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AND OTHER APPARENT
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The Lindley Lecture
The University of Kansas
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Goods Beyond Price And Other Apparent Anachronisms

My text tonight is a sentence from Mr. Justice Holmes's characteristically pithy dissent in *Olmstead v. U.S.* (1928) concerning the admissibility of evidence obtained by bugging a bootlegger's telephone.

"We have to choose, and for my part I think it a less evil that some criminals should escape than that the government should play an ignoble part."

Ignoble? Then conceivably the government—anyone?—might acquit itself or himself with nobility? A quaint, romantic notion? To be sure, the patrician old judge was in his eighty-eighth year and may have gone over the hill. But a review of his writings shows that he had always talked that way, quite unabashedly. And moreover he did so with a tough skepticism that doesn't let us discount him as a soft-headed romantic.

At any rate this casual reference to nobility struck me as I was reflecting upon the rather meagre terms in which questions of public policy, and issues about action and morals generally, are currently discussed by people who profess to take them seriously and expect to be taken seriously. In short, if you want to give somebody a reason for or against doing something, or in praise or blame of what has been done, the rule is to cite utility and welfare, the useful and the pleasant—and their contraries, the harmful, inexpedient, and ultimately what is painful or makes for a net balance of disagreeableness. A consequence of this is the effective disappearance of one of the three main categories of good and evil that had been recognized in our culture. In Cicero's version, for example, they were the *jucundum* and *utile*—that is, the agreeable and the useful or expedient—and, what we now seem to lack, the *honestum*, what is nobly worthy of respect or reverence and its contrary, what is shameful, mean, or base.

Now it happens that this thinning out of the available means of expression about practical issues has an interesting relation to the moral philosophy of utilitarianism, which also restricts its value vocabulary to the useful and agreeable, their contraries, and of course a number of synonyms for each. Utilitarianism has provided

the rationale of enlightened social reform for nearly two centuries; and it has been thought to articulate the very spirit of reasonableness itself. For we need only ask of any disputed practice—take smoking pot, for instance—What harm does it do? Although the fact that it's done at all distresses many straight folk who have never enjoyed a joint, it is hard to find persuasive evidence, independent of pot's having a bad name, that it is harmful enough in other ways to outweigh the enjoyment of the millions who dig it. And so utilitarianism, founded on the primary value of what is agreeable, professes to speak for scientific rationality in action and promises to free us from prejudice and bring human welfare within our grasp. But there is growing criticism of utilitarianism in moral philosophy. So we may ask, if the world has pretty generally adopted utilitarian language and attitudes, why are so many philosophers pulling in the other direction?

One who is thus out of step is my colleague, Alan Donagan, whose recent book, *The Theory of Morality*, defends what he calls "common morality," presented as a coherent teaching which, however well or ill supported by theoretical considerations, has been generally recognized in the Judeo-Christian West for a good two thousand years. It is what nearly every one of us learned at our mother's knee. Now one of the distinctive features of common morality is that it makes itself known through what a person refuses, on moral grounds, to do: in "the limitations he observes in his pursuit of happiness."¹ But that means, inevitably, that what is agreeable, supplemented by what may be disagreeable but useful, is not enough to sustain common morality. For not only are "limitations on the pursuit of happiness" (and hence on the pursuit of social welfare, as the general happiness) directly incompatible with welfare as the measure of value, but it is obvious that there may always be occasions when an unqualified "no"—say to the betrayal of a trust—must be irrational when measured by costs and benefits. But then, the *point* of common morality—its justifying aim—is not to make us happy but to make us worthy of respect, primarily in our own eyes but also in the eyes of the moral community.

Why, indeed, should we not trade the Shah for the hostages? At the cost of one moribund tyrant we might free fifty ordinary folk who, if not blameless, are at least innocent of vast harms. Of course one may argue that it is inexpedient to bargain with terrorists, who are irrational anyway; but my point doesn't concern

the balance of benefits in this particular case, which is debatable—and, I should argue, inherently undecidable—on utilitarian grounds, but the kind of case it is. To say with common morality, “We refuse to entertain any such propositions,” because to do so would be shameful, conceding that we might go back on our word for a price, is to invoke an order of value that is not reducible to the useful and agreeable. It is to say that some values are literally beyond price and some evils beyond redemption by any possible advantage. It is also to imply that there are ends to be served for reasons wholly other than our happening to desire them. This lecture is a reminder that there are such ends and a review of some of their features.

