USE OF THESES

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TOLERATION
by
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Volume 1: Text.

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This thesis is my own composition, and to the best of my knowledge all sources have been acknowledged.

R. J. Kilcullen.

R. J. Kilcullen
PREFACE

The two parts of this thesis are directed to one question: Whether the principles of Toleration are morally binding. The first part states what those principles are; the second examines several arguments meant to show that they are morally binding. In the first part I have aimed at completeness, but the second part does not purport to be a complete treatment of the reasons for Toleration, still less of the reasons that seem to some people to require or justify intolerance. Chapter 3, in Part II, discusses how one decides when a question has been investigated sufficiently, and whether one can rationally assert anything before such an investigation is complete. But in fact my conclusion does not make any large assertions.

In Part I I have tried to formulate all the principles of Toleration as exactly as I can - I hope the result is not tedious. Some of the principles I deal with may fall outside what is ordinarily meant by Toleration: some people might prefer to call some of them principles of religious liberty, or of state neutrality in ideological matters, or of moral freedom. No single term covers the whole set, though I believe they all belong together. In formulating them I have tried to do justice to the subtle way these principles are balanced against competing ideals and interests. I have tried also to make it clear that Toleration need not involve relativism, subjectivism, scepticism, indifference to truth, or passivity toward mistaken opinions or harmful actions. Part I tacitly disposes of a number of common objections which arise from an unsympathetic conception of what Toleration is.
The literature on Toleration is very extensive, and I have had to read selectively. On the hypothesis that Anglo-American liberalism, and the liberalism of the French Enlightenment, are paradigmatic for liberalism generally, I gave priority to English and American and eighteenth century French writers: and I must confess I had little time to read much else. Of the French writers, Bayle, whose *Commentaire philosophique* deserves to be well known, is the only one who helped me much. I have the impression that his successors found little left to say; it is noteworthy that the article Tolerance in Diderot’s *Encyclopédie* ends with a laudatory reference to Bayle, from whom its arguments are obviously derived. Voltaire’s writings on Toleration I found disappointing.

I am grateful to my supervisors, S.I. Benn and Professor P.H. Partridge; to Marie Adamson for the care she has taken with the typing; to the members of our work-in-progress seminar, especially E. Curley, B. Maund, G. Mortimore, and R. Naulty. From Stanley Benn in particular I have learned a lot, and I enjoyed learning it. Not least, my thanks are due to my wife, Anne.

John Kilcullen
A NOTE ON REFERENCES.

Cross-References.

'(See above p. )': The page referred to is in Vol.1, even if the reference occurs in Vol.2.

'(See Appendix, p. )': The page referred to is in Vol.2.

'(See above, note )': The note is to the Chapter in which (or in the notes to which) the reference occurs.

References to Books and Articles.

The reference provides the minimum information necessary to locate the item in the bibliography, where full details will be found. In most cases all that is given is the author's surname and a page number.

I do not use op. cit.; I use ibid. only when the reference is to an earlier point of the same footnote; each note is self-contained.

Letters A-D after page references refer to the quarters of the page. If it is printed in two columns, A and B are the two halves of the L.H. column; and so on.

The conventions followed in the Bibliography are explained in a note at its beginning.

I have asterisked the indices to notes which are not merely references to sources. The asterisk does not indicate importance.
Chapter 1. Introduction. Outlines the history of key terms ('liberty of conscience', 'tender conscience', 'liberty of the press' etc.); discusses the way liberals these days use 'Toleration' and 'Tolerance'; distinguishes components of the liberal doctrine of Toleration (viz. principles, reasons, and standard applications); outlines theories of rights and duties and of balancing.

Chapter 2. The Doctrine of Toleration. States and explains twenty principles of Toleration, arranged under four headings ('Liberty of Thought', 'Liberty of Expression and Advocacy', 'Liberty of Conscience', 'Equal Participation in Community Life'). For each lists the common arguments and applications.

Chapter 3. The Justification of Moral Principles. Discusses the following questions, among others: Does the 'onus of proof' lie on the liberal or on those who reject the principles of Toleration? Is there a standard of sufficiency which the arguments must meet before liberal, or illiberal, principles can rationally be asserted? Must the arguments or objections rest on 'basic' premisses? Can moral utterances be true or false?

Chapter 4. Toleration and Truth. Examines the argument that the principles of Toleration should be adopted, since this would be conducive to the discovery and dissemination of true opinions and knowledge. Includes an analysis of the 'populist' and 'elitist' elements in Mill's thinking on the subject. Argues that an 'elitist' policy may well be right: free and equal discussion (e.g. in the press) may produce not knowledge
but confusion; the progress of truth might be best served by authoritarian behaviour on the part of genuine experts; the risk of error in deciding on an 'elitist' policy is not a reason for adopting the other policy.

Chapter 5. The Functions of the State. Examines the argument that the State should not act in the interests of religion (similarly: morality, philosophic truth, etc.) because this lies outside its function. Discusses 'contract', 'idea', and 'efficiency' grounds for limiting the State to the functions liberals attribute to it.

Chapter 6. Reciprocity. Examines the argument that one should adopt the principles of Toleration in such a way that others will do so too, to obviate the harmful effects of unregulated ideological competition. Sets out the conditions under which such an argument might succeed. Questions whether it would show that the principles of Toleration are moral principles.
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PART I. THE PRINCIPLES OF TOLERATION.
CHAPTER 1: INTRODUCTION

This thesis is concerned with the question whether a certain part of the liberal creed can be justified, a part for which Toleration seems the most suitable name. Part 1 is an account of what Toleration is, Part 2 examines certain arguments meant to show that one ought to be tolerant.

I will use the word 'ideology' to refer, unpejoratively, to any religion, moral code, political ideology, or 'philosophy of life'. Liberals believe that on ideological questions a person should have freedom to form his own opinions, and - within limits difficult to define - to express, advocate, and act upon them. The freedom to act on them can be distinguished into what might be called freedom to obey one's own conscience, and freedom not to obey other people's; that is, freedom to do what according to one's ideology one should do, and freedom from interference grounded in some other ideology. All these freedoms can be subsumed under more general freedoms, but in some cases the more specific freedom is of more weight than other species of the general freedom; for example, freedom to obey one's conscience is less easily overridden than freedom to do what one enjoys doing. I am concerned specifically with Toleration, not with freedom in general.¹

How do we decide what liberals believe? There are two ways: one is to consult one's sense of how people use the
word 'liberal' and the words in the liberal vocabulary, to discover what sort of things a person must believe to be classified as liberal; the other is to consult the writings generally supposed to embody the liberal tradition - writings of Milton, Locke, Bayle, the Encyclopaedists, Madison, James and John Mill, various Bills and Declarations of Rights and Constitutions, judgments of the U.S. Supreme Court, and so on. The written tradition is my main source, since the details of the liberal doctrine of Toleration and the arguments for it cannot be adequately collected from the way people commonly talk. However, the tradition developed through several stages, and some of the earlier liberal classics contain things which will strike the modern reader as illiberal - Locke's refusal of toleration to atheists, for example. Since I am concerned with the developed state of the doctrine of Toleration, the end-product of the tradition, my selection of material from older writers must be guided by a sense of how labels like 'liberal' and 'tolerant' are currently applied.

The next section will sketch the development of the traditional terminology of toleration, and the section after that will deal with the current use of 'tolerant' and related words. Several other introductory matters will be dealt with in the remaining sections of this chapter.

I THE TRADITION

The purpose of the following sketch of the history of the campaign for Toleration is to illustrate the changes in the meanings of certain key terms, and to show how Religious
Toleration came to be connected with the toleration of political, moral and other kinds of opinion.

The term 'toleration' came into prominence first in the sixteenth century.² It was a long-established theological principle, acknowledged by both Catholics and Protestants, that erroneous religious belief does not deserve punishment;³ but the expression and advocacy and practice of such beliefs was generally regarded as punishable. The earliest advocates of 'toleration' meant that heretics should be allowed to associate, to preach to one another, to worship together, and to practise their religion, provided they did not seek converts. Many 'devout' Christians did not believe that toleration is permissible; they believed that it is the ruler's duty to repress outward manifestations of religious error at no matter what temporal cost. 'Les politiques' maintained that it is permissible to count the temporal cost, and that on balance the best policy is often toleration, at least of large and well-established sects.⁴ Some writers argued that even from a religious point of view toleration is often the best policy, since coercion may hinder potentially more effective methods of conversion. Some maintained that coercion in religious matters is simply wrong, but most argued merely that toleration is permissible and often expedient. Liberals these days will not call persons or churches tolerant unless they can be trusted not to persecute even when they think they can thereby achieve good results at reasonable cost, that is unless their tolerance is a matter of moral principle.⁵
With 'Toleration' were associated several other expressions: 'liberty of judgment', 'liberty of conscience', 'liberty for tender consciences', 'not forcing consciences'. In the earlier writers I have found no trace of the feeling some late eighteenth century liberals had of an opposition between 'toleration' and 'liberty' in religious matters. Those who argued for religious liberty were quite content to call what they advocated 'toleration'.

Since the seventeenth century, 'liberty of judgment' has commonly been regarded as one of the distinctive tenets of Protestantism. It did not mean that everyone who reads the Bible and thinks about religion has a right to be confident of his opinions - the elect, guided by the Spirit, will reach the right conclusions, others will not. The Reformers believed that everyone ought to believe what the Scripture teaches. They also believed that in matters essential to salvation its meaning is clear to the genuine Christian, so that the Christian need not rely on any human authority in religious matters; the Bible, read with the guidance of the Spirit, is sufficient. In fact the Christian ought not rely on human authority. 'Implicit faith' (i.e. general belief in whatever the Church may teach) is insulting to God, because it implies laziness, and also because it puts human authorities where only God should be. The Church's demand for 'implicit faith' is a usurpation. Hence the Christian should reject the claim of Popes, Councils and other human teachers to decide religious questions authoritatively; against them the Christian
should assert his liberty of judgment, his right (and duty) to learn directly from God by reading the Bible.\(^8\)

Some writers, including men who probably did not believe that the Bible is the word of God, treated 'liberty of judgment' as a general human right, and eventually their view prevailed. Others treated it as part of 'liberty of conscience', which they regarded as an attribute only of genuine Christians.\(^9\) On either view 'liberty of judgment' meant the right and duty not to take any human being as a sufficient authority in matters of religion.

Note that 'liberty of judgment' is a freedom of thought, not of speech or action. Luther and Calvin believed that the ruler, though fallible, must act on his best judgment to repress false teaching, but must not try to force belief. This seems quite consistent with the doctrine of Liberty of Judgment.

'Liberty of Conscience' was another Protestant slogan; but what it meant for Lutherans, Calvinists and Anglicans was not quite what it meant for members of the 'radical' sects. For Luther and Calvin it meant the Christian's freedom from sin and from the Mosaic Law and his ability to obey Christ with a willing spirit.\(^10\) They taught that it is wrong for a Christian to surrender his liberty of conscience by going back under the law of Moses, or under man-made laws (such as the Pope's) purporting to impose obligations on the conscience;\(^11\) the Christian's conscience is not to be subordinated to anyone but God. However they also held that God has commanded that
everyone be strictly obedient to the ruler. What if he commands what God has forbidden, or forbids what God has commanded? Then the Christian must obey God; but he must give 'passive' (as opposed to 'active') obedience to the ruler - i.e. he must not resist punishment for not actively obeying the ruler's command. 12 'Liberty of Conscience' is not at issue in such a conflict: the Christian's obedience to God may be 'free', i.e. willing, but even the non-Christian is bound, willing or not, to obey God rather than men, and to submit to whatever punishment the ruler may inflict. Liberty of Conscience may come into question, however, if the ruler imposes as necessary to salvation something that God has not imposed. If it is something that God has forbidden, again one must obey God rather than men. If it is something that God has neither imposed nor forbidden (one of the 'matters indifferent', adiaphora), then the Christian must actively obey, but without surrendering his inward 'liberty of conscience' - i.e. he must not regard the thing as necessary to salvation, as obligatory in conscience. 13 In relation to government, 'liberty of conscience' is merely liberty of thought, 'liberty of judgment' under another name: it means the right not to regard anything as necessary to salvation just because the ruler says it is. It does not entail any right to refuse to do what is commanded. As Luther said, 'In the Conscience, there resteth our liberty, and goeth no farther.' 14

However, the more radical Protestants, notably the puritans, believed that the Christian must vindicate his
Liberty of Conscience by refusing to do an indifferent thing imposed by the ruler, just as he must refuse to do anything expressly forbidden by God. Religious practices that would have been permissible - because left 'indifferent' by God's law - become wrong if imposed by human authority. Some who held this also believed that punishment for the refusal of active obedience must be accepted, others believed that resistance might sometimes be justified. Many of the Puritans agreed with the older Reformers that the secular ruler ought to repress 'outward abominations' and foster true religion; but others believed that the ruler had no religious functions. The latter had two reasons for objecting to the imposition of something indifferent as part of religion: one that it violates Liberty of Conscience, the other that the magistrate has no religious role. Perhaps it was the conjunction of these objections that led some to use 'Liberty of Conscience' as the slogan for their doctrine that the State has no role in religious matters. 'Liberty of Conscience' had originally been an attribute of true Christians; for those who used it to cover complete freedom from government interference in religious matters, it eventually became a right claimed for men generally.

So much for Liberty of Conscience. A person of 'weak' or 'tender' conscience in seventeenth century Protestant jargon meant a person who, though a genuine Christian, has not yet realised the full extent of Christian Liberty (not a person who, having realised the extent of Christian Liberty, yet
submits his conscience to a man-made yoke - this is not weakness, but wrongdoing). All Christians believed that a person sins if he disobeys his conscience, even if his conscience is in error. It follows that a person of weak conscience, who erroneously believes some practice to be a religious obligation, sins if he acts against his belief. To 'scandalise' (literally, make to stumble) a 'tender' conscience meant to exercise one's liberty in a way that leads weak Christians into sin by the imitation of something they mistakenly believe to be wrong. While a Christian has a duty to preserve his liberty of conscience, he also has a duty to conduct himself outwardly so as not to scandalise weaker consciences. If it is wrong to set an example that might lead weaker brethren to stumble, it would seem to be wrong to try to force them to do what they mistakenly believe to be wrong; this is what members of the radical sects sometimes claimed.

The notions of 'liberty of conscience' and of the duty not to scandalise 'tender' conscience were invoked by the Puritans in their controversy with the leaders of the established church in sixteenth and seventeenth century England. Locke believed that the Civil War arose from the demand for liberty for tender conscience - or, as others put it, from the Bishops' attempts to impose ceremonies in violation of liberty of conscience. As the Civil War progressed, the more radical sects came to the fore on the Parliamentary side, and so did their doctrine of 'liberty of
conscience' - that the ruler has no right to legislate in religious matters. To conservatives it seemed that to forbid the magistrate to interfere 'in whatever any man may call religion' opened the way to anarchy. So did the doctrine that the magistrate must not force tender consciences; it is difficult to distinguish genuine from feigned scruples.25 'Liberty to tender consciences' was promised by Charles II on the eve of his Restoration;26 when his first Parliament met, the Chancellor, Clarendon, called for 'some law, that may be the rule to that indulgence, that, under pretence of Liberty of Conscience, men may not be absolved from all the obligations of law and conscience', and spoke of the need to distinguish tenderness of conscience from pride of conscience, real effects of conscience from wicked pretences to conscience.27 Anglican writers, for example Jeremy Taylor, reasserted the older notion of liberty of conscience, and maintained that tenderness of conscience does not give any right to legal exemptions, still less a right to disobey. Under Charles II the religious regime was in fact not tolerant. Later, when James II announced a 'Declaration of Indulgence' and Anglicans were in danger of being isolated, many Anglican writers announced their support for Toleration,28 though they did not adopt the doctrine that the State should not concern itself with religion. After the Glorious Revolution a Toleration Act was passed: the Anglican Church remained the established church, but Dissenters were no longer to be penalised for teaching and practising their own religion. Toleration became
a settled policy, and by the end of the eighteenth century (if not earlier) it was commonly regarded as a matter of moral principle, not of expediency. Disagreements about the State's treatment of religion took the form of disputes about what Toleration implies; those who opposed measures favorable to Dissenters or Catholics were careful to assert their adherence to the principles of Toleration.

During the eighteenth century two important developments were: first, most people accepted what had been a minority view in the seventeenth century, that toleration should not be confined to genuinely Christian sects, that liberty of judgment and conscience are general human rights; and second, some people came to believe that 'toleration' should include civil equality. This second development led to much dispute. After the Toleration Act, Dissenters were still excluded from public office by the Test and Corporation Acts. Since there was general acceptance of the principle of toleration - the principle that no-one is to be penalised for his religion - the Dissenters and their allies in the campaign against the Test and Corporation Acts tried to extend the meaning of 'Toleration' by extending the meaning of 'penalised': they argued that Dissenters were, in effect, penalised for their religion by being excluded from office in the State. The liberal Anglican, William Paley, distinguished between 'partial' toleration - allowing unmolested profession and exercise of religion, but with an exclusion of Dissenters from offices of trust and emolument in the State, and 'complete'
toleration - admitting them without distinction to all the
civil privileges and capacities of other citizens. Dissenters
demanded, and eventually got, 'complete' toleration. 33

During the nineteenth century Dissenters campaigned
against various Anglican privileges, relating to marriages and
burials, church rates and tithes, exclusion from universities,
distribution of state aid for education, etc. They demanded
that the state treat them, in this or that respect, as it
treated the Church of England. They were suspected of aiming
at eventual disestablishment, but most of them denied this.
They argued that it was a violation of religious liberty to
tax them to support religious activities they disapproved of;
it was as if they were being fined for their convictions.
This is reminiscent of the claim that exclusion by the Test
and Corporation Act was a sort of punishment. 34 But for
these nineteenth century campaigns the slogan was not 'complete
toleration', but 'religious liberty'; they abandoned the word
'toleration' to their opponents. 35 Nevertheless opponents
felt called on to affirm that their opposition to equality was
not inconsistent with toleration. 36

So much for the terminology of Religious Toleration.
In their widest extent the demands made variously in terms of
'toleration', 'liberty of conscience', and 'religious liberty',
can be summed up as follows: 37

(1) Freedom of thought in religious matters: no-one to be
penalised for his religious beliefs. (2) Freedom to preach
and practise one's religion: no-one to be penalised for doing,
in religious matters, what his conscience requires.

(3) Freedom not to conform to any established religion: no-one to be compelled by penalties to do, in religious matters, what his conscience does not forbid but does not recognise as a religious duty ('liberty of conscience' in the sense most prominent in the seventeenth century - see above p.6.) In all these, 'penalty' was often understood to include not only punishment properly so called, but even any arrangement, that could without undue difficulty be changed, which is known to make it much more comfortable, honorable, or profitable to belong to one sect rather than another.

Before the late eighteenth century, the term 'toleration' and the associated term 'liberty of conscience' do not seem to have been used except in relation to religion. But modern writers regard religious liberty as part of a wider liberty of opinion. Religious Toleration and other kinds of toleration are linked logically, in the sense that some of the arguments for one kind can be adapted to support another. The elaboration of these arguments was, historically, sometimes the effect and sometimes the cause of alliances between groups seeking various changes in the direction of 'civil and religious liberty'. I will now try to trace out some of these connexions.

The first connexion seems to have been formed in the campaign for liberty of speech and of the press. It might be supposed that 'liberty of the press' was an extension of 'liberty of speech', with which nowadays it is generally
associated; but in fact 'liberty of the press' was a popular slogan while 'liberty of speech' still referred merely to the privilege of parliament. But by the late eighteenth century 'liberty of speech' was being demanded for citizens generally; it became an important idea in England in the 1790's when the government tried to prevent public meetings for Parliamentary reform. 'Liberty of the Press' was first advocated in the mid-seventeenth century. Milton in Areopagitica argued for an end to religious censorship; he did not mention political censorship, and later was himself a censor of newsletters. However Levellers sometimes argued against both forms of censorship. Religious censorship was at first the main target of most who argued for Liberty of the Press, but during the eighteenth century religious, political, and other kinds of censorship were grouped together.

'Liberty of the Press' meant in the eighteenth century merely freedom from prior censorship. When Englishmen boasted of their 'liberty' what they often had most prominently in mind was this: government officials could not act 'preventively' by detaining them or obstructing their action at discretion - any interference had to be shown promptly in court to be legally justified by some overt act the person had done. Similarly the 'liberty' of the press meant that no official had discretionary power to prevent publication; the government had to wait till the material had been published, and then institute court proceedings for libel. Eventually liberals realised that prosecutions for libel could make
'liberty' of the press an empty name. Fox and Erskine, and many others afterwards, sought reforms in the laws of libel and in the administrative procedures associated with enforcing them. Many of the reforms advocated related to all kinds of libel alike, the kinds including obscene, blasphemous and seditious libel; so in effect the campaign was for freedom of the press in relation to morality, religion and politics.  

Freedom in relation to morality - freedom to advocate, and do, what others regard as immoral - is still not universally conceded. The thesis that moral unorthodoxy should be treated as it is generally agreed religious unorthodoxy should be treated is probably at present the distinguishing tenet of 'small-l' liberalism. The first exponent of this, to my knowledge, was J.S. Mill. According to Mill there should be 'liberty of conscience in the most comprehensive sense', 'absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral, or theological'; and - what is 'practically inseparable'-'liberty of expressing and publishing opinions', including 'the fullest liberty of professing and discussing, as a matter of ethical conviction, any doctrine, however immoral it may be considered'. Mill's 'liberty of taste and pursuits', the liberty of doing what we like as long as it does not harm others, is an extension of the Puritans' 'liberty of conscience'. As the 'left-wing' Puritans claimed that the State should not enforce religious rules but confine itself to protecting men from one another (see above p.7), so Mill claimed that the State, and
public opinion also, should not enforce religious rules, or moral rules, or any rules, not required for mutual protection. Paternalism is not opposed on principle by all liberals today, but they continue to oppose the enforcement of rules on moral or religious grounds (rules on homosexuality, abortion, pornography, and so on). 48

Mill's reference to 'liberty of conscience in the most comprehensive sense' points to a change in the conception of conscience. Conscience is no longer a peculiarly religious concept. According to Mill, conscience is a feeling in the mind produced by authority, education and public opinion, not necessarily in association with religion. 49 In this century liberals have sought recognition for the rights of secular conscience - e.g. for non-religious conscientious objectors to military service, and for non-religious 'civil disobedience' (the modern equivalent of 'passive obedience').

To turn to political toleration. During the eighteenth century, when religious intolerance was not respectable, the Test and Corporation Acts, and the laws against Catholics, were often defended as necessary to the safety of the constitution. The campaigns against these laws raised the question: when can the State legitimately take precautions against a person (e.g. by excluding him from some job) because of the doctrines of his religious sect, or the actions of other members of it? The liberals answered that state action against members of allegedly dangerous sects should be confined, as nearly as possible, to the punishment of those who commit overt acts. 50
The same question, in relation not to religion but to politics, was raised at the end of the century by the British government's action against suspected disciples of the Jacobins. From this period liberals have held that even 'dangerous' sects - whether religious or political - should have as much freedom as possible. Liberals do not oppose absolutely, but they scrutinise closely, laws excluding members of dangerous sects from government jobs, laws authorising preventive detention, laws relating to sedition, conspiracy, and incitement, and laws regulating meetings and associations. In the twentieth century Communists have been the main target of such laws; the liberal policy concerning precautions against Communists is the same as Fox's policy in relation to Roman Catholics. Whether the dangerous opinions are religious or not makes no difference; the tolerant person will want the law to intervene at the last practicable moment before dangerous opinion is translated into harmful action.\(^{51}\)

In these ways religious toleration came to be associated with toleration of moral and political unorthodoxy. The wider policy of tolerating ideologies of all sorts, religious or non-religious, is, however, not usually called 'toleration'; though it is sometimes called 'tolerance', and violations of it are called 'intolerance' or 'persecution'. 'Liberty of Thought and Discussion' is the commoner term. However this obscures the fact that the policy also relates to action. Religious Toleration or Liberty of Conscience included freedom to act according to one's own conceptions of right and wrong in
religious matters - to do what one believes to be a duty, to omit what one believes it is permissible to omit - the State retaining the right to prevent harm to others. Similarly liberals believe that a person should be allowed to act on his conceptions of right and wrong, whether they relate to religion or not, except when the rights of others are seriously threatened. Some term wider than 'liberty of thought and discussion' is needed to cover this, and 'Toleration' seems appropriate.

The content of this concept of Toleration may seem somewhat miscellaneous, the outcome of a series of historical accidents. It may seem better unified if we think of Toleration as an attempt to make it as easy as possible for a person to follow his arguments wherever they lead, even when they lead to action; understanding that exploring an argument may involve discussion with other people, and that action may include advocacy. Toleration minimises the fear of being punished, silenced, isolated, excluded from employment, and deprived of the normal degree of autonomy in action, as a result of considering some question or of arriving at an answer disapproved of by others.

However, whether the concept is well-unified cannot be determined until the arguments for its various elements have been examined. The concept of toleration was gradually extended as people noticed analogies between religious and other opinions, and between punishment and other kinds of treatment, analogies which seemed morally significant in the
light of certain lines of argument. For example, if one's objection to religious persecution is that all religious opinions are uncertain, consistency will require an extension of toleration to other uncertain fields ('matters of opinion'); but if one's objection is that no one should be punished for obedience to what he believes to be the commands of God, it would not be inconsistent to refuse toleration to atheists or agnostics, or to refuse to extend toleration to fields in which no-one believes he has commands from God. It may be that there is some single argument that ties together all the elements of Toleration. More likely the situation will be more complex: suppose A, B, C, D, E... are the elements of Toleration; then if some of the arguments for A can also be used to support B, and others to support C, and if some of the other arguments for B can also be used to support D, and some of those for C to support E, and so on, then the different elements will be bound together by a network of analogies. If Toleration is unified in this way, it will be as well-unified as many other concepts; but its boundaries may be uncertain.

II. THE WORDS

As I use it, 'Toleration' is a term of art. I mentioned earlier that at the end of the eighteenth century the advocates of religious equality abandoned 'toleration' to their opponents - who, however, felt called on to explain that they were not questioning the principle of toleration; see above p.11. I also mentioned that the policy of treating non-
religious ideologies as liberals think religions should be treated is not usually - though it is sometimes - called 'Toleration'. However I use the word to cover tolerating, and treating equally, ideologies of all sorts. It seems to me that the rules of the liberal code which enjoin what I call Toleration belong together; they make up, as it were, a single chapter in the liberal programme; they generally go together in declarations of human rights. I wish to deal with them together, and 'Toleration' seems the least unsuitable short term for what I am talking about. However, since my use of the term is an extension of the common use - not something quite unrelated to it - it may be useful to discuss the common usage. This is what I will do in this section. There are two main points to be made: first, that 'toleration' in some contexts - the only ones I am concerned with - invokes moral principles; second, that when it is used in that way, the user does not imply that what is to be tolerated is an evil, but, at most, that some people may regard (or may have regarded) it as an evil.

In current usage 'to tolerate' something is, in general, to refrain from taking action against it (to prevent it, to destroy it, to retaliate upon the person responsible for it, etc.) although one regards it as an evil. 'Tolerance' and 'toleration' seem to be almost interchangeable. If there is a difference it is this: tolerance is the quality of being tolerant ('tolerance' is to 'tolerant' as 'whiteness' is to 'white'); toleration is the action, course of action, or policy
of tolerating ('toleration' is to 'tolerate' as 'exploration' is to 'explore').\textsuperscript{53} It is my impression that 'toleration' has been used mostly to refer to tolerating by the state, as if states have existing policies rather than more or less permanent dispositions; 'tolerance' is used mostly to refer to tolerating by individuals, which is supposed to proceed from a temperamental or moral quality more or less permanent.\textsuperscript{54} 'Toleration' seems to have been preferred by older writers; 'tolerance' seems preferred in current English, perhaps because the tolerant dispositions of citizens now seem more important than the policies of toleration pursued by governments.

To tolerate something is not always a good thing. But when liberals talk approvingly of 'tolerance' or 'toleration' they do not mean to approve every instance of tolerating.\textsuperscript{55} They have in mind several special classes of instances.

First, consider the tolerance expressed in such phrases 'judge not', 'to understand is to forgive', 'I would have done the same if I had been him'. This is tolerance of the violation of some acknowledged duty when the violation is believed to result from a moderate degree of human weakness.\textsuperscript{56} The corresponding kind of intolerance is that of the person who is morally exacting, severe, punitive, a perfectionist. To be a duty a thing must be possible. But what is in general possible may be impossible for this person given his circumstances (including his temperament, upbringing, and experience); or it may be difficult, requiring a degree of
courage, self-sacrifice, or self-control, seldom seen among ordinary mortals. The 'tolerant' person does not exact heroic dedication to duty; he makes a reasonable allowance for the individual's circumstances; if it is a good thing to do this, then this first kind of tolerance is a virtue. (This is perhaps not a very venturesome assertion, since what constitutes a 'reasonable' allowance, or a 'moderate degree of human weakness', is not specified). Some believe that an individual's circumstances can never be known well enough to justify making any moral judgments of other people ('judge not'); even if attempts are made to modify the behaviour of others there should be no attempt to assess them morally. 57

It should be noticed that the duty of which the non-performance is tolerated is one that the person excused acknowledges as his duty. If there is disagreement about what duty requires, the relevant sort of tolerance is the third kind, discussed below.

