Senior's "abstinence". Thus labor and waiting were the two ultimate factors of production for Marshall. If he had proposed that waiting was productive, then he would have followed Clark in confusing the productive contribution of capital with the activity of the capitalist. But Marshall instead portrayed waiting as a sacrifice comparable to labor. This view requires some common standard by which to measure the disutility of both labor and waiting, and Marshall suggested money could be used. The disutility of waiting should be proportional to the increased value of output attributable to additional capital since the same interest rate needed to induce the marginal unit of saving will be paid to borrow the marginal unit of financial capital. However, the use of money as a measure of sacrifice fails on two counts. First, a dollar will not represent an equal sacrifice for persons in differ-

ent economic circumstances, and second, a uniform interest rate will result in compensation greater than sacrifice for those persons who would save even at a lower interest rate. Thus Marshall, too, was unable to develop a justification for the distribution of income that was independent of the prevailing distribution of wealth.

Neoclassical economics was approaching an impasse. The attempt to make the theory objective by abstracting from considerations of equity was clearly a failure. Even after dropping the utilitarian basis of the theory, the seemingly less ambitious claim that free competition maximized nation income (rather than social utility) was likewise insusceptible to proof. In order to aggregate physical goods, prices are necessary, and prices reflect the distribution of wealth. This inability to locate an objective criterion of right should not surprise us. Once the hedonistic underpinnings of the theory had been dropped, the marginal utility theory of exchange value became logically independent of any pure value theory. It contained no subjective or objective grounding independent of the situation for which it was supposed to serve as a criterion of right.

Into this emerging intellectual vacuum stepped Pareto. Or, perhaps more accurately, we should say that Pareto closed the door on the concerns which were rapidly draining neoclassical economics of its optimistic spirit. He recognized that neoclassical analysis had been unsuccessful in separating the scientific study of allocative efficiency from the normative considerations of equity. Determined to correct

matters, he first rejected the notion of cardinally measurable and additive utility functions and then restricted welfare conclusions to those that do not depend on interpersonal comparisons of utility. His refusal to evaluate either the existing distribution of resources or the existing state of preferences implied the acceptance of an infinite number of noncomparable optimal situations corresponding to the infinite variety of preference structures and resource ownership. These situations were noncomparable because a move from one to another would require comparisons of losses and benefits between persons-- a procedure which Pareto had ruled out.

The trouble with Pareto's criterion was that it separated efficiency from equity only by refusing to consider equity at all. For economists interested in practical policy recommendations, the Pareto criterion was so restrictive as to permit almost no active economic policy. After Pigou demonstrated that efficiency would be destroyed by nonmarket interdependencies (i.e., externalities), the justification for intervention was strengthened, and economists became increasingly uncomfortable with the conservative implications of the Pareto criterion. However, the rise of logical positivism in the 1920's and 1930's, a particularly Lionel Robbins influential work on economic methodology,¹³ raised doubts that welfare was a proper area of study for economists. Thus, by the late 1930's, when some economists did seek to broaden the range over which welfare judgements could be made, they based their analysis on Pareto's ethically neutral criterion. The project of the

New Welfare Economics, as it came to be called, was to reinforce the broad legitimacy of laissez faire by showing that market failures could be remedied with delimited interference based solely on considerations of efficiency. Thus Hicks and Kaldor, based on the earlier work of Barone, proposed that an intervention could be considered to improve efficiency if those who gain are able to compensate those who lose and still be better off.¹⁴ Later, Scitovsky noticed that the Hicks-Kaldor criterion could potentially justify both an initial change and then a subsequent change back to the original situation. Thus he introduced a stricter test, known as the Scitovsky double-criterion, which required that the initial change meet the Hicks-Kaldor criterion and that the reverse change does not meet that criterion.¹⁵

Neither the compensation principle nor the double-criterion represented a significant theoretical advance. If the compensation were actually paid, then the Hicks-Kaldor criterion would be identical to the Pareto criterion, whereas if compensation were not paid, people would have an incentive to hide their true preferences. Even if people were honest, the measure of the intensity of losses and gains could not be expressed in dollars offered or demanded without allowing the existing distribution of income to affect the result. To accept dollars offered or demanded as a measure of utility changes would imply that a dollar is equally valuable to all persons--an interpersonal comparison of utilities.

Kaldor, Hicks, and Scitovsky encountered the same impasse as their

predecessors. The attempt to make policy recommendations solely on considerations of efficiency is doomed to failure. The very notion of economic efficiency is based on a given pattern of factor endowments, and thus considerations of equity are necessarily attached to most policies aimed at improving efficiency.¹⁶ Nor can this problem be circumvented by refusing to pass judgement on the distribution of wealth. The acceptance of the status quo is as much a normative judgement as the rejection of the status quo. Thus neoclassical welfare economists were compelled, at least in part, by the internal logic of their discipline to admit that the efficiency criteria, and hence the entire defense of free competition, were normatively vacuous without a prior specification of an optimal distribution of wealth.

In addition to the compelling force of theoretical logic, the intellectual honesty of welfare economists was undoubtedly bolstered by the changing nature of the economy. The phenomena of increasing monopolization, the Great Depression, and a resurgence of working class militancy served to further undermine the notion that the outcomes of a laissez faire economy were either natural or desirable. Keynesian theory played an important role in demonstrating that a market economy could suffer from too much inequality as well as from too little, thus destroying one of the pillars in the traditional defense of inequality. The neoclassical response to these changes came in the form of the social welfare function developed by Bergson.¹⁷ Unlike the New Welfare Economics, the social welfare function is premised on an acknowledgement that,

in Myrdal's words;

The very attempt to study society "from the economic point of view" makes it necessary to assume such a unified subject and to determine it scientifically in order to derive the general interest or general welfare.¹⁸

For the most part, those practicing within the tradition of the social welfare function have been content to relegate the task of determining an optimal distribution of initial assets to an unspecified decision-making process outside the theoretical model.¹⁹ The consequences of this inability to close the neoclassical model are far-reaching. No matter how the social optimum is derived, its implementation involves lump-sum transfers to achieve an equitable distribution and then market competition to achieve allocative efficiency. By allowing equity to assume priority over property rights, neoclassical economists have dropped the commitment to private property as essential to the just social order. Perfect competition is no longer portrayed as an ethical norm inferred from either natural law or utilitarianism. Markets are to be justified solely on the basis of efficiency, and the old arguments linking market efficiency to private property, laissez faire, and a harmony of interests are rejected.