To begin with, we may note that the most frequently recognized of common morality’s restrictions on utilitarianism, and on “consequentialisms” of all sorts, are what Robert Nozick calls “side-constraints” on the pursuit of happiness, typically in the name of justice and human rights. They are familiar elements of a number of “mixed” theories like those of Nozick, Rawls, Singer, Hare, and Baier which invoke principles of fairness, universalizability, “the moral point of view,” and so on, as setting constraints on what one does in pursuing whatever ends one seeks.² Such theories all accord more or less with common morality in agreeing that it is impermissible to build one’s earthly paradise on the backs of slaves, or to promote the good by exploiting anybody, for that matter; or to deceive people for their own or the general benefit—all cases of violating rights and justice for a good cause. But these are uneasy accommodations of common morality unless there are goods, ends, of a different order than welfare and what is useful for its sake. That is, if the *point* of justice, probity, or fidelity is their utility—as in Hume’s classic and never improved upon argument in his *Enquiry Concerning the Principles of Morals*—then one can’t very well maintain the rationality, let alone the overriding priority, of sticking by the constraints of justice in the inevitable hard cases. For the rules of law and justice are useful only in general, or *en masse*, whereas there are always situations in which breaking the rules will have better consequences, as the act-utilitarians never tire of pointing out.

In sum, I am not objecting to side-constraints on the pursuit of happiness. Rather, I am claiming that one can’t support such constraints if their sole point is to promote welfare. The integrity and continuing vitality of common morality implies another order

of ends, including but not limited to the ideals of justice and rectitude themselves, incommensurable with what we find agreeable and useful.

We can state the issue quite sharply in terms of the possibility of a categorical imperative, since such a notion is more or less explicitly associated with the mixed doctrines that invoke side-constraints barring the pursuit of happiness in wrongful ways. It is too seldom recognized that any unqualified moral prescription, formulating a strict obligation to do or not to do something, depends on there being some morally necessary end. For, since every intentional action, properly so called, must have an end, if all ends were morally contingent, all imperatives would be hypothetical, depending on what ends one happened to accept. Any such imperative is irrelevant to anyone who doesn't accept the end which is its condition. It does no good to protest that certain basic rules are entailed by "the moral point of view," as with Baier, or by the logic of the language of morals, as with Hare. For suppose one declines to play Hare's "moral language game" or adopts some other point of view?³ Tastes and life-plans differ, so that, as a student remarked the other day, "Last year I was into morality, but it was a drag; so this year I'm into ecology and the no nukes movement."

I will have more to say about the sort of ends that could be objectively required of any rational agent. For the present it will suffice to cite the conclusion of Kant's argument in his *Doctrine of Virtue*, which I have been paraphrasing: without such ends "the doctrine of morals"—that is, of morals as what I have followed Donagan in calling common morality, with its unqualified refusals—"would be destroyed."⁴ Without it we have only the rules of technology and prudence to guide us.

Before I go on to explore the possibility of values that may be inherently worthy of our service and respect it may be in order to review some reasons why the very idea of such values has come to be regarded as a Quixotic anachronism. The first and obvious reason is that, as we have seen, such notions entail "absolutes," at least in the form of prohibitions to be honored at any cost—even, it may be, at the cost of one's life, for to do some things, however useful or pleasing the goal, would render one unfit to live. When it is put that way, we are reminded of "taboo moralities," of fanaticism and superstition, impervious to the light of rational criticism. Put positively, the faith that there are ideals for which it

is not absurd to offer up one's life seems merely Quixotic. In any case, absolutes are out of fashion. They are "unscientific."

A second reason for thinking only in terms of utility and welfare is less obvious but probably more fundamental. It too is attributable to habits of scientific thinking, especially in the behavioral sciences, when they are incautiously generalized beyond their proper sphere.

We are undoubtedly creatures whose nature is to have "wants," and accordingly our behavior can be explained for the most part as consisting of attempts to serve our wants, just as we explain the behavior of our relatives, the animals who have sensory and motor equipment similar to our own. A rat feels hunger, which is painful, and he learns what will assuage it, the consumption of which is pleasing. The behavior that brings his reward is thereby reinforced, becoming more frequent. At the human level the universal need to fill the gut, encountering differently available foodstuffs and different skills that make the stuff edible, manifests itself in so many dietary patterns that Hilaire Belloc could pretend to complain:

Alas, what varying tastes in food
Divide the human brotherhood!
Birds in their little nests agree
With Chinamen, but not with me.