Second, consider the tolerance of the policeman and the crowd he is controlling, of flat-mates or work-mates, of people who show no signs of racial, national or class prejudice in circumstances where prejudice is likely. This is the tolerance of the easy-going person, not easily irritated, not easily moved to fear, anger or dislike. An easy-going temperament can lead a person to tolerate things he should act against, and this is not a virtue. The virtue is to keep one's feelings of fear, anger, and dislike under proper control, so that one acts in accordance with one's conceptions of justice.
(A person who does so, provided his conceptions of justice and generosity are not too far wrong, does not exhibit racial and other prejudices; and since a generous person does not insist on all he believes he could justly insist on, he is likely to be easy to get on with). Not every unjust or ungenerous act is contrary to this second sort of tolerance, since there are other motives besides fear, anger, or dislike which lead people to do such acts. If it is unjust or ungenerous to exact heroic virtue, then a person can exhibit the first and second kind of intolerance at once: if he is disposed to anger or hatred towards wrongdoers, his vindictive or punitive attitude is intolerant in both ways.

Third, there is the tolerating of beliefs one regards as erroneous, and of speech and action arising out of such beliefs. Almost everyone feels strongly about difference of opinion in some field; for example, academics who discuss their subjects with detachment may have strong feelings about questions of university management. A feeling of anxiety and irritation is caused by doubt whether some important truth will prevail, because there are too many people to convince and they will not listen, or because they are not good judges of the question, or for some other reason. The opinion that the proposition is true, and the fear that it will not be accepted, may be quite well-founded. Anxiety leads to attempts (often not deliberate) to intimidate those who disagree by expressions of anger or contempt or disapproval, or to obstruct their efforts to state their opinions (e.g. by the use of various
procedural devices at meetings), or to obstruct even lawful actions based on their opinions; if the anxious party hold power, but fear losing it, they may refuse to allow any scope to the others to put their opinions into practice as an experiment, in case the experiment makes converts. Other motives besides fear and anger may lead to similar behaviour; for example, a conviction that one has a moral duty to oppose certain errors as strongly as possible. The behaviour just described is what the third sort of toleration excludes. A person who is tolerant in the third way refrains, as a matter of principle, from every method, except argument on equal terms, of eradicating and preventing the spread of beliefs he disagrees with; and he gives others as much scope as he can to put their beliefs into practice.

These three kinds of toleration or tolerance are regarded by liberals as virtuous, as required by moral principles. The first two kinds are not prominent in the literature of the liberal tradition, but I believe they will be recognised as part of the liberal ethos. The third kind is the kind I am concerned with; since it is sometimes called 'Toleration' - this is its usual name in the older writers - whereas the other kinds are I think always called 'tolerance', I have chosen 'Toleration' as my title.

The liberal code includes several distinct sets of principles, one or another of which the words 'tolerant', 'tolerance', or 'toleration' may be used to invoke. Which set (if any) is being invoked on a given occasion is usually clear
from the circumstances in which the word is used. The three kinds of tolerance/toleration are to be specified by drawing up the sets of principles. For the first there would be one rule, something like this: a person is not be blamed or punished for the non-performance of a duty if to perform it would have been for him at the time impossible or difficult beyond some vaguely specified level of difficulty. For the third, which is the kind that concerns me, many rules will be found to be necessary; what they are has been indicated roughly in section I of this introduction, but they will be explained more systematically in Chapter 2.

The kinds of tolerance are not specified by the objects tolerated; for example, if the non-performance of a duty has caused inconvenience, it may be the object of both the first and the second kinds of tolerance. If some opinion excites fear, anger or dislike, it may be the object of both the second and the third kinds.

Neither are they specified by distinguishing senses of 'tolerate': in each case something is tolerated in the ordinary sense of the word. To understand this sense is not enough to grasp what the liberal is talking about; we must also know what principles he is alluding to. It would be a mistake to suppose that since 'to tolerate' is to refrain from action against something regarded as an evil, the liberal believes Toleration requires that one should not argue against opinions with which one disagrees, or that there are no limits to the scope to be given to the practice of mistaken
opinions, or that one ought to allow evils of every sort to flourish. The liberal principles of Toleration do not have these implications.

This brings me to the second main point I wish to make, that when liberals advocate toleration they do not by their choice of words imply any unfavorable judgment of what they say ought to be tolerated; though they do acknowledge that some people may judge it unfavorably. It has been said that toleration is 'contaminated' by the 'implication of evil which its meaning contains'; that it is logically impossible to be tolerant unless one disagrees with something; that if I say I am tolerant, I claim the right to disapprove of opinions I disagree with and to express this disapproval in action.

It is true that if I say in the first person that I tolerate something, it is implied that I regard it as some sort of evil; and it may be implied that I think I would be entitled to repress it. But in second-and third-person utterances the use of 'tolerate' does not imply that the speaker regards the thing tolerated as an evil, or believes that anyone has any right to repress it. I may call on you to tolerate something of which I approve, and believe you would have no right to repress; I do not challenge your opinion of the thing or of your rights, but I do not imply agreement either. Similarly I can call on you to follow the principles of toleration with respect to religion (for example) without myself regarding any religion as an evil - I may regard the choice among religions as a matter of indifference. Even in
first-person statements, principle-invoking references to toleration do not imply anything about whether I regard the opinions to be tolerated as evil. If I endorse the principles of Toleration, I say merely that if I do, now or in future, regard some opinion as mistaken or evil, I will not act against it in certain ways. And of course the whole point of asserting these principles is to deny that anyone has the right to repress opinions in certain ways.

In this respect there seems to me to be little to choose between the language of toleration and the language of liberty. Very likely, those who speak of Toleration do disagree with some opinions and do regard error as an evil - not necessarily a moral evil, but at any rate something one would wish to avoid. But they do not imply this by speaking of Toleration. Those who prefer 'liberty of opinion' almost certainly also disagree with some opinions and regard error as an evil - though, again, this is not implied by their choice of words. No-one would advocate Toleration unless he felt, or believed others felt, tempted to persecute. But this is also true of advocacy of Liberty of Opinion.

Finally, the point made earlier should be remembered, that liberals, like everyone else, often use 'tolerate', 'tolerant' etc. without suggesting that the tolerating is an obligation or a virtue, without invoking any principles.
III. PRINCIPLES, REASONS AND APPLICATIONS

To understand the liberal idea of Toleration it is not enough to consider the meaning of 'tolerant' and other words, it is necessary also to consider what principles the language of toleration is used to invoke. To understand these principles it is necessary, or at least very useful, to consider the reasons typically given for them, and their typical practical applications. Hence Chapter 2, on the doctrine of toleration, besides formulating the principles, will also catalogue the common liberal arguments for them, and consider some of the practical problems to which they are applied. I will call the complex of principles, reasons and applications, the 'doctrine' of Toleration (see the title of Chapter 2); the 'concept' of Toleration is defined by the principles.

I do not accept the view sometimes heard that a person should not - even logically cannot - hold a moral principle unless he can give good and sufficient reasons for it. If a person can produce no reasons for being truthful, but simply takes it for granted that he ought to be, it would be perverse to say that his truthfulness is unreasonable, or that it could not be a matter of moral principle. But as it happens, in the liberal tradition the principles of toleration are almost always backed by reasons - in fact the reasons are usually more carefully presented than the principles are. I doubt whether a person can be classed as a liberal if he is ignorant of these reasons. I doubt also whether the genuineness of his
tolerance will be credited if he holds the bare principles of
tolerance, without reasons. In comparison with truthfulness,
tolerance is a newcomer among the virtues; until comparatively
recently toleration has been controversial, and some of its
principles still are. Tolerance is more likely to be a
reliable disposition of a person's character if he can give
some reasons for being tolerant. The reasons need not be
conclusive, but they must be good enough to survive encounters
with at least the common objections and difficulties.

Another reason for connecting the principles with reasons
and applications is that, like other moral principles, the
principles of toleration are 'open-textured'. No matter how
carefully the principles are formulated, it is impossible to
foresee every possible future situation, impossible to be sure
that every new case will be clearly under or clearly outside
the principles as they are now formulated, impossible to be
sure that no future case will force a reformulation. A set
of standard examples of the application of the principles
provides models to guide intuition in difficult cases; but
without articulated reasons for the principles it may be
difficult to tell which features of the models are significant.
Some of the principles call for the balancing of one
consideration against another; if such a principle is rendered
problematic by a new case, to decide relative weights it will
be necessary to know, or to work out, the reasons for taking
these considerations into account. Similarly growth in the
notion of Toleration, by extending existing principles to new
classes of cases or by incorporating new principles, may lead
to incoherence or looseness unless it is guided by some
conception of the rationale of the existing set of principles.
It is not necessary to assemble examples and reasons beforehand
in case one of these problems arises - it can be done when the
problem has arisen; but reasons and standard applications
already go together with the principles in the liberal
tradition, and it is worthwhile to keep them together.

'Standard applications' may be a misnomer, since I mean
it to cover not only practical maxims agreed on as corollaries
of the principles, but also standard 'sensitive issues', issues
in which liberals commonly recognise that a principle is at
stake, though they may not agree about what fidelity to the
principle requires. For example, if someone proposes that the
population should be fingerprinted, or that photographs should
be attached to drivers' licences, or that taxation records
should be computerised, or that police road patrols should be
in unmarked cars, or that there should be a government
newspaper, liberal opinion is bound to be aroused, but it
probably will not be united. The content of the liberal creed
is not absolutely fixed; in particular, liberals differ in the
relative importance they attach to various principles; hence
they differ to some extent over many practical questions.
But to count as a liberal a person must be sensitive to a good
number of the issues with which liberals are traditionally
concerned, and on some of these issues he must take up a
position within a certain range; although if he is intelligent
and thoughtful he will be concerned with other issues besides the traditional ones.

The 'standard applications' provide paradigms by which the liberal moral culture is taught. A physics text-book might include among 'applications' illustrating a theory, both agreed applications and matters in which application is problematic. To become acquainted with both kinds of applications is part of mastering the theory; an application is 'standard' as I am using the term if it is commonly used in teaching the subject to beginners - it may not be of much current interest to senior members of the profession. Similarly the liberal creed is passed on by teaching young people certain principles and certain agreed applications of those principles, and by teaching them to recognise certain issues as ones in which matters of principle are at stake; and a lot of this material is standard and traditional, and perhaps not of much interest to people who have come to take their liberalism for granted.

Liberals are characteristically much concerned with constitutional and legal issues. The fundamental principles of liberalism are moral principles, or are at least obeyed as a matter of moral obligation; but the paradigmatic liberal tries to embody these principles in political and legal institutions. The point of this is to make it probable that the right principles, properly weighted, will govern social intercourse, even though many of the actors may not have an adequate grasp of the principles, or may forget or disregard them. For example, even if eleven of the twelve jurors misunderstand or
brush aside the rules of evidence, as long as one does not the accused will not be convicted on evidence liberals would regard as inadequate: the rules of evidence, plus the rule that the jury must be unanimous, ensure that a balance most liberals will regard as proper is struck between protection of the community against crime and protection of the individual against punishment for a crime he did not commit. For another example, consider the recent South Australian debate over the laws relating to homosexuals. It seems to most liberals that certain of the principles of toleration require that homosexual acts between consenting adults should not be punished by the law; the practical problem is to devise institutional arrangements which will correctly balance the protection of homosexuals against illiberal magistrates or juries and the protection of non-consenting persons, juveniles, and the public, against violent or offensive behavior by homosexuals. The crux of the South Australian debate was the question whether to define the crime as committing the homosexual act when it is not the case that it is done in private between consenting adults, or to define it as committing a homosexual act, and allow the fact that it was in private between consenting adults as a defence. I would expect most liberals to regard the second alternative as unacceptable, on the ground that it gives too little weight to the protection of the moral freedom of homosexuals.

As the second example illustrates, the battle for liberal principles is often fought over rather technical questions of
law. With well-designed institutions, staffed by people of ordinary understanding and conscientiousness following relatively simple rules, the same outcome can be obtained as would require from many people an unusual degree of fidelity to more complex principles if the institutions were lacking. Hence the most important of the 'standard applications' of the moral principles of liberalism take the form of proposals concerning political and legal institutions and the rules by which they are worked. In fact, it is possible to pass as a liberal by supporting these proposals, even if one has never thought much about the higher principles, and the arguments for these principles, which give the proposals their point.

The list of 'sensitive' issues and the 'standard applications' for the doctrine of Toleration can be gathered from the historical sketch in Section I: laws relating to worship, education subsidies, tests for office, laws relating to public meetings, laws of libel, and so on, provide the standard issues in which liberals work out their sense of the relative weights to be given to various considerations, and their opinions about which institutional arrangements and rules will best protect the various rights and freedoms they value.

Although the liberal doctrine of toleration is a complex of reasons, principles and standard applications, the liberal concept of toleration is defined by the principles alone. A person may hold these principles even though he has rejected the common reasons and substituted others, and even though he has unusual opinions about the applications. He could not be
said to hold the liberal doctrine of toleration, but he is tolerant - has tolerance, practises toleration - as long as he adheres to the principles.

**IV RIGHTS**

In the next chapter when I try to formulate the principles of Toleration I will use for some of them the language of 'presumptive' rights or duties, to be balanced against a certain range of other considerations. To conclude this introduction I will outline doctrines of rights and duties*68 and of balancing.

What I have to say on these subjects belongs to a larger system of moral philosophy. But I am not writing about moral philosophy generally, so I will state with a minimum of discussion what I take from the larger system to deal with Toleration. The elements taken over include terms and propositions. I will define the terms I have invented, but I will leave undefined terms I believe I use as they are commonly used, although in the larger system some of them would be defined. Some of the propositions would appear in the larger system as implications of defined terms; some of them (e.g. those which assert the existence of some rights and duties) are synthetic. I will not stop to show that some of the propositions I use are analytic; and I will not try to justify the synthetic statements - except of course those which make up the concept of Toleration, the justification of which is the subject of Part II. In Chapter 3 I will explain
how I think one should decide what to try to justify and what to assert without argument.

My invented terminology marks distinctions recognised in the common morality, and most or all of the propositions I assume fall within the limits of variation of the common morality. This is not an argument in their favour; common beliefs are not authoritative. However since most moral philosophies are also to a large extent reconcilable with the common morality, most of what I say should be translatable into the terms of other moral philosophies. For example, though I am not a consequentialist - I agree with Aristotle that some acts are valuable in themselves, apart from consequences - most of what I will need to say about morality could be accepted by a consequentialist, by a Rule-Consequentialist, at least. (Since the principles of Toleration purport to rule out behaviour of certain kinds even when it would achieve good results at reasonable cost - see above p.3 - an Act-Consequentialist would have to reject the principles of Toleration). To discuss Toleration it is not necessary to decide every question of moral philosophy.

To come to rights and duties: first I will explain my invented terminology; then I will lay down a number of statements, numbered for convenience in back-references.

Let us distinguish the right to a thing, the right to an action (or forbearance) on the part of another, and the right to do something oneself. Rights of the first sort are not mentioned in the rules of Toleration, and anyway are probably
reducible to rights of the other two kinds. When a person does what he has the right to do, or demands and receives what he has the right to receive from others, I will say that the right is 'exercised'; when others do whatever they ought to do in view of his right, I will say that the right is 'rendered'.

Let us distinguish rights which are permanent, and rights which begin or end with certain events. For example, 'human rights' are supposed to belong to a person all his life, whereas a creditor's rights begin when he make the loan and are extinguished when he receives payment.

In the complete statement of a right, the occasion or occasions for its exercise need to be described: 'whenever he chooses', 'whenever condition X is satisfied', and so on. For example, a creditor may have the right to receive payment 'on demand after July 31st'.

Let us distinguish 'presumptive', 'absolute' and 'actual' rights. A right is, or is not, actual on a particular occasion; if the outcome of properly-conducted deliberation (all things considered) is that this person on this occasion may rightly (without blame) exercise his right, and that others ought to render it, the right is 'actual'. If he has a 'presumptive' right to do something, or to have it done by another, on an occasion or occasions of a certain description, then the right is actual on a particular occasion of that description, provided there is not a sufficiently weighty reason why on that occasion the right ought not to be exercised or rendered. If his right is 'absolute', then it is actual on
a particular occasion of the appropriate description whether or not there is any objection to its being exercised or rendered. A similar distinction can be made among duties: if the duty is absolute then on any occasion of the appropriate description it is actual i.e. it simply ought to be done, no matter what objections may be made; if it is presumptive, then there may be some occasions of the appropriate description when it is not an actual duty because there are preponderating reasons why on that occasion it should not be required. I define 'actual duty' thus: If and only if an act is a person's actual duty, then, if he knows that it is his duty, not to do it is morally wrong and blameworthy.

For example: suppose a creditor has a presumptive right to be paid a certain sum on demand after a certain date. This is a right which is extinguished as soon as it is exercised/ rendered once. However there may be several occasions after the due date on which he makes his demand but the debtor rightly refuses to pay, because there are sufficiently weighty reasons why he should not on that occasion be required to do so; on those occasions the right and the duty are not actual. The presumptive right continues until payment is made, whereupon it is extinguished.

Another example: the leader of a party promises a candidate that he will speak at a meeting in his electorate as early as possible during the coming campaign, the promise establishing a presumptive right and a presumptive duty. On each occasion when a meeting is held until the speech is
made the candidate has an actual right to the performance of the promise, unless there is some sufficient reason why the right should not be rendered on that occasion. Perhaps there is on every such occasion a sufficiently weighty reason for the leader not to come, and the right may never be actual. When the election date comes and the campaign is over, the presumptive right is extinguished, even if the speech has not been made. (The extinction of a right never rendered may give rise to some other right, e.g. to compensation).

Besides presumptive, absolute and actual duties I distinguish two other categories (to which there are no corresponding categories of rights), viz. duties of imperfect obligation, and what I will call quasi-duties. A duty of imperfect obligation is, like an absolute or presumptive duty, something that a person has not on an individual occasion but over a period of time during which various particular occasions arise in which he must decide what to do. But unlike an absolute or presumptive duty, a duty of imperfect obligation does not give rise to an actual duty on any particular occasion. An act is an actual duty if and only if to omit it knowingly would be morally wrong - see the definition on p.36 above.71 The omission of a particular act that comes under a duty of imperfect obligation is never morally wrong. Persistent neglect of a duty of imperfect obligation is morally wrong; but then it is a course of conduct over an extended period, not any particular act, that is blameworthy. For example, there is an imperfect obligation to benevolence; to omit a particular
benevolent act is never wrong; but to perform such acts seldom or never would be wrong. Because of the analogy between blaming particular acts and blaming a course of conduct, duties of imperfect obligation qualify as duties.

Kant defines a duty of 'broad' obligation as a duty to further some end. I am not sure that every imperfect duty is a duty to further an end, though most seem to be; in any case, what makes the duty 'imperfect' is not its relation to an end, but the fact that no particular act coming under it can be exacted as an actual duty. Mill's account is better, and mine is modelled on his. Still, it is worth-while to consider Kant's suggestion that a duty to further an end is always of imperfect obligation. Is there any duty to further end X by doing on every occasion the act most conducive to that end? Act - Utilitarians might say yes, putting 'the happiness of mankind' for X; some Christians might also answer affirmatively, putting 'the Kingdom of God' for X. I myself do not believe that any end has such a strong claim. In my code, the duty to further an end is always a duty of imperfect obligation, and most (if not all) duties of imperfect obligation are duties to further some end.

A 'quasi-duty' is something one has on a particular occasion. By a 'quasi-duty' I mean an act which is not an actual duty, which is so appropriate to the performance of a duty of imperfect obligation that one 'really ought' to do it, though it would not be wrong not to. 'Ought' does not always connote actual duty. In deciding what to do on some particular
occasion, I should consider my duties of imperfect obligation; it may happen that not to take an opportunity that presents itself to further some end would argue neglect, though no particular omission is conclusive evidence of neglect. On many particular occasions a person will have no actual duties or even quasi-duties - nothing that he 'ought' to do. Still there may be moral reasons for doing one thing rather than another; there may be something I could do to further some end, and to do that would be morally better than to do nothing, but to do nothing would not argue neglect of my ends.\textsuperscript{*73}

The last piece of terminology I need is a distinction between intentional and incidental obstruction of the exercise/ rendering of a right, or of the performance of a duty. By 'obstruct' I mean: to prevent or impede an act by physical interposition, by threats, or by the removal of facilities; or, after the act is done, to express blame, to punish, or to retaliate. Obstruction is intentional if it is what is aimed at, or if it is done as a means to some end; it is incidental if it is not an end or a means but a side-effect of means used, or an ulterior consequence of attaining the end. Obstruction is incidental if it satisfies this definition, even if it is foreseen.\textsuperscript{*74}

So much for terminology, now for the statements. The first two are probably analytic, and I do not think any of them is very controversial.

If on a given occasion a person has a certain actual right, then:
(1) If the right is to have something done by another, then to do that is the other's actual duty, if the person who has the right chooses to exercise it.

(2) Others have an actual duty not intentionally to obstruct the exercise/rendering of the right. Everyone has an absolute duty not intentionally to obstruct an act which a person has an actual right, or an actual duty, to do. ((1) and (2) might serve as a definition of 'actual right').

(3) Others may have an actual duty to obstruct intentional obstruction, since, I believe, everyone has a presumptive duty to defend the rights of any other person. Some people - e.g. policemen - may have a special duty to obstruct certain cases of intentional obstruction.

(4) There is no actual duty not to obstruct incidentally. However in some cases a right has associated with it an auxiliary right not to be obstructed in certain ways even incidentally. For example, a policeman may have an actual right to make an arrest, and he may also have a right not to be obstructed in certain ways even incidentally - e.g. motorists may have a duty, not merely not intentionally to get in his way, but even to pull off the road to let him pass. If the auxiliary right is actual, the same consequences follow as for any other actual right.

(5) There is no actual duty to assist (except as in (1) - the right may be a right to some kind of assistance). However there may be an auxiliary right to assistance, which may
be actual. For example, a policeman exercising his right to arrest may have a right to call on bystanders for assistance.

(6) There is reason (perhaps a quasi-duty, but not an actual duty) to avoid even incidental obstruction, and to give assistance, since there are duties of imperfect obligation to facilitate the exercise of rights and the performance of duties. For example, everyone has a duty of benevolence; since the easy exercise of rights is an important part of well-being, to avoid incidental obstruction and to assist may be acts of benevolence. Similarly government officials have duties of imperfect obligation to devise ways of reducing friction between different people exercising their rights and otherwise to further well-being.

Points (1) - (6) relate to an actual right on a given occasion. The next, and last, point relates to a presumptive right. If a person has a presumptive right, then:

(7) There is reason (perhaps a quasi-duty, but not an actual duty) to arrange matters so that his presumptive right becomes an actual right reasonably often; e.g. by relieving him of certain duties, or by encouraging others to waive their rights on some occasions - e.g. by offering them some compensation. This follows if we postulate a duty of imperfect obligation to work to bring about some sort of equality in the distribution of the burdens and benefits of social co-operation. Some people (e.g.
members of governments) might have this duty in a higher degree, and everyone else in some degree. (By the 'degree' of a duty of imperfect obligation I mean the intensity of the effort that ought to be made to further the end in question).

V BALANCING

That something is a person's presumptive right is a reason why, on a particular occasion of the appropriate description, it should be recognised as his actual right; but that reason may be outweighed by some counter consideration. Some of the principles of Toleration, as I will state them, assert that there is a certain presumptive right, and assert also that certain kinds of reasons should not be given any weight against the right. For example, one of the principles asserts that there is a presumptive right to investigate any question, and that the risk of arriving at an untrue or dangerous opinion is not to be weighed against that right. This does not rule out other considerations, such as the threat to someone's privacy. How tolerant a person is (there are degrees of tolerance) depends on how much weight he gives to the presumptive rights and duties asserted by the principles of toleration in comparison with the other reasons the principles admit as legitimate considerations. This talk about weighing or balancing calls for some explanation.

Suppose we have a problem to solve, and suppose it can be analysed into a series of questions admitting of a 'yes or no'
answer. To seek the answer to one of these questions, we draw up all the arguments for the 'yes' answer, all the arguments for the 'no' answer, and we set about testing the arguments. If the question ought to be decided by deductive reasoning, then we cannot be content until we have eliminated all the arguments on one side, and have at least one uneliminated argument (one is enough) on the other side - one argument of a valid type with all its premisses known to be true. This is a very influential model of how questions should be decided, but it is appropriate to few subjects, if any. More often the situation is this: there are a number of arguments, apparently equally sound, on both sides of the question; and of each of these arguments the premisses - while apparently true - might be false, and the conclusion could be false even though the premisses are true. In such a situation the question is to be decided, if it can be, only by 'balancing the pros and cons'. The name for this method of deciding is deliberation. (Deliberare means to weigh in a balance.)

Deliberation seems to be more like perception than like reasoning, though it is reasons which are weighed. It is noticeable that perceptual imagery figures prominently in talk about deliberation: to weigh, to turn over in the mind (as someone handles an object to judge its weight) to feel the force of an argument, to consider (meaning originally to look at attentively), to look at from all sides. If two people disagree about whether two patches of colour are the same shade, they cannot resolve the disagreement by argument; all they can
do is to 'look again'; similarly to 'reconsider' the pros and cons is all that can be done if there is disagreement about the result of deliberation. The conclusion is reached intuitively (note the metaphor: intueri means to look at); the movement from consideration of the pros and cons to the conclusion is unanalysable. Talk of 'assigning weights' to various reasons may suggest that deliberation can be converted into a problem in arithmetic, but this is not so. An arithmetical exercise may be performed, but its outcome will not be accepted as a solution to the problem unless it seems right intuitively; if it does not, the assignment of weights will be reviewed. Generally, to give more weight to a reason is not to multiply by a numerical factor, but to advert to it more often in turning over the reasons, to dwell on it longer, and so on. (There may be something else - taking it more seriously.)

Deliberation, then, is not an 'effective' procedure: it could not be entrusted to a machine. There is no guarantee that any two people who engage in it will arrive in due course at the same answer. But neither is there any reason a priori to suppose that disagreements cannot ultimately be resolved. What answer a person initially favours may be obscurely determined by settled habits of preference; but these habits can be unsettled by wider deliberation, deliberation which includes consideration as examples of other problems to which the same kinds of reasons seem applicable, and consideration of reasons for and against premisses used in reasons bearing
on the original problem. No one can know, I believe, whether there are disagreements which could not be resolved by sufficiently wide-ranging deliberation. Hence I see no compelling reason for rejecting the common belief that deliberation can yield objectively correct answers.

Deliberation is necessary in many different fields: in science, in deciding between alternative theories (or in deciding which 'research program' to drop, and which to concentrate on);\textsuperscript{78} in deciding how to classify something, when the descriptive criteria point to different decisions; in deciding whether to do something (assuming that it is morally permissible but not a duty). My interest at present is in deliberation in morality: in deciding whether something is an actual duty or an actual right, or whether it is permissible but not a right or a duty; in deciding whether one course of action is morally better than another; and so on.

Moral decisions are not always made by deliberation. In the traditional morality some decisions are made simply by applying a rule to a case. Deliberation may be required in the application of descriptive criteria, but once the case is classified the decision is made by rule. For example, this would be adultery; not to commit adultery is an absolute duty; therefore this ought not be done. The decision is, as it were, the conclusion of a deductive inference in which the major premiss is a rule asserting that in cases of a certain description a certain kind of act is (or, more often, is not) to be done, and the minor premiss a singular judgment
classifying the case as coming under the rule. A rule of this sort (one which, in conjunction with a classificatory judgment, yields a moral conclusion without deliberation) I will call a rule or principle 'of action'. (Shortly I will distinguish rules/principles 'of deliberation'.)

Suppose we managed to formulate a code of rules of action sufficiently comprehensive to provide an answer to every moral problem; and suppose the code included rules determining which rule should be suspended or modified in cases in which the rules gave conflicting directions; then deliberation would never be needed, except to classify cases. To try to frame such a code is worthwhile and important, especially as a means of refining one's moral intuitions. However the job is unfinished as long as there is any conflict between intuition and the code - as long as results got by applying the rules sometimes seem wrong. Discrepancies may be eliminated by changing the rules, or by a change in the workings of one's moral sense. But until they are eliminated one way or the other, the project of framing the code is not completed. There is no reason to suppose that it never can be completed, but as far as I know no one has brought it to completion. To get decisions that seem right, everyone must at some stage engage in the balancing of conflicting reasons.

Besides - or instead of rules of action a moral system might include 'rules of deliberation' - i.e. rules regulating what may, must, or must not, be taken into consideration when deliberating on certain types of questions,
and determining the relative order of importance of various considerations. 80

Let us say that a reason is 'conclusive (absolutely)' if its presence on one side of the balance altogether excludes from consideration any kind of reason to the contrary, so that only one decision is possible; that it is 'conclusive against reasons of such and such a kind' if it excludes contrary reasons of that kind, but not others; that it counts 'other things (generally, or of a specified kind) being equal' if it is excluded from consideration until it is ascertained that other reasons, or reasons of the specified kind, do not suffice to produce a decision, and then it can be considered. 81

By a 'reason of duty' or a 'reason of right' I will mean a reason consisting in the fact that there is an absolute or a presumptive right or duty in cases of the kind. (Note that Duties of Imperfect Obligation do not constitute 'reasons of duty' by this definition.) By a 'personal reason' I will mean a reason consisting in the fact that the person would or would not enjoy or benefit from some line of action possible in the case.