The social welfare function represents an acknowledgement that the coherency of economic theory must rest on a criterion of justice. However, welfare economics has not developed a liberal theory of justice because it has been unable to describe a procedure by which free

and rational individuals could collectively determine a social ordering of alternative distributions without introducing interpersonal comparisons of utility. In other words, as Arrow has shown, a contradiction exists between democratic decision-making and a public choice rule capable of giving a transitive ordering of alternatives.²⁰ The Arrow paradox is to be expected, as Winch explains;

That the political problem of social choice should be insoluble without some means whereby individuals can indicate strength of preference should come as no surprise to economists, for no system of resource allocation, through the market or otherwise, could function efficiently without such a mechanism.²¹

The obstacle to attaching weights to individual preferences lies not only with an inability to assess the intensity of desires, but with the fact that desires would presumably reflect the interests of persons in protecting or advancing their own position and hence would be dependent on the prevailing pattern of factor endowments. Thus the social welfare function, to the extent that it was formulated democratically, could not serve as an objective criterion by which to assess the justice of the initial distribution of assets; a different social welfare function would correspond with each initial distribution.

The same dilemma undercuts Hochman and Rogers attempt to specify the Pareto-optimal degree of income redistribution.²² Acknowledging interdependence between utility functions, they argue that the optimal redistribution in a two-person society is a function of the initial distribution of income and the wealthier person's marginal rate of

substitution between the utility derived from income retention and that derived from income redistribution. However, by making the initial distribution of income exogenous to their model, Hochman and Rogers offer nothing in the way of an independent criterion of justice.²³

By the late 1960's, neoclassical welfare economics had apparently exhausted itself, with little to show for the effort. Its internal weaknesses had been the subject of several penetrating and widely influential critiques.²⁴ While the concept of the social welfare function contributed little to a liberal theory of justice, it was ideologically costly. The inviolability of property rights was sacrificed and yet no criterion of justice was gained; the social welfare function represented an open invitation to power struggles over the distribution of wealth and income. This vacuum in liberal theory became increasingly problematic as larger numbers of individuals, groups, and classes challenged the legitimacy of dominant institutions. In this light, the significance of John Rawls' attempt to reformulate the liberal theory of justice becomes apparent. In the next section, I shall sketch his approach to the problem.

II

Rawls describes the thrust of his efforts as an attempt "to construct a workable and systematic moral conception to oppose (utilitarianism)."²⁵ In doing so, he reaches back to the contractarian tradition of the seventeenth century, but we should not be misled into

treating Rawls as merely a restatement of seventeenth century liberalism.²⁶ The contrast can be highlighted by reviewing the essential points of the classical liberal theory of justice. In that tradition, people are viewed as rational egoists who are bound only by political or legal obligations to which they consent or to which it is reasonable to suppose they would consent. Presumably, any loss of their full natural liberty can be justified only in terms of enlightened self-interest. An essential strategy of classical liberalism was to argue that political institutions exist solely to provide the social conditions in which a free market can develop and operate without constraint; the institutions neither enhance nor detract from the advantage of any participant in the market. Thus rational egoists should accept political authority and its constraints because they can reap the benefits of cooperation and exchange, enjoy security of the fruits of their labor, and make no greater sacrifice of natural liberty than any other person.

The difficulties facing modern liberal theory stem from the unwillingness of large segments of the population to accept the universal advantageousness of the free market. In the face of working class unrest, the universalization of the franchise was granted with the understanding that an expanded role for government was necessary for the survival of liberal society. The State became a contested instrumentality which different classes, sectors, and groups attempted to make serve their conflicting interests. The pluralist State served

as a steam valve for the pressures generated by class conflict.

The changed role of the capitalist State has destroyed the coherence of the classical liberal theory of obligation and justice. In a class society with an interventionist State, political obligation becomes a contingent matter. If the working class is weak and unorganized, the propertied class will push its advantage in seeking a non-interventionist State. In the opposite situation, a united working class will demand large scale redistribution of social wealth if not socialization of the means of production. Thus, once the image of the neutrality of the State has been subverted, the classical justification of liberal institutions collapses.

As described in the previous section, neoclassical economics has been unable to offer any rational criteria for the structure of ownership and rewards in a society in which the State plays an active role. Similarly, liberal political theory has responded to the non-neutrality of the State by abandoning the project of providing moral justification for liberal societies. This trend, which was initiated by Schumpeter and has been developed by Dahl and others,²⁷ views the capitalist State as a process for settling conflicts among competing interest groups over politically distributable goods. This approach accepts the situation of competition and compromise without offering any moral criteria of the limits of legitimate compromise.

Rawls' reformulation of the problem of legitimacy and its solution may be seen as a response to the breakdown of the liberal theory

of justice in the face of class conflict and the resulting politicization of society. The historical significance of his work lies in the fact that he follows modern liberal political and economic theory in repudiating the doctrine of the neutrality of the State, but then proceeds to offer a determinate criterion of justice. Rawls starts from the premise that the basic economic and political institutions of any society effect a pattern of distribution of relative wealth, status, and power. The structure of this distribution is the most profound influence on the relative life-prospects of individuals. Therefore, the problem of legitimacy for Rawls is to demonstrate that a specific pattern of distribution can be morally justified. He rejects any justification based on the notion of desert because desert is itself a function of the institutions of society. Referring to the unequal advantages offered by various social positions, Rawls notes;

Not only are they pervasive, but they affect men's initial chances in life; yet they cannot possibly be justified by an appeal to the notions of merit or desert. It is these inequalities, presumably inevitable in the basic structure of any society, to which the principles of social justice must in the first instance apply. These principles, then, regulate the choice of a political constitution and the main elements of the economic and social system. The justice of a social scheme depends essentially on how fundamental rights and duties are assigned and on the economic opportunities and social conditions in the various sectors of society.²⁸

Rawls rejects merit as the criterion of justice on both moral and empirical grounds. He claims that it is one of "the fixed points of our considered judgements"²⁹ that we do not deserve our natural endowments.