More generally, objects like bird's nest soup, desired because they are found to be agreeable, become objects not only of desire but "objects" in an importantly different sense; that is, "objectives" or ends-in-view by which we organize our deliberate choices. So, allowing for an indefinite differentiation and sophistication of basic drives, we can explain the most complicated human behavior according to the hypothesis that it all serves the wants of our "animal" nature, albeit at some remove. Applied to behavior in the aggregate, this hypothesis works very well, as we see in the success of venturesome economists like Gary Becker who account for changing divorce and crime rates by variations in their costs and rewards. Thus if everything we do serves some want or other, we have no need of any value concepts except the useful and the immediately agreeable in order to explain the phenomena of behavior.

Nevertheless it is a mistake to identify the possible ends of human action with the objects of desires or "wants," although it is quite true that most objects of our endeavors are also objects of

desire. We make this mistake by confusing the rational structure of scientific description and explanation, employed as we view the world from the theoretic perspective of an observer, with the analogously rational structure of action, viewed from the perspective of an agent operating in the world. Fortunately, this crucial distinction can be exhibited in the most familiar terms without appealing to anything esoteric. All we need do is reflect on what it is to act intentionally and deliberately, as we all do.

Let us begin, then, with an elementary choice situation, subject to the simplest of rational constraints. Given that doing X is a necessary condition of achieving Y, if I intend to achieve Y, I must do X. This is logically equivalent to 'If I choose not to do X, I thereby give up Y as an end.' You can't make an omelette without breaking eggs, but you don't have to make an omelette. As Immanuel Kant put it, "he who wills the end wills the means"—necessarily, because the alternative is incoherent. But what does 'will' mean here? If 'wills' is taken as 'wants,' the alleged principle is not necessarily true. Indeed, it is not true at all, not even as a rough generalization. For example, I do want a trim figure, but I emphatically do not want to give up my eating habits, which are the source not only of my expanding waistline but of many enjoyments, both gustatory and social. On the other hand, to take slimming as the *end* of my endeavor is necessarily to forgo those habits and their pleasures in view of my understanding of the facts of food chemistry and the laws of nature. To fail to take those steps is to repudiate slimness as my end but not, alas, to destroy my wish for it—just as taking those steps does not free me from the pangs of frustrated appetite. Deliberate action, then, is subject to rational constraints which still preserve freedom of choice; and the formula, "If you intend to slim down, you must do whatever you know to be necessary," simply makes such constraints explicit. Desires and inclinations, on the other hand, seem to have a life of their own that is but little subject to our control, although we may take a pill to reduce anxiety and let sleep "knit up the ravelled sleeve of care."

It is easy to overlook this homely distinction between ends of action and objects of desire because, finding wants to be somehow "given" by nature and circumstances, we are naturally concerned with ways and means to appease them, for that is how deliberation proceeds—from "given" ends to available means. But what if we focus on ends—on the other end of the stick? Of course we all want countless things, many of which never function as ends for us

at all. How, then, do the objects of wishes or of other wants become ends when they do? Well, we "elect" them—adopt them, make them our own. Nothing, and nobody, can make me try to slim down, for example; and nothing is more common than such intentions taken up and acted upon for a while, only to be abandoned as we get bored or the going gets rough and we tire. To be sure, my friends may "reason with me" when I falter. In doing so, they remind me of other things I want whose realization depends on slimming. "Think of your health and not just your vanity," they urge, "even your life, which your high cholesterol level clearly endangers." Such appeals merely focus on other things which my friends hope I may acknowledge among my ends because I want them. Now all this may "move" me emotionally, both in gratitude for their concern and through reminders of what I profoundly wish. But I still may not "move myself" to any relevant action. That is to say, again, that although wants are considerations in view of which we select their objects as ends, when we do, they are never decisive by themselves. Although we usually do pursue things that we want, responding to "nature's call," the essential difference between health as something wanted and health as a practical end is that while we have no direct control over the desire for it, we can always take it or leave it as an end—whatever our desires, and whatever we may discover to be useful for achieving their agreeable objects. Strictly speaking, we cannot be forced to make *anything* an object of intentional action—of our "wills" as Kant would say—not even "on pain of death." For we can, even in such straits, choose death, all things considered. It is so chosen frequently enough to make that clear, and not only by madmen. "My only regret," said Nathan Hale, "is that I have but one life to lay down for my country." This is not to say that you or I—or many other people—would stick to such a resolve when the chips were down. A behavioral scientist would surely be rash to predict anything of the kind, for his business is with what most people do most of the time. But that I—or you—could, in a perfectly familiar sense of 'could,' is not for a reflective person to deny.