I will assume the following account of the rules of deliberation:

1. A reason of absolute duty is absolutely conclusive. If two such reasons conflict, the only possible resolution is by amending the rules, e.g. by degrading one to the status of a presumptive duty.

2. A reason of presumptive duty is conclusive against
personal reasons, except when the act prescribed would result in extreme hardship.

(3) Otherwise in deliberating about what to do, personal reasons count only if reasons of duty are equal.

(4) A reason of absolute right is absolutely conclusive. If there is a conflict with a reason of absolute duty, the rules must be modified.

(5) A reason of presumptive right may be balanced against reasons of presumptive duty.

(6) If A's exercise of a presumptive right would require some action from B, then in deciding whether A's right is actual, B's duties and rights and (in the case of hardship) personal reasons should be taken into account.

(7) Reasons which arise from duties of imperfect obligation are to be considered if and only if reasons of absolute right or duty are inapplicable, and if reasons of presumptive duty are equal. They ought to be balanced against reasons of presumptive right - even if I have a right to go on vacation, benevolent reasons for postponing or foregoing the holiday should at least be considered.

(8) There is also a loose order of importance among reasons which may be balanced against one another.*82 This may vary somewhat from person to person - e.g. liberals put some duties or rights or ends higher than non-liberals do. It may also vary with the one person from time to time: if a person has been neglecting, or missing,
opportunities to further some end which he ought to further, then for a while he should give higher priority to reasons arising out of his duty to that end.

Some of the principles of Toleration are in effect special rules of deliberation; for example the principle that the risk that a person may arrive at the wrong conclusion is not to be weighed against his right to inquire, or the principle (perhaps the most fundamental of the principles of Toleration) that what a person believes is not to be taken as a reason for punishing him.

One person's rights figure in another person's deliberations only insofar as they give rise to reasons why the latter should act in one way rather than in another. If A has an actual right to have B do something, and chooses to exercise it, B has an actual duty to do the thing; in any case he has an actual duty not intentionally to obstruct A in whatever he has a right to do; there may also be reasons arising out of duties of imperfect obligation, or personal reasons arising out of friendship. If it seems to B that A may have an actual right, then he should (perhaps there is a duty to this effect) decide whether he has that right by going through the same process of deliberation as A would follow; if the conclusion is that the right is actual, then he should ascertain whether A wishes to exercise it; and, if he does, then B should deliberate to decide what, if anything, he should do. One person gives more weight to a certain right of another by being readier to decide that it is actual -
i.e. by putting it higher in the scale of reasons to be considered in the first deliberative phase, to decide whether the other's right is actual; and by giving more weight to reasons arising from the other's right - e.g. to his presumptive duty to obstruct intentional obstruction of the exercise of the other's right, or to reasons of benevolence - in the second phase of deliberation, in which he decides what to do himself.

It is sometimes said that tolerance has to find its place among other values, meaning that we have to decide how much weight we ought to give to rights and duties asserted by the principles of toleration, relatively to other considerations which enter into our deliberations. Similarly, a person may be said to be more tolerant than another, meaning perhaps that he gives the rights and duties asserted by the principles of toleration a higher priority than the other does; though it may also mean that the other accepts some but not all of the principles of toleration. Among American jurists some hold that the 'First Amendment freedoms' have a 'preferred position', i.e. a high priority; others hold that 'the First Amendment is an absolute'. Among the principles of Toleration as I formulate them, some are absolute - viz. those which are rules of deliberation, applied themselves without deliberation, and those which assert absolute duties - and others assert presumptive rights or duties, or duties of imperfect obligation, which might be given more or less weight in comparison with the other considerations which may or should
be balanced against them. To give these any particular weight is not, it seems to me 'of the essence' of toleration; a person counts as tolerant in some degree as long as he acknowledges all, or a substantial number, of the principles, either as moral principles, or as rules which he has a moral obligation to obey.

However, to be as tolerant as one ought to be, it is necessary to give the principles of Toleration as much weight as they deserve in comparison with potentially conflicting considerations. Unfortunately, it is not possible to specify in the abstract how much weight ought to be given to a kind of consideration; unlike weight in the literal sense, this 'weight' is not measurable by an intersubjective standard. A person cannot say in words how much weight he gives a certain consideration; but others may perceive how much weight he gives it from the way he decides cases (actual, remembered, or imagined), and his habit of giving a certain weight to a certain consideration can be unsettled and changed by discussing a range of cases with others. This is another reason for discussing the application of the principles: discussing cases is the only way of working out a sense of the weights due to the rights and duties the principles assert. However it is only in law and politics that the discussion of applications gets down to particular cases; in the philosophical treatment of Toleration we must be content to remain vague about relative weights.
CHAPTER 2: THE DOCTRINE OF TOLERATION

This chapter is intended to elucidate the concept of toleration by listing and explaining the principles of toleration, and the arguments and applications commonly connected with them.

Sections I, II, and III will deal respectively with sets of principles relating to liberty of thought, liberty of expression and advocacy, and liberty of conscience. Section IV will deal with principles meant to ensure that a person is not excluded because of his ideological convictions from participation in the community's common life. In treating each principle I will give a formulation (sometimes a simplified one at first, and a more exact one later), comments on its meaning, the common arguments for it, and its standard applications. Section V will deal with arguments which relate to all or most of the principles, which it is not convenient to discuss in connexion with individual principles. At the end of the chapter I will summarise the principles.

The reasons for including arguments and standard applications in this chapter were explained earlier (above, p.27-9). I do not vouch for the arguments, but I am not concerned at this stage to evaluate them (though I will permit myself an occasional critical observation). In formulating them I do not follow any particular writer. My formulations are schemata that have been, or could be, filled out in a variety of ways. 'Argument' is perhaps a misnomer; they are what the
old rhetoricians called 'topics' or 'commonplaces'.

Since the identity of an argument depends on the precise conclusion and on the exact set of premisses assumed, arguments built on the same commonplace may not be identical with one another, and some may be sound and others not. Thus the arguments or extracts from arguments quoted or referred to in my notes to each 'commonplace' may not be equivalent versions of a single argument, and may not stand or fall together. But their soundness is not at present my concern.

I LIBERTY OF THOUGHT

The principles coming under this heading are, roughly formulated, as follows: no-one is to be blamed for his beliefs; or for changing his beliefs; or for negligence or some other fault in the conduct of inquiry, if the only or main evidence of such a fault is what he believes; everyone has the right to investigate any question, and to draw conclusions in his own way; there is to be no compulsory indoctrination.

(1) What a person believes or does not believe, or (2) the fact that he has changed his beliefs, is not to be taken as a reason for blaming or punishing him.

These are rules of deliberation (see above, p.46), absolutely excluding certain things (beliefs, changes of belief) from consideration in deliberations about blame and punishment. The exclusion is total. What a person believes,
or the fact that he has changed some belief, does not by itself justify blaming or punishing him; neither does it strengthen a case for blaming or punishing him based partly on other grounds, or justify severity, or give reason for not letting him off if he would otherwise have been let off.

Belief here is to be taken in its widest sense, to include whatever someone thinks true or probable on any subject, speculative or practical. 'I ought to assassinate the king, here and now' could express a belief, since a person might think it to be true, or probably true, that he ought then and there to assassinate the king. According to rule (1) the thought would not deserve blame or punishment. Note that these two rules do not exclude blame or punishment for negligence or other faults in the conduct of inquiry which may lead to erroneous beliefs.

Punishment is to be taken in its proper sense (which I will not try to define). 'Constructive' punishment, such as precautionary exclusion from office, or redistribution of wealth through taxation and subsidies, are not the concern of rules (1) and (2); they will be dealt with in section IV below.

Blame is to be taken to include both expressing blame, and blaming the person inwardly in one's mind. Since thoughts are not altogether under control, I may not be able to help blaming someone in my mind. But rules (1) and (2) forbid me to take certain things as reasons for blame; since I should not blame someone without a reason, these rules imply that I should repress as much as I can the inclination to blame
someone because of his beliefs.

Beliefs must be expressed somehow before they can be punished, but there is a difference between punishing expression and punishing thought itself: if the persecutor’s object is expression only, he is satisfied with silence or with outward profession of correct beliefs; if he insists on knowing what the victim really believes, his object is thought itself. There are many more or less effective ways of finding out what a person really believes, despite his efforts at concealment: eavesdropping, use of informers, opening private correspondence, prolonged and subtle questioning, use of drugs; whether his orthodox beliefs are genuine or pretended can be tested by getting him to explain them and to answer objections. In earlier times oaths were used: the Inquisition in Spain, and in England the Ecclesiastical Commission and the examiners of suspected Catholic priests, made the prisoner swear to answer any question that might be asked and then questioned him about his beliefs. ³ Another method was to order the suspect to do something which he would regard as wrong if he held the suspected belief: e.g., in the sixteenth century Japanese officials ordered suspected Catholics to trample on religious images. ⁴ To ferret out a person’s beliefs and then punish him for them is persecution. This is one of the things excluded by rule (1).

Dangerous belief is not an exception to the rule. ⁵ It is sometimes claimed that Queen Elizabeth’s government did not engage in religious persecution; it did not ‘make windows
into men's hearts and secret thoughts,6 by the inquisitorial methods just described, but was satisfied with outward religious conformity. However it did search out politically dangerous opinions, e.g. that the Pope could rightly absolve the Queen's subjects from their allegiance, and some of those who held such opinions were punished for them.7 Since the government's motives were probably political, and the opinions religious and political at the same time, it is a matter for debate whether the government practised 'religious' persecution.8 In any case such conduct is forbidden by rule (1).

Among dangerous opinions may be classed opinions which justify intolerance, and it is sometimes said that we should not tolerate the intolerant.9 Such statements may mean merely that intolerant conduct should not be permitted, or that precautions, such as exclusion from office, should be taken against people with intolerant opinions.10 If this is what it means, 'not tolerating the intolerant' is not incompatible with the principles of Toleration as I understand them, since (as it will appear later) they do not exclude action against intolerant conduct, or the taking of certain precautions in certain circumstances against people with dangerous opinions. But if it extends to blaming or punishing people just for their intolerant opinions, then it is incompatible with rule (1). Most modern liberals would want to rule out punishment or blame for beliefs, even for intolerant beliefs.

It has long been a rule of English law that no one should
be punished for his thoughts.\textsuperscript{11} One of the kinds of treason is to 'compass or imagine the death of the king', but to prove this offence some overt word or act has to be proved. Catholics therefore complained that in searching out and punishing treasonable beliefs Queen Elizabeth's government was violating the laws.\textsuperscript{12} Theologians, Catholic and Protestant, agreed that erroneous belief, in itself, is not punishable - though they held it to be blameworthy.\textsuperscript{14} Rule (1), insofar as it relates to punishment, was thus the earliest of the principles of Toleration to be commonly accepted, though it was often violated. It was supposed to bind men, but not God: until rather recently it was the general opinion among Christians that God would punish certain beliefs.

Rule (2) excludes a reason formerly given by Catholics, and sometimes by Protestants, for punishing apostates and heretics. According to St. Thomas, for example, religious faith is voluntary, and a Catholic can always continue to believe the Catholic faith if he chooses; in baptism the Catholic promises (or sponsors promise on his behalf) that he will continue always in the Catholic faith; hence a Catholic who abandons his faith breaks a promise which it is in his power to keep, and for this he deserves punishment; a person who has never been a Catholic cannot be punished for his erroneous beliefs, but a person baptised as a Catholic can be punished if he abandons the Catholic faith.\textsuperscript{15} Liberals will
want to rule out punishment on such grounds; hence (2).

Arguments for (1)

(A) Belief is involuntary; therefore blame and punishment for belief are unjust, and it is futile and therefore wrong to try to deter or reform misbelief by punishment.

(B) Coerced religious belief is of no value, since faith must be willing, and an effect of grace.

(c) Belief is not within the cognisance of human authorities; an authority has no right to try to control something of which it cannot have adequate knowledge, and no human being can know much about what another believes.

(D) Each person will insist on believing what he thinks true in religious questions, so it is futile and therefore wrong for the State to try to control religious belief. Everyone will insist on his own religious beliefs since so much - his salvation - is at stake, and in comparison the penalties at the state's disposal are small, since the State cannot compensate for misleading someone, and since the magistrate knows no better than anyone else.

(E) The function of the State is limited (e.g. because of the terms of the original Compact); speculative beliefs are outside the limits. Only the State can inflict punishments. Therefore no-one has a right to punish anyone for his speculative beliefs.

(F) If people are blamed or punished for their beliefs they will become hypocrites.

(G) If people are blamed or punished for their beliefs the
impartial and thorough investigation of important questions will be inhibited, which would be detrimental to the cause of truth, and to interests which true beliefs would serve.\textsuperscript{23}

The arguments for (2) are the same. There is also:

\begin{itemize}
  \item[H] No-one ought to bind himself, or be held bound, by a promise to continue to believe something even if later he comes to think it false.\textsuperscript{24}
\end{itemize}

\textbf{Applications}

The Inquisition and the 'thought police' in Orwell's 1984 provide standard examples to illustrate the importance of rules (1) and (2). The keeping of dossiers recording people's beliefs, and questioning (especially under oath) about beliefs, are milder examples.

(3) \textbf{If a person has a duty to investigate a certain question, then in assessing whether he has adequately discharged this duty, little weight is to be given to the argument that if he had he would not believe what he now believes.}

Like rules (1) and (2), this is a rule of deliberation. It does not entirely exclude what a person believes from consideration in deciding whether he has discharged his duty to inquire, but prescribes, with unavoidable vagueness (see above p.51), that this consideration is to be given little weight. Rule (1) excludes blame or punishment for belief, but not for negligence, self-deception, or other faults in the conduct of investigation. Rule (3) is meant to ensure that people are not blamed, ostensibly for self-deception.
or negligence, whenever their beliefs are objectionable; this would render (1) nugatory. Rule (3) assumes that there are (or may be) duties to investigate, and that one may be called on to assess another person's performance of such a duty. If these assumptions are untrue, (3) will have no application. But if there is a duty to investigate, and if I am called on to assess another's performance of that duty, then I should give little weight to a presumption from what the person believes.

The point of such a rule is illustrated by the position taken up by Jonathan Proast (against whom Locke wrote his second, third and fourth letters on Toleration). Proast accepts that no-one is to be punished for his beliefs. Like most Protestants, he held that everyone has a duty to investigate for himself in religious questions. But he supported coercive schemes which, as Locke pointed out, took heterodox religious belief as a sufficient proof that the duty to investigate had not been adequately performed.

It is sometimes said that anyone 'in this day and age' 'should know better' than to hold a certain belief (e.g. that Hitler was right to try to exterminate the Jews). In that case the non-performance of some duty to investigate is inferred from the belief, on the assumption that certain information and moral opinions destructive of that belief are readily accessible in a certain community, and likely to be encountered by anyone who investigates as he should. Rule (3) does not altogether exclude such an argument, but it requires
that it be given little weight: maybe the person did investigate, but did not happen to encounter the information and opinions, or perhaps he did but they did not destroy the belief. Information about his particular circumstances and actions would be more to the point; though it should be noticed that the rule is negative, it does not say what would be good evidence of neglect of duty.

Some rules of morality or etiquette prescribe that one should act as if something were so even when we suspect it is not; e.g. we should treat strangers as if we can trust them to tell the truth, even though we know that people often lie. Rule (3) is not, I think, a rule of this sort. The reason why belief is not to be taken as a reliable index of how well a person has investigated is that, as a matter of fact, it is not a reliable index. If there are some kinds of cases in which it is, there would be no intolerance in using it. Rule (3) is, then, a 'summary' rule, a 'rule of thumb'. In using such rules it is especially important to keep in view the reasoning on which they are based, so that cases in which it fails will not be assimilated to cases in which it succeeds.

Arguments

Rule (3) is not one of the traditional formulae; but the tradition provides material from which the following line of argument can be constructed. What a person believes depends not only on his own investigations, but also on 'inputs' which he does not control, or controls imperfectly, such as education and experience. Really true and apparently true but really
false propositions look the same; it is difficult to tell which beliefs need to be investigated, and when investigation has arrived at its goal. Equal effort at investigation may yield different results; people differ in their capacity for various kinds of investigation, and in the way evidence affects their minds. In any case equal efforts may not be obligatory; people differ in their duties, including their duties relating to investigation. Sometimes people have a belief which affects the formation of other beliefs, e.g. a belief about the duty to investigate or about the proper method of investigation (where to look, whom to consult); or they may have some belief which prevents them from drawing the conclusion to which investigation seems to lead. They may not be to blame for errors in these beliefs (for the same reasons as excuse other errors), and these beliefs may excuse other erroneous beliefs which result from them.

Given that people differ in all these ways, it is rash to infer from someone's beliefs that he has not investigated as he ought.

It should be noticed that this line of argument is inconsistent with two traditional doctrines (one of them commonly held by liberals) about the duty to investigate. According to the first there are certain truths which any person can find out if he investigates far enough, and he ought to find them out; hence anyone who stops investigating before he holds true beliefs on these points neglects the duty to investigate. According to the second, it is a duty to
hold no belief for which one cannot produce sufficient
evidence, sufficiency being determined by some standard not
relative to the person's experiences or cast of mind, or to
the demands made on him by other duties; a person who holds
any belief on insufficient grounds is guilty of violation of
the ethics of belief.35 According to the first doctrine a
person can be blamed if (a) he holds a false belief and (b) has
cess to inquire. According to the second he can be blamed
if (a) he holds any belief for which (b) he has insufficient
evidence. Neither makes belief by itself an index of failure
to investigate properly; but both make it much simpler than
some liberals (e.g. Locke and Bayle) would think it really is
to decide whether another person can be blamed for failing in
his duty to investigate.

(4) Everyone has a right to investigate any question, by whatever
method he thinks suitable.

This is a preliminary statement of the principle. The
final version will be more complicated.

The right to investigate is a presumptive right. The
more tolerant a person is, the more weight he will give this
right. But to count as tolerant at all, I think it is
necessary to regard the presumptive right to investigate as
conceivable against certain types of considerations (see above
p.47), viz. those which arise out of any duty to believe a
certain proposition, or out of the risk that investigation may
lead to some conclusion considered undesirable,36 either in
itself or in its practical implications. So I will add to the rule a clause restricting what can be weighed against the right which it asserts. Several of the later rules will also include such 'restrictions'.

Some Christians would regard it as blameworthy on their part to "check up" on the truth of the articles of their faith, to ask seriously whether these articles are true. The reasoning behind their attitude seems to be this. Genuine faith is certain and unshakable; anyone who inquires whether a certain proposition is true treats it as if it may be false; to treat it as if it may be false is to treat it as uncertain; so to be genuine faith must be unquestioning. To have faith is a duty; therefore it is wrong for a believer to inquire whether his faith is really true, even if there is no risk that he will reach the wrong conclusion. Many liberals will reject the assertion that there can be a duty to believe any proposition; but to build this rejection into the concept of toleration would make it impossible to count as tolerant some people (most Christians until rather recently) some of whom I think liberals would count as tolerant. It is enough to include a stipulation that the alleged duty to believe is not to be weighed against the right to investigate in deciding whether another person's right to investigate some question is actual.

People are sometimes blamed for investigating certain questions because their investigation may lead them to objectionable conclusions. Conservatives - religious, moral
and political - sometimes take the view that it is blameworthy for uneducated people, or people whose social position does not entitle them to concern themselves with such questions, to question beliefs bound up with the foundations of society, because of the risk that they will arrive at the wrong answers. This is also a form of intolerance. To be tolerant one must not weigh such considerations in deciding whether another has an actual right to investigate.

What considerations can a tolerant person weigh against the right to investigate? This depends on the content of the rest of his decision-making system. There might be duties sometimes too urgent to be neglected for the sake of investigating some minor question; there might be a duty to respect the privacy of others, and a duty to respect certain kinds of secrets. To define Toleration it is not necessary to fill in the rest of the decision-making system. In fact it would be an error; Toleration should not be defined in a way that ties it too closely into any particular system, since people who disagree on many questions of principle can all be tolerant. Although Toleration is a liberal concept, to be tolerant it is not necessary to be a liberal in other respects. Faithfulness to the liberal concept of Toleration seems to me to require that the principles be formulated so as to exclude certain considerations from competition with the rights asserted, without specifying the values which may compete.

So much for the right to investigate. The principle also asserts that the investigator has a right to use whatever
method he thinks suitable (a right which is conditional, of course, on his having an actual right to make the investigation). In carrying out an investigation, two phases can be distinguished: collecting the data (information, opinions etc), and arriving at the conclusion. People disagree about the best way of gathering data; for example, some believe strongly that laymen should gather opinions and information mainly by consulting experts; others do not regard this as important, or even believe that in some fields the publicly recognised experts should be regarded with suspicion. There is also disagreement, though less often, about the way of managing the other stage, arriving at the conclusions. Most people believe that one should put oneself into an impartial frame of mind, review all the relevant evidence, and try to construct some kind of argument justifying a conclusion. But some people have unusual methods of arriving at conclusions, methods which may even make the data-gathering phase superfluous: for example, opening the Bible at random, drawing slips of paper out of a hat, looking out for odd events that might be taken as signs; on certain assumptions these methods might be rational - e.g. if the Holy Spirit ensures that the right page is opened or the right slip drawn. There are certain roles a person may be called on to play, such as that of juryman, in which there are duties respecting either the data-gathering or conclusion-drawing phase, or both.

The right to gather data in one's own way asserted in (4) is I think supposed to be a presumptive right. A person
would count as tolerant even if he allowed others' rights to privacy, or the duties of a certain role (e.g. of juryman), to outweigh a person's right to gather data as he sees fit. But it would be intolerant, I think, to weigh against this right any considerations arising out of an alleged duty to believe a certain proposition, or out of a danger of reaching a wrong conclusion. The Index of Prohibited Books is incompatible with the principles of Toleration: it was an attempt to control data-gathering activities in view of the Catholic's duty to believe the articles of faith, and the risk that if he read certain books he might reach the wrong conclusions.

The right to draw conclusions in one's own way (drawing conclusions being understood as being distinct from gathering data) is I think supposed to be a person's absolute right, in his 'private capacity'. This is perhaps an unsatisfactory term; what I mean is illustrated by this: after the trial, or even during it if he can keep the two lines of thought separate, the juryman is entitled to reach his own conclusions by his own preferred method; but when he is called upon, as juryman, to give his verdict, he must give (whether he believes it or not) the conclusion that follows from the evidence by the method of drawing conclusions prescribed for jurymen - impartial deliberation on the evidence, governed by the generally recognised rules of reasoning, and the special rules of legal inference (e.g. that malicious intent is to be presumed from certain acts, and so forth).
To recognise a person's right to gather data and draw conclusions in the ways that seem suitable to him does not exclude all attempts to persuade him to adopt better ways. What is excluded is 'intentional obstruction' (see above, p.39,40). Notice also that (4) does not assert a right to use a method which one does not believe likely to give the correct result; in such a case the person might be open to blame.

The right to investigate in one's own way is not itself a right to positive assistance (see above, p.40). To refuse help is not intolerance. There are duties of imperfect obligation, such as the duty of benevolence or the teacher's or government official's duties to assist investigations of some sorts (cf. the idea of 'open government'), which may prompt assistance (see above, p.41); but no-one has a right to have performed for him any particular act to which there is a duty of imperfect obligation. There might in some cases be auxiliary rights (see above, p.40) to be provided with information or facilities—this is suggested by talk about 'the public's right to know'; and people charged with investigative duties, such as policemen, may have such auxiliary rights. However to count as tolerant it is not necessary to subscribe to principles which make assistance a matter of obligation, perfect or imperfect.

The following formulation brings together the points made above and is meant to supersede the formulation given earlier: (4) Everyone has a presumptive right to investigate any question. If this right is actual, he has a presumptive right
to gather data, and also a right (absolute if he investigates in a private capacity, otherwise presumptive) to draw conclusions in any way he believes likely to yield correct conclusions. In deciding whether in a particular case another person has these as actual rights, no weight is to be given to any consideration arising from a duty to believe any proposition, or from the risk that the investigation may lead him to some conclusion undesirable in itself or in its consequences.

Arguments

(A) Human dignity requires that adults be treated as adults, capable of deciding for themselves.  

(B) Everyone has the duty, and therefore the right, to investigate certain important questions, viz. religious questions, and not to put 'implicit faith' in any guide. If important questions may be investigated notwithstanding the risk of error, then less important questions may too.

(C) It is unreasonable to trust a guide without checking his credentials; everyone must have the right at least to do this.

(D) Unless the orthodox acknowledge a general duty (or right, at least) to investigate, they cannot expect unbelievers to examine the case for the orthodox beliefs; to acknowledge this duty (right) would therefore further the cause of truth.

(E) What a person is brought up to believe may not be true. Free inquiry is the policy most likely to lead him to abandon errors and adopt truths.

(F) Truth has nothing to fear from free examination; to
preserve true belief it is not necessary to discourage investigation. 46

(G) God does not require anyone to believe without investigating, or in opposition to the outcome of investigation. Rather, there is a duty to investigate with 'indifference' or impartiality, and to proportion assent to the strength of evidence. 47 Hence everyone has a right to investigate notwithstanding the risk of arriving at the wrong conclusion.

(H)-(J) Arguments against the infliction of punishment for investigating can be constructed on the model of arguments (C)-(E) for (1) (see p.58 above).

Arguments (C)-(G) can be regarded, perhaps, as stages in a complex argument to show that a policy of free inquiry is favorable to the cause of truth, whether the truth is what we now think it is (e.g. the articles of the orthodox faith), or not. Suppose the choice is between: (a) a code including a duty to believe certain articles of faith and to follow a certain guide; a duty on the part of believers not to jeopardise their faith by investigation; and a duty on the part of unbelievers to investigate arguments for the faith; and (b) a code including no duty to believe any particular propositions or to follow any particular guide, but including a duty - or at least a right - to investigate with indifference and to proportion belief in propositions or trust in a guide to the strength of evidence (cf.C,G). Then, considering (i) that unbelievers (who, on any view of what is the true faith are the great majority of mankind) are more likely to
investigate arguments for the orthodox faith if investigation is asserted as a universal duty (or right) (cf. D); (ii) that the orthodox faith may be mistaken (cf. E); and (iii) that if orthodoxy is true then there is a good chance that believers who investigate will not lose their faith (cf. E); it would seem that (b) would better serve the cause of truth. Another possibility is (c), a code acknowledging a right to investigate, not specifying any method of investigating or drawing conclusions, but allowing each to use any method believed likely to yield true answers (cf. rule (4)). Considering that any specified method may be mistaken, it would seem that (c) is even better than (b), since it allows methods to appear on the agenda of matters to be investigated.

**Applications**

The standard practical applications of rule (4) have to do with: official secrets acts, D-notices and the like; the journalist's right to 'protect his sources'; the Index of Prohibited Books and other forms of censorship (e.g. by the customs department); religious (or other) indoctrination which has the effect of making a person reluctant to examine certain of his beliefs.

(5) **Everyone has an absolute right to refuse instruction in any ideology.**

According to St. Augustine, it may sometimes be right to compel heretics to listen to orthodox teaching, first putting them in fear so that they will listen attentively and with a
willingness to believe. Jews in the Middle Ages were sometimes compelled to listen to Christian preachers. Protestants sometimes compelled Catholics to attend evangelical sermons; Catholics in France compelled Huguenots to listen to Catholic sermons. But everyone agreed that faith must not and cannot be forced. As Melanchthon put it, the Prince does not force the spirit, but only the motory faculty; he forces people to listen to the true doctrine, and he forbids outward blasphemy; after that, the listener keeps the duty and the power to know the truth, if he wants to.

Modern liberals will regard this sort of thing as a kind of persecution. One of the principles I will state later asserts a presumptive right to obey one's conscience. That principle would suffice to rule out compulsory religious instruction in some cases, since some people believe they have a duty not to listen to false preaching. However, I believe most liberals would think that compulsory religious instruction even of people not conscientiously opposed to listening to it should be regarded as a departure from toleration. Hence the need for (5).

I think liberals would want to rule out compulsory instruction in some other subjects besides religion; though they are not opposed (not on account of Toleration, anyway) to compulsory instruction in reading, writing and arithmetic. 'Ideology' seems the right notion; the fact that what it covers is open to some dispute is no objection, since liberals
will disagree in any case about which compulsory instruction is, and which is not, incompatible with Toleration.

Could the syllabus in public schools rightly include study of the main religious, moral and political doctrines held by various members of the community? I would expect liberals to disagree about this question, stated in the abstract. They would want to know how the doctrines to be studied are selected, how they are to be taught, and so on. But I think they would agree that in any case the subject ought not be made compulsory; that even if the state has a right, under certain conditions, to encourage such a study, everyone has the right to refuse instruction in it - a right which is independent of any conscientious objection to listening to false teaching, and not to be overridden by any contrary consideration.