Nor do we deserve our acquired capacities to use our natural endowments, to the extent that acquiring those capacities reflects the families and status groups into which we are born. Thus neither natural nor acquired differentials in ability to achieve entitles anyone to a greater distributive share. If the criterion of merit is to be repudiated, a viable substitute must be acknowledged by every rational person as the legitimate criterion for the design of basic institutions. Rawls argues that there can be no objective basis for just distributions other than that developed through a social contract. In other words, since humans must formulate their own moral principles, the principles gain objectivity only insofar as they are the outcome of fair procedures. Assuming that all natural and social contingencies are morally arbitrary, Rawls claims that fairness dictates that persons must choose principles of justice from an "original position" where a "veil of ignorance" shields them from knowledge of the actual positions they will hold in the society upon whose principles they agree.³⁰

What principles of social organization would individuals choose in the original position? Rawls' "general conception of justice" is quite straightforward: "All social primary goods--liberty and opportunity, income and wealth, and the bases of self-respect--are to be distributed equally unless an unequal distribution of any or all of these goods is to the advantage of the least favored."³¹ However, Rawls quickly leaves aside the "general conception of Justice as

Fairness" in favor of the "special conception" which involves two principles of justice. The first states that "each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all." The second is the novel Difference Principle: "Social and economic inequalities are to be arranged so that they are both to the greatest benefit of the least advantaged...and attached to offices and positions open to all under conditions of fair equality of opportunity."³² Based on the choices of individuals in the "original position," the "special conception" provides a lexical ordering of the principles of justice. Equal liberty will normally be inviolable and the Difference Principle cannot be sacrificed for the sake of greater efficiency.³³

According to Rawls, the Difference Principle provides a determinate solution to the distributional problem--the *bête noire* of liberal welfare economics.³⁴ In fact, Rawls is a neo-Paretian in the sense that he locates the optimal distribution of income by applying the compensation principle to an initial situation of equality. Any advantages accruing to groups of persons are morally defensible only if those persons actually compensate others who are made relatively less well-off.

III

In order to assess Rawls' success in formulating a viable and coherent liberal theory of justice, we must first note that the very

meaning of the word 'liberal' has evolved beyond the definition set forth in the preface of this work. There, I defined a liberal society as one in which property was privately owned and the maximum feasible range of individual liberties prevailed. Thus neither neoclassical welfare economics nor the Rawlsian theory of justice is necessarily liberal; they both claim agnosticism on the virtues of private ownership.

Rawls maintains that the "background institutions" dictated by his principles of justice are compatible with either private property or social ownership economies--the choice between the two depending upon each country's "circumstances, institutions, and historical traditions."³⁵ He argues that the use of markets is conducive to the stability of equal liberty, fair equality of opportunity, and the decentralization of power,³⁶ although he acknowledges that markets must be amended by state action where public goods and externalities are present and where distributional outcomes fail to conform to the Difference Principle. More significantly, Rawls recognizes that markets are not incompatible with social ownership and thus embraces a version of the "mixed economy"--markets plus state intervention with public or private ownership--now current in advanced circles of liberal and socialist thought.³⁷

Given Rawls' ambivalence on the issue of property ownership, a thorough assessment of his achievement must examine the viability of the two principles of justice as they would function in the context of both a state capitalist and a market socialist economy. In the former

case, I shall argue that Rawls has given insufficient attention to those aspects inherent in a capitalist economy which would (a) render the model of moral development upon which Rawls bases his theory highly implausible, and (b) cause individuals who had attained Rawlsian consciousness to reject capitalism as an unjust social system. In the case of market socialism, the model of moral development becomes plausible, but, I shall argue, individuals could still not be expected to continually affirm the Difference Principle.

Let me begin analyzing the relevance of Rawls' theory to capitalism by presenting his argument that a natural basis exists in human psychosocial development for commitment to the principles of justice. Rawls believes that a sustained commitment to justice cannot follow merely from the dictates of reason. Commitment must be reinforced through the daily experiences of individuals in society.³⁸ Stated differently, social stability requires that the institutional arrangements chosen in the "original position" function such that individuals experience "congruence" between their actual desires and conformity to the principles of justice.

Rawls believes that his principles will generate their own support by appealing to "the general facts of moral psychology." These facts determine sequential stages of moral development in the individual which culminate in a capacity for a sense of justice. Maturation entails passage from the morality of authority to the morality of association and finally to the morality of principles. The morality of

authority is that of the child, but we proceed to the morality of association by engaging "in a system of cooperation known to be for the advantage of all and governed by a common conception of justice."³⁹

As a consequence, we develop "the intellectual skills required to regard things from a variety of points of view and to think of these together as aspects of one system of cooperation."⁴⁰

Rawls then claims that we are naturally led from the morality of association to the morality of principles since, in learning from social interaction to adopt the perspective of others, we eventually are able to adopt an objective perspective which is independent of our own status and aspirations as well as those of any particular associates.

Clearly there are aspects of capitalism which serve to stifle moral development. First, progression from the morality of authority to the morality of association is impeded by the absence of egalitarian economic institutions and reciprocal social interaction within the sphere of production. Social relations are characterized by hierarchy and by oppression of groups according to their race, sex, and class. Thus, there is little opportunity for people to develop an ability to see the general perspective of others.

Second, the transition to the morality of association requires that individuals develop "a conception of the whole system of cooperation that defines the association and the ends which it serves."⁴¹ Such a conception is made difficult in capitalism where production

is geared toward exchange rather than use, so that the only definable "end" served is the continual accumulation of capital and expansion of marketable output. A sense of the social totality finds expression only in the State, the goals of which are severely constrained by its need to reproduce and stabilize the conditions under which market-based accumulation can occur.

Third, the morality of association presupposes that individuals can identify "what it is that others largely want and desire, what are their controlling beliefs and opinions."⁴² In capitalism, intergroup and interpersonal antagonisms are caused by the fragmentation of the division of labor, the limited opportunity for consolidating mutual trust and understanding through participatory planning and decision-making, and the often bitter competition among groups for access to fundamentally unequal economic positions. A basic commitment to the capitalist system precludes the perception that these antagonisms are products of the structure of social rules; hence it tends to lead individuals to inaccurate imputation of motives and intentions.

Since the principles of association in capitalism are fragmented and hierarchical, it seems unlikely that maturation to the morality of principles would occur in the manner described by Rawls. In a social structure maintained and promulgated largely by class position, it is difficult and unnatural for members of one class to accord equal status to the perceptions and aspirations of another class. Hence they are unlikely to be in a position to objectively choose principles

of justice.