Well, then, we can agree that for purposes of explaining or predicting behavior it is sufficient to treat it as being on the whole a more or less self-conscious pursuit of objects and activities wanted because experience has taught us that they are pleasing or useful. Such conceptual parsimony is itself a useful scientific policy, and it is not surprising that, generalizing as we are prone to do, we

should be inclined to assume that we have no alternative but to serve whatever wants our circumstances provide. However, the principal point of this review has been to show that when we reflect on our choices in concrete situations, we recognize that we are free to reject the object of any particular want, and even to resign from the want-serving business as a primary concern, provided that the term 'wants' is reserved for motives whose objects are somehow given to us rather than being invented and set up as targets or ideals to aim at. It is as if, in adopting the standpoint of choice, we placed ourselves above the pushes and pulls of inclination where we can give the nod to this one, that one, or none of them as we choose. The goals on which we set our sights are for us to determine, subject to the limiting fact that no continuing effort toward any objective is possible unless we do what is necessary to keep the human mechanism and its instrumentation running.⁵

But whether there is much to say for any human vocation other than the want-serving game remains to be seen. Why not settle for the useful and the agreeable? We might do worse, living counterproductively and miserably. It is for his very personal testimony about this question that I will call Justice Holmes as a witness as soon as I have read into the record some broad implications of the utilitarian want-serving program. They have been formulated very nicely by Stuart Hampshire, the Lindley Lecturer for 1965, in another lecture commemorating Sir Leslie Stephen in which he expresses some reasonable doubts about that Victorian's utilitarian legacy.

It is, he points out, a curiously ambivalent doctrine. On the one hand it presumes to exalt mankind and a few of the higher animals "as at the very center of the universe, with their states of feeling as the source of all value in the world," yet at the same time it demeans mankind in another respect. For "if nothing else counts but states of mind"—what Jeremy Bentham called "grateful (or ungrateful) feelings"—then "the whole machinery of the natural order . . . just is machinery, useful or harmful as it promotes or prevents desired states of feeling."⁶ If so, as science fiction has not been slow to suggest, nature's machinery may be bypassed by human art so as to produce agreeable feelings much more directly, and in larger amounts, than by the cumbersome mechanisms of nature and culture—say by pills or electric stimuli that work directly on the nerve centers. To be sure, the old-fashioned pleasures of a walk in the country can't be had without walking in the country;

but what matter, if equal or stronger kicks may be enjoyed without all that fuss and bother at one's handy bliss generator? So much for the intricate rituals of civilization! And then, Hampshire notes, the utilitarian goes a step further and "carries the deritualization of transactions between men to a point at which men not only can, but ought to, use and exploit each other as they use and exploit any other natural objects," so far as this increases the world's balance of agreeable feelings.

If you find this picture of our business on earth a disagreeable one, that is not a relevant objection, for it only adds to the list of differing tastes without affecting the thesis itself. To be sure I have argued that we are not bound to the want-serving, utility-maximizing rat race, for we can always resign from it. But that may require resigning from life too unless there are values of a different sort than the useful and agreeable, as I have said often enough to have risked becoming disagreeable myself.

Now, for first-hand testimony in favor of an alternative slant on man's vocation, made credible by the witness's experience more than by the arguments of the philosophers who also speak for it, I will read and comment on some items from Holmes's *Speeches*, full as they are of what may at first strike you as nonsense or worse.⁷ Given to fellow members of some semi-private community of shared memories and commitment—a New England Memorial Day or Harvard commencement, a Bar Association dinner, a class reunion—these "chance utterances of faith and doubt," as he calls them, were not intended for publication. That came later, as friends collected them for circulation among themselves and eventually for a wider audience.

The two themes of faith and doubt are each indispensable, for the doubt profoundly affects the faith. Throughout there is a gentle disdain for the want-serving game as the pursuit of an illusion, and a faith that it is more to one's credit, and even more satisfying despite the inevitable pain, to make something of oneself: to bring oneself as close to some self-imposed standard of achievement as one can. This—called the pursuit of virtue in the language of philosophy—is obviously held to be good for its own sake; for well-founded doubt undermines any promise of a pay-off at the end of the road. We can seldom tailor events to fit our wants, but we can always face our fortune, good or bad, with dignity and courage, and enjoy the satisfaction of work well done.