Arguments

The argument common in the literature is:

(A) To compel dissenters to study the orthodox doctrine destroys the 'indifferency' with which the study ought to be undertaken. 51

This argument tells against Augustine's policy of 'penetrating negligence with the sting of fear', but it would not rule out all forms of compulsory study. Argument (E) for (1) suggests:

(B) The State's functions are limited; compulsory ideological instruction lies outside its limits (though the encouragement of voluntary study may not).
Applications

The 'sensitive issue' for (5) is religious and moral instruction in public schools and universities.

II LIBERTY OF EXPRESSION AND ADVOCACY

'Expression' in discussion of human rights is sometimes used widely, to include any word or action from which a person's thoughts or feelings can be inferred, even if it is not intended to convey them. I will use it more narrowly, to mean anything principally intended to let others know what the person thinks or feels. Advocacy is more than expression: a person can express his beliefs without trying to get anyone else to adopt them.

The principles with which this section is concerned are these: Everyone has a right to express his beliefs, and to advocate them, and to refuse to do or say something which might be mistaken for an expression of beliefs he does not hold; everyone has a duty of imperfect obligation to listen to those who advocate beliefs different from his own.

(6) and (7). Everyone has a presumptive right (6) to express and (7) to advocate his beliefs, to any audience, in co-operation with others if he chooses, in whatever way he deems suitable.

Although no-one can advocate a belief without expressing it, there is a point in distinguishing these rights, since a person may want his position to be known, but not want on that
occasion to argue for it. Besides, if the right to advocate is overridden the right to express may still be actual, since, although it is probably lower in the scale of importance, it is less likely to come into serious conflict with other rights and duties because its exercise requires less time.

'To any audience' is inserted because some regimes have been satisfied to control public discussion, while allowing people freedom of expression and discussion in private or freedom to present their beliefs to selected audiences. 52

'In whatever way he deems suitable' is inserted because governments have sometimes required a moderation of language or behaviour from proponents of unorthodox beliefs which they have not required from the orthodox. 53 'In co-operation with others' envisages the formation of societies to express and advocate certain beliefs. The 'rights of association' extend to other matters, but this (and the right to engage in religious worship, listed later) is as much as is relevant to Toleration.

The rights asserted are merely presumptive. Situations might arise in which a government could, consistently with the principles of Toleration, require someone not to express his opinion on some public occasion, or to avoid words likely to lead to violence, or even to be silent altogether (although the right might be actual on some other occasions - see above p.36). Toleration requires that these presumptive rights be given some weight; how much is not specified (see above p.51). However I think it also requires some restriction upon what
can be put into the balance against the rights of expression or advocacy.

First, a tolerant person should not object to a person's speaking on the ground that the change of belief likely to result from expression or advocacy would be a bad thing in itself apart from other consequences - e.g. because the new belief would be false, or because the change would violate some duty to believe. Truth and orthodoxy must be defended by argument, not by overriding the presumptive rights of expression and advocacy.

Second, he should not object on the ground that it is a good thing that the members of the community, or of some sub-community, should think alike, or believe that they think alike. It may be a good thing that members of a society have a sense of solidarity, and it may be that shared beliefs contribute to this. But a tolerant person will not weigh esprit de corps against the rights of expression and advocacy.54

Third, he should not object that the expression or advocacy is, or will lead to, a violation of a moral or religious rule, unless the rule can be justified by reasons which are not moral or religious,*55 and which are independent of the fact that some people regard the rule as part of morality or religion;*56 and then the objection should be given only the weight those reasons would justify. If a rule can not be justified without reference to moral or religious principles I will call it 'specifically' moral or religious
rule. What I mean is this: If a person says that rule R ought to be obeyed because any act violating R is morally wrong or morally bad or evinces a morally vicious disposition, or causes some morally evil effects, and can give no other reasons, then he holds R as a specifically moral rule. If he can produce other reasons for objecting to violation of the rule, but each of them employs somewhere as an ultimate premiss an assertion to the effect that something is morally wrong, morally bad, or morally vicious, then also he holds R as a specifically moral rule. Similarly, if his argument is that something is impious, blasphemous, offensive to God, then he holds the rule as a specifically religious rule. But it is possible to class something as bad, without meaning that it is morally bad, and without invoking any moral duty to act against bad things. A person may avoid pain because it is a bad thing, without thinking that it is a moral evil, and without thinking he has a moral duty to avoid pain; similarly he may try to save others pain without thinking that it would be morally wrong or bad not to do so. Suppose, then, that a person holds that in Australia one should drive on the left, and argues that otherwise there will be collisions, which will result in pain and waste of scarce resources and inconvenience etc., but does not claim that these are moral evils, or that one has a moral duty to ward off such natural evils; then he does not hold the rule as a specifically moral rule. Suppose someone says one ought not commit adultery, first because this breaks up families and causes various (non-moral) evils, and
second because adultery is morally wrong; he hold the rule as a moral rule, but not as a 'specifically' moral rule, because one of his arguments (the first) does not employ as an ultimate premiss the assertion that something is morally wrong or bad. The third restriction allows appeal to a moral rule, as long as it is not specifically moral, and as long as the objection grounded on the rule gets only the weight that the non-moral reasons for the rule will justify.

This restriction is not meant to prevent people from specifically acting on, or urging others to act on, moral or religious grounds; it is a restriction on what can be considered in deciding whether to prevent someone else from speaking. It would not be intolerance to appeal to moral and religious principles to dissuade people from acting on a belief another speaker has advocated; it would be, to silence him on the ground that the act he advocates is immoral or offensive to God.

Fourth, a politically tolerant person will not object to speech on the ground that it advocates or expresses support for a certain change in the action, personnel, or constitution of government, or a certain method of effecting such change. He may object if the speech seems likely to result in objectionable behaviour by unauthorised private citizens; but in deciding whether the behaviour would be objectionable, he should not attribute any weight to the mere fact that it would be illegal, or to the fact that it might cause political change, or to the fact that it would be a violation of liberal
principles concerning the proper way of effecting political change; the objection would have to be that the speech would be likely to have effects that a person of any political persuasion could regard as bad. For example, if a Communist wishes to advocate the violent overthrow of the existing government and its replacement by a Communist regime, it would be illiberal to want to silence him because a Communist regime would be a bad thing, or because it is wrong to effect change except by persuading the majority, or because a revolution would involve illegal acts; it would not be illiberal to want to silence him because there is a real likelihood\(^59\) that his speech might cause acts resulting in loss of life, damage to property, disruption of ordinary life, and the like.

Some liberals might regard this as too tolerant. They might want to give weight to the fact that the act advocated is illegal, or to the fact that it violates principles excluding certain methods of effecting political change.\(^60\) For obvious reasons, the liberal prohibition on the legal enforcement of moral principles does not extend to those which are also political principles (see above, Chapter 1 note 68); liberals try to embody in law their ideas about how political change should be effected, and an act which is illegal may without intolerance be repressed just because it is illegal. Hence insurrection may be repressed without considering whether it is likely to lead to loss of life, property damage, etc. Further, in the British legal system, the instigation of an illegal act is a crime; hence speech advocating insurrection
will be criminal because insurrection is, if the speech is closely enough related to action to count as instigation. This is consistent with the restriction formulated in the preceding paragraph, if it is assumed that the instigation of acts of insurrection does as a matter of fact always jeopardise life, property, etc., which seems a fair assumption. However if the connexion between speech and likely action is less close, and calculations of probability have to be made, should the mere illegality of the act advocated, or its inconsistency with liberal political principles, be taken into account? It seems to me, though I may be mistaken, that in such cases a genuine liberal will give no weight to the mere fact that the act would be illegal, but will go behind the law to the reasons for having it, and will disregard reasons of political principle. The opinion that our regime is genuinely democratic, and that in a democratic regime the majority can always be persuaded to remedy a legitimate grievance, may conceivably not be true. It seems to me that a politically tolerant person will want to let people argue on both sides of this question; but until he is convinced he will repress illegal action, and may even restrict speech temporarily if it seems likely to have effects which are seriously objectionable whichever side is right.

To sum up the restrictions I propose, the following restrictions should be added to (6) and (7): in deciding whether another person's presumptive right of expression or advocacy is actual, no weight is to be given to the fact (or
alleged fact) that -

(a) some change of belief would be a bad thing in itself, apart from further consequences; or

(b) that it is a good thing for members of a certain group to think or feel alike, or to believe that they do; or

(c) that the act of expression or advocacy would be, or lead to, a violation of some rule, unless the rule can be supported by reasons not specifically moral or religious and not dependent on the fact that some people regard the rule as part of morality or religion; and then the objection is to be given no more weight than those reasons justify; or

(d) that the act of expression or advocacy would lead to some political change, or that it favours a certain method of effecting political change; or that it might result in an act that violates some law or other rule, unless the rule can be supported by reasons independent of beliefs about how political change should be effected, and then the objection is to be given no more weight than those reasons justify.

In short, it is intolerant to try to silence someone because his opinions are false, or because he might persuade someone to do something objected to for reasons of moral, religious or political principle. *61

Once the 'ideological' objections have been ruled out, what is left? This depends on the content of the rest of one's
decision-making system; I do not regard specification of the whole system as part of the job of defining Toleration, as I explained previously (above, p.65). Amont possible kinds of objections are the following: that the act of expression or advocacy contemplated on this occasion could not be done without neglect of some duty; that it would damage someone's reputation, or adversely affect his chance of a fair trial, or encourage prejudice against some group; that it would reveal a secret that ought to be kept, or violate a confidence; that it might lead to obstruction of pedestrians or traffic (e.g. by collecting a crowd); that it would involve pestering people unwilling to listen; that it would obstruct others' use of a park or other public facility; that it would result in litter (e.g. of discarded handbills); that it would disturb domestic privacy (e.g. by use of a loud-speaker van, or by ringing doorbells); that it would disrupt a meeting of some association; that it may instigate a crime, or unintentionally give people the idea of committing a crime (e.g. as reports of bomb threats seem to lead to more bomb threats); that unfavorable audience reaction may lead to violence; that the expression may be offensive (e.g. people may be shocked by the picture of an aborted foetus in a handbill); that it would be a violation of the rules of debate at a meeting; and so forth. Liberals will disagree about the weight to be given to such objections in comparison with the presumptive rights of advocacy and expression; they will also disagree about whether the weight due to the rights of expression and advocacy
varies with the kind of belief to be expressed or advocated—being greater in the case of ideological beliefs, perhaps.  

A person's presumptive rights of expression and advocacy may be overridden so often by considerations of the sort just listed that he acquires something like a right to special assistance in obtaining a hearing, by virtue of the duty of imperfect obligation others have to arrange that his presumptive rights become actual reasonably often—see above, p. 41 point 7. Or the rights may not be overridden, but various considerations may justify some act which incidentally obstructs their exercise. For example, a municipality may allow distribution of handbills provided a licence is first obtained, and charge for the licence a fee sufficient to pay for cleaning up the litter of handbills; the object of this measure might genuinely be not to obstruct advocacy but to keep the streets clean. This would constitute an 'incidental burden' on the exercise of the right of advocacy. As I suggested earlier (p. 41, point 6), there may be a duty of imperfect obligation to remove incidental burdens on the exercise of rights. The U.S. Supreme Court has disallowed some laws on the ground that they unreasonably impose incidental burdens on the exercise of rights asserted by the Bill of Rights.

Arguments

The main argument for (6) is:

(A) Man is by nature sociable and communicative, and therefore has a right to express his thoughts and feelings.
The arguments for (7) are:

(A) Man's sociable nature leads him to desire not only that others should know what he thinks, but also that there should be a co-operative search for truth; therefore he has a right to advocate his beliefs. 67

(B) The State's functions are limited (e.g. by contract among the citizens); the control of discussion, on some subjects at least, lies outside the limits. 68

(C) Freedom of discussion favours truth and knowledge. In discussion attention is drawn to evidence; when men attend to evidence they tend to adopt true beliefs, 69 and their true beliefs become knowledge, 70 and do not degenerate into verbal formulae whose meaning has been forgotten. 71 On the other hand, coercive interference with discussion has no general tendency to further truth (though it may sometimes do so by accident): possession of coercive power is connected only per accidens with knowledge of truth. 72 In fact coercion must tell overall against truth: most magistrates must be in error in ideological questions, because they disagree so much with one another. 73 We may think that our own government has true opinions, but we are fallible, so it is best to oppose coercion even in favour of opinions that seem correct. 74

(D) Unless a person has an infallible guide, he has little chance of obtaining true belief and knowledge except by listening to every school of thought. No-one who cannot
provide infallible guidance has any right to deprive him of his chance of knowledge by silencing any school of thought. 75

(E) A fallible agent can reasonably act on his judgment only if (a) he first considers every discoverable objection, and (b) he continues even after action begins to hear objections as they arise. The act of suppressing discussion cannot itself be an act which fulfils the second of these conditions, and it prevents either condition from being fulfilled in future action. 76

(F) As free discussion furthers the cause of truth, so it improves the performance of government, since its action needs knowledge to guide it. 77 Free discussion is the only effective way to combat corruption in government; and since misgovernment is the worst of evils, comprehending all the rest, nothing can compensate for the suppression of discussion on matters relating to government. 78

(G) The people are by right the ultimate authority, the government being merely their agent. To exercise their authority the people must be able to discuss every matter relating to government. 79

Applications

(i) Prior Censorship. Since the eighteenth century it has been an agreed liberal position that prior censorship of the press could not form part of the solution to any problem. 80 There is still, however, prior censorship of movies and television
programmes: exclusion of books from libraries is analogous to
prior censorship. Censorship may be by governments or by
private individuals (e.g. publishers, T.V. producers,
librarians).

(ii) Obscenity. The imposition of 'community standards'
looks like a violation of clauses (b) or (c) of the
restrictive part of 6/7. On the other hand, it can be
represented as an attempt to protect unwilling viewers or
hearers from a nuisance. Sometimes it is justified as
assistance to parents in their legitimate efforts to teach
their standards to children - though sometimes it is said
that this is 'the parents' responsibility'. This is a
standard area of controversy; the only position agreed among
liberals seems to be that adults who choose to read or view
allegedly obscene material should be allowed to do so.

(iii) Defamation and Slander. The problem here is to devise
institutional rules (laws, including procedural rules), which
will give due weight to the rights of expression and advocacy
in comparison with the protection of reputation. What should
be the respective roles of judge and jury? Should the
truth or falsity of the statement be taken into account, and
if so should it be that truth is a defence, or that falsity
has to be proved by the prosecutor or plaintiff? If truth is
relevant, is it to be actual truth, or what the person
believed to be true, or believed on reasonable grounds...?
Are 'privilege' and 'public interest' to be recognised as
relevant, and how? Is promptness to apologise to be taken
into account? Is the publication to be judged in its general effect, or must each sentence withstand scrutiny? Should malicious intent have to be proved, or should it be presumed from defamatory words? Should the person defamed have to prove that he suffered measurable damage of some particular kind, and should the penalty be proportional to the damage? Should any difference be made between cases in which public officials are defamed in their public character and those which concern private persons? No-one can actually resist or overthrow government without committing some ordinary crime, and solicitation and conspiracy to commit a crime are also crimes. Laws against sedition make acts criminal which are not ordinary crimes or conspiracies or solicitations to commit ordinary crimes. Should there be sedition laws at all? Should it be sedition for a person to say in general terms that under certain circumstances resistance or revolution would be right? Or that at some unspecified future date there should be resistance or revolution? Or must there be advocacy of particular acts in the immediate future? Must the advocacy be calculated to stir emotions and will? Must the act advocated be violent or likely to lead to violence? Most liberals seem to agree that there ought to be laws against sedition, that the line at which words become punishable should be drawn further back from action when the act is intended to weaken or overthrow the government than when it is an ordinary crime without political purpose. On the other hand they
will agree that words with a remote tendency to affect the position of government, and words not proved to have been spoken with intent to produce the objectionable effect, and words not in fact likely to lead to violence,\(^87\) and words not in fact likely to lead to violence,\(^88\) should not be punished. The 'clear and present danger' test is one possible liberal solution to the problem.\(^89\) Perhaps the line should be drawn further back still when the words are spoken by members of an extensive organisation which intends to effect a revolution if necessary by illegal means, than when they are spoken by isolated individuals or by a member of a small group.\(^90\)

(v) Public Meetings.\(^91\) Should a speaker be silenced if there is a risk of violence (how serious a risk?), even if this is because of unreasonableness on the part of the audience? Should police be allowed to be present at meetings against the wishes of the organisers? Should meetings be allowed in streets and public places, and if so on what conditions (police permits, etc.)?

(vi) 'Taxes on Knowledge'\(^92\) Liberals are generally agreed that governments should not tax newspapers and periodicals with the intention of limiting their circulation.

(vii) Miscellaneous Laws limiting handbill distribution (to prevent litter), or house-to-house canvassing, or use of loudspeaker trucks; laws requiring associations to reveal their membership.\(^93\)
Everyone has a duty of imperfect obligation to give an impartial hearing to exponents of beliefs which differ from his own.

Exhortations to be open-minded, to give a hearing to every point of view, are commonplace in liberal literature. However the 'ethics of belief' is not merely a chapter in the theory of toleration; many of its precepts would have point even in a world where people never disagreed, though very likely its importance would then be overlooked. But one part of it has an obvious connexion with toleration: rights of expression and advocacy are of little use if no-one is willing to listen. Even without acknowledging any duty to listen, people may listen, out of curiosity, friendliness or a hope of learning something. However minorities often claim that too few people are willing to listen, or that they listen politely but without giving any serious consideration to the arguments. This complaint is these days made in terms of 'repressive tolerance': society is tolerant in the sense that minorities are allowed to speak; but the majority does not seriously listen, and promptly stops any attempt by the minority to act on its opinions. The complaint is made by 'radicals' against 'liberals', but I think it has enough foundation in the liberal ideology to make liberals uneasy. I believe they will acknowledge that it would be better, more tolerant, if minorities were not only allowed to speak, but were also seriously listened to; that people ought to listen, even sometimes when curiosity, friendliness, etc. do
not move them to listen. On the other hand, I do not believe they would acknowledge any strict duty to listen whenever anyone demands a hearing; or even any less exigent duty of perfect obligation. It seems appropriate, then, to include a rule asserting a duty of imperfect obligation, to which more or less weight will be given by more or less tolerant people.

Arguments

(A) If free inquiry and free discussion further the cause of truth, then so will the recognition of a duty to listen to the arguments of others.

(B) The need to communicate is not satisfied unless someone listens. If the communicative nature of man is a reason for recognising rights of speech, it is a reason also for recognising a duty to listen.  

(9) Everyone has a right to refuse to do or say anything which is likely to be taken as an expression, or as an indication, of a belief which he does not wish to express (whether he holds it or not).

Perhaps there are two rights here, one to avoid seeming to express beliefs one does not wish to express, and the other (of less weight) to avoid anything that would give rise to inferences about one's beliefs (for this distinction see above p.74). In any given case, the weight to be given to the right against other considerations will depend on the degree of likelihood that the words or action will be taken as an expression or indication of belief. If the words or action
are commonly understood to be an expression (and not merely an indication) of a certain belief (as for example, subscription to a declaration of faith), then many liberals will regard the right to refuse as absolute, at least when the belief is not one the person holds.

There is some overlap between this principle and (10), which asserts a right to obey one's conscience. Some people believe they are bound in conscience not to allow it to seem that they hold certain beliefs; they could justify their refusal by appealing to (10). However there are other cases where the person does not believe himself bound in conscience not to allow it to seem that he believes something, but nevertheless does not want to be misunderstood (to be 'placed in a false position'), or does not choose to manifest a belief he holds. Rule (9) is needed for such cases. In the American 'flag salute' cases (discussed below) the objectors gave religious reasons, reasons of conscience; but the eventual court decision in their favour was, in effect, an assertion of (9).

According to Hobbes, the sovereign has no authority over thoughts, but absolute authority over words and actions; any inquisition into belief is against the Law of Nature, but if the sovereign orders a Christian to deny that he believes in Christ, or orders a Mahometan subject to attend Christian services of worship, the subject must obey. Similarly, although Queen Elizabeth's government 'made no windows', it insisted on an outward appearance of acceptance of Anglicanism;
subjects were required to attend Anglican services of worship every Sunday, and while there to occupy themselves with nothing but attention to the service. Such a policy will be recognised, I believe, as illiberal, a violation of the rules of Toleration.

In the United States various states made laws requiring schoolchildren to take part in flag-salute ceremonies. In the Gobitis case (1940) the Supreme Court decided that the religious objections of Jehovah's Witnesses did not entitle them to exemption. The court held that under certain conditions the state is entitled to require acts, such as the flag salute, which foster sentiments favorable to social cohesion. In the Barnette case (1943) the court changed its mind. It took the view that the flag salute was in effect an affirmation of belief in the political ideas embodied in the established form of government; and it held that to compel an affirmation of belief the State needs even stronger grounds than it needs to override the rights of expression and advocacy, grounds not existing in the case before it. The court's argument made no reference to the fact that the objections to the flag salute were made on religious grounds; and the argument did not depend on the supposition that the persons compelled did not hold the beliefs apparently expressed. Whether one holds a belief or not, one is entitled to refuse to express it.

As the Gobitis argument suggests, governments, or other organs of society, may want to compel expression of certain beliefs to foster esprit de corps. This reason is altogether
ruled out by clause (b) of the restriction incorporated into (6) and (7) (above, p.81) when the question is whether someone should be allowed to speak. The court's argument in the Barnette case does not seem to rule it out altogether; to do so would seem to me more liberal. Another motive for making someone let it seem that he holds some belief is to protect and foster correct belief in others, in matters of morality and religion for example. This kind of consideration should also be ruled out altogether. In fact, all the restrictions incorporated into rules (6) and (7) (see above, p.81) should also be incorporated into this rule. Another clause should also be added to the rule:

(e) if the words or actions are commonly understood to be an expression (not merely an indication) of a certain belief, a person who does not hold the belief has an absolute right to refuse to say or do them.

These restrictions leave many things which can be weighed against the right (or rights) asserted. For example, suppose a person believes that an accusation damaging to another person's reputation is false; then he may have no right to refuse to say so. (Here the words are not merely an indication, but an expression, of a belief the person does hold). Suppose a policeman is ordered to protect an unpopular speaker. It may be that someone will interpret the policeman's performance of his job as an indication that he agrees with the speaker's opinions. But the reasons for giving police protection to speakers may, and probably will, override the
policeman's right not to do what may give rise to inferences about his beliefs. When the act is, as in this example, not normally regarded as an expression, or even as a clear indication, of beliefs, the right asserted by (9) is not very weighty. If it is possible to allow the person to obviate misinterpretations of his action (e.g. by saying 'I don't agree with this man, but I will protect his right to speak') the weight to be given to the right to refuse to act may approach zero.

Arguments

(A) By analogy with (6): whatever reasons there are for allowing people to express their beliefs are reasons for allowing them to refuse to do what may be taken as an expression or indication of beliefs they do not hold.100

(B) To compel expression of belief is to run a grave risk of compelling hypocrisy; to allow someone to refuse to do what may be taken to indicate some belief is to encourage sensitivity to the value of frankness.101

III LIBERTY OF CONSCIENCE

The rights of conscience are invoked to support a variety of claims: that no-one should be forced to belong to an established church; or to send his children to schools where they will be educated in a way which conflicts with, or does not meet, the demands of his conscience; or to perform military service when he believes in conscience that warfare is wrong; or to contribute through taxation to projects
repugnant to his conscience (such as foreign aid programs which encourage certain methods of population control); or to vote with his party in parliament in favour of measures on which he has conscientious convictions (in relation to abortion, homosexuality, divorce, censorship, contraception, etc.). In the present section I will try to formulate those of the principles of toleration which bear on these issues. The principles in question assert: a right to obey one's own conscience; a duty not to tempt another to disobey his conscience; a right to worship in one's own way; a right to refuse to take part in acts of worship.

(10) Everyone has a presumptive right to do what his conscience commands, and to refuse to do what his conscience forbids, even if his conscience is mistaken.

(11) Everyone has a duty not to tempt another person to act in disobedience to his conscience; there is a presumptive duty not to tempt him intentionally, a duty of imperfect obligation not to tempt him 'incidentally'.

(For the 'intentional'/ 'incidental' distinction see above p.39.)

Suppose A's conscience commands him to do X; and suppose B believes A has a duty not to do X, and that he himself has a right or even a duty to prevent A from doing X. Then (10) implies that in deciding whether to obstruct A, B must give some weight to a presumptive right to do X which A has by virtue of the fact that his conscience commands him (mistakenly
or not) to do X. Unless there are weighty considerations on
the other side, B may decide that A has an actual right to do,
and B an actual duty not intentionally to obstruct - and even
to prevent others from intentionally obstructing102 - an act
which B originally thought A had a duty not to do. In fact he
may still think so. There are two ways of putting it: (a) We
may say that since A's conscience directs him to do X, then to
do X is really his duty, and others have a presumptive duty
not to obstruct him in the performance of his duty. (b) We
may say that A's conscience is mistaken, that he has really
no duty to do X, and even a duty not to do X; but because he
thinks he ought to do X he has a presumptive right to do it.
I prefer the second formulation, but in either case the point
is clear: whether or not there is any sense in which what he
mistakenly believes to be his duty is his duty, the fact that
he believes that it is his duty is a reason, though not an
absolutely conclusive one, why other people should let him do
it.

The right asserted by (10) is presumptive; it may or may
not be actual. If the right is actual, then others have an
actual duty not to use threats to prevent the person from
obeying his conscience; see above, p.40 point (2). But (11)
still has point: there is in general no duty not to offer a
person a reward to induce him not to exercise a right; but
(11) asserts a presumptive duty not to do so when the right is
to act in obedience to conscience. If the right is not actual,
then it is permissible for others to try to prevent the person
from acting in accordance with his conscience. But (11) puts some restriction on the method to be used: he should not, except for weighty reasons, be threatened or bribed; instead he should be restrained physically, or the means to act should be removed. It may be right to prevent a person from obeying his conscience, but if it is, it is better to do so in a way that does not make him morally responsible for not obeying it. 103

Rule (11) also mentions 'incidental' temptation. Something not intended as a bribe or threat or penalty may nevertheless tempt some people to act against their consciences. Liberals will, I believe, think that arrangements which incidentally have this effect ought to be changed, though they will probably not regard this as a matter of perfect obligation. 104

To speak of conscience commanding or forbidding is a metaphorical way of saying that the person believes he has a certain moral duty. Some (few) Christians have believed that conscience is, literally, the voice of God (the Holy Spirit) commanding and forbidding; since God makes no mistakes, there can on this view be no such thing as erroneous conscience. But most Christians who refer to conscience as the voice of God believe that it is a natural human power, and mean merely that it is to be obeyed (even though it may be mistaken) as if it were the voice of God. Agnostics can and mostly do agree with such Christians that men have a capacity for passing moral judgment on their own acts, that 'conscience' is
the name for that capacity, and that conscience should be obeyed as if it were the voice of God. A 'dictate' of conscience is simply a person's judgment that to do or omit some action is his moral duty. Judgments of presumptive or imperfect duty, however, are not dictates of conscience; to count as such, the judgment must be one of absolute or actual duty. What (10) and (11) assert, then, is that when a person believes, rightly or wrongly, on whatever grounds, that he has an absolute or actual moral duty to act in a certain way, then he has a presumptive right to act in that way, and others have a presumptive duty not to tempt him to act otherwise. There will be different opinions about the weight the right and the duty are to receive. But a person will not count as tolerant unless he gives them some weight.

Whatever their general importance, it seems that the weight varies from case to case according to certain circumstances. The weight is greatest when the judgment of conscience is confident, made after careful consideration and without too much influence from others, and when the person would experience remorse if he disobeyed it.\textsuperscript{105} It is also apparently weightier if the conscientious judgment is absolute;\textsuperscript{106} perhaps because such judgments are usually confident, and give rise to strong feelings of remorse if disobeyed. Sincerity is not a circumstance relevant to the weight of the right, but a condition of having it at all.

What has weight against the presumptive right to follow one's conscience, and the duty not to tempt? Once again I
will specify what is not to be given weight. It seems to me that the restrictions required are the same as those added to rules (5) and (7) (above, p.81), (some of these may seem inapplicable, until it is remembered that people sometimes feel bound in conscience to express or advocate some belief). If a person believes he has a moral duty to say or do something, it is no objection that this may result in a change of belief bad apart from consequences, or that it would impair the community's sense of like-mindedness, or that it would be specifically (or lead to) a violation of a/moral or religious rule, *107 or that it would lead to a change in the policies, personnel or constitution of government, or that it indicates support for some undesirable method of effecting political change. This leaves many things which may legitimately be given weight. For example, weight might be given to the objection that the act would result in someone's death (human sacrifice, refusal of blood transfusions etc.); that it would leave a child inadequately instructed in non-ideological subjects (refusal to allow children to attend state-approved schools); and so forth.

In deciding whether to use threats or bribes when the person's right to obey his conscience is not actual, relevant considerations might include the cost or ineffectiveness of other methods. If there are a large number of people who believe they ought to do the thing, to put physical restraint upon them all might be costly, and then the threat of a fine or imprisonment might be legitimate.
In the seventeenth century, when the rights of conscience were an urgent question, there was much opposition even among liberal writers to the suggestion that a mistaken moral or religious conviction might give a person the right to disobey, or be exempted from, an otherwise valid law. Bayle and Locke, for example, provided for freedom in religion, and thereby for freedom to obey conscience in the matter in which seventeenth century consciences were most peremptory, by limiting the magistrate's function to the protection of this-worldly interests; but they did not acknowledge that a person's conscientious convictions gave the magistrate any reason, even the slightest, for modifying or not enforcing a law which he had a right to make. Outside a certain area the rights of conscience are absolute; within it they are nonexistent.