Putting aside the obstacles which capitalism poses for moral development, we can locate characteristics basic to a capitalist economy which would be objectionable to persons committed to the Rawlsian principles of justice. Capitalism is consistent with the principle of equal liberties only if the separation of political and economic spheres of social life can be sustained. Rawls is clearly referring to "civil" and "political" liberties, but I maintain that any plausible account of political liberty cannot exclude the liberty to participate in decisions involving production. In capitalist production, workers lose their equal liberties and are subjected to the will of the minority who own the means of production and/or control the production process.⁴³

Moreover, the extension of democratic principles to the production process would have the effect of strengthening the system of total liberties, since the experience of equal participation in decision-making strengthens individual commitment to principles of justice. In addition, the democratic control of production would tend to render the formal principles of representative government a substantive reality. For historical evidence indicates that those who control the means of production have an inordinate influence in the political sphere, and that decisions made in the economic sphere impose severe constraints on the latitude of State action.

It may be argued that democratic control of production is economic-

ally inefficient, and that the structure of control is dictated by technical necessity. There are two problems with this argument.

First, the premise is probably false; numerous studies show that moves toward more democratic control of production can increase output and job satisfaction.⁴⁴ Second, the sacrifice of equal liberty to increased efficiency (if liberty is taken to include participation in production decisions) would represent a violation of Rawls' first priority rule which places liberty above efficiency.

A further defense of Rawls' claim that the principle of equal liberties is potentially compatible with capitalism is still possible. The despotic organization of production could be only a contingent aspect of capitalism which could be altered without rejecting capitalism as such. But this is not the case. The reproduction and expansion of capitalism depend on the maintenance of an adequate level of profits, and it is precisely through the hierarchical control over workers in the production process that surplus is extracted. Rawls has been misled by neoclassical economic theory, which holds that profits reflect the productivity of capital and the time preference of individuals. The neoclassical theory of profits has been rather decisively discredited in recent years by Cambridge economists and others who have demonstrated its deficiencies.⁴⁵

Liberal economic theory misconstrues the origin of profits by treating labor as a commodity essentially identical with all other factors of production. But labor is unique in that the amount applied

in a given production process depends, in part, on the relative strengths of opposing class interests. Hence, the organization of production must reflect essential elements of class struggle. Traditional issues such as length of the work day and the size of the wage bill must be understood in these terms but so must the structure of hierarchical authority, job fragmentation, wage differentials, racism, and sexism. These are the basic characteristics of the capitalist firm. Work organization is the historical product of a dynamic of interaction between technology and class relationships.

In arguing that capitalism is incompatible with the principle of equal liberties, I have extended the notion of "basic liberties" to include rights in control over production. Rawls, however, would most likely reject this extension, since he describes the control of the means of production not as a basic liberty but as a form of wealth.⁴⁶ But if this is the case, then the control of production becomes a primary good to which the Difference Principle would apply. Thus it becomes necessary to my critique to show that the Difference Principle is also incompatible with the functioning of a capitalist system.

The capitalist firm creates and/or reinforces forms of inequality whose basic purpose is to fragment the work force in order to allow maintenance of control by bosses.⁴⁷ In fact, profit maximization actually entails divergences from Pareto-efficiency which can be understood only in terms of class analysis. The employer can increase the piece of the pie accruing to capital and management by reducing the

size of the pie to less than its maximum. Such a paradox can occur because productive activity, in addition to creating economic goods, shapes the consciousness of those involved. In order to maintain forms of consciousness appropriate to capitalist social relations, production techniques which threaten prevailing assessments of interpersonal and interclass relations may be rejected, even though they are technically more efficient. Thus the democratic control of production could render members of the least-advantaged group better off both relatively (in that certain inequalities would no longer be required to legitimize capitalist social relations) and absolutely (since total output could probably expand with the utilization of more efficient production techniques).

Let us now turn to market socialism, which conforms in all respects to Rawls' mixed-economy conception of capitalism, except that private ownership of capital and wage labor are replaced by worker ownership and democratic control of the production process. It is at least plausible that market socialism could satisfy the principle of equal liberty, and it should be better able than capitalism to foster the moral development essential to widespread acceptance of Rawlsian principles of justice. The passage from the morality of authority to the morality of association is facilitated by the system of mutuality and reciprocity to which workers are subjected in production. The communicative experience of democratic decision-making and participatory planning are more likely to allow individuals to identify the wants,

y needs, and desires of others. Finally, disparities in social position are reduced by the elimination of capitalist prerogatives and the hierarchical division of labor in the firm, thus easing the strain of commitment to acting on the basis of Rawlsian principles.

Yet market socialism also poses obstacles to the implementation and affirmation of the principles of justice, for it shares with capitalism the following fundamental mechanism for attaining distributive equity: an initial distribution of income is determined through market forces, and redistribution to attain equity is effected through State intervention. I shall argue that such an arrangement cannot be expected to satisfy the Difference Principle.

The attainment of justice through redistribution requires that particular individual interests not enter effectively in the determination of actual social policy. Yet the principle of equal liberty requires a form of democracy in which social decisions represent in some sense the choices of citizens. Thus justice will inevitably require that citizens, as voters and legislator, support and affirm policies conforming to the Difference Principle, with full knowledge of the effect of these policies on their own social positions.

Citizens, then, are required to legislate social justice even when it conflicts with other moral obligations and personal concerns. The frequency and severity of those conflicts--what Rawls calls the "strains of commitment"--will naturally depend upon the particular economy in question. In a class society such as capitalism, the strains

of commitment would clearly be formidable. Even in market socialism, where Rawlsian consciousness is more completely and firmly reproduced, it is by no means clear that motivational priority for concerns of social justice could be attained.

Rawls' commitment to the absolute priority of socially moral duty reflects his repudiation of classical individualism. This point is potentially confusing; because Rawls does retain a methodological individualism;

The essential idea is that we want to account for the social values, for the intrinsic good of institutional, community, and associative activities, by a conception of justice that in its theoretical basis is individualistic. For reason of clarity among others, we do not want to rely on an undefined concept of community, or to suppose that society is an organic whole with a life of its own distinct from and superior to that of ⁴⁸all its members in their relations with one another.