Consider this, to the Harvard Class of 1895, just before their graduation:

“The society for which many philanthropists, reformers, and men of fashion unite in longing is one in which they may be comfortable and may shine without much trouble or any danger . . .”

They unite too in

“the doctrine that evil means pain, and the revolt against pain in all its forms has grown ever more marked. From societies for the prevention of cruelty to animals up to socialism we express in numberless ways the notion that suffering is a wrong that can be and ought to be prevented, and a whole literature . . . has sprung into being which points out in story and verse how hard it is to be wounded in the battle of life, how terrible, how unjust it is that anyone should fail.”

Since 1895 the longing for a society in which one may be comfortable and “shine without much trouble or any danger” is no longer confined to “philanthropists, reformers, and men of fashion,” for we have experienced the “revolution of rising expectations;” and the injustice of anyone’s failing seems to have become an axiom of both enlightened opinion and public policy. However, that axiom owes much to the belief that the earth’s bounty is sufficient for everyone, were it not diverted and misappropriated by the wicked. Now, when we are beginning to suspect that the gravy train has been indefinitely side-tracked, we may be more receptive to a different view. At any rate, he continues,

“For my part I believe that the struggle for life is the order of the world, at which it is vain to repine. I can imagine the burden changed in the way it is to be borne, but I cannot imagine that it will ever be lifted from men’s backs. . . . Now, at least, and perhaps as long as man dwells upon the globe, his destiny is battle, and he has to take the chances of war. . . . It is not well for soldiers to think much about wounds. Sooner or later we shall fall; but meantime it is for us to fix our eyes on the point to be stormed, and to get there if we can. . . .”

The ideals of the past for men have been drawn from war. . . [and] for all our prophecies, I doubt if we are ready to give up our inheritance. . . . What has [the ideal of the gentleman] been built on but the soldier’s choice of honor rather than life? . . . To be ready to give one’s life rather than to suffer disgrace, that is what the word has

meant; and if we try to claim it at less cost than a splendid carelessness for life, we are trying to steal the good will without the responsibilities of the place. . . . Who of us could endure a world, although cut up into five-acre lots and having no man upon it who was not well fed and well housed, without the divine folly of honor, without the senseless passion for knowledge outreaching the . . . bounds of the possible, without ideals the essence of which is that they never can be achieved? I do not know what is true. I do not know the meaning of the universe. But in the midst of doubt, in the collapse of creeds, there is one thing I do not doubt, . . . and that is that the faith is true and adorable which leads a soldier to throw away his life in obedience to a blindly accepted duty, in a cause which he little understands, in a plan of campaign of which he has no notion, under tactics of which he does not see the use."

Were he to have said that seventy-five years later, to the Harvard graduates of 1970, he might have been driven off the platform, not only for sacrilege against security and comfort but for seeming to urge upon them the role of cannon fodder—ignorant, unquestioning brutes to be manipulated by the imperialists who are said to make wars. But that would have been hasty of them, failing to notice that his closing image, of what Matthew Arnold called, with a different intent, "ignorant armies clash[ing] by night," is a metaphor for the whole human condition. And therein lies, he thinks, the source of whatever dignity is possible for us. The theme that you can have no finer hour than when you go all out in a pursuit that you may not survive, under conditions you neither control nor fully understand, is a constantly recurring one; and it applies to the scholar, artist, lawyer, and amateur athlete as much as to the soldier. ". . . A man may live greatly in the law as well as elsewhere," he used to say.

We should note that his "faith" is not at all what many, perhaps most people, have come to understand by that term—that is, an utterly groundless assurance that everything will be made right in the end; that the pain and bruises of the struggle will have their due compensation; that the management of the universe is just, and it is "unjust that anyone should fail." That sort of faith is moonshine, and not to the point anyway; for if this absurdity could be true and its truth be made known to us, we would be robbed of what gives human agency its dignity. If we knew that all our accounts would be balanced on some Judgment Day, courage and honor would be impossible because every undertaking of effort

or pain would be a guaranteed gilt-edged bond, as safe as safe could be. Courage and nobility would be reduced to prudent investments; and even prudence, which makes no sense without risk, would itself be nonsense. If every choice had its assured pay-off, what would be the point of being smart, let alone brave? Indeed what could be the point of any form of human agency?