Some modern writers argue for an absolute right to obey one's conscience. This would seem to imply that a person who believes he has a duty to carry out human sacrifice must be allowed to do so - just the sort of consequence that made seventeenth century writers hesitate to attribute any rights at all to erroneous conscience. The consequence is avoided by denying that such a belief can count as a judgment of conscience. Again there is a line drawn - this time between real and seeming conscience - on one side of which the rights of conscience are absolute, and on the other side nonexistent.

Until rather recently moralists have usually imagined moral decisions as made by 'practical syllogism' with a rule
of action as major premiss (see above, p.45). A rule of action asserts that if certain conditions are fulfilled, to do the act is a right, a duty, permissible etc.; since the conditions are either fulfilled or not fulfilled, a right to obey erroneous conscience would in such a system be, in a given type of case, either absolute or non-existent. Principle (10), however, asserts a presumptive right, to be 'balanced' against other considerations. Hence to avoid unacceptable consequences it is not necessary to restrict it to religious matters, or to exclude the consciences of moral monsters or madmen. The presumptive right to obey one's conscience is asserted, no matter what the topic of the judgment of conscience, and no matter what the sanity or normalcy or moral quality of the thinking leading to the judgment.\textsuperscript{110}

**Arguments**

(A) Everyone must regard his conscience as the voice of God; disobedience to it is therefore an act of contempt for God; such an act is morally evil; to try to get a person to act against his conscience is therefore to instigate a morally evil act, and this is never justifiable (or, justifiable only by grave reasons).\textsuperscript{111}

(B) A person who disobeys his conscience will probably suffer remorse, and may fear divine vengeance. To threaten him to get him to act against his conscience therefore puts him in a painful dilemma. This is justifiable only by serious reasons.\textsuperscript{112}
(C) Conscientiousness (i.e. a settled will to do whatever conscience directs) is of great value to society. To foster conscientiousness it is worthwhile to allow some acts which it would otherwise be right to prevent.\textsuperscript{113}

(D) It is part of the dignity of man that he should act on his own moral judgment. Respect for human dignity includes recognition of some sort of right to obey one's conscience.\textsuperscript{114}

(E) A condition of attaining the highest end of human existence (moral perfection, or heaven, or...) is to act in obedience to conscience. The State is for the sake of the self-realisation of individual persons, indeed of each and every one of its citizens. It would therefore be defeating its own purpose if the State sacrificed any citizen's chance of realising his highest end for the sake of any goal whatever. Therefore the State ought not try to get a person to act against his conscience.\textsuperscript{115}

These arguments are usually offered in support of (10); but in fact they are arguments for (11). Force (literal force, physical constraint) makes an act involuntary.\textsuperscript{116} A person literally forced to act (or to omit an act) against his conscience does not act in contempt of God, should not feel remorse, is not unconscientious, is not deprived of the chance of realising his highest end; to force him may be an affront to human dignity, so perhaps argument (D) remains. The others do not prove that it is wrong to prevent him by force from doing what his conscience directs; but if there were a right to obey one's conscience, obstruction by force would be wrong;
therefore the arguments do not prove there is such a right.

Several of them could perhaps be converted into arguments for (10) by adding extra premisses. To (B) add: A person forced may still regard himself as responsible, despite the commonly accepted principle that force causes involuntariness. To (C) add: Use of force suggests that a low value is put upon the person's doing what he believes to be his duty, and this may undermine his conscientiousness. To (A) and (E) add: A person forced may thereby be brought inwardly to consent to the omission of what he is prevented from doing. These arguments would then prove that no kind of intentional obstruction - no threats, no physical constraint, etc. - is justified, except perhaps for serious reasons; i.e. that there is a (presumptive) right to act in accordance with one's conscience.

Applications

The exemption of conscientious objectors to military service is the main standard practical application for (10). Should they be exempt? Most liberals will say Yes. Should the objection have to be on religious grounds? Most will say No. Should the objector have to believe that it is his absolute duty not to take part in any war, or should an objector to a particular war be exempted? On this question liberal opinion is divided. There are procedural questions about how claims should be tested. There are also conscientious objectors to unions and other organisations.

'Civil disobedience' - lawbreaking on conscientious
grounds - has been much discussed in recent years (cf. the earlier discussion of 'passive obedience' - above p.5-6). Can a person rightly plead the dictate of his conscience as a justification for breaking laws made by a democratic government? Must he submit, without evasion, to punishment?

(12) and (13) Everyone has a right (12) to perform acts of religion, in private or in public, and (13) to refuse to perform acts of religion

According to St. Thomas Aquinas, the rites of non-Catholics are sinful, and this is a reason for suppressing them; however the reasons for tolerating them may in some cases be stronger. On this view toleration of worship is not a matter of principle. The Reformers made it one of the chief duties of the godly Prince to put down false worship, idolatry and blasphemy (such as the Mass), as Moses had commanded (Deuteronomy 13) and Josiah had done (2 Kings 23). Principle (12) is meant to exclude such intolerance.

Rule (6) asserts a right to express one's beliefs, and Rule (10) a right to do what conscience commands; but these rules do not make (12) superfluous: acts of religion are not always intended as expressions of belief (even if they indicate beliefs - see the distinction made above on p.74); an act of religion may not be commanded by conscience, it may be optional. What 'act of religion' includes is open to some dispute; but a reason for classifying an act as an act of religion is a reason for holding that the person has a
presumptive right to do it.

Restrictions are needed on what can be weighed against this right. The restrictions required seem, once again, to include those attached to rules (6) and (7) (see above p.81). A further restriction is required: no consideration is to be given weight unless it would also be relevant if the act were not regarded as an act of worship. This is required to block attempts to impose on religious worship 'community standards' of what is decorous and appropriate in religious worship; this would not necessarily be blocked by clause (c) of the earlier restriction, since the rules articulating those standards might not be regarded as moral or religious rules.

'In private or in public' is inserted in view of the restriction some governments have put upon non-conformist worship, that it must be in private - i.e. not to be seen by adherents of the established religion. Liberals will regard this as less than complete toleration.

Rule (13) is meant to prevent compulsion to participate in religious worship. The Roman persecutions seem to have arisen because the gods were believed to be angry with the empire because some citizens did not sacrifice, and attempts were made to compel Christians to sacrifice. Luther in some moods regarded absence from church as 'blasphemy', deserving punishment. Queen Elizabeth required attendance at church. There is today sometimes pressure 'to attend the Church of your choice', and sergeants may give unpleasant duties to men who do not go on church parade. All of this is
contrary to (13). Some of it may also be contrary to (9) and (10) (asserting the right to refuse acts likely to be taken as expressions or indications of belief, and the right to obey one's conscience), but (13) is required as well. Some religions attach importance to religious acts apart from any belief on the part of the actor, and there might be no objection if the participant explains that he does not believe what the others believe, provided he participates; but I think liberals will feel that participation should not be compelled even then. They will also feel, I think, that participation should not be compelled even if the person does not believe it is his moral duty not to participate.

There are some practices (e.g. Sunday closing) which have religious significance for some people, but which may also be regarded as primarily non-religious in their purpose. Perhaps we can say that the right to refuse to perform an essentially religious act is absolute, but that there is a presumptive right to refuse to perform an act which has religious significance for some people even if it does not for the person refusing. Hence the fact that Sunday closing has a religious significance for some people gives everyone a presumptive right not to be compelled to adopt the practice, a right which may be overridden by other considerations; but their right to refuse to attend church services on Sundays would be absolute, since this is essentially a religious act. There will of course be disagreements in some cases about whether an act is essentially religious, but this
difficulty is one of classification, not of moral principle.

Arguments

The argument for (12) is:

(A) No act qua religious affects the civil interests of other persons; the State's sole function is to protect those interests; no-one but the State has any right to coerce. 129

The arguments for (13) are:

(A) From the State's function (as above).
(B) To compel acts of religion is to risk encouraging hypocrisy. 130
(C) There is no point in compelling an act of religion, since it is of no value unless it is done with the appropriate belief and willingly. 131

Applications

Sunday observance laws are the standard issue here. Such laws can be represented as enforcing religious acts, contrary to (13), or as imposing an incidental burden on the religious practice of sects who observe some day other than Sunday (this is not a violation of (12), but by virtue of (12) members of such sects have some claim to consideration — see above, p.41 point 6). Attempts to close down the Sydney Show on Good Friday are in the same category.

IV EQUAL PARTICIPATION IN COMMUNITY LIFE

As I noted earlier (p.18-19), in my usage 'Toleration' is a term of art. The principles discussed in Sections I - III spell out what is meant by 'toleration' (sometimes, 'tolerance')
in one of its ordinary uses - specifically, one of the principle-invoking uses (see above p.23). In this section I go beyond the ordinary use to deal with principles which, I believe, should go together with those of the previous sections, although there is no convenient term for the whole ensemble.

There is a distinction, familiar but difficult to formulate, between public and private life. Roughly, public life is the sort of thing one expects to go on in politics, government employment, universities and public schools, business and industry, and in 'public places' - streets, parks, public transport, shops, restaurants, public houses, hotels, places of entertainment, beaches etc. Private life is what is expected to go on at home, with family and friends, in private clubs, societies and churches. Some occasions are public from one point of view, private from another. A church service may be 'public worship' from the viewpoint of members of that denomination, but private in relation to society at large. A political association is public in relation to its members, private for members of other political associations or for other private citizens; but participation in it is a mode of participation in the public life of the State.

The point of the principles dealt with in this section is to secure equality of status in the community for people who belong to ideological minorities. This means in the first place that they should not be 'discriminated against' in
public life—in politics or business, or in restaurants or parks, and so forth. But the principles I am concerned with also have some application to private relationships. The quality of life depends partly on how easy it is to enter into satisfactory private relationships. If migrants, or members of some minority, find it difficult to make friends, difficult to find private clubs and associations they can join, if they are seldom invited into the homes of people outside their own category, then they will feel excluded to some extent from the life of the community; that is, excluded not only from the private associations, but also the wider community within which these associations exist. How serious this exclusion seems will depend on how much importance people in this society attach to their private life, and how much to their public life. Members of ideological minorities should find it 'reasonably easy' to enter into satisfactory private relationships with people outside their own group.

The first of the principles of this section is the general one that everyone has a duty to make members of ideological minorities feel 'at home' in the community. This is a duty of imperfect obligation; it makes a certain end obligatory, but no particular actions towards that end are thereby made actual duties. Certain things which serve that end are made a matter of perfect obligation by other principles in this group. In other words, there are certain special obligations, and a general duty of imperfect obligation, all with the point of making sure that people with minority religions, moral,
(14) Everyone has a duty of imperfect obligation to make sure that members of minority ideological groups find it easy to participate, in a way they regard as satisfactory, in public life, and in private relationships with people outside their group.

The fact that a certain act would further an end which I have a duty of imperfect obligation to further is a reason, not necessarily very weighty, why I should do it; but not a conclusive reason, not even in the absence of conflicting reasons of duty; and in any case it is not a reason for regarding the act as an actual duty (i.e. something the omission of which would deserve blame). What (14) asserts, then, is that the fact that the members of a certain ideological minority are dissatisfied (whether I regard their dissatisfaction as reasonable or not) with the opportunities or conditions for participation in public life, or in private relationships outside their own group, is a reason — not conclusive, even if I have no conflicting duties — why I should try to remove their dissatisfaction, either by persuading them that it is unfounded or by changing certain social circumstances; though if I do not, the omission does not deserve blame. This is a fairly mild assertion. If any stronger assertion were made, it would be necessary to assess the reasonableness of the dissatisfaction. However the
assertion of even an imperfect obligation to take another's dissatisfaction, whether reasonable or unreasonable, as a reason for remedial action, is by no means insignificant.

Although (14) does not impose any very stringent duty, it is important I believe as a principle of growth in the content of the concept of Toleration. An ideological minority voices a complaint; by virtue of (14) the complaint deserves some consideration even if it may be unreasonable. On consideration it may be found reasonable, and it may also come to be regarded as possible and desirable to recognise a right (legal or moral) to immunity from whatever caused the dissatisfaction.

There may well be an obligation to try to remedy dissatisfaction even when it has no connexion with ideological differences. However, to be tolerant it is not necessary to recognise the wider obligation. Is recognition of (14) part of tolerance? Would those who regard Toleration as a virtue or obligation regard the question whether a person accepts (14) as relevant in deciding whether to count him as tolerant? I believe they would. The literature does not seem to contain formulations of or arguments for this principle, but it seems to me to be implicit in the thinking of those who campaigned in England during the eighteenth and nineteenth centuries for equality between non-Anglicans and Anglicans (see above, p.10). They objected to anything that made it more honorable, advantageous, comfortable, or pleasant to belong to the Church of England rather than to the dissenting
sects, even if the thing was not intended as a punishment for dissent or as an incentive to conform. They expected the fact that something might make it harder for an Englishman to be a Dissenter, or easier to be an Anglican, even if this effect was not intended, and whether the Dissenters' dissatisfaction seemed reasonable or not, to be taken as a reason (pro tanto) for changing this state of affairs. Similarly judges of the U.S. Supreme Court have taken the clause of the constitution which forbids any 'law respecting an establishment of religion' to rule out any kind of 'indirect' coercive pressure to join any religion, even when there was no intention to exert such pressure.

Psychologists and sociologists these days often use 'punishment' in a rather extended sense. If a person experiences some kind of pain as a consequence of doing something, this is often called punishment even if it is not deliberately inflicted with intent to punish: its effect is similar, in that it tends to change the person's behaviour. 'Punishment' unintentionally inflicted, and often not explicitly noticed by the sufferer, is an important factor in socialisation, i.e. in teaching members of a society to conform to its norms. Since it will tend to make ideological dissenters conform, it is analogous in its effects to persecution. The analogy becomes even closer if the person inflicting 'punishment' on dissenters comes to realise he is doing so, and persists in the same pattern of behaviour, even though he could change it at small cost. But I doubt whether, even then,
all the arguments against punishing (in the proper sense) on ideological grounds can be taken over unchanged as arguments against 'punishing'. There is another analogy: 'punishment' knowingly inflicted is like the 'incidental obstruction' of the exercise of a right (see above, p.39); in both cases the conduct which inconveniences or hurts the other party is not engaged in for the purpose of affecting him in that way, even though it may be realised that it is having that effect. The duty asserted by (14) is like the duty to avoid unintentional obstruction (see above, p.41 point 6).

However some of the arguments against punishing the beliefs or activities of dissenters can be used to support (14), viz. those which turn not on justice but on consequences. By punishing beliefs, or silencing expressions of belief, or preventing action in accordance with belief, the cause of truth may be impeded, hypocrisy and unconscientiousness encouraged, and so on; similar effects may follow if efforts are not made to make it easy for ideological minorities to participate in community life. To punish belief, or silence certain views, or prevent action based on certain beliefs, are various ways of making members of a minority unwelcome in the community.

In fact, it might be preferable to regard many of the arguments given for earlier rules as arguments for (14), and to regard those rules - insofar as they rest on those arguments - as means of converting the imperfect obligation asserted by (14) into a perfect obligation at some points, just
as institutional rules may impose definite legal obligations in some matters where no moral obligation is imposed by the moral principles which give the institutional arrangements their point.

Arguments

(A) Insofar as holders of a minority opinion are excluded from community life, investigation and discussion is likely to be inhibited and distorted, since people may believe they have an interest in not holding that opinion; this is prejudicial to the cause of truth. (Cf. arguments (G) for (1) and (2); (E) and (G) for (4); (C), (E) and (F) for (6) and (7); (A) for (8).)

(B) Anything that makes members of a minority feel excluded from public life encourages hypocrisy and other kinds of unconscientiousness (Cf. arguments (F) for (1) and (2); (A), (C) and (E) for (11); (B) for (13).).

(C) 'Fraternity': it is simply a good thing to make other members of the community feel welcome.

(D) 'Pluralism': to have many sub-cultures flourishing within the community is a good thing; it advances truth, 'the art of life', and develops autonomy and energy (which are good in themselves and in their effects); and cultural diversity is good in itself. 137

(E) No-one who lives in a community can avoid contributing to its common good in many ways; it is only fair that community life should be arranged so that all who contribute should find it easy to enjoy its benefits.
Applications

Many of the other rules might be regarded as applications of (14). Also: care not to embarrass children of religious minorities by the treatment of religion in common schools; provision of food suitable for religious minorities in army camps, on airliners, at public dinners etc.; adjustment of the calendar of public events to allow for religious Holy Days.

(15) Everyone has a duty of imperfect obligation to make sure that minority beliefs get adequate attention in public discussion.

By 'public discussion' I intend to refer to discussion, and other activities involving the presentation of beliefs (e.g. the distribution of a reading list), in all departments of public life - notably in press and television, and in the schools and universities. It is difficult or impossible to specify in general what counts as 'adequate' attention; for this reason the duty asserted by (15) is a duty of imperfect obligation. It has obvious connexions with the duties asserted by (14) and by (8) (see above, p.110,89). The degree to which members of an ideological minority feel 'at home' in the community will often depend partly on the share of attention their views get in public discussion. According to (9) each person ought to give a hearing to beliefs that differ from his own; but of course there is no guarantee that in a community in which each person does this there will be adequate attention given in public discussion to the views of
any minority group; for example a person could satisfy (8) by listening to the people whose opinions are most at variance with his own, but if everyone did this the 'moderate' minorities would tend to be ignored (and this happens).

A recognition of (15) is implicit in concern for 'balance' in television programmes on ideological matters, and in efforts to allocate election coverage fairly to the various political parties. 'Balance' is sometimes taken to mean that when a controversial position is presented, the opposite position should be presented on the same program, or within a reasonable time. But if the opposite position is the one that most people hold already, it may reasonably be left to look after itself; it might be said then that 'balance' requires that on television or in universities the unusual opinions should get more attention to compensate for the fact that the usual opinions are constantly inculcated in many ways.

However the unusual opinion may be unusual because it is obviously wrong and silly; this is a risky hypothesis, but in some cases it will be reasonable to adopt it, and give the opinion less attention accordingly. That it is unusual is a reason for giving it more prominence; that it has little chance of being right is a reason for ignoring it.

'Equal time' may be the only workable rule for allocating T.V. time between major political parties at election time, but it would not always be sensible to give an equal amount of attention to every point of view. Minor parties do not usually get as much time as major ones. If the practice were
to give more attention (other things being equal) to the less common opinion, the minor parties would get more time than the major ones. Perhaps there is a feeling that the time a party gets should be roughly proportioned to the number of people who support it - as if media time was shared out equally among the voters, and then transferred to their party.  

'Balance', the equal allocation of time to the various distinguishable schools of thought, and allocation in proportion to the number of adherents, are not very satisfactory rules, even as 'rules of thumb'. The duty asserted by (15) must be left as a duty of imperfect obligation.

Arguments

(A) To adopt (15) would favour the cause of truth.

(B) 'Fraternity': to give adequate attention to the views of a minority is courteous, friendly, etc.

(C) Adoption of (15) would foster 'pluralism'.

Applications

'Balance' in press and television, in educational curricula, in the conduct of meetings etc.

(16) If an association undertakes a project outside its main line(s) of activity, a member who objects on ideological grounds has a presumptive right to veto it or to 'contract out', without losing any of his rights as a member.

There may be a right to veto or contract out under such circumstances on any grounds, but this wider right is not part of the concept of Toleration. The notion of a project 'outside
the main line(s)' of the association's activities is unavoidably vague. The right asserted by (16) can be invoked only if most of the association's activities make up a reasonably coherent pattern. The simplest case is when there is a single over-all objective explicitly agreed on as the association's raison d'etre; any member can then object if the association's resources are diverted to some activity which does not contribute to its objective. More often, however, there will be a number of goals, not necessarily subordinated to one over-all goal; perhaps they may even conflict to some extent; and there may be no explicit agreement among the members that these are the association's objectives. A member may still object, however, if some project is adopted which is unlike the others, and not related to any of the objectives which seem to give point to the association's usual activities. Some associations, however (especially those consisting of a few members, who see the association as the main area for living their lives), may be accustomed to undertaking all sorts of disparate things, and then a member will have little opportunity to invoke the right asserted by this rule; if he objects to the turn the association's activities have taken he may have to withdraw.

In a homogeneous community it may be that many associations will be like the last type, unspecialised. Members of a small minority which finds itself (perhaps by migration) in a community of that kind may find that their convictions drive them to resign after a while from most of the
associations they join. Although they will not be helped much by (16), they might invoke (14) : if the majority is willing to make them 'feel at home', they may consent to the specialisation of at least some of their associations, so that members of the minority will then be able to invoke (16) and remain as members of those associations. *142

This rule overlaps to some extent with (10) and (9) (above, p.95,90). Often the claim to veto or contract out is made on conscientious grounds; sometimes it is made because the person does not wish to seem to share the beliefs which lead other members of the association to favour the project. Still, there will be some cases where the objector does not invoke the rights of conscience, or his right not to be put in a false position; and I think liberals will think that even in those cases he ought to be allowed to exercise the right asserted by (16).

Arguments

(A) If members contribute to the work of a certain organisation in the reasonable expectation that it will not engage in activities that raise ideological questions (or certain kinds of ideological questions), then they have a right either to veto or to contract out of a project that does raise such questions. Since it is well-known that people differ strongly on ideological questions, and that such differences may do serious damage to an association, the expectation that an association that in the past has not engaged in projects that raise ideological questions will not do so in future is a
reasonable expectation.

(B) Acceptance of (16) is a way of satisfying (14).

Applications

Rules allowing trade union members to 'contract out' of political activities; 'conscience' voting on religious or moral issues that 'cut across party lines' (i.e. that are not among the principles on which the parties are organised).

(17) Specifically moral and religious rules are not to be enforced by law, or by the rules of any public body, or by administrative action; and they are not to be among the informally sanctioned norms of community life. The state and other public bodies are not to act on specifically religious or moral considerations. 143

Until the mid-seventeenth century almost everyone thought that the ruler should in some way or another foster morality and religion; many people think so still. Some people have held that the ruler's function is to further the 'temporal common good' of his subjects by natural means, that the good attainable by such means is 'ordered to' the supernatural goal of human life, and that consequently the ruler is concerned indirectly with the salvation of souls - though it is not his job to repress sin as such, his activity should take moral and religious considerations into account. 144 Another theory, common in the sixteenth and seventeenth centuries, is as follows: the ruler's characteristic function is 'to wield the sword', i.e. to control outward acts 145 by force or threat of
force; only the ruler and those whom he authorises have the right to use force, and he can, qua ruler, do nothing except by force or threat of force. As every Christian must glorify God in his calling, so the Christian ruler should use his sword to glorify God, by repressing 'outward abominations' and perhaps also by compelling an outward show of morality and religion - not concerning himself about the inward state of mind of his subjects, but exacting outward conformity to rules of conduct. Adherents of this theory did not imagine that there was any moral or religious value in unwilling outward conformity. The value lay in the ruler's action: in compelling outward conformity he manifested zeal for God's glory, and dissociated himself from wrong acts for which he would share responsibility if he tolerated them. The details of this theory have mostly been forgotten, but many people still believe that human law should enforce God's law when it is practicable to do so, and that to legalise immoral behaviour is to condone, and thus become partly responsible for, immorality.

Rule (17) rejects such theories and attitudes. There are conflicting views of what morality and religion demand, and many people reject religion altogether. In these conflicts the State, and 'public opinion' also (insofar as it sanctions rules), should be neutral. No rule should be enforced or otherwise acted on by public authorities or by 'the public', unless it can be justified independently of moral and religious theory.
A rule is 'specifically' moral if the reasons for objecting to acts contrary to the rule employ as an ultimate premiss the assertion that such acts are morally wrong or morally evil or morally vicious in themselves or in their consequences or in the disposition to do them (see above, p.76-77). There might be a non-moral reason for enforcing a specifically moral rule; for example, offence given to those who think moral rules ought to be enforced might result in non-moral evils. The non-moral evils would be among the consequences not of the acts contrary to the rule but of failure to enforce it; so the rule would remain specifically moral. Hence its enforcement would violate (17). Rule (17) says unconditionally that such rules are not to be enforced. It might be politically expedient for a liberal government to preserve laws enforcing specifically moral rules; but this would certainly be a violation of the principles of toleration.

It should be noted that moral principles - such as the principles of Toleration - which are also liberal political principles (see above, Chapter 1, note 68) are not meant to come under the prohibition asserted by (17). It may be that these are not 'specifically' moral, but in any case they are meant to be translated into constitutional (and other) laws. There is no inconsistency in asserting as a moral principle governing legislation that other moral principles - or others with certain exceptions - are not to be enforced by law.
'Norms of community life' do not include norms of private groups, e.g. of churches. Members of a church may without violating (17) enforce by informal sanctions on other members (while they remain members) the moral or religious norms of church life; but they may not enforce them on other people. But there must be no enforcement by the 'popular sanction' (in Bentham's language) of specifically moral or religious rules alleged to bind all members of the community either simply as members, or in the performance of some role in the community's public life.

Now according to many liberals, the community's morality is simply a subset of the informally sanctioned norms of community life; and they hold that the proper function of morality is the same as the function of the law, viz. to protect people from certain kinds of harm (in life, liberty, property, health and other 'civil' interests); which makes it seem pointless to assert, as they do, that the law must not enforce morality. The point of making this assertion is, however, that many people do not share the liberal view of what morality is or ought to be. As I stated earlier (above p.65), the principles of Toleration should not be formulated so as to take for granted other parts of liberalism - such as the liberal view of the nature of morality and law. Whatever morality and law may be, the liberal claims that a rule should not be enforced by law or public opinion unless it can be justified by reasoning which does not employ as a premiss the assertion that some act would be immoral or offensive to
It may be that the whole of what the liberal regards as morality consists of rules which meet this condition: it may be that parts of other moral or religious codes also meet it. But 'specifically' moral or religious rules - rules which do not meet it - are not enforceable as community norms.

Arguments

(A) The State's function is limited, and the enforcement of specifically religious or moral rules lies outside the limits.

(B) Religion and morality - except insofar as they protect temporal interests - are private, concerning only the individual and his conscience, or the individual and God.

(C) Specifically religious rules can be left to God to enforce: Deorum iniuriae diis curae.

(D) Forced outward conformity with rules protecting temporal interests may be of some practical value; but such conformity is of no religious or moral value. Hence enforcement of specifically religious or moral rules is pointless.

Applications

Laws, or norms enforced by public opinion, concerning sexual morality (fornication, prostitution, homosexuality, irregular methods of sexual intercourse etc.), abortion, divorce, sale or advertising of contraceptives etc. may be based on specifically moral or religious rules. Governments may follow policies designed to secure some object valued for specifically moral or religious reasons - e.g. the fostering of Christian culture in this country so as to provide a 'light' for Asia.
In the allotting of moral praise and blame, people are to be judged according to their lights. This is a preliminary formulation.

A number of the rules given so far restrict a person in applying his own moral principles in decisions relating to the conduct of others. In deciding whether A has an actual right to do certain things which he has a presumptive right to do, B is to give no weight to specifically moral considerations (Rules 6, 7, 8, 10, 12, 13); specifically moral rules are not to be enforced by law or administrative action, or by public opinion (Rule 17); whatever B thinks A's actual moral duties are, and whatever laws, policies and norms there may be, if A believes he has an actual moral duty to do a certain thing, then he has a presumptive right to do it (Rule 10). Now Rule (18) adds another prohibition to this list: if A has in B's estimation no actual right to do something (even taking account of the presumptive right asserted by (10)), even if in B's estimation he has an actual moral duty not to do it, and he nevertheless does it, it may be that B ought not to blame him for doing it, and perhaps he ought to praise him. Despite these prohibitions, B's moral principles remain fully applicable to his own conduct, and he can persuade others to adopt them and to act on them; the rules just listed do not by any means make it pointless to have a moral code.

Rule (18) implies that if a person believes that he has no duty not to do a certain thing and does it, then he is not to be blamed by someone else who believes it was his duty not
to do it. It also implies that if a person believes he has a duty to do something and does it for that reason and in the face of obstacles, or if he believes it is a good thing beyond the call of duty and does it because it is good, then someone who holds different beliefs on these points ought to recognise nevertheless that the act is praiseworthy.*160 We are not talking about the expediency of insincere words of praise and blame, but real praiseworthiness and blameworthiness;161 the spectator should not hold in his own mind, whether he says anything or not, that the act is blameworthy, or that it does not deserve praise.