However, Rawls reveals his intention to transcend individualism when he adds the following:

From this (contractual) conception, however individualistic it might seem, we must eventually explain the value of community. Otherwise the theory of justice cannot succeed.⁴⁹

Later in the text, Rawls makes explicit his commitment to a communitarian view of human nature;

It is sometimes contended that the contract doctrine entails that private society is the ideal, at least when the division of advantages satisfies a suitable standard of reciprocity. But this is not so, ...human beings have in fact shared final ends and they value their common institutions and activities as good in themselves. We need one another as partners in ways of life that are

engaged in for their own sake, and the successes and enjoyments of others are necessary for the complementary to our own good.⁵⁰

If Rawls is indeed a communitarian, we may legitimately ask why he devotes the first third of his book to deriving the principles of justice from the original position construction before making any appeals to intuitive or a prioristic notions of altruism, fraternity, or community. He seems to believe that he can strengthen his position by employing only "widely accepted but weak premises"⁵¹ about human nature and society. Every person is assumed to want to maximize his index of primary goods, and persons are assumed to be "mutually disinterested"; "they are conceived as not taking an interest in one another's interests".⁵²

These premises would appear to be totally consistent with the individualism of classical liberalism. Even Rawls' principle of equal liberties does not appear to conflict with the tenets of classical liberalism. He denies that one conception of the good, one dominant end, can be shown to be the appropriate end for all persons. However, Rawls departs from classical individualism in asserting that life plans are social and can best be pursued in voluntary associations. Humans only gain liberty or autonomy by acknowledging and acting on principles of justice;

a person is acting autonomously when the principles of his action are chosen by him as the most adequate expression of his nature as a free and equal rational being.⁵³

By adopting a Kantian perspective, Rawls makes morality the expression and mutual recognition of a common human nature rather than a servant or device of selfish interest. This represents a sharp break with classical individualist doctrines of political and social ties founded in the psychology of rational egoism. Indeed, at the end of his book, Rawls acknowledges that;

The original position is first used to determine the content of justice, the principles which define it. Not until later is justice seen as part of our good and connected with our natural sociability. The merits of the idea of the original position cannot be assessed by focusing on some single feature of it, but⁵⁴ only by the whole theory which is built upon it.

Is this a plausible method? Can Rawls, on one hand, have people choosing principles of justice "solely on the basis of what seems best calculated to further their interests so far as they can ascertain them,"⁵⁵ and, on the other hand, derive from these consequentialist calculations two deontological principles of justice? Initially, it would appear that he succeeds by employing Kant's argument that a person's interest in achieving freedom and self-realization dictates that his actions not reflect his contingent status or desires. Rather, one expresses human nature (i.e., Kant's noumenal self) by acting as a 'free and equal rational being'. Thus Rawls concludes that "we deliberately assume the limitations of the original position...to give expression to (our) nature."⁵⁶

Yet Rawls is hardly a pale reflection of Kant. Indeed, sophisticated liberal political philosophy has long given up the attempt to

ground political obligation in the moral rectitude of isolated pre-social individuals. In Rawls this rejection is reflected in his recurrent concern with congruence, reciprocity, and experiential reinforcement in the validation of the principles of justice through social intercourse. The social nature of consciousness in Rawls gives evidence of his deep commitment to the communitarian tradition in liberal theory which considers individual consciousness and behavior more a result than a cause of social organization and tends to view the State as the ultimate regulator of social development. The first and perhaps most brilliant adherent to this view was Marx's teacher, Hegel.

Hegel's advance over Kant was to perceive that by accepting the ends of mutually disinterested individuals as ultimate and inviolate, liberal theory constrained itself to viewing "civil society" as the only conceivable form of social union, thus failing to provide a moral basis for community. Rejecting Kant's individualism, Hegel made the individual's relation to the State determinate of his moral identity. Political society would achieve the community of which civil society was incapable.

Now Rawls fully accepts the Hegelian critique of civil society, or as Rawls calls it, "private society," which is an association "not held together by a public conviction that its basic arrangements are just and good in themselves, but by the calculation of everyone...that any practical changes would reduce the stock of means whereby they pursue

their personal ends."⁵⁷ Private society could not be a just society because it lacks universally agreed upon principles of justice.

Rawls merely amplifies the growing receptiveness of liberal thought to the Hegelian notion of the State. In the face of social conflict engendered by capitalist development, and because, conceptually, there was no way of demonstrating precisely which moral principles a "free and equal rational person" would choose, liberal social theory has quietly ushered in the interventionist State as an antidote to the chaos of private society. Rawls' commitment to democracy, however, will not permit him to embrace the monarchical predilections of Hegelianism, wherein the State requires no participation by the governed.

Hence we witness a developing polarity in Rawls' thought as he seeks a stable synthesis of two positions, each of which he finds unacceptable. On one hand, modern liberal societies have shown themselves unable to rely solely on individual moral choice to achieve social justice. Yet individual liberties and authentic democracy become meaningless in the absence of individual moral responsibility. On the other hand, the preservation of individual liberties and democracy, not to mention social equity, in liberal societies has required State intervention on an increasingly wider scale. Yet liberal theory has been unable to either fully legitimize or propose definitive guidelines for the activities of the State.

Rawls claims to have developed a consistent and stable juxtaposition of these two dilemmas, resolving both of them by means of his methodo-

logical construct, the Original Position. With it, he has seemingly derived the Hegelian conclusion that the interventionist State is the only basis for a rational society while using only the premises of classical liberalism (that is, the individual choices of "free and equal rational persons"). Conversely, the Original Position frees Hegelianism of its anti-individualistic implications by providing explicit policy guidelines for the State and lending to its activities the moral weight of the unanimous consensus of objective and rational individuals.

I maintain, however, that Rawls' synthesis does not hold and that a sound intellectual edifice cannot be constructed by leaning Kant against Hegel. The fundamental weakness of Rawls' theory stems from his attempt to integrate two radically different and equally untenable conceptions of human nature. Classical liberalism views the individual as pursuing only private interests and tolerant of social institutions only to the extent that they enhance the fulfillment of those interests. Although widely divergent in substance, both the Kantian and the utilitarian traditions within liberal thought share the view of the isolated individual as choosing how best to fulfill his private ends. Social cohesion is presumed to follow either from the universality of the imperatives of practical reason in the of Kant or from the "Invisible Hand" logic or notions of sympathy in Utilitarian doctrine.

The Hegelian conception of human nature, and with it the modern corporate liberal tradition, on the other hand places no reliance on

individual moral choice since the common citizen cannot have the concept of the social totality required to make rational choice. Only the State can act rationally, and individuals can best assure their own fulfillment by pledging allegiance to the State. In other words, one can behave morally only to the extent that one recognizes and acts from one's position as a member of the social body.