The "soldier's faith," which is Holmes's paradigm, looks to moral experience for its support, although some never have the requisite experience and some who do never learn its lesson. It is evident to a reader of the *Speeches* that for him the decisive moral experience was the Civil War, which accounts for his pervasive military imagery. There isn't time for his most gaffric references to the war, but this may suffice to show the basis of his faith:

"... If you have advanced in line and have seen ahead of you the place where the rifle bullets are striking; ... if you have had a blind fierce gallop against the enemy, with your blood up and a pace that left no time for fear—if, in short, ... you have known the vicissitudes of terror and triumph in war, you know that there is such a thing as the faith I spoke of. You know your own weakness and are modest; but you know that man has in him that unspeakable somewhat that makes him capable of miracle, able to lift himself by the might of his own soul, unaided, able to face annihilation for a blind belief."

However, this is no infatuation with the so-called glories of war; it is rather reverence for the human capacity for greatness under strain:

"War, when you are at it, is horrible and dull. It is only when time has passed that you see that its message was divine. I hope it may be long before we are called again to sit at that master's feet. But some teacher of the kind we all need. In this smug, over-safe corner of the world we need it, that we may realize that our comfortable routine is no eternal necessity of things but merely a little space of calm ... and in order that we may be ready for danger. ... We need it everywhere and all the time. For high and dangerous action teaches us to believe as right beyond dispute things for which our doubting minds are slow to find words of proof. ... The proof comes later, and even may never come."

You may be wondering that there has been no particular mention of one of the customary touchstones of morality, altruistic service to mankind, whether by feeding the hungry, binding up the

wounded, or raising the down-trodden. What we have instead seems to be a great deal about the strenuous life of self-realization. He has allowed for this in another way, of course, since the "splendid carelessness for life" he admires is not careless of other people's lives but of one's own—scarcely the mark of your vulgar egoist. And he would surely agree that one might live—or die—as heroically ministering to a leper colony as on a battlefield. In fact Holmes is little impressed by the usual opposition between self and other, or by the more philosophical opposition between duty and self-interest. The reason for this will be instructive; the fact is clear in these remarks to the Boston Bar Association:

"The joy of life is to put out one's powers in some natural and useful or harmless way. There is no other. And the real misery is not to do this. . . The rule of joy and the law of duty seem to me all one. I confess that altruistic and cynically selfish talk seem to me about equally unreal. . . . If you want to hit a bird on the wing, you must have all your will in a focus, you must not be thinking about yourself, and, equally, you must not be thinking about your neighbor; you must be living in your eye on that bird. Every achievement is a bird on the wing.

The joy, the duty, and, I venture to add, the end of life. I speak only of this world, of course. . . . But from the point of view of the world, the end of life is life. Life is action, the use of one's powers. As to use them to their height is our joy and duty, so it is the one end that justifies itself."⁸

It is time now to draw together the threads of this lecture's argument and develop some of their implications. If we humans have, as I have argued, the capacity to act for ends of our own devising, not limited to the useful and agreeable objects of given "wants," then we are, all of us, something special.⁹ And should there be, somewhere in the universe, other rational agents, perhaps with quite different physical support systems and correspondingly different needs and wants, they would be special too in a kindred way. This freedom each of us has that makes him, in Holmes's words, "capable of miracle, able to lift himself by the might of his own soul" is at least latent in everyone, endowing each of us with a dignity not commensurate with the values we ascribe to the objects of our wants, all of which have a price relative to other objects of other wants. Accordingly, this freedom and its dignity command a respect that does not depend on what anyone actually makes of his powers and thereby of himself.¹⁰

It is this dignity that is the ground of universal human rights and equality before the law, the recognition of which sets limits on the conduct of all our pursuits, as common morality and the "mixed" doctrines about side-constraints also recognize. But to my way of thinking, the latter doctrines have nothing explicit to say about the point—if they have a point—of fairness, rights, and actions prescribed by "the moral point of view;" and although they cite the so-called "intuitions" imbedded in common morality, they are silent as to the authority of such intuitions. However by this time we can see that to overstep the limits of justice and rights is shameful, base, just because it subordinates the dignity of humanity to the baser metal of objects whose value varies with the wants we happen to have. It is not that punishment or other dire consequences may be visited upon an offender, but that disrespect for human dignity in pursuing some want is, simply, beneath the dignity of any agent capable of the "miracle" of living by his own acknowledged standard, unmoved by fear and pain and the siren song of pleasures.