What if the agent's beliefs about the morality of his act result from self-deception or negligence? People do sometimes say that the mistaken act done 'in good faith', the act done by a person who 'sincerely believes' that he is doing right, should be judged favorably; what do these qualifications amount to? First, note that the rule supposes that the person does really hold the beliefs in question; he is not deceiving himself in the sense that he somehow knows that he is doing wrong. Real belief can I think be the result of a kind of self-deception, and certainly of negligence. So, second, note that the rule is about the judgment to be made of the act done in a certain belief; it does not rule out blame for the other acts and omissions which caused the belief. A person may be blamed for prior self-deception or negligence, and praised for an act done in the sincere belief resulting from the negligence.
The notion of judging a person according to his lights is
sometimes taken to imply that we are to judge that a person's
duty is whatever he thinks it is - which leads to paradoxes; and that an act done in good faith is to be regarded as a good act. These implications are not necessary. Ordinarily to say that an act is praiseworthy will be taken to imply that it is a good act and that it is an act of duty done in the face of obstacles or a good act beyond the call of duty. But ordinary language may not be a good guide in our present problem, since ordinarily people agree pretty well about what duty requires; our present question is about what is to be said when people disagree. According to (18) a person is not to be deprived of moral credit that would otherwise be his due by a mere mistake in moral belief; even is the act is not in fact good, even if it is in fact contrary to duty, the person who does it because of a mistaken belief is to be praised or blamed as if his mistaken belief were the truth. For the purpose of allotting moral praise and blame his error is to be treated as the truth, but not necessarily for other purposes. From other points of view his act may be seriously defective, so much so, perhaps, that he ought to be stopped from doing it; it would be misleading to say that it is simply 'a good act' - it is praiseworthy, but not simply good. And if his belief is mistaken, then it may not be true that it is his duty to do it, it may be his duty not to do it, even while his effort to do it is praiseworthy. In short: (1) A person's duty is what it is, whether that is what he believes
it to be or not; but (2) he is not to be blamed for any act which he believes to be consistent with his duty. (3) His act is not morally good simpliciter unless he believes it to be consistent with duty and it is consistent with duty (and there may be other conditions); but (4) he may deserve praise for an act he believes to be consistent with duty even though in fact it is not.

Another possible way of putting it is to distinguish between 'objective' and 'subjective' duty, and 'moral' and 'non-moral' goodness, and say that what the person believes to be his duty is his subjective duty even if it is not objectively his duty, that to do one's subjective duty is morally good even if the act is non-morally bad, and that people are to be praised or blamed according to the moral goodness or badness of their acts, i.e. according to their performance or non-performance of their subjective duty. This is the same doctrine, but the formulation seems less satisfactory. It is odd to describe as 'non-moral' a defect which consists in failure to conform to what is objectively ('really', 'in truth') one's moral duty. To praise performance of 'subjective' duty is in plain language to praise performance of what the agent believes is his duty. Let us stick to the clearer formulation: a person is not to be blamed for violating what is (really) his duty if he believes that the act is not contrary to duty; he is to be praised if he does what he believes to be his duty in the face of obstacles, even if it is not his duty. This way of putting it
may seem to involve an oddity too— that of saying that a person may deserve praise for an act which violates his duty; but properly speaking he is praised not for doing what violates his duty, but for doing what he believed to be his duty in the face of difficulties.

If a person has an unusually exacting moral code, and fails to live up to it, is he to be blamed according to his lights? A person who practises the first of the three kinds of tolerating distinguished in Chapter 1 (above p.20) will be ready to forgive him. But apart from this, I suspect that (18) should not be taken to commit us to blaming people for acts we do not ourselves regard as wrong. Perhaps we can say that if A does not think his action wrong, B should not blame him for it; but leave it an open question whether B should blame him if A does believe he is doing wrong. To blame a person for violations of his own moral code is not required by Toleration.

Rule (18) has some relation to (10) (which asserts a right to obey one's own conscience), but the relation to (14) is closer, which is why I have put it into Section IV. It would be possible not to blame and even to praise a person for trying to act in obedience to his mistaken conscience, while believing that his mistaken belief is no reason why he should not be prevented from doing what he praiseworthily tries to do; it would be possible to allow people to do what they believe they must do, while blaming them (at least in one's own mind) or at least refusing to praise them; rules (18) and
(10) are thus independent and complementary. The relation to
(14) (for which see above p.110) is this: if a person knows
that however careful other members of the community are not
to enforce their morality on him, nevertheless they blame him
in their own minds for acts he does not regard as blameworthy,
or view with indifference acts which seem to him to deserve
praise, \(168\) he is to some extent alienated from that community.
But if it is generally accepted that people are to be judged
according to their lights, people with all sorts of moral
convictions can feel at home; if on occasions they are not
permitted to do what they think right, this is made less
damaging to the sense of fraternty by the fact that they are
not blamed for wanting to do it, or for trying to do it when
they believe they ought to do so.

Various points have been made about the interpretation of
the rule. I will sum them up in a new formulation:
(18) An act is to be regarded as morally blameworthy only if
the doer when he did it believed it to be a violation of his
duty; he may be blamed for acts and omissions resulting in
erroneous beliefs about his duty. An act is to be regarded
as morally praiseworthy even if it was in fact contrary to
the doer's duty, if when he did it he did not believe it to
be contrary to his duty, and if the other conditions of
praiseworthiness (excluding conformity with duty) are met.

Arguments

Explicit arguments for the conclusion that a person is to
be judged according to his lights are hard to find; \(169\) to
those who hold this doctrine it apparently seems axiomatic. Bayle, the first author to my knowledge to assert the doctrine, leads his readers to it through a series of approximations: An act done against conscience is a sin; of two similar objectively wrong acts, one done against conscience is the worse sin; of any two acts whatever, including the case where one is objectively right and the other objectively wrong, one done against conscience — whether conscience is right or wrong — is the worse sin; in fact an objectively wrong act not done against conscience is not a sin at all, unless the error is culpable; even if the error is culpable, the act done in error is not a sin; in fact it is good and may be praiseworthy. Bayle's innovation is in the last two steps, in particular in the assertion that an objectively wrong act may deserve praise. This progression is not itself an argument; and each step is supported not by abstract arguments but by examples. It is a way of representing distinctly what Bayle expects to be intuitively obvious once it is distinctly apprehended. However, the doctrine arrived at did not always seem intuitively obvious, and still does not to some. Perhaps the best way to understand its rationale is to trace its history, noting the changes in moral ideas which led to its seeming obviously true to some, while others stuck to older ways of thinking.

In some places in the Bible and in Greek literature it is implied that an act is wrong and punishable if it is contrary to moral law whether or not the doer realises that it is.
There are other places where it is asserted or implied that it is worse to violate the law knowingly - whether because high-handedness is an aggravation, or because ignorance extenuates. Aristotle, apparently reporting the 'commonsense' of his contemporaries, held that ignorance may make an act involuntary. Medieval authors held that ignorance may make an act involuntary, which may excuse the sin of acting contrary to God's law. They did not hold that an act contrary to God's law might ever be praiseworthy or meritorious.

The medieval doctrine of erroneous conscience was complicated by the influence of Augustine's theology of original sin and grace. According to Augustine every man is in some way guilty of Adam's sin, and may rightly be punished for it by God, in this life and in the next. Ignorance (or error) may be a punishment for sin, original sin or other sins; the sins committed in such ignorance are also punishable. God saves some people from all this, by letting them know what they ought to do, giving them power to do it, and accepting their acts as meriting eternal happiness; he does this as a grace, i.e. a gratuitous gift. Since he owes this gift to no-one, there is no injustice in the fact that he withholds it from some who are just as deserving as - rather, no more undeserving than - those to whom he gives it; no reason is required to justify his selection of recipients of this gratuity. Those who live at times and places where the gospel is not preached do not receive grace and are
damned, for Adam's sin alone in the case of infants, for that and their own sins (including those done in ignorance) in the case of adults. Medieval authors followed Augustine's doctrine; however, Thomas Aquinas and others softened it in two respects. First, grace may be given to some who do not hear the gospel; 'faith' is given a broad sense, so that one who has not heard of Christ may be said nevertheless to have faith. Second, the 'damnation' suffered by infants for original sin alone may not include pain, and may not exclude happiness.

Combining the Bible, Aristotle and Augustine, medieval moralists such as Thomas Aquinas and Bonaventure arrived at the following complex doctrine: (1) Whether conscience is right or wrong, to disobey it (to do what one believes to be contrary to duty, to omit what one believes to be one's duty) is always a sin. (2) To do (omit) what in fact is forbidden (commanded) by God's law is always a sin. Thus (3) a person whose conscience commands what God's law forbids or vice versa must sin whatever he does. However, (4) the sin in disobeying God's law out of error will be excused provided the error is not somehow 'voluntary'; (5) even if the error is voluntary the gravity of the sin is less. (6) Ignorance or error is 'voluntary' if it is pretended, or the result of negligence or self-deception. (7) Ignorance or error about moral principles or faith (in the broad sense) is always voluntary; a man is bound to know these things, and can know them, with God's help. God may withhold this
help, but this does not excuse ignorance of faith or morality or the resulting sins. (8) Hence violations of God's law committed because of ignorance or error about moral principle or faith are never excused; (9) though in view of (5) they may not be punished severely.

There is a considerable distance between this and the doctrine that a person is to be judged according to his lights. The change from the medieval doctrine to Bayle's needed, first, the rejection or substantial modification of the doctrine of original sin, faith and grace. To many it came to seem unjust that God should require something which a person can do only with God's help even when that help is not given. Liberal Christians began to assert either that help always is given to those who do their best, or that God does not require knowledge of faith and moral principle from those who cannot acquire it by their own best efforts. Second, it needed the adoption of the view that in cases where error or ignorance is voluntary the error or ignorance is blameworthy - or rather the acts which cause it are - but not the act done out of ignorance or error: in other words, ignorance/error has the same effect whether it is voluntary or not.* Third, it required the adoption of the doctrine that God does not judge a person by his outward acts but by his acts of choice; and that the relevant quality of an act of choice is the respect or contempt for God which it manifests. 

This third development seems to derive from reflection upon constraint and force of circumstances. According to
Aristotle an act is not voluntary if it results from physical constraint; according to Augustine a would-be adulterer who gets no opportunity because of circumstances beyond his control is as guilty as if he had done the act; according to Abelard a would-be philanthropist deserves full credit for his intentions even if robbers deprive him of the money needed to carry them out. Abelard held that the essence of sin is contempt for God, and that the outward act is itself morally indifferent. Later medieval authors did not accept that the outward act is morally indifferent; but they agreed on the essential points, that the person deserves all the blame or praise he would have deserved for carrying his choice into effect if he is prevented from doing so by external circumstances, and that contempt of God is the essence of sin.

Given this doctrine, and the first two changes abovementioned, all that was left for Bayle to do was to treat ignorance/error as a sort of external circumstance preventing a person from giving perfect outward expression to his love or contempt for God. This circumstance is under the person's control in the sense that he can avoid self-deception, negligence etc; but what a person believes at a given time is not at that time under his control, any more than the typical external circumstances of the action; hence even if he is to blame for self-deception and negligence, he is not to be blamed additionally for the erroneous belief or for the acts done in error. Acts done out of a false belief deserve
whatever praise or blame they would have deserved if the belief and other circumstances had been more favorable to the realisation of the agent's intention. Strictly speaking, it is only acts of will, insofar as they are acts of contempt or respect for God, that merit praise or blame; beliefs and outward acts are morally indifferent.199

(19) The State and other public bodies are not to establish or otherwise aid any religion or religions.

This is a preliminary formulation of the rule. Rule (17) forbids the State to enforce any specifically religious rule, or act for specifically religious objects. But this leaves open a possibility that liberals would wish to rule out, viz. that the State might foster some religion for its own secular purposes, otherwise than by enforcing its rules. Suppose for example the State made funds available to a certain church, and gave publicity to its approval of it, on the ground that that church propagates the belief that anyone who forcibly resists State authority will be punished severely for all eternity. This would be inconsistent with the neutrality liberals believe the State should maintain in religious matters. Would it violate any rule so far asserted? Not (17), since no specifically religious rule would be enforced, and the object would be secular. If there were only encouragement, no compulsion to attend services or receive religious instruction and no penalties for unbelief, most of the other rules would not be violated. Rule (16) - asserting
a presumptive right to veto or contract out - cannot be invoked unless the policy is a new departure, and perhaps not even then. Rule (14) - asserting a duty of imperfect obligation to make members of every ideological persuasion feel 'at home' - does not require any particular act or omission, so is not violated by the policy of support for a church. However, to renounce such a policy would be a suitable way of fulfilling the obligation asserted by (14): to make it a principle not to follow such a policy would be a suitable way to guarantee the State neutrality which (14) suggests. Thus the list of principles of Toleration includes (19) as a separate rule, but one closely related to (14).

What does the rule against 'establishment' exclude? However others use the word, I mean it to be understood here so that the rule implies that: the State is not to designate any church as a State church; the State is not to profess any religious faith; State officials in their official capacity are not to participate in religious activities (e.g. services of worship); officials of religious organisations in that capacity are not to have any special role in affairs of state (e.g. by reading prayers on a State occasion). It must also be taken to forbid any expression, or indication, by State officials when acting in their official capacity of the belief that it would be a good thing for citizens to belong to any religion - e.g. by the use of religious language on State occasions, by the use of religious slogans on coinage, by statements that 'this is a religious nation', etc. These
statements also hold, mutatis mutandis, of public bodies other than the State, of a plurality of state churches, and of opinion and practice contrary to any religion or religions: for example university officials should not express or indicate, when acting in their official capacity, a belief that students ought to belong to the 'church of their choice', or that they ought to be agnostics.*

Rule (19) also forbids other forms of State aid (or aid by other public bodies) to religion (or religions, or movements against religion). Aid may take various forms - money or the use of facilities, for example. Aid may be direct or indirect, intentional or incidental: for example, State aid to private hospitals might assist religious organisations in their religious work indirectly, by bringing their existence more prominently to public attention, or by helping them symbolise their concern for human welfare; this might have been the State's intention in giving the aid, or it might be an incidental (though perhaps foreseen) effect of action intended to provide better hospital facilities at lower cost to the taxpayer. Some liberals take the prohibition on State aid very strictly, to forbid even incidental and indirect assistance in any form. All would take it, I believe, to forbid at least direct assistance, and intentional indirect assistance. Incidental indirect assistance is the questionable case. Perhaps most liberals would agree that it is permissible for the State to give such assistance provided it is also given - or at least available for the taking.
to all competing religions and anti-religious movements; for example, if the State has a legitimate secular intention it could subsidise hospitals run by religious associations provided similar subsidies were available to other religious groups, and to agnostics.

The prohibitions of (19) should probably extend to non-religious ideologies. An 'established' philosophy or political ideology (Hegelianism, Americanism, Marxism-Leninism), or State aid to The Ethical Culture Society, would be contrary to liberal principles. There are complications: a Prime Minister must be allowed to express his political ideology, though there does seem to be a distinction between 'political' occasions and 'State' occasions, and a feeling that on State occasions partisan speeches are inappropriate. It would be proper for the State to subsidise election expenses, though not to subsidise some groups and not others.

It should be noted that the rule altogether excludes establishment (as distinct from aid) no matter what purpose this would serve. Even if the State can subsidise religious hospitals to further its own secular ends, it cannot establish a religion for such a purpose; i.e. it cannot designate a church as a State church, or send the Head of State to participate in religious services, etc., on the ground that this serves a secular purpose.

To sum up, I will substitute a new formulation of the principle:
(19)(i) The State and other public bodies are not on any pretext: to profess any ideology; to allow public officials in their official capacity to participate in the activities of an association professing an ideology; to allow officials of such an organisation in their official capacity to participate in acts of a public body; to allow public officials on public occasions to express or indicate the belief that people should adopt or practise any ideology.

(ii) The State and other public bodies are not to aid any ideological association or movement with money, facilities, or otherwise, either (a) at all;

or (b) unless the activity aided serves some non-ideological public purpose, and the aid indirectly given to the ideology is incidental;

or (c) unless ... (as in (b)), and the same amount of assistance is also available to all other ideological bodies which compete with this one.

Arguments

(A) The State's function is limited; to establish or aid religion (or other ideologies) is outside the limits.

(B) Establishment or aid, even if it is intended to assist rival groups equally, leads to jealousies and dissension. 207

(C) To transfer money by tax and subsidy from members of one
ideology to members of another is an injustice and a violation of the rights of conscience; to compel people to support the ideology of their choice encourages laziness and corruption in its leaders.\(^{208}\)

(D) Religion is debased if it is used for secular purposes. 209

Applications

State Aid to Private Schools  In the nineteenth century, this became a controversial issue here, in England and Ireland, in the U.S. and Canada, France and Germany, and elsewhere; the controversy continues. Several of the principles of Toleration seem to be relevant to this issue.

Catholics claim that the subsidy per child for children in Catholic schools should equal that provided for children in government schools—that otherwise the rights of conscience are violated, since Catholics believe themselves obliged in conscience to send their children to schools in which Catholic religion is integral to the program, and inequality of subsidies is, in a sense, punishment—see above p.10,112. This argument invokes principles like (10) and (11). It could also be argued that the right alleged is one of the rights of Association derived from rules (6) and (7).

Humanists sometimes claim that no subsidy should be given to religious schools, and invoke a strict version of (19). They argue that religious schools are 'divisive'; that they indoctrinate; that an extensive system of schools based on different ideologies would lead to an uneconomic use of the already inadequate resources available for education, and that
it would force some children to travel out of their own
district to find a suitable school; that it would transfer
money from members of small sects (e.g. humanists) to large
sects (e.g. the Catholic Church) and thus reverse the alleged
injustice. Against the first of these points it might be said
that the desirability of likemindedness, or an appearance of
likemindedness, is not to be weighed against the rights of
conscience or of association (see above p.76, 99); and anyway
'pluralism' is a good thing. Against the second it might be
said that 'indoctrination' need not occur in religious schools,
and may occur in government schools; but this would merely
weaken the objection without destroying it, if it us true that
the likelihood of indoctrination is higher in religious
schools. The other points seem sound.*210

According to my formulations, the rights of conscience
and of association are presumptive, and the considerations just
listed (except the first) may be balanced against them. The
Catholics' belief that they are obliged in conscience to send
their children to Catholic schools seems to lack some of the
characteristics necessary to give the right to obey conscience
its maximum weight.*211 Nevertheless it seems unlikely that
the rights in question are overridden; i.e. that Catholics
could justly be compelled to send their children to government
schools. However, under the present system they are not
compelled or even intentionally tempted. Any obstruction is
incidental, not intentional (see above p.113), though this may
not always have been the case. The transfer of funds by equal
tax and unequal subsidy is 'punishment' only in an extended sense.

But there are reasons, provided by (14) and by the duties of imperfect obligation mentioned on p. 41 points 6 and 7, to give consideration to removing Catholic dissatisfaction, not as a matter of strict justice or of the rights of conscience, but of benevolence and fraternity. These reasons are not conclusive, and must be balanced against the considerations listed in the paragraph before last. However if (19) is asserted in a strict version it will be impossible even to consider removing this dissatisfaction. The situation will then be that there is an 'incidental burden' on the exercise of certain rights which cannot be alleviated (except by abolishing government schools and subsidies to education altogether), and must be borne as the price to be paid for the other benefits of State neutrality. 212

Other Applications Religious teaching or exercises in government schools; minor forms of assistance to religious schools - lunches, textbooks, school buses; tax exemptions for church property, or for gifts to religious organisations; State representation at religious functions; prayers and chaplaincies in public bodies.

(20) In deciding whether to exclude a person from certain jobs or other social roles, or to take other precautions against him, little weight is to be given to general presumptions that members of an ideological association think and will
act alike, that a member must see all the practical implications of his ideological principles, or that a member will act as his beliefs require. 213

This would be regarded by many liberals as an excessively cautious formulation, since it allows that some weight might be given to a person's religious or political affiliations in allocating jobs and so on. Charles James Fox and many liberals since have regarded exclusion from public offices on ideological grounds as a kind of punishment for belief, i.e. as persecution, and have asserted that no-one ought to be punished except for an overt act which he himself has already committed. To threaten that punishment will follow for any dangerous act is a deterrent, and Fox regarded this as a sufficient precaution in all cases. 214

To exclude a person from a public office, or to take other precautions against him, because he is assumed to have dangerous opinions, is 'punishment' in the extended sense, though not in the strict sense (see above p.112). People dislike being treated as dangerous, even when they know that others are justified, from their point of view, in taking precautions. However, many Catholics, Communists or 'fellow-travellers' and others who are sometimes treated as dangerous do not admit that they are; they protest that while it may be true that some in that category may be dangerous, they are themselves loyal and trustworthy members of the community who seek their goals by accepted means; they feel slighted and rejected when they are made objects of precautions, and
exclusion from jobs may harm them materially.

On the other hand, it may seem reckless to rely on the deterrent effect of punishment threatened for acts committed, especially if the acts may put those who do them into power beyond the reach of punishment. Liberals have reluctantly accepted many kinds of precautionary action which Fox and his contemporaries rejected - 'preventive' police, preventive detention of members of terrorist organisations, wartime prior censorship of the press etc; precautionary exclusion from public office or government employment is no different in principle. Further, as conservatives have often pointed out, no-one has a right to any position of political power or public trust; exclusion is not an injustice. There may be a 'human right' to have some job, but this is not a right to any particular job. There may be a moral right to equality of opportunity, but normally there are plenty of good opportunities for employment in positions which are not 'sensitive': if there are not, other opportunities might be deliberately created for people excluded as a precaution from sensitive positions.

My formulation of (20) is perhaps a compromise between liberal and conservative attitudes: it is what a minimal tolerance requires. Like most of the principles in this section, it can be seen as a way of giving greater stringency in a certain matter to the imperfect obligation asserted by (14), to make people of all ideological persuasions feel at home in the public life of the community. 'Public' life
includes business, industry, education and many other things besides politics (see above, p.108); (20) relates to exclusion from positions - paid or unpaid - in any public body, and to other kinds of precautions as well (such as preventive detention). Like rule (3), it is a rule of deliberation asserting that little weight is to be given to certain presumptions; evidence should be sought specifically relating to the individual about whom the decision is being made.

Arguments 217

(A) In any ideological association members are not all equally orthodox, and there may be points on which there is no orthodoxy but rather competition between opposing schools of thought within the association. It is therefore risky to infer from mere membership that a person holds a certain belief; it is necessary to know whether this belief is part of the orthodoxy of the association, and whether this person is generally an orthodox member - and even if he is he might be unorthodox at this point.

(B) What seem to outsiders to be practical implications of the tenets of a sect may not seem so to members, or not to all members.

(C) People often do not act on their professed beliefs, especially when they are at variance with the beliefs generally held in other associations (e.g. the community at large) of which the person regards himself as a
member. A person may abandon or modify or disregard a belief, or find an overriding reason for not acting on it, when he is on the point of acting on it.

Applications

Loyalty programs; religious tests for public office; questioning or sounding out a job applicant to discover his ideological beliefs; preventive detention and surveillance.

V GENERAL ARGUMENTS FOR TOLERATION

Many advocates of toleration have not distinguished the elements of the concept, and have argued for toleration as if it were a single thing. Some of these arguments, at least when vaguely stated, seem equally relevant to all or many of the rules. For example, if someone asserts that persecution breeds hypocrisy, he might be expressing support for all or any of several rules; likewise if he asserts that toleration favours discovery and dissemination of truth, or that the costs of persecution always outweigh its benefits, or that persecution is outside the function of the State, or that it is contrary to respect for persons. These arguments have already been mentioned. However there are two general arguments of some importance not yet mentioned.

The first runs as follows: 218 (1) When there is more than slight doubt (when there is less than 'moral certainty') whether one has the right to do an action, one ought not do it until the doubt is removed. (2) There always is serious and irremovable doubt in the case of acts of persecution,
especially those that involve killing.\textsuperscript{219} (3) Therefore, persecution is always wrong; killing heretics is always very wrong.

The first premiss asserts a 'play-safe' decision-making policy. Those who use this argument seem to assume that it is worse to do something (objectively) bad than to be inactive and lose opportunities for doing good. The agent's first responsibility is to avoid objective sins of commission; God will take care of the general course of history.\textsuperscript{220} The 'play-safe' policy is not adopted to maximise long-run returns - these are not the human agent's concern; it is adopted because of the moral importance of not committing any sin, even unwittingly.

What are the doubts mentioned in (2)? First, the persecutor may be mistaken in judging which doctrines are true. Even if the possibility of mistake does not seem high, as long as the doubt is more than slight the conclusion follows. Second, the persecutor may easily be mistaken in judging that a person who holds the false doctrine deserves to be punished for it - his error may be innocent. (This assumes that the object of persecution is to punish wrongdoing; it may have some other object.) In view of these first two points, the persecutor cannot be sure that he is not in fact hindering the truth, injuring mistaken but innocent people, or injuring people who are in the right. Third, there is in general a doubt whether any human being has a right to persecute, even if he is morally certain of his judgment of
doctrines and men. The other arguments against persecution, even if they are uncertain and inconclusive, may be enough to deprive the persecutor of moral certainty.

The other argument is what I will call the 'reciprocity' argument. It occupies the greater part of Bayle's *Commentaire philosophique sur ces paroles de Jésus Christ, Contrain-les d'entrer*. These words of Jesus have been taken as a command to his followers to compel others to become his followers too. But several sects (Catholics, Lutherans, Reformed, etc.) each claim to be the only genuine followers of Jesus, and regard their rivals as non-followers who ought to be compelled to become followers; if each sect tries to obey the alleged command the result will be a shambles. If Jesus was divine he must have foreseen the divisions of Christianity; if nevertheless he commanded his followers to persecute, he is responsible for the resultant shambles; since this is unthinkable, he must not have intended his words to be taken as a command to persecute. It might be said that the command was addressed only to those who are *in truth* his followers; no-one may persecute unless his opinions are in fact true. Bayle replies that God's commands have to be applied to cases by men's fallible judgments; hence it cannot be supposed that belief in real - as distinct from putative - truth gives a right to persecute. 221 There is no way of distinguishing between what one now thinks true and what is true, except by discussion and investigation, and even then one may be mistaken. 222 Hence if Christ has commanded his true
followers to persecute, all who think themselves his followers will think themselves obliged to persecute, and once again there will be mutual slaughter, against which the true church - whichever it is - will have no defence except attempts to engage its persecutors in discussion. Christ cannot have left his true followers so defenceless against a persecution he himself set going; hence his words must never have been intended as a command to persecute. 223

Even without a command to persecute, many people will want to persecute, with the same results. What must be asserted then is not merely that there is no command to persecute, but that there is a duty not to persecute. This duty must be asserted as one of the 'common principles' of social life: i.e. as one of the principles everyone is to acknowledge, in the same sense, no matter what his interests or beliefs. A common principle forbidding persecution is needed to prevent mutual slaughter; it must be supposed that God's law imposes such a principle. 224 This would make persecution something wrong intrinsically. If the 'true church' persecutes when it gets the chance it will then be doing something wrong intrinsically. If it could rightly do this, i.e. do intrinsically wrong acts in a good cause, moral boundaries would be obliterated. The common principles bind all, always. 225

Bayle's argument envisages a single community (Europe, or France, or Germany) torn by religious war. Others used similar arguments envisaging a state of affairs in which
different communities, or the same community at different times, are dominated by different sects who imitate one another's behaviour. Bayle's argument turns on the undesirability of mutual slaughter; other versions of the argument turn on the undesirability of other milder kinds of suffering, or the special undesirability of suffering on the part of true believers, or on the exclusion of quarrelling Christian sects from non-Christian countries.

VI CONCLUSION

To sum up.* The paradigmatic Tolerant Man

(1) inflicts no blame or punishment for belief, or (2) for change of belief (p.53); (3) is slow to infer negligence or self-deception from what a person believes (p.59); (4) recognises in others a right to investigate any question as they see fit, and to draw conclusions in their own way, notwithstanding any duty to believe or any risk of their arriving at a wrong conclusion (p.68-69); (5) absolutely opposes compulsory ideological instruction (p.71).

He recognises (6) and (7) that others have a right to express and advocate their beliefs, notwithstanding the (mere) illegality or unconstituonality or immorality or impiety of an act they advocate, even if the adoption of beliefs they advocate would be bad intrinsically, or socially divisive, or likely to lead to undesirable political change (p.74,81); (8) that he has an (imperfect) obligation to listen to advocates of beliefs different from his own, even when curiosity,
friendship etc. do not move him to do so (p.89); (9) that others have a right to refuse to do what may be taken as an expression or indication of belief - an absolute right, where the thing is generally understood as an expression of belief, and the belief is not one the person holds (p.90,93).

He recognises (10) that others have a right to act in obedience to their consciences, notwithstanding considerations of the kind mentioned above in connexion with (6) and (7) (p.95); (11) that a person should not be tempted, even if it is right to prevent him from obeying his conscience (p.95); (12) that people have a right to perform acts of religion, notwithstanding... as in (6) and (7), and notwithstanding 'community standards' of religious propriety (p.104,105); (13) that they have a right to refuse to perform acts which may be regarded as religious, and an absolute right not to perform essentially religious acts (p.104,106).

(19). He opposes the establishment of any official public religion or ideology, or the use of public resources to aid (intentionally, at least) any ideological movement (p.140); (16) he recognises that members have a right to veto, or contract out, if a voluntary society normally ideologically neutral undertakes a project with ideological implications (p.117); (20) he opposes the taking of precautions against anyone because of his association with some ideological movement (p.143-144); (17) he opposes the enforcement of specifically moral or religious rules, and the taking of specifically moral and religious considerations into account
in public decision-making (p.120); (18) he does not blame people morally for acting on their ideological beliefs and on their own moral judgment, and he does not withhold praise when they follow their beliefs despite difficulties (p.130); (15) he supports arrangements for ensuring that minority beliefs get a fair share of public attention (p.115); and (14) he aims generally at making members of ideological minorities feel welcome in the community (p.110).