That the Hegelian conception of human nature is a part of Rawls' analysis is shown by his concern with congruence and the reinforcement of the principles of justice in daily life. Rawls would seem to hold that a failure on the part of the State to actively impose the Difference Principle would cause disruption in the generation of ideals and aspirations consistent with the principles of justice. But this could be true only if the individual's capacity for moral behavior is dependent on the quality of his social environment--the Hegelian position.

I now come to the crux of my argument. Can Rawls' Original Position actually accommodate and synthesize the polar opposites represented by Kantian and Hegelian ethics? On the one hand is the individual's ability to act justly through the isolated exercise of free will abstracted from social contingencies. On the other is his ability to so identify his good with that of society as to conform to principles of justice which may sharply interfere with the fulfillment of other personal goals and obligations. Can he do both? I claim that neither conception is plausible and that the assertion,

upon which the coherency of Rawls' theory depends, that both conceptions simultaneously describe human nature is inconceivable. Rawls has ascribed material existence to the limiting cases of moral behavior and even his theoretical elegance cannot withstand such a fundamental error.

IV

In this final section, I shall address myself to three questions concerning the implications of Rawls' failure to construct a viable liberal theory of justice. First, is a consistent and viable liberal theory of justice possible? I shall argue that it is not. Second, can any theory of justice be both internally consistent and yet viable in a modern society? I shall support an affirmative answer, and that answer leads directly to the third question; what would be the central features of a just society?

Rawls' lack of success was, in a sense, dictated by the very nature of the task he set for himself. By acknowledging that a private society cannot be just, Rawls forces himself to defend the position that a liberal society can offer a sense of totality and purpose sufficiently compelling to cause individuals to suppress their private intentions and goals. Yet an essential aspect of liberalism is the notion of a plural good, as evidenced by Rawls' sharp and adamant distinction between liberal society and societies dedicated to a dominant end or common vision of the good life. Thus Rawls is left with the rather difficult task of arguing that individ-

uals can reach a consensus on what constitutes justice in the distribution of means (i.e., primary goods) without sharing a common valuation of ends. While we might reject the viability of such a procedure as requiring loftily virtuous decision-making behavior by the participants, Rawls does present arguments to support his case.

We have already assessed Rawls' reliance on the Kantian moral imperative and found it to be inadequate as the sole basis for a theory of justice. However, let us accept, for the sake of argument, Rawls' claim that moral persons would act within the constraints imposed by the Original Position. We are still left with the question of whether or not a liberal society can engender and affirm the sort of communitarian ethic which underlies Rawls' conception of morality. To answer this question we must examine his notion of self-respect.

Rawls defines self-respect as a "person's sense of his own value, his secure conviction that his life plan is worth carrying out" and "a confidence in one's own ability so far as it is within one's power, to fulfill one's intentions."⁵⁸ The conditions which support self-respect are: 1) the plan of life satisfies the Aristotelian Principle; "other things being equal, human beings enjoy the exercise of their realized capacities (their innate or trained abilities) and this enjoyment increases the more the capacity is realized, or the greater its complexity."⁵⁹ 2) Others confirm our sense of worth by their appreciation of our abilities and achievements. This latter condition is met when others are willing to join with us in the pursuit of at

least one activity central to the realization of our life plan.⁶⁰

Such a voluntary association Rawls calls a social union.

The examples Rawls gives of social unions are families and friendships, sciences and arts. Yet he seemingly ignores the fundamental importance of the structure of work in shaping values. In liberal societies, most gainful employments do not require or permit the realization of Aristotelian capacities. They are undertaken for the sake of compensation rather than for the sake of the activity itself. If economic activities do not take on the character of social unions, we must question the ability of liberal societies to foster self-respect. Rawls anticipates this concern, and he meets it with the notion of a "well-ordered society." In such a society, the principles of justice are generally acknowledged and the basic institutions are known to satisfy the principles of justice.⁶¹ Indeed, a well-ordered society is "a social union of social unions,"⁶² in the sense that social unions, including a generalized community of the whole, are likely to flourish and abound.

Now Rawls has captured a certain truth which had been pushed to the periphery by the individualist tendencies of liberal thought. He shows that autonomy requires community, that the nature of human self-realization requires not only that communitarian activity be a valued end but also that private ends be affirmed by others. Yet I want to suggest a degree of incompatibility between Rawls' communitarian ethics and the value he places on autonomy.

To the extent that the individuals composing a society share values, an objective standard is erected by which to assess preferred ends. Rawls employs the Aristotelian principle as his objective standard, but this strategy would seemingly lead to the conclusion that those whose life plans exhibit little dedication to the realization of their human capacities (as defined by societal standards) would suffer a loss of esteem from their peers and a consequent inability to maintain adequate self-respect. Rawls struggles to avoid this implication. He insists that human values are pluralistic as well as communitarian. Pluralism permits autonomous choice, diversity, and a kind of Millian progress through the competition and testing of alternatives.

Yet even Rawls' ideal of pluralistic communitarianism remains incompatible with his vision of individual autonomy. A plurality of ends, even in the context of tolerance, carries with it the likelihood that in a society which values the Aristotelian principle, those persons whose ends reflect a weak commitment to self-realization will be excluded from the broad endeavors aimed at realizing societal goals.⁶³ Ironically, these same people will likely experience a more severe loss of self-respect than if they were the pure egoists of classical liberalism. The very presence of a communitarian ethic in a liberal society intensifies the potential for exclusion and hence threatens the autonomy of the individual.

To return, then, to the question of whether or not a viable liberal theory of justice is possible, we have seen that Rawls is unable to fully

synthesize individual autonomy and the notion of a communitarian ethic. Without this synthesis, a liberal theory of justice faces an irresolvable dilemma; either the criterion of right is based on the intentions of autonomous individuals (in which case the theory of justice is totally contingent and hence nonviable)⁶⁴ or the criterion of right is based on an objective, or intersubjective, standard (in which case the notion of a plural good would be undermined and rule by a benevolent despot would be justified). Thus the theory is either nonviable or illiberal.

We must now ask whether any viable theory of justice can be conceived. I propose that such a theory would have to begin with the recognition that humans are both the initiators and the products of their social environment. To look to the structure of society for a criterion of right is to miss the on-going input of human intentions. On the other hand, if we look to individuals for the criterion of right, we miss the societal logic which functions to structure individual evaluations and aspirations.