It is notable in this connection that most terms, like 'shameful' and 'noble,' that typically designate values beyond calculation seem to reflect back upon the qualities of agents as their primary referents, and to apply to external behavior and situations through a metaphor. That is, a state of affairs is called shameful and an act noble because the former is a situation anyone would be ashamed to be responsible for, the other an act that only a person of resplendent virtue could have done. Even a properly just act is identifiable as being of the kind a just person would do, although in this case we allow that debts can be justly paid even by the unjust and for reasons remote from justice, for it may be expedient to pay. That such concepts reflect back upon the character of the agent indicates, I suggest, that the primary claim of morality is addressed not only to agents but as concerning agents, demanding that they measure up in spirit as well as in the letter.¹¹ That is, the shame of meanness arises less from the harm done—which may be negligible or devastating as chance decrees—than from failure to live up to one's minimal self-set mark, just as the reward of virtue lies in the satisfaction of coming closer to one's ideal than might reasonably have been expected. It is because moral duties are in this way primarily "to" ourselves and our self-respect even when, as in the case of justice and the "social" virtues, they prescribe transactions concerning others, that I think Holmes found the ordinary

opposition between the interests of self and others "unreal" to one who, using his powers at their height, realizes "the joy, the duty, and the end of life" in one activity.

So now, having at first spoken for the apparent anachronism of making a place in our practical categories for values like dignity, nobility, and baseness along with the utilities and pleasures of want-serving, I have just been speaking for a further "outdated" notion, that of duties to oneself, which utility-maximizers regard as absurd. And I have compounded my heterodoxy by suggesting that these are conditions of all proper duties; for duties must be self-imposed in recognition of the freedom and dignity of our rational agency; and as self-legislated they can only be self-monitored and self-enforced. Each person ought to care for his own soul, though he do so by caring for the rights and welfare of others.¹²

Finally there is a third apparent anachronism, equally unintelligible to those who find the former two to be so because conceptually interrelated with them. It is the idea of a rationally necessary end, and it calls for brief attention here although a proper case for it would take at least another lecture. Recall that I presented an argument to the effect that the unqualified refusals of common morality to sanction certain kinds of behavior, come what may, like the "splendid carelessness for life" of Holmes's heroes, imply a categorical imperative. And I argued further that a categorical imperative in turn implies an end that is not rationally contingent, acceptable or rejectable as one may wish, notwithstanding the fact that no end forces itself upon one's choice, for moral necessity is that of an "ought," not a "must." I now add that such an end must be an end in the full sense, as an objective to be pursued in action, because every act must have an end for the sake of which whatever is done is done.¹³

While I have clearly endorsed the doctrine that a rational agent, having a dignity as such, is to be regarded as an objective "end in itself," as Kant put it, this is not all that is called for. For one thing, a person can not be an objective of action; and as Kant himself went on to explain, a person can be an end only in a negative, restrictive sense, as a being whose dignity one may not act against by treating it as a mere instrument.¹⁴ The present issue is a different one.

As sometimes happens in the search for an elusive idea, I think we shall find that the morally necessary end in question has been present all along and needs only to be made explicit by reflection.

Since there is little profit and no dignity in the want-serving game, it was said that it is more to one's credit, and even more satisfying in its way, to "make something of oneself;" that everyone ought to care for his own soul by attending to the development and perfection of his character and powers.¹⁵ But this, which philosophers have called the pursuit of virtue, activity informed by which—or by a good will, it makes no difference which we say—is its own end and the supreme good, is then the comprehensive ethical duty that grounds all the particular ones and whose object is the end which free rational agency prescribes to itself.¹⁶

Let me close by coming back to earth and to Holmes's often quoted remarks at the fiftieth reunion of his Harvard class of '61:

"Man is born a predestined idealist, for he is born to act. To act is to affirm the worth of an end, and to persist in affirming the worth of an end is to make an ideal. The stern experience of our youth . . . left us feeling through life that pleasures do not make happiness and that the root of joy as of duty is to put out all one's powers toward some great end."

Notes

1. Alan Donagan, *The Theory of Morality* (Chicago: University of Chicago Press, 1977) p. 12.

2. Kurt Baier, *The Moral Point of View* (Ithaca: Cornell University Press, 1958); R.M. Hare, *Freedom and Reason* (Oxford: Clarendon Press, 1963); Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974); John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971); and Marcus Singer, *Generalization in Ethics* (New York: Knopf, 1961).