Commonly (though this is not essential to being tolerant - see above, p.32-33), a tolerant man will have a certain stock of arguments with which to support his principles - arguments about: the limits of State power; the undesirability of hypocrisy; the importance of free inquiry and discussion for the progress of truth; the immorality of acting against one's convictions, and the immorality of forcing or tempting a person to that immorality; the danger of establishing intolerant precedents; and so on. He may also be concerned about various legal and institutional matters: censorship, laws relating to meetings and demonstrations, laws of libel and sedition, laws enforcing traditional morality; constitutional bills of rights; State aid to religious schools; and so on.

The tolerant man need not be the proverbial 'wishy-washy liberal'. He may not be a liberal at all (above, p.65). Even if he is, he may hold definite rules, including perhaps specifically moral and religious rules, he may act on them and try to persuade others to adopt them; he will have
political principles, and may be willing to impose them by force - at least, if he has majority approval and legal authority. He may be willing to override the rights to express, advocate, and act on one's conscientious convictions, if this is necessary to ward off evils which are evils whichever ideology is right.

At several points in the discussion of the rules I relied explicitly on my sense of what a person would have to accept in order to be regarded by liberals as tolerant (e.g. see above, p.72,73,111). In fact my sense of how people use the term 'liberal', and how liberals use the term 'tolerant' (and its cognates), is the source of every detail of my paradigm. Even when I have been able to quote from Locke or Mill or Bayle to illustrate some point, I have implicitly relied on my ability to recognise these as liberal writers, and to recognise the passages quoted as things liberals these days would regard as expressions of their own characteristic opinions. (See above, p.1-2, and Chapter 1 note 2.) It may be that my linguistic intuitions are mistaken; or it may be that the use of 'tolerant' and 'liberal' differs from group to group. The only way to discover such differences is for someone to give an account of what he understands the liberal doctrine of toleration to be, and for others to respond.

The arguments, or rather 'topics', listed in this chapter do not of course constitute the liberal case for toleration. Even the more detailed arguments quoted in the notes are usually only short extracts from more elaborate arguments that
ought to be read *in extenso*. My commonplaces and references are merely a guide to the sources of the liberal case for Toleration.

In Part II I will examine in some detail several of the common arguments - the argument that freedom of inquiry and discussion favour the cause of truth, the argument from the limits of State authority, and the 'reciprocity' argument. But first I wish to make some points about justiciation in general, which I hope will throw some light on several questions concerning the justification of the principles of Toleration: How do we decide whether a justification is sufficient? If the case for Toleration falls short of the standards of sufficiency, is it irrational to assert and act on the principles of Toleration? Insofar as it has force, does it make it irrational for anyone to be intolerant?

To anticipate: it is my belief that the liberal case for Toleration is not compelling; nevertheless it is not irrational for a person to assert the principles of Toleration; on the other hand he cannot rightly accuse intolerant people of irrationality.
PART 2. SHOULD ONE BE TOLERANT?
CHAPTER 3. THE JUSTIFICATION OF MORAL PRINCIPLES

Part II is meant to contribute to answering the question whether one may, or must, adopt as moral principles the rules of Toleration formulated in Part I. This is a question about the justification of a set of proposed moral principles. This introductory chapter to Part II discusses the justification of moral principles generally. The main point I wish to make is that there is nothing irrational, or in any way philosophically reprehensible, in holding a principle for which one can produce no justifying argument—even if there are objections against it, even if most other people reject it. This has certain methodological implications: that whether one can rationally assert the principles of Toleration is not at issue in the remaining chapters of Part II; that objections against Toleration resting on premisses for which no good and sufficient reasons have been adduced cannot for that reason be put aside. Besides these methodological points, however, I wish to prepare points needed in the substantive arguments of later chapters. The relevance of some of the details in this chapter will, therefore, not be apparent until later.

Philosophers sometimes think about justification in terms of law-court imagery. Someone makes an assertion, a claim; until he makes out his case it is proper to suspend judgment. There may be some initial presumption he must defeat
to get a hearing. In any case an onus of proof lies on him, since he is the one making an assertion; until he produces his evidence no-one else need make a move. Courts have rules about the admissibility of evidence, and so does the philosophical tribunal, though the rules are not settled. Some say that a philosopher qua philosopher is not competent to determine questions of empirical fact; his business is with conceptual truths; since these include logical truths, he can say hypothetically what would follow from what, but if the final determination of a question requires factual premisses, it must be remitted to practitioners of some other subject.¹ Others would relax this a little, by allowing that philosophers may take 'judicial notice' of linguistic facts, and perhaps also of certain other facts accessible to common observation.² At all events, once evidence cognizable by philosophers has been presented it is criticised; if it does not withstand criticism the onus of proof has not been discharged, and the claim must be abandoned, or withdrawn for the time being. Law courts have standards of proof, and similarly there are standards of sufficiency in philosophical argument. Unless the reasons which survive criticism are 'good and sufficient' the assertion remains unjustified. To say that 'there is no reason to suppose that p', or that 'there is no evidence that p', is for many philosophers another way of saying that p should not be asserted. A rational man is one who does not assert or act on any proposition for which he cannot produce good and sufficient reasons. To persist in an
assertion for which such reasons cannot be produced is irrational, capricious, arbitrary.

Let us apply this to our present subject. Those who assert the principles of toleration offer various arguments, using as premisses various moral principles, e.g. that everyone has a duty to support what conducest to the discovery and dissemination of truth, and also factual assertions, e.g. that freedom of inquiry and advocacy is as a matter of fact conducive to the discovery and dissemination of truth. Is it within the competence of philosophy to accept or reject such premisses? Or should the discussion remain hypothetical (granting the premisses for the sake of argument), or should the question be remitted to another subject? If the premisses were true, would the arguments then be sufficient? If not, or if the premisses are not true, it would it seem be irrational, arbitrary, etc. to persist in asserting the principles of toleration.

On the other hand, many who practise intolerance have claimed to have good reasons for what they do. They have argued that anyone who fails to repress outward acts of immorality or impiety thereby becomes partly responsible for them; that religious and moral consensus, or apparent consensus, is necessary to social welfare; and so on. The questions of competence, truth of premisses and sufficiency of reasons arise again. It might be held that until they have been justified by good and sufficient reasons intolerant actions are irrational.
Perhaps it might be argued that no onus of proof lies on those who assert Toleration. There is an initial presumption in favour of liberty and non-interference. Until the persecutor defeats this presumption and makes out his case the liberal need make no move. However, the question might be asked whether the presumption in favour of liberty and non-interference can be justified? Further, the principles of Toleration go beyond the mere presumption of liberty and non-interference; for example, in asserting a right to obey one's conscience weightier than the general right to do as one chooses, or in asserting that we ought to make minorities feel at home. Even if there is a presumption in favour of liberty, it would seem that a case for the principles of Toleration needs to be made out before they can rationally be asserted.

Arguments for the principles of Toleration - or against them - will have moral propositions among their premisses, proportions which may themselves need justification by further argument. The arguments for these propositions will also have moral propositions among their premisses. But if a proposition must be justified before it can be asserted, the regress of arguments cannot be infinite; there must be ultimate self-evident moral principles. The impossibility of infinite regress in justification was argued long ago by Aristotle in his discussion of ultimate speculative principles. His solution was to postulate in man a power (Nous) by which he knows the truth of first principles without need for any
arguments from more basic premises. Medieval writers made an analogous claim with respect to morality: practical reason includes a power (synderesis) by which a person perceives without argument the obligatoriness of the primary moral principles. Eighteenth century moralists postulated a similar power, some classing it as a sense, others as part of reason. Such doctrines are now classed as species of Intuitionism. Most modern intuitionists have asserted prima facie and not absolute principles, but like the medieval theologians they have claimed that men can know basic moral principles without argument. Perhaps it might be possible to show that the principles of Toleration, though not themselves self-evident, can be justified by a chain of arguments in which the moral premisses used are self-evidently true.

However many philosophers deny that moral principles can ever properly be said to be true. There are no moral facts, there is no moral sense; moral principles are adopted by decision. Liberals have decided to adopt the principles of toleration, conservatives adopt contrary principles. Philosophers who deny that moral principles can be true expect that some moral disagreements will be impossible to resolve, and the disagreement over Toleration may be among them. This seems to make moral assertions irrational; or perhaps it is a mistake to call them either rational or irrational; at any rate they are not rational, on this theory, since they cannot be justified by good and sufficient reasons.
It would seem, then, that the only hope of showing that assertion of the principles of Toleration is rationally justified is to show that they follow from basic moral principles which are self-evident — if we can find such principles and construct an argument from them to the desired conclusion. Even then the argument would have to be hypothetical, if philosophers have no cognisance of fact, since some of the premisses would almost certainly be assertions of fact. And until the appropriate discipline has certified the facts, and the self-evident principles have been found and the justifying argument constructed, it would seem that positive assertion of the principles of Toleration would be irrational.

I. AN OUTLINE OF A THEORY OF JUSTIFICATION.

In the rest of this chapter I will propose more liberal and tolerant, or lax, conceptions of rationality and justification. The following is an outline, to be filled in later. For the time being I will ignore the difference between moral and non-moral truths.

A person is rational if and only if —

(a) he believes all, and only, propositions toward which he has a feeling of belief, or which seem to him to follow necessarily from other propositions which he believes; and

(b) his conduct is consistent with the practical principles included among his beliefs.
By a 'belief' I mean a proposition which one regards as true. Ordinary usage may perhaps allow the possibility of unconscious beliefs; it may withhold the description from propositions a person says are true but will not act on ('He does not really believe it'). I will leave these complications aside; I stipulate that I will use 'believe' for 'count as true'. According to some epistemologies one should withhold assent from - not count as true - some propositions toward which one has the feeling of belief (of which one feels more or less convinced, which strike one as true, which seems true); I say that all propositions of which one feels convinced may and ought to be listed among the propositions one regards as true. I say also that some other propositions should be included in the list. Note that to believe $p$, and to have towards $p$ the feeling of belief, are not equivalent.\textsuperscript{6}

Among the propositions a person believes there may be practical principles. Some of these may prescribe that in certain circumstances he is to act as if he believes something he does not believe. For example: while inductive reasoning often causes a sense of belief in its conclusion, which is then to be believed, in other cases it does not; but it may still be irrational not to act in certain circumstances consistently with the conclusion of inductive argument, if a practical proposition enjoining this seems true. Similarly in science it may be irrational not to act as if the simpler theory is true, even though it does not excite any feeling of belief, if it seems true that in scientific work the simpler theory is to
be preferred. A person's practical principles might require him in some cases to act as if he does not believe what he does believe; for example, his principles may require a judge to continue to conduct a trial as if the accused might be innocent even after he has become convinced that he is in fact guilty.

It is often, though not always, possible to estimate the likelihood that one of the propositions one believes, or acts as if one believes, is actually false. ('I feel convinced of this, but it is quite (or just) possible I am mistaken'). The estimate may be a hunch - i.e. a proposition towards which I have a feeling of belief; or it may follow from other propositions - e.g. a proposition asserting that a belief which other people disagree with may well be false, or a generalisation based on past experience of discovering the falsity of similar beliefs. The estimate may itself be a belief, or it may be one of the propositions mentioned in the preceding paragraph, of which it is believed that one ought to act as if they are true.

The higher the likelihood that a proposition one believes may actually be false, the more reason there is to be cautious in acting on it, and for subjecting it to investigation. Caution in action may involve: following a more conservative decision rule, or postponing action while one investigates, or keeping open possibilities of doing later what one would want to do if the proposition turned out to be false. A suspect proposition may be subjected to investigation not only to
improve the chances of successful action, but also for the sake of truth; to have many true beliefs, and to believe nothing which is actually false, may and ought to be among one's goals. Because of scarcity of time and resources it is impossible to investigate everything that deserves investigation, so priorities have to be established. Several kinds of considerations are relevant; the degree of likelihood that a proposition one believes is false is one of them. Different people have, and ought to have, different priorities. It may be reasonable in one person, though perhaps not in another, to leave uninvestigated a belief which he suspects is false and must act on from time to time; this may not be negligence, but a reflection of the fact that time and resources are scarce and other matters more pressing.

Beliefs differ in the intensity of the feeling of belief, and in the estimated likelihood of actual falsity; the estimated likelihood of error and the intensity of the feeling of belief may not vary together. Beliefs also differ in another respect which I will call 'rank'. One of the reasons for suspecting falsity is conflict among one's beliefs. If argument can ever resolve conflict it must be the case that one belief can 'outrank' another in the sense that conflict between them leaves the former unshaken and eliminates the latter by destroying the feeling of belief towards it. A proposition believed only because of the feeling of belief is eliminated from the list of true propositions when the feeling is lost, though there might be reason to continue to act as if
one believes it.

Investigation (under which I include observation and experiment, reasoning, consulting authorities, discussion with other people, and whatever else the investigator believes may lead to knowledge - e.g. prayer) may affect the set of beliefs and propositions one acts as if one believes in a number of ways. It may add new propositions, some of which may be high-ranking beliefs. Some propositions may be eliminated or brought under suspicion - previously unknown conflicts among one's beliefs, or disagreements with other people, may be brought to notice; newly added propositions may conflict with old ones, and if the new proposition is high-ranking some old ones may be eliminated. Suspicion may be removed from some propositions by eliminating other propositions with which they conflicted, or by convincing objectors. Investigation may reveal that a suspect proposition originally admitted because of the feeling of belief can be derived deductively from other beliefs; this may remove suspicion altogether if the other beliefs are high-ranking, or it may bring them also under suspicion - though it may at the same time shift most of the suspicion to the other side of the conflict. The fact that investigation and discussion fails to reveal any conflict or disagreement may reduce one's estimate of the likelihood that a belief is actually false.

The justification of a proposition may mean one or another of the things mentioned in the last paragraph - eliminating conflicting propositions, convincing objectors,
deriving the proposition from other beliefs, trying without success to find objections or disagreement; any of these reduces the suspicion that the proposition may be false. Let us call that 'justification-1'. But even without investigation or argument an assertion may be 'justified' in what I will call the second sense, merely by being the object of a feeling of belief, or by being seen as a necessary implication of other beliefs. 'Justification-2' is justification against the charge that it is irrational to assert the proposition or to act on it.

On my theory, then, a person may be justified (in the second sense) in asserting and acting on a proposition towards which he has a feeling of belief, though he can give no reason for it, though others deny it, and though there are against it unresolved objections drawn from among his own beliefs. However, in such a case the proposition would lie under a suspicion of being actually false; to remove or lighten this suspicion justification (of the first sort) is necessary. If time is scarce and other matters are pressing he may, without negligence or other fault, never attempt such justification. To assert a proposition without argument in the face of disagreement and unresolved objections may involve no violation of the 'ethics of belief'.

The theory I have outlined might be called individualistic, in one respect: each person ought to 'stick to his guns' even if others disagree until investigation changes his mind, if it ever does. The majority need not be right. But the theory is not a form of relativism. It is
impossible for people who disagree both to be right; to say that two people may be justified (second sense) in asserting two propositions which contradict one another is not to say that both propositions are true. A person may rationally assert propositions which are, unknown to him, not true. 7

The theory consists of a definition of rationality, and a set of propositions which I believe to be true - that one ought to try to estimate the likelihood that a belief may actually be false, that one ought to act on a proposition more cautiously the higher the likelihood that it is mistaken, and so on. I believe that these propositions are true, and that anyone who rejects them is mistaken. But I cannot say that he is irrational. Whether the theory is true is a question open for discussion among rational persons. *8

I do not claim for the feeling of belief any particular degree of general reliability as an index of truth, nor do I claim that human beings are generally right when they feel convinced. The feeling of belief admits a proposition to the class of propositions regarded as true, but it might be eliminated again later. How likely this is to happen differs from case to case, there is no general level of reliability of initial judgment. Further, it is possible that even in the long run many propositions actually false will continue to be believed. I have no way of knowing how good human powers of distinguishing truth and falsity may be. It is possible that our successive changes of mind do not take us towards any goal. The sceptics may be right. Their suggestions do not strike me
as true, and I do not believe them; but they may be true.
However this possibility can make no other difference once I have acknowledged that it is a possibility.

II. THE DETAILS.

It is difficult to know how far into detail to go. Since different readers will want different points explained, to try to satisfy all would risk boring all. The best solution seems to be to put the less important details into an appendix. The Appendix (below, Volume 2 p.173) includes the following sections: The Feeling of Belief; Kinds of Argument; The Feeling of Belief and Science; Individualism and Intersubjectivity; Suspecting Falsity; Belief and Action; Caution in Action; Onus of Proof and Suspension of Judgment; the Justification of the Theory of Justification.

In the rest of this section I will deal with two matters: high-ranking beliefs, and sufficiency of justification.

High-Ranking Beliefs

One of the things that brings a belief under suspicion is conflict with other beliefs - i.e. the fact that there are arguments against it which are based on premises that seem to be true. Part of the work of justification (sense 1) is to construct arguments supporting the belief that has come under suspicion, and arguments opposing the objections.

If conflicts are ever to be resolved by argument, it must be the case that some beliefs 'outrank' others in the sense that conflict between them leaves the former unshaken and
eliminates the latter. Suppose $P, Q, R \& S$ are propositions (or conjunctions of propositions) which all seem true, although $P$ seems to imply not-$Q$. It is noticed that $R$ implies $P$, and that $S$ implies not-$Q$. This may merely bring $R \& S$ under suspicion also. But it is possible that either $R$ or $S$ may 'outrank' $Q$; i.e. the fact that $R$ implies $P$ which implies not-$Q$, or that $S$ implies not-$Q$, may eliminate $Q$ and resolve the conflict. (This cannot happen unless all the conjuncts composing $R$ or $S$ 'outrank' $Q$ - if one of them does not, then perhaps it rather than $Q$ is mistaken). Unless some propositions outranked others, argument in favour of one conflicting proposition (from $R$ to $P$) or against the other (from $S$ against $Q$) would not resolve conflict but merely extend it.

Perhaps there are more than two ranks - beliefs of one type may outrank beliefs of a second type, but be outranked by beliefs of some third type, etc.

Everyone, I think, will agree that perceptual judgments ('the evidence of my own senses') rank high; when another belief conflicts with a perceptual judgment the former often ceases to excite the feeling of belief. Perceptual judgments and higher-level (but lower ranking) theoretical propositions do not formally contradict one another, so the conflict does not show that one or the other must be false. But such conflict does often (not always) destroy the feeling of belief in the higher-level proposition, which will eliminate it unless it can be deduced from other beliefs. Some people
claim to have extra senses, or intuitions or inspirations, which provide high-ranking propositions; and perhaps they really do, but most of us do not.

High-ranking beliefs have in my theory a role somewhat similar to that played by self-evident basic propositions in some other theories, but there are differences. First, any proposition can be asserted if it excites the feeling of belief or is entailed by propositions which do, even if it is not high-ranking or entailed by high-ranking propositions. The main use of the high-ranking propositions is to resolve conflicts, not to provide axioms by inference from which all other beliefs are to be justified. Second, a high-ranking belief may itself come under suspicion of falsity or be eliminated; high-ranking propositions may come into conflict with one another; in fact even before such conflict occurs, reasons (d) and (e) for suspecting falsity (Appendix p.185) apply. The fact that a belief belongs to the highest rank does not give it a permanently assured place among one's beliefs, or guarantee that it will never stand in need of justification.

It should not be supposed that every conflict between beliefs can be resolved by the elimination of one of them by bringing it into conflict with a higher-ranking belief. Sometimes there is no relevant higher-ranking belief. Sometimes conflict (short of formal contradiction) with a high-ranking belief does not destroy the feelings of belief: e.g. a theory may continue to seem true despite a conflicting
observation. Such conflict is not proof that either the theory or the observation must be false; it might be resolvable by some auxiliary hypothesis — which might itself, either from the first or eventually, come to seem true. At any given time a person is likely to have unresolved conflicts among his beliefs, many of which will therefore be under more or less grave suspicion of falsity. Some of these conflicts may never be resolved, but no-one can say beforehand of any of them that it never could be.

An argument may alleviate, or intensify, suspicion even if its premisses are not high-ranking or basic. Any conflict among beliefs gives reason to suspect that at least some of them are actually false; objections need not go back to first principles. Supporting arguments from low-ranking premisses do not resolve conflict, but they may shift suspicion onto the objection. Even if high-ranking propositions are not available to destroy the objection other beliefs may supply arguments to alleviate the suspicion the objection creates. Since there are no basic propositions, no propositions permanently immune to suspicion and never in need of justification, justificatory arguments cannot rest on basic premisses. In large part investigation consists in the construction of arguments for or against the proposition under investigation out of premisses which are low-ranking and themselves under suspicion.
Sufficiency of Justification

I have distinguished two kinds of justification - 'Justification-1' of a belief under suspicion of falsity, and 'Justification-2' against the charge of irrationality (see above, p.167).

If a person is asked by what right he asserts and acts on a proposition - to show cause why he should not be convicted of irrationality for doing so - it is a sufficient answer that the proposition strikes him as true, or is entailed by propositions which do.

However justification-1 against the suspicion of falsity is a more difficult matter. As long as there remains any conflict among my beliefs, or anyone who disagrees, as long as it remains possible that further investigation might reveal conflict or disagreement, there is reason to engage in justification-1. In fact if 'fallibilism' is true (Append. p.185) or if the suggestions of the sceptics might be the truth, then no justification-1 can ever be absolutely sufficient to remove all suspicion. It may be sufficient for the time being and for certain purposes, but more justificatory effort may be required later, and the belief may in the end be eliminated. This is true even of high-ranking propositions.

How one decides when justification-1 is sufficient for the time being is a matter of the economics and ethics of investigation. These are the topics of the next two subsections.
The Economics of Investigation

A person has various purposes, and limited time and resources. Let us assume for a while that he sets out to maximise the extent to which he achieves his purposes. His purposes may include the making of improvements to his set of beliefs - adding new beliefs, eliminating false beliefs, reducing the suspicion in which some, or all, beliefs are held. He may value truth for its own sake, as well as for its use in deciding how to further his other purposes. He may regard some truths as intrinsically more valuable than others.

He will have been successful as a maximiser if he allocates his time and resources in such a way that any reallocation which produced better results in one project would produce worse results in other projects and the losses would offset the gains. Now it should be noticed that allocation includes time-tableing. It is not merely a matter of allocating quantities of time and resources, they have to be allocated at the right dates, in the right order. For example, consider inquiry, through which improvements in belief are sought. The inquirer is guided by certain expectations (based on experience, advice, hunch) about the likely rate of yield on various possible inquiries; he concentrates on the inquiry with the greatest likely yield. But he may revise his estimate of likely yields, and this may require a switch to another inquiry; later he may switch back again, as his estimate is revised again. He may find that his chosen inquiry 'bogs down' temporarily; it may seem better to leave it for a while and
make a fresh approach later. Further progress may presuppose progress in some other inquiry. Necessary resources (e.g. a book) may be temporarily unavailable. To maximise the improvement to his set of beliefs it is necessary to judge well when to switch from one inquiry to another. But there are other goals, too, besides true opinion and knowledge; opportunities may be missed, deadlines for action may press close; opportunities and deadlines are set by factors outside the agent's control, and may be ordered and spaced out in various ways. To give due attention to his other goals it is necessary to know when to switch from speculative to practical inquiry, or to action.

So the maximiser must allocate amounts of time and resources to various inquiries and other undertakings, and schedule the switching from one activity to another, in such a way that no other plan would bring him closer to his goals. Among the things provided for in the plan should be the gathering and assessment of information relevant to the occasional revision of the plan. Since planning is uncertain it is not worthwhile to spend too much time or resources on planning. The plan is as good as it ought to be if it seems the best that can be devised with what seems (without elaborate investigation) to be the optimal expenditure on planning.

He has a plan, then, which he revised occasionally. Looking back he may regret doing certain things, but they were the right thing to do if the plan then current called for them;
what is past cannot be helped. There may be matters he wishes he had investigated in the past, but this does not necessarily mean he should investigate them now - the opportunity or need may have passed, other matters may now be more pressing. As an inquirer, the maximiser is doing his 'duty' if he is now conducting the inquiry (if any) scheduled for now in his current plan. The investigation is sufficient for the time being when the plan directs him to switch to something else.

The Ethics of Investigation

To return to the question: what is the standard of sufficiency of justification? This is often understood as an ethical or quasi-ethical question. A person ought not make unjustified assertions. Truth ought to be one of his goals, and he ought to be reasonably zealous in pursuing it; negligence in doing so is a moral fault.

On my theory the standard of sufficiency of justification-2 is low: a person has a right to assert and act on a proposition if it strikes him as true, or follows from propositions which do. What is the standard of sufficiency of justification-1? This might mean, how much justification-1 is 'absolutely sufficient', i.e. enough to remove altogether the suspicion of falsity from the belief in question? This would depend on the grounds for suspecting falsity. If fallibilism is true, no finite amount of justificatory effort would be sufficient. But I mean the question to be taken as one belonging to the ethics of inquiry. When is one within one's rights in stopping an
investigation, or adjourning it for the time being? Is there any point short of absolute sufficiency at which one can, without its being intellectually reprehensible, discontinue an investigation, at least for the time being; and if so how does one recognise when that point has been reached?

On an act-utilitarian version of the theory it would be defined in terms of the economics of inquiry. A person has now done all he ought to do for the time being to lighten the suspicion of falsity against a belief if a properly drawn up time-table requires him to switch now to some other activity. Unless his time-table directs him to inquire into a certain belief, there is nothing he ought to be doing to justify it. 'This strikes me as true and I propose to act on it; it may actually be false, but I am too busy with more urgent matters to investigate it now', would express a completely justified attitude. Different people will have different time-tables: the world will present them with different opportunities and deadlines, the resources at their disposal may be different, their talents and therefore the rate of return on different inquiries may be different, and their set of beliefs will be different at many points. Hence it could easily happen that of two act-utilitarians one would have a duty to investigate a certain question now, and the other would have a duty to do something else.

However an act-utilitarian version of the theory would not seem correct to me. Earlier I said that a rational person acts 'consistently with' his beliefs. Unless his
beliefs include beliefs about what it is his actual duty to do, whatever he might do would be consistent with his beliefs, because they would not prescribe any particular course of action (see Append.p.187). If I believe that X is the best way of achieving Z, and wish to achieve Z, I may not be acting inconsistently with my beliefs if I use some second or third best method, Y. I would be acting inconsistently with my beliefs if among them was the belief that I have a duty, absolute or actual, to use the best method, always or on this occasion. Unless I have a duty to be a maximiser there is nothing irrational in ignoring the optimal time-table for inquiry and action. But there is, it seems to me, no duty to maximise. There are various particular duties more or less stringent - e.g. the juryman's duty to listen attentively to all the evidence presented; there are various duties of imperfect obligation, including perhaps a duty to seek truth; the duty of benevolence will be better performed the closer to the truth are the opinions on which benevolent action is based; there may be a duty to avoid gross waste of time and resources. In consideration of these duties a person may judge, on some particular occasion, that he ought to undertake a certain inquiry; though if the 'ought' arises from a duty of imperfect obligation there will be nothing blameworthy in disregarding it. The occasions on which he ought to inquire into a given subject will not necessarily be those on which the maximiser would do so. There will be scope for free choice - for
inquiring when the maximiser would be acting, for watching television when the maximiser would be inquiring. Choice may well be influenced by the thought of what the maximiser would do, but this is optional.

When people talk about a 'standard of sufficiency' in reasoning they do not have in mind anything like the sort of standards I have been describing - not the act-utilitarian's time-table, nor the set of duties recognised by the common morality. It is supposed that the standard is applicable without taking account of the individual's goals and circumstances, or of the incidence of his various duties; it is supposed to be a matter of Logic. Deductive logic sets standards for determining whether the conclusion follows necessarily from the premisses, but whether the premisses and the conclusion ought to be asserted deductive logic cannot decide. Inductive logic provides rules by which one can judge whether a given piece of information would raise or lower the probability of another proposition, but it does not help decide whether the probability is high enough to warrant assertion. But philosophers seem to assume that they could, if they wanted, construct another kind of logic that would provide standards of warranted assertability; and a person's rationality is supposed to depend on his observance of such standards. I would like to see them formulated. Unless the standard is 'absolute sufficiency', the removal of suspicion altogether - which can never be met if fallibilism is true - I cannot see what standards there can be except those set by
whatever moral duties there may be to spend time and effort in investigating this or that question, standards which are relative to the individual's circumstances. If he has investigated a question as far as his duties for the present require, then whatever justification (justification-1), if any, he can now offer for his belief, is sufficient for the time being.

Thus there may be nothing reprehensible in persisting in the assertion of some proposition which seems true, even in asserting it without intending any further inquiry for the foreseeable future, despite inability to produce any justification for asserting it (other than that it seems true or follows from propositions which do - justification-2), despite conflict with other beliefs and despite contradiction by other people. *15

III. JUSTIFICATION OF MORAL PRINCIPLES.

In the preceding sections I disregarded the differences between moral and non-moral truths; it is now time to consider them. I maintain that, despite the differences, the theory of justification presented above applies to morality as to other subjects.