Rawls' fundamental error lies in the fact that, in spite of his awareness of the dialectic between individual and society, he reduces both individual intentionality and the social environment to idealized, ahistorical abstractions. Thus he makes the human reflective capacity motivationally dominant over all other human capacities and needs. Similarly, in arguing that the commitment to justice would be nurtured by the functioning of just institutions, he gives the socialization process a greater priority than it could possibly have in a class-divided society. A correct procedure for constructing a theory of justice cannot begin by viewing autonomy

as the private selection of personal goals and then seek to graft a communitarian ethic onto an individualist model. The weakness of this approach is reflected in the fact that, except for the "constitution-making" stage, the Rawlsian model neither requires nor permits participation by individuals in the shaping of just institutions. Like Locke, Smith, and Mill, Rawls lends potential support to an authoritarian State while attempting to protect individual autonomy.

At the very base of a viable theory of justice must lie a conception of human lives as centering around voluntarily undertaken communitarian activities. The value of autonomy must be transformed into the value of participation in the formulation of a common plan for the social units with which the individual is associated. The participation model of autonomy would involve willingness to collaborate, compromise, and be outvoted. It would imply that we can only discover or construct our ends in community.

The obvious objection to this notion of autonomy is the traditional liberal fear that the individual will be swallowed up in a social purpose which, by its very nature, cannot be real. For the liberal viewpoint, a social purpose can only be the individual purposes of those who have gained power. Thus to be engulfed by a social purpose is to be subservient to the will of other persons. This line of thinking leads Rawls to his adamant rejection of "dominant end" societies. Yet the contradiction between individualism and collectivism can be effectively transcended. Habermas has developed the notion of a "communicative ethics" which;

...guarantees the generality of admissible norms and the autonomy of acting subjects solely through the discursive redeemability of the validity claims with which norms appear. That is, generality is guaranteed in that the only norms that may claim generality are those on which everyone affected agrees (or would agree) without constraint if they enter into (or were to enter into) a process of discursive will-formation...Only communicative ethics is universal...only communicative ethics guarantees autonomy.⁶⁵

Habermas is seeking to reformulate a central thesis of classical liberalism--the inseparability of truth and goodness. He argues that a collective and 'rational will' can emerge when;

...reciprocal behavioral expectations raised to normative status afford validity to a common interest ascertained without deception. The interest is common because the constraint-free consensus permits only what all can want; it is free of deception because even the interpretations of needs in which each individual must be able to recognize what he wants become the object of discursive will-formation. The discursively formed will may be called "rational" because the formal properties of discourse and of the deliberative situation sufficiently guarantee that a consensus can arise only through appropriately interpreted, generalizable interests, by which I mean needs that can be communicatively shared. The limits of a decisionistic treatment of practical questions are overcome as soon as argumentation is expected to test the generalizability of interests, instead of being resigned to an impenetrable pluralism of apparently ultimate value orientations.⁶⁶

If a society based on a participatory model of autonomy and a communicative ethics would be just, we must finally ask what would be the institutional characteristics of such a society. I suggest that liberal theory itself has contributed a great deal to the proper conception of the just society. The four major theorists examined in the present work were all troubled by a perceived incompatibility between

class divisions and social justice. The existence of classes interferes with the process of reciprocal human interaction and the development of shared standards. Thus I conclude that an essential aspect of the just society would be an extension to the economic sphere of the democratic rights now formally exhibited in the political sphere. A thorough democratization of the economy is certainly a step which no liberal theorist has been willing to advocate, yet by moving beyond the perimeter of liberalism, we do not necessarily resolve the conflict between individual autonomy and communitarian ends. Unless the potential for conflict between individual and social interests remains, the individual can no longer be regarded as an autonomous agent carrying rights and responsibilities. Admittedly, the absence of conflicting class interests would greatly enhance the harmony of individual interests, but an opposing force would also function in a democratized economy. The fact that all aspects of the economy are subject to public choice would remove any 'naturalness' to economic outcomes and would potentially increase the conflict between individual interests. As Habermas explains;

At every level, administrative planning produces unintended unsettling and publicizing effects. These effects weaken the justification potential of traditions that have been flushed out of their nature-like course of development. Once their unquestionable character has been destroyed, the stabilization of validity claims can succeed only through discourse. The stirring up of cultural affairs that are taken for granted thus furthers the politicization of areas of life previously assigned to the private sphere...Efforts of participation and the plethora of alternative models...are indicators of this danger,⁶⁷ as is the increasing number of citizens' initiatives.

Habermas suggests that conflict in a just society could be minimized through the development of "communicative competence" wherein individuals are able to discursively justify their actions and beliefs. Without meaning to belittle the significance of communicative competence, I propose that any attempt to allocate resources in a complex, modern economy on the basis of individual evaluations expressed solely through political mechanisms can be neither just nor efficient. Individuals would necessarily be engaged in continual assessment of the merits of their own intentions and those of others. Consensus would be conceivable only on the basis of an objective criterion of right. Yet given the different dimensions of justice (i.e., merit, need, etc.), we would expect consensus to be problematic even among individual committed to 'communicative competence'.

Mill left a valuable legacy in stressing the indeterminacy of the proper end of human existence. Humans are actively engaged in becoming as well as in being, and any attempt to truncate the developmental process by establishing a fixed criterion of right cannot be consistent with justice. Yet we need not conclude with Mill that a class society is essential to the competitive dynamic through which superior humans emerge. In fact, the solution to the indeterminacy problem is to democratically establish an institutional framework which is sufficiently flexible to accomodate the dynamism of changing preference structures and yet sufficiently rigid to give outcomes which are affirmed because they are believed to derive from just institutions (as opposed to affirm-

ation based on a consensus of opinions concerning a specific outcome).

Rawls employs this approach when he argues that:

...the correctness of the distribution is founded on the justice of the scheme of cooperation from which it arises and on answering the claims of individuals engaged in it. A distribution cannot be judged in isolation from the system of which it is the outcome or from what individuals have done in good faith in the light of established expectations.⁶⁸

The point is that the just society could function largely on the basis of institutional mechanisms so that individual virtue would consist of affirming those institutions rather than continually assessing the merit of every claim made on society. Habermas affirms this conclusion when he acknowledges that;

The question of which sectors should, if necessary, be regulated through compromise or formal norms of action can also be the subject of discussion.⁶⁹

The final balance between formal or institutionalized procedures and the on-going, participatory input of individuals cannot be ascertained beforehand. The just society, like the moral person, must choose the correct path leading from a specific past to an indeterminate future.