3. See Alan Gewirth, "Must One Play the Moral Language Game?" *American Philosophical Quarterly* 7 (1970).

4. Immanuel Kant, *The Doctrine of Virtue*, Introduction, Part III (page 385 of the Prussian Academy edition).

5. A careful reader will have noticed that a few pages back I was stressing objectively (morally and rationally) "necessary" ends, while now I have been insisting that, while all action is subject to certain rational constraints, we are nevertheless free to reject any end whatever. He should not suspect me of inconsistency, however, for moral and rational necessity are normative, concerning what ought to be the case, not what must be. Thus logical consistency is a necessary norm of discursive intelligence, notwithstanding the fact that people manage to contradict themselves every day. Similarly, the morally necessary does not necessarily get done, and the morally impermissible (or "morally impossible") is all too prevalent; for "we have done those things which we ought not to have done," just as the prayer book says.

It is confusion of these senses of the 'necessary' that vitiates the well-known essay by Philippa Foot on "Morality as a System of Hypothetical Imperatives" (*Philosophical Review* 81, 1972). For while she correctly recognizes the con-

nection between a categorical imperative and a morally necessary ("inescapable") end, she mistakenly regards the latter as one we would "have to" pursue. But we clearly don't "have to" accept any particular end even though accepting some end or other is a necessary condition of acting at all. If we had to do as we ought, we would not have moral problems as we know them. Confusing what we necessarily ought to do with what we have to do, she concludes that belief in a categorical imperative amounts to "relying on an illusion."

6. Stuart Hampshire, "Morality and Pessimism," in *Public and Private Morality*, ed. S. Hampshire (Cambridge: Cambridge University Press, 1978).

7. Oliver Wendell Holmes, Jr., *Speeches* (Boston: Little, Brown, 1913).

8. Compare Aristotle's account, in Bk.I., ch.7 of the *Nicomachean Ethics*, of the supreme good for man: an end in every way final and not "one good among others" that could be made more desirable by adding any other good, it is an exercise of the powers involving intelligence, in accordance with the appropriate excellence of each.

9. For Kant, of course, the capacity of a rational agent to determine choice, independently of inclination, by "pure practical reason," is the ultimate condition of moral autonomy, the categorical imperative, and thus of moral philosophy as distinct from technology and prudence. Compare the persistent theme in Plato's dialogues about "turning away" from bodily wants to free the soul to pursue its own proper interests, especially in the *Gorgias*, *Apology*, *Phaedo*, and parts of the *Republic*.

10. The *locus classicus* for the topic of dignity and the respect owed it is Part Two of Kant's *Grundlegung*, Ak. pp. 428-37.

11. Again, Aristotle and Kant make the same points. For the former an act of virtue must be not only "according to the right rule (*orthos logos*)" but express the "presence of the right rule" as the structuring principle of the agent's character (*Nic. Eth.*, VI, ch. 13). The importance for Kant of distinguishing an act in external conformity to the law of duty from one also done "from duty" is a commonplace; it also discriminates the "legality" from the "morality" of action.

12. As Kant insists, if there were not duties to oneself, there could be no duties at all, as opposed to commands issued by powers able to make it "worth one's while" to conform. See *The Doctrine of Virtue* I, sec. 2, Ak. 417.

13. See note 4 above.

14. *Grundlegung*, Ak. 437.

15. See Kant's argument at the beginning of the *Grundlegung* (Ak. 395-6): "Happiness," by which he means a maximum of want-satisfaction, is a false and empty goal because we have neither the near-omniscience nor the power to control the outcome of events, so that the rational pursuit of happiness ends in disillusionment and misery. (The more philosophically devastating problems about happiness, arising from the fact that its concept is inherently indeterminate and hence practically "transcendent," are detailed in the *Critique of Practical Reason*.) But while reason can not make us happy in his technical sense of the term, it is quite adequate for "another and far nobler end," the perfection of the will itself. This is "man's highest practical vocation."

16. It makes no difference for our purposes, since Aristotle's "activity according to virtue" is defined by *orthos logos* or right reason; while a good will is simply a will completely in harmony with the law of practical reason and is "the only thing good without qualification" and "the condition of every other" good. See note 8 above.

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- 1978. "Moral Relativism."
By Philippa Foot, Senior Research Fellow, Somerville College, Oxford; and Professor of Philosophy, University of California, Los Angeles.
- 1979. "The Idea of the Obscene."
By Joel Feinberg, Professor of Philosophy, University of Arizona.

* Pamphlet out of print.

† Reprinted in *Freedom and Morality*.

†† Printed only in *Freedom and Morality*.