Many philosophers have held that moral utterances cannot properly be classed as either true or false. They are obviously right where moral imperatives are concerned, but there are other moral utterances which at least prima facie seem classifiable as true or false, e.g. utterances of the
form 'One ought...', 'There is an obligation...', 'There is a right...', 'There is a duty...'. Although I have referred to the principles of Toleration as 'rules', they are mostly of the form 'There is a right/duty...'; if there is indeed such a right/duty, then it would seem that the principle stating that there is is 'true' in the ordinary sense of the word. The fact that the statement is normative does not appear to prevent its satisfying the ordinary concept of truth.

It may be said, however, that it is not enough to make a statement 'There is a right...' true that there should indeed be such a right, since the truth of a statement is its correspondence with the facts, and rights (even when they do indeed 'exist') are not among the facts to be found in rerum natura. Following up this objection would take us into discussions of the definition of truth, of whether any facts are to be found in nature, of whether there are 'non-natural' properties and faculties of moral intuition corresponding to the properties found in nature and the senses by which we perceive them. To avoid these discussions I will retreat a pace, and say that moral statements of the form 'There is a right...' may/true in the sense (which may or may not be the usual sense of 'true') that there may indeed be such a right. What I claim is that a moral statement may be objectively correct, and it does not matter for present purposes whether its objective correctness can properly be called truth or not. I believe it can, and will continue to refer to the truth and falsity of moral statements. But if it can not, the theory of
justification presented in sections I & II can easily enough be adapted to the justification of moral statements by substituting 'correct' for 'true' and 'incorrect' for 'false' throughout.

It may be said that objective correctness cannot be claimed for any moral statement since there is so much disagreement about morality, and apparently no means of resolving it. If the existence of serious disagreement about a subject implied that statements on that subject could not be either true or false, we would have to abandon the notions of truth and falsity, since there are serious disagreements in every subject; but the implication does not hold. The existence of serious disagreement is admittedly a reason for suspecting that what seems to me true may actually be false (see Appendix, p.184), and therefore for caution in claiming objective correctness for statements of my opinion; but it is not a reason for holding that no opinion on the subject can be either true or false.

However the objection was not merely that there is much disagreement about morality, but that there seems to be no means of resolving it; unless it is possible to resolve disagreements there is no objectivity. I deny that this follows. There seems to me to be no way of resolving the disagreement between idealists and realists about the existence of an external world independently of its being perceived, nevertheless the statement that it does so exist is either correct or incorrect - even if we can never know
which. Similarly, to punish someone for his belief either is or is not morally reprehensible, whether or not there exists any means of establishing general agreement that it is, or that it is not. A statement can be correct, or true, even if the person making it cannot know for certain that it is, and even if there is no way of convincing those who deny it. The statement asserting p is true, or at least correct, if and only if p — whether or not any person or group of persons knows or can know it.

In any case, ethical disagreements are not completely irresolvable. It seems that in morals there are propositions which 'outrank' others and thus resolve conflicts and disagreements (see above p.169). Often these come to be accepted in the course of consideration of particular cases. It is a matter of common experience that discussion of cases can lead a person to revise his moral principles in a way that resolves some disagreement with the other party to the discussion. It may be that the agreement may later on come unstuck, and it may be that disagreements arise faster than they can be resolved. Perhaps discussion does not lead unwaveringly, or even waveringly, towards an eventual general agreement on all or most ethical questions, and even if it did, the positions agreed on might not be correct. But this can be said about any subject. This is one of the sceptical suggestions which are meaningful and may be true, which cannot be proved or disproved, and can make no difference to thought or action once one acknowledges that they may be true (see
Appendix, p.186). Perhaps ethical disagreements will not be finally resolved no matter how long discussion continues, but we cannot know beforehand that further discussion is useless. Even if agreement never results, there may be moral truth, it may be that some people already hold that truth, and believe that they do, and are sufficiently justified in believing it. Still, the sceptics may be right.

My account of the justification of moral propositions is, then, parallel to my account of the justification of other propositions.

*Classifying as true.* If a moral proposition strikes a person as true (correct, binding), then he can and must classify it as true and must act consistently with it, even if he cannot argue for it, even if he feels the force of objections against it, even if other people reject it. However, conflict with his other opinions, and disagreement on the part of others, are reasons why he should suspect that the proposition, although it seems to him to be true, is actually false. This is not a reason for suspending his belief in it (if that were possible), or for refusing to act on it (unless it happens that his other beliefs direct him to act as if he does not believe it). It is a reason for caution in acting on it; it is also a reason for putting it on his agenda of matters for investigation (though he may have no actual duty to investigate it, even when it would advance his goals overall to do so).
Investigation. This may include discussion with people with different opinions. In such discussion each participant should try to find, and criticise, arguments on both sides of the question; the onus of proof should not be shifted onto one party; no-one should refuse to consider an argument on the ground that its premisses require justification, he should ask himself whether the premisses strike him as true - no proposition is altogether free from the suspicion of falsity and the need for justification. Investigation may also include looking for conflicts among one's opinions and constructing arguments from some to others; to be of value in alleviating or intensifying suspicion the argument need not go back to high-level or to high-ranking propositions. Resolution of conflict requires high-ranking propositions: these may be looked for by listening to the moral opinions of other people, who may suggest general principles which strike one as true and resolve some conflict; or by considering 'cases' to find high-ranking low-level propositions. Investigation may not resolve conflict and disagreement, and even if it does there will remain general grounds for suspicion - e.g. the fallibility of human judgment, and the possibility that the sceptics may be right in suggesting that every resolution will prove temporary, that there may be no moral truth, or that it may be unknowable by men.

Justification. Justification-1 is the alleviating of the suspicion of falsity. Absolutely sufficient justification (total removal of suspicion) seems unattainable.
How much investigation is sufficient for the time being can only be decided by considering the duties incumbent upon the individual person at the time - there is no universal standard that could be set by a moral-philosophical equivalent of logic.

In this scheme there is no category of 'basic' moral principles. It is sometimes said that in the process of finding arguments for one's moral judgments, and for the principles used to justify judgments, there comes a point at which 'reasons come to an end', where we arrive at basic moral principles which cannot be justified by argument (though there may be some other way of justifying them). I agree that we may come to a point at which we can for the moment think of no more arguments, and it is always possible that we never will think of any more arguments; but it is always possible that we will - there is no kind of moral proposition for which it is as a matter of principle pointless and futile to try to find arguments. There are high-ranking propositions (which may not be of a high level of generality), but these can always do with supporting argument, since even these are under suspicion of being false.

Is my theory Intuitionist? A theory may be called intuitionist if it affirms that there are some decisions which must be made by weighing conflicting considerations, or that the morality of an act does not always depend entirely on the goodness or badness of its consequences, or that acts have moral qualities or properties which can be intuited, or that reason (or some special faculty) can know the truth of some
moral statements without argument. These tenets are obviously not equivalent; a person could for example hold that his reason intuits moral principles without holding that it does so by inspecting the non-natural attributes of possible acts (the subject-attribute structure of the statements might not be paralleled in the actions to which they relate). My occasional use of 'intuition' as a variation for 'feeling of belief', in relation to non-moral as well as moral propositions and to low-ranking propositions as well as high-ranking ones, does not commit me to any of these forms of Intuitionism. Perhaps I come close to some form of intuitionism in holding that a proposition is to be classed as true if it excites the feeling of belief. But I do not claim that this feeling is an infallible index of truth, or even that it is reliable in any particular degree (see above p.168); acceptance as true is always provisional, in morality as in other subjects. Some intuitionists write as if the moralist's task is to record the deliverances of moral intuition, and not to undertake to improve on them. I do not agree with this; the acceptance of any moral proposition is provisional, subject to criticism, the means of criticism being other propositions which are also corrigible (just as the empirical observer checks his observations by making more observations). An intuitionist could agree with this, provided he accepts that moral intuition is not infallible, or that what seems like an intuition sometimes is not.

Intuitionists sometimes disagree about whether the
intuitions are particular judgments of cases or high-level moral principles. If I am an intuitionist I am in both camps on this question: it seems to me that a 'high-ranking' moral proposition can be either high-level or low-level; so can low-ranking propositions. It may be that we correct some low-level judgments by recourse to higher-level principles, which in turn are corrected when they give counter-intuitive directions in other particular cases.

Moral philosophy, like science, consists in part in co-operative work on an artifact (see Appendix, p.l78). The artifact is a set of questions, with arguments and objections to arguments on both sides of each question. In assembling these, feelings of belief are irrelevant, except perhaps that there is little point in adding an argument to the collection unless its premisses are likely to seem true to some people; at any rate, whether the worker is personally interested in a question, and whether he himself believes the premisses of arguments he contributes, do not affect the value of his contribution. The main use of this body of questions and arguments is to assist one in improving one's set of moral beliefs; for this it is necessary to take notice of one's feelings of belief, and very useful to compare reactions with other people. The constructors of the artifact, if they are personally concerned with the questions it relates to, will therefore discuss with one another their intuitive assignment of truth values to the propositions it contains, and their hunches about the degree of likelihood or error in this
assignment. This discussion is distinct from the construction of the artifact, but still part of moral philosophy (see Appendix, p.179). Among the propositions they discuss will be the factual premisses employed in certain arguments (see above, note 15). The assignments of truth values and estimates of error are all fallible and subject to revision, but this does not mean that the whole discussion is hypothetical, a discussion of what follows from what; it is tentative, but categorical, aiming at a definite (though revisable) answer to questions. In the first phase - the assembling and organising of arguments and objections - there is likely to be general agreement among the workers on the artifact, since the main question they have to decide is whether and how a suggested argument is relevant to the question (however, they may disagree about whether it is interesting and likely to seem a strong argument to any considerable number of people). In the second phase extensive disagreement is likely.

No limit can be assigned to the work. Participants continue while they feel obliged, while they believe their time could not be better spent elsewhere, while they feel inclined, while they believe they have something to contribute. There is no obviously 'natural' stopping point short of absolute justification, which is unattainable.
IV. JUSTIFICATION OF THE PRINCIPLES OF TOLERATION.

The principles of Toleration strike some people as obligatory; persecuting principles seem binding on others; others again do not feel bound by either set of principles. Each of these parties is justified (sense 2) in affirming and acting on their opinion if it seems to them to be true - i.e. no-one can be accused of irrationality merely because he cannot produce arguments for an opinion which others reject. But since they disagree they cannot all be right, and each party must suspect that their own opinion may be mistaken. Hence the need for efforts at justification in sense 1. If there is a steady flow of converts from one party to another (e.g. if the Persecutors dwindle and the Tolerators increase) this will somewhat reduce the suspicion of the opinions of the more successful group, and aggravate suspicion of the opinions of the others; but even if one party triumphed completely and the other disappeared, further investigation would not be useless, if anyone felt inclined to engage in it, since even a universally held opinion may be mistaken.

Each party has put forward arguments; the moral philosopher's task is to elaborate and criticise and evaluate these, and add others. The fact that an argument does not rest on high-ranking, uncontroversial, self-evident, basic premisses is no reason why it should be ruled out (see above, p.172). For example, Calvin's argument that manifestations of heresy ought to be repressed because zeal for God's glory is obligatory, and this requires the suppression of objectively
wrong outward acts even when they are done in the belief that they are right, deserves to be discussed even though the premisses do not look like axioms of morality. What else is zeal for God's glory supposed to require? The Calvinist persecutor (if one can be found) should be asked whether any of the other things zeal for God's glory is supposed to require strikes him as morally dubious, and if so whether this suggests a modification of the principle. Might it be that zeal for God's glory should be manifested in some way or other, though no particular manifestation (e.g. persecution) is obligatory? Does zeal for God's glory perhaps require suppression of wilful insult only? - has the Calvinist overlooked the distinction between witting and unwitting sin? Or has he confused the repression of wrong acts and the repression of harmful acts? The point of this line of discussion is to get the Calvinist to see clearly what else this line of argument commits him to; if after seeing it and deliberating he still believes that zeal for God's glory requires him to persecute, the disagreement remains unresolved, and the discussion should perhaps switch to some other part of the problem for the time being. It might switch to a connected piece of reasoning: Calvin replies to the objection that God cannot be harmed by blasphemy or immorality and therefore does not require our zeal, with the claim that God nevertheless chooses to honour his servants by entrusting them with the task of repressing outward offences. It would be worthwhile to discuss whether this is an appropriate way of doing someone
honour; and so on. There are of course also other arguments
on the side opposed to toleration - e.g. arguments about the
social value of consensus, real or apparent.

However I do not intend to concern myself with that
side of the question. I have chosen, in view of time, space,
and inclination, to confine my attention to three arguments,
or sets of arguments, in support of Toleration. I will also
keep mostly to the first, 'artifact-constructing', phase,
without saying much about my own estimate of the truth of the
premisses of the various arguments I will deal with. My
treatment of the justification of Toleration will therefore be
far from complete; but no treatment would be absolutely
complete, and there is no natural stopping point short of
completion.

One last point before I go on to these arguments:
the connexion between my theory of justification and the
doctrine of toleration. Is toleration already implied by the
theory of justification? One of the principles is; viz.
rule (3). Anyone who holds my theory of justification should
concede that it is very difficult or impossible to infer that
a person is irrational, negligent, or guilty of any other fault
in the conduct of his thinking, merely from the fact that he
holds a certain opinion. But otherwise I think my theory of
justification leaves the correctness of the principles of
toleration an open question. I accept 'fallibilism' (see
Appendix, p.185), but from this to toleration argument must
travel a considerable distance. Fallibilism does not imply inaction: a fallibilist may act on his opinions despite the suspicion that they may be mistaken. For all I have said so far, action might take the form of obstructing the dissemination and practice of other opinions. This will be discussed more fully in the next chapter.
CHAPTER 4 : TOLERATION AND TRUTH

This chapter is concerned with certain questions of fact relevant to arguments which try to make out a connexion between valuing truth and being tolerant. (For examples of such arguments, see arguments D and F for rule 4 (above p.69-71) and C and F for rule 7 (above p.84-85)). Is it true that an individual's best (or only) chance of arriving at true opinion and knowledge is to listen to representatives of every school of thought? Is it true that true opinion and knowledge are most likely to be disseminated widely in a society in which the principles of Toleration are put into practice?

It might be worthwhile to attempt to establish a 'conceptual' connexion between valuing truth and accepting the principles of Toleration. Popper apparently believes that there is such a connexion. R.S. Peters and A. Phillips Griffiths have tried to establish certain basic moral principles by means of arguments which might be adapted to support the principles of Toleration: they argue that the use of notions of objectivity, correctness or truth, presupposes the existence of a practice of public discussion of the matters about which true judgements are supposed to be possible; the discussion is 'public' in the sense that it is in principle open to any rational being to participate; they argue that the non-recognition of certain moral principles will effectively exclude certain rational beings and so destroy
the possibility of objectivity; hence anyone who claims that objectivity is possible cannot consistently refuse to recognize those principles. If it could be shown that these principles include the principles of Toleration, this would establish a 'conceptual' connexion between valuing truth and being tolerant. However I do not believe that an attempt along these lines is likely to be successful. The argument just outlined is vague and obscure; there is a lot of work to be done in identifying all of its tacit premisses; I doubt whether any fully worked out version would seem a strong argument. I will leave work on this line of argument to those who have more confidence in its value, and address myself to the question whether toleration is, as a matter of fact, favorable to the cause of truth. The best-known exponent of the view that it is is J.S. Mill.

I. MILL & SAINT-SIMONISM

The chapter of On Liberty entitled 'Of the Liberty of Thought and Discussion' presents a picture of Mill's ideal seeker after truth.

He knows that he is fallible, that what he believes to be true may actually be false, that he can be confident of his opinion only if he first tests it carefully, that even while he acts on it he should keep open the possibility of correction. Hence he does not avoid, but seeks out, objections and difficulties wherever they may be found. He hears what can be said on his subject by persons of every
variety of opinion, and studies all modes in which the subject can be looked at by every character of mind.  

This behaviour is appropriate not only because he is fallible, but also because he seeks not merely true opinion but knowledge. He recognises that to hold a true belief without argument is not the way truth ought to be held by a rational being; truth held this way is superstition accidentally clinging to the words which enunciate a truth. A person has no grounds for preferring one opinion to another, and should suspend judgment, unless he knows and can refute the reasons for the opinion he rejects. He does not really possess and understand a truth unless he has felt the force of the difficulties against it. Collision with error is necessary to give a clear perception and lively impression of the truth. The opposite opinion must be heard from persons who actually believe it, defend it in earnest, do their utmost for it.

So the best way a fallible being has of attaining true opinion is discussion without stint with representatives of every school of thought; and this is also the best way such a being (perhaps any rational being) has of attaining knowledge. It is somewhat surprising to notice passages in which Mill concedes that despotism is a legitimate mode of government in dealing with barbarians, that liberty, as a principle, has no application until men are able to be improved by free and equal discussion. If the necessity of free and equal discussion with all comers is grounded in human fallibility, one would expect freedom of thought and
discussion to be the rule in the government of all fallible beings, barbarians included. If this is not an inconsistency, Mill's doctrine must be more complex than appears in On Liberty.

There is an obvious objection to carrying on discussion without limit with representatives of every school of thought: life is not long enough. It would not be long enough even if truth were our only goal. Priorities must be established (cf. p.165 above). Among the relevant considerations are: the likelihood of error in our present opinions on a subject; the importance of being right about it; the likelihood that a given person will be helpful in improving our opinions. If we estimate as slight the chance that our opinion on the question is mistaken, or if we do not regard the question as important, it will be reasonable not to discuss it. Even if the question is important enough and doubtful enough to require discussion, there will usually not be time to discuss it with everyone. It is often possible to tell after a short trial, or from someone else's advice, which of the possible participants in discussion is most worth listening to. Such estimates are likely to be often mistaken, but given the scarcity of time we may do better to act on them than to listen to anyone for as long as he chooses to talk. It may be reasonable, then, to refuse to discuss some of our opinions at all, and to refuse a hearing, or to give only a brief hearing, to representatives of some schools of thought, so as to give more time for listening to experts.
Mill's early essay *The Spirit of the Age* makes an interesting contrast with *On Liberty*. Here is a summary of the relevant parts of it:  

Most men will not have the time to make the inquiries that lead to genuine knowledge of the truths by which it is good that their conduct should be regulated: the inquiries are complex, and the production of the essentials of life requires, and probably always will require, most of the time and energy of most men. If they are to have sound opinions, they must be guided in complex subjects - morals and politics included - by the authority of those who have had the opportunity to study them thoroughly. Some questions may seem straightforward, but even in these the uninformed multitude need to be assured by those who know that the question is as straightforward as it seems. There is no reason why ordinary people should not cultivate their reason as far as they wish and can; but if they use it aright, they will realise that they need guidance.  

In society's 'natural' state the multitude willingly follow the lead of those who have made a specialty of thinking, because they see that the thinkers agree with one another; 'the compact mass of authority thus created overawes the minds of the uninformed'. However, England is in a 'transition' stage. The wielders of political power do not have the confidence of the people, divisions among the instructed nullify their authority, the multitude are without reliable guides. In this situation private judgement and free-and-equal
public discussion are the best means of improvement available. It is a mistake, however, to suppose that they are best in every state of society: they are appropriate only during transition to a new 'natural state', when it will again be possible for the multitude to rely on the guidance of the wise. Public discussion is effective for destroying false theories, less effective for discovering and disseminating better theories. Serious students should avoid public controversy and quietly pursue their task; when they agree among themselves, the multitude will again accept their guidance. It is to be hoped that morals and politics will one day be like science, in which, while anyone is at liberty to contest expert opinion, eccentrics are not listened to, and qualified men of science have been convinced by the evidence for the received opinions.  

When Mill wrote *The Spirit of the Age* he was under the influence of the Saint-Simonians. Ideas similar to those in Mill's essay were put forward by the ex-Saint-Simonian, Auguste Comte, in his *Cours de Philosophie Positive*. Mill's *Auguste Comte and Positivism*, published six years after *On Liberty*, contains criticism of Comte's views on the role of authority in intellectual matters.

According to Comte, modern Europe is in transition from a theological to a 'positive' polity. In the positive polity of the future there will be a Temporal Power and a Spiritual Power, quite distinct. The Temporal power will be made up of the leaders of industry. They will not be
controlled by any representative political institutions, but by moral norms enforced by public opinion.\textsuperscript{15} Public opinion will be led by the Spiritual Power, consisting of positive scientists with genuine knowledge not only of physics, astronomy etc., but also of moral and social matters.\textsuperscript{16} The Spiritual Power will be organised and centralised. Its directors will admit new members and expel incompetents, and will decide which inquiries are of greatest social importance, discouraging waste of time on valueless inquiries.\textsuperscript{17} The Spiritual Power will provide common public education. It will not have a legal monopoly,\textsuperscript{19} but its prestige will be such that other teachers will not find many pupils.\textsuperscript{20} The Spiritual Power will provide technical advice. It will lead public opinion in recalling the Temporal Power, and all citizens, to their moral duty; the rules of moral duty will be based on positive knowledge.\textsuperscript{21}

There will be full liberty of thought, discussion and association.\textsuperscript{22} Part of the reason for separating the Spiritual and Temporal Powers is to prevent the forcible imposition of any orthodoxy.\textsuperscript{23} The Spiritual Power will not be established or maintained by coercive means, its influence will arise from free agreement on moral and social questions among thorough students.\textsuperscript{24} But when such students agree, the public will recognise the wisdom of following their lead, and will regard presumptuous and ill-informed opposition as morally reprehensible.\textsuperscript{25} Legal freedom to criticise will remain as a safeguard against charlatanry on the part of members of the
Spiritual Power, which will always be a danger.26

The formation of the Spiritual Power is being hindered, Comte believed, by the 'absolutising' of the policy of private judgement and general public discussion. This policy was useful when the main work to be done was the destruction of the theological system. The liberal 'right' of private judgement and general discussion provided that policy with the metaphysical foundation needed in the early part of the transition period to give people confidence and determination in carrying out the work of destruction. The liberal doctrine, as Comte understood it, encourages uninformed people to suppose that their opinions are as good as anyone's, and leads everyone, even thorough students, to suppose that they should not arrive at any definite conclusions. The time has come, Comte believes, for thorough students to try to decide moral and political questions, and for the uninformed to realise that, whatever their legal rights, they have no moral right to participate in the discussion of such questions as the equals of the thorough students.27

Mill disapproved of Comte's scheme in certain respects. He disapproved of the absence of representative political institutions to control the Temporal Power.28 He disapproved of various features of the Spiritual Power as Comte conceived it: the centralised organisation of the philosophical class,29 the prohibition of apparently useless inquiries,30 the systematic use of public opinion (which Mill regarded as a very great power) as an instrument of social control,31 the stress
on unity and systematisation to the neglect of individual differences; in sum, the lack of elbow-room for the development of individuality. He did not agree with Comte in expecting soon the final triumph of Positive Sociology—some other doctrine might triumph instead, and no finality is possible in social philosophy; but Mill envisaged the possibility that in the future society might enter into a new organic phase, with a single dominant ideology, which might be as repressive of individuality as Comte's would be. *On Liberty* was written, it seems, to assert in the face of this danger the value of individuality. Comte, and others of a like cast of mind, are the target of the third chapter, 'Of Individuality'.

It should be noticed that none of this is a repudiation of *The Spirit of the Age*; the part of Comte's position which coincides with that of Mill's early essay is untouched by the criticisms just summarised. In fact Mill explicitly acknowledges that when Comte asserts that the general public is not as competent as the thorough students, and that if the thorough students agreed with one another the public should, and would, follow their intellectual lead, he is asserting what is true—though it is only half the truth. Comte did not reject liberty of thought and opinion, or deny the value of free discussion among serious students (provided the discussion is not for discussion's sake, but to decide the question); so Chapter 2 of *On Liberty* does not tell against Comte. That chapter also asserts a half-truth: it is true
that the only way a human being can make some approach to thorough knowledge of a subject is to listen to representatives of all schools of thought, but it is also true that no-one can - because of shortage of time - become thoroughly competent in many subjects, and that most people cannot become thoroughly competent in any; if they are wise, the majority will be guided by specialists (when they agree) in all subjects, and specialists by other specialists when they venture beyond their own specialty.

Mill did not doubt the desirability of consensus provided the opinions winning general support are true, even though this must give rise to a danger of despotism; he did not oppose the consolidation of opinion, but tried to make sure that the importance of individuality will not be forgotten - that the 'noxious power of compression' that consensus gives will not be exercised. He did not doubt that it is desirable that the multitude should be willing to follow the lead of philosophers, but he opposed the centralised organisation of philosophers for the exercise of the power of compression.

The importance of deference on the part of the many to the judgement of the wise was a theme of Mill's political writings at every stage of his life. In an essay published a few years after The Spirit of the Age, he distinguished two requisites of good government - that the many should be able to remove their governors from office if they seem to sacrifice the interests of the people to their own, and that they should
select and retain governors wiser than themselves. (This combines 'half-truths' from Bentham and Comte). To select wise governors the many need not be perfectly wise; it needs a 'very ordinary wisdom' for them to understand that they are not competent to decide every question themselves, and to recognise those who are most competent. If the many have a fair share of this wisdom, the argument for universal suffrage is irresistible. If they have not, it may be expedient to limit their ability to remove their governors, so as to secure more competent government; thus the two prerequisites may conflict. Mill rejects the suggestion that even when the many are ignorant it is well that they should be able to direct the rulers because then philosophers will be compelled to enlighten the multitude; there are many truths in political economy, for example - which are beyond the understanding of all but thorough students.

In Representative Government (written after On Liberty) Mill also stresses the importance of deference to competent judges. Should candidates offer pledges? If voters demand pledges no law can or should prevent it; but it should be conventionally understood that the representative should exercise his own judgement. There is no use in superior power of mind and profound study if they do not sometimes lead to different conclusions from those formed by ordinary powers of mind without study. In deciding which is the wisest candidate the elector must give some weight to the extent of agreement between the candidates' opinions and what
the elector himself thinks true; but weight should also be
given to other signs of wisdom. It is impossible to lay
down any rule of choice; the electors must exercise
discretion. How wisely they choose depends in great part on
the 'general tone of mind of the electoral body, in respect to
the important requisite of deference to mental superiority'.

In a society in which the 'general tone of mind' in
this respect is right, universal suffrage, and one man one
vote, will apportion political influence in accordance with
wisdom. But in a society in which the uninformed are also
presumptuous, or where their ignorance is so great that they
cannot correctly discern wisdom, universal suffrage and 'one
man one vote' might be a disaster. The franchise should be
arranged so that the balance of political power is in the
hands of those who are at least wise enough to recognise and
deref to superior wisdom. Mill believed that in the England
of his time universal suffrage would mean the despotism of
ignorance unless each member of the educated class was given
several votes.

In backward countries there might be very few people
wise enough to be given political power. If such a country
happens to have a wise ruler, it is fortunate if he is a
despot. Apparently Mill believed that his despotism might run
to restriction of freedom of discussion; liberty has no place,
as a principle, until the population is capable of being
improved by free and equal discussion. The English working
class was to be kept from power essentially because it might
easily be misled on certain social and economic questions, but the propagators of these mistaken doctrines were not to be silenced; in a backward country it might be well sometimes if the wise ruler silenced misleading propaganda.

Mill's attitude to how fundamental political questions are to be decided might be called 'individualist' or 'elitist', but not 'democratic'. If it had been proposed to call a constitutional convention representing all sections of the population on equal terms, to hear Mill's and other proposals about the parliamentary franchise and decide after discussion which of them should be adopted, Mill would have objected that many sections of the population - even in advanced countries - are incompetent to judge such questions, even after discussion. Competent persons should make up their minds and act on their decision as far as they are able, whether the multitude agree or not. If power is correctly distributed, mistaken attempts on the part of the multitude to alter the distribution may rightly be resisted. Except in backward countries discussion among the uninstructed is not to be interfered with, but it is presumably for the competent to decide which countries are backward enough for such interference to be justified. Mill's principle of liberty is not asserted as a matter of abstract right, but as a 'positive' principle based on utility. It is for those with positive knowledge to decide which, if any, of the possible formulations of the principle is correct, and to resolve problems of application.
To sum up. Mill remained something of a Saint-
Simonian to the end of his life; this aspect of his thought is
not adequately represented in On Liberty. Liberty of
discussion is not an 'absolute' principle applicable to every
condition of humanity, but in modern European countries it
should be respected as a matter of principle. But even in such
countries the many will not have the opportunity to approach
complete knowledge of any subject by the only means by which
a fallible being can do this, viz. by listening to
representatives of every school of thought and debating his own
tentative opinions with all gainsayers. The many - and also
the experts outside their own field - will do well to accept
the guidance of people with superior intelligence, training,
and specialised experience and study: to listen mostly to
them, and to act on their judgement (at least, when the experts
agree) even if they cannot understand its grounds. If the
multitude are not wise enough to realise that they need
guidance, or if they cannot recognise good guides, political
power (though not, in modern Europe, power to obstruct
discussion) should be put in other hands; whether the
multitude are sufficiently wise is for the wise to judge.

This survey of Mill's opinions illustrates the
connexion between the main question of this chapter - whether
Toleration, including freedom of thought and discussion, favours
the discovery and dissemination of truth - and several
subsidiary questions. How much do people differ in their
capacity for being improved by free and equal discussion - may
there be wide differences even in an advanced country? What departures from the practice of thorough discussion with all comers are called for by the shortage of time, and the possible lack of capacity in some members of the community? How are genuine experts to be recognised? When should the putative experts' failure to convince the public be taken as a sign of lack of capacity on