FOOTNOTES, CHAPTER IV

1. T.H. Green, Prolegemena To Ethics, p. 174. See also pp. 166-7.
2. Henry Sidgwick, Method of Ethics, p. 121. See also p. 94.
3. W.S. Jevons, Theory of Political Economy, p. 85.
4. Jevons, The State in Relation to Labour, pp. 98, 104.
5. Jevons, Theory of Political Economy, p. 173.
6. K. Menger, Principles of Economics, p. 173.
7. L. Walras, Elements of Pure Economics, p. 256. Walras did believe that rent should accrue to the State; "it is contrary to justice that the individual should turn to his exclusive profit the social conditions established by the state." Economie Sociale, p. 201.
8. J. Schumpeter, Capitalism, Socialism, and Democracy, p. 48.
9. K. Wicksell, Lectures on Political Economy, p. 79.
10. J.B. Clark, Philosophy of Wealth, p. 109.
11. Clark, The Distribution of Wealth, p. v.
12. P.H. Wicksteed, An Essay on the Co-ordination of the Laws of Distribution.
13. L. Robbins, An Essay on the Nature and Significance of Economic Science.
14. E. Barone, "The Ministry of Production in a Collectivist State," in Collective Economic Planning, F.A. Hayek (ed.). N. Kaldor, "Welfare Propositions in Economics," Economic Journal, 1939, p. 549.
15. T. Scitovsky, "A Note on Welfare Propositions in Economics," Review of Economic Studies, Vol. 9, No. 1, p. 77.
16. The exception, of course, is the Pareto superior move where no person is made worse off and at least one person is made better off.
17. A. Bergson, "A Reformulation of Certain Aspects of Welfare Economics," Quarterly Journal of Economics, February, 1938.

18. G. Myrdal, The Political Element in the Development of Economic Theory, p. 141.
19. The most concise treatment of this issue is F.M. Bator, "The Simple Analytics of Welfare Maximization," American Economic Review, March, 1957.
20. K. Arrow, Social Choice and Individual Values.
21. D.M. Winch, Analytical Welfare Economics, p. 181.
22. H.M. Hochman and J.R. Rogers, "Pareto Optimal Redistribution," American Economic Review, September, 1964, pp. 652-7.
23. For an elaboration of this point see R.A. Musgrave, "Pareto Optimal Redistribution: Comment," American Economic Review, December, 1970, pp. 991-3.
24. Cf. J. de V. Graaff, Theoretical Welfare Economics. E.J. Mishan, Welfare Economics. I.M.D. Little, A Critique of Welfare Economics. F.M. Bator, op. cit.
25. John Rawls, A Theory of Justice, p. viii.
26. The tendency to read Rawls as a classical liberal has been especially prevalent among leftist critics. See M. Teitelbaum, "The Limits of Individualism," The Journal of Philosophy, Vol. LXIX, No. 18, October, 1972, pp. 545-555; A. Schwartz, "Moral Neutrality and Primary Goods," Ethics, Vol. 84, July, 1973, pp. 294-307; A. Eshete, "Contractarianism and the Scope of Justice," Ethics, Vol. 85, October, 1974, pp. 38-49.
27. J. Schumpeter, op. cit., chapters 21-23. R.A. Dahl, A Preface to Democratic Theory. Also Dahl, Pluralist Democracy in the United States.
28. Rawls, op. cit., p. 7.
29. Ibid., p. 104.
30. Ibid., pp. 11-12.
31. Ibid., p. 303.
32. Ibid., p. 302.
33. Ibid., pp. 302-303.

34. Ibid., p. 75.

35. Ibid., p. 280.

36. Ibid., p. 272.

37. For cogent expositions of the liberal viewpoint, see R.A. Dahl and C.E. Lindblom, Politics, Economics, and Welfare; P. A. Samuelson, Foundations of Economic Analysis; an example of socialist thought may be found in O. Lange and F.M. Taylor, On the Economic Theory of Socialism.

38. Rawls, op. cit., pp. 138, 454.

39. Ibid., p. 472.

40. Ibid., p. 468.

41. Ibid., p. 468.

42. Ibid., p. 469.

43. This point is presented more extensively by C.B. Macpherson, Democratic Theory: Essays in Retrieval.

44. For example, see P. Blumberg, Industrial Democracy: The Sociology of Participation; W.F. Whyte, Money and Motivation; and C. Riskin, "Incentive Systems and Work Motivation," Working Papers I, no. 4, Winter, 1974.

45. A thorough exposition of the Cambridge controversy, as well as an excellent bibliography, is provided by G.C. Harcourt, Some Cambridge Controversies in the Theory of Capital.

46. Rawls, "Fairness to Goodness," Philosophical Review, Vol. 84, no. 4, October, 1975.

47. See S. Bowles and H. Gintis, Schooling in Capitalist America; and Gintis, "The Nature of the Labor Exchange in the Theory of Capitalist Production," Review of Radical Political Economics, Vol. 8, no. 2, Summer, 1976.

48. Rawls, A Theory of Justice, p. 264.

49. Ibid., pp. 264-65.

50. Ibid., pp. 522-23.

51. Ibid., pp. 18, 129.

52. Ibid., pp. 13, 127.

53. Ibid., p. 252.

54. Ibid., p. 584.

55. Ibid., p. 584.

56. Ibid., p. 320.

57. Ibid., p. 522.

58. Ibid., p. 440.

59. Ibid., p. 426.

60. Ibid., pp. 440-441.

61. Ibid., pp. 453-454.

62. Ibid., p. 527.

63. Rawls offers the rather ad hoc defense that adequate self-respect can be maintained by participating in at least one social union which is devoted to an activity important to realizing one's life plan. Ibid., pp. 441-442.

64. The single case in which a liberal theory of justice could be based on the intentions of autonomous individuals and be simultaneously viable is the Lockean case of a society of independent producers whose exchange of goods is based on roughly equal access to nature.

65. Jürgen Habermas, Legitimation Crisis, p. 89.

66. Ibid., p. 108.

67. Ibid., p. 72.

68. Rawls, A Theory of Justice, p. 88.

69. Habermas, op. cit., p. 89.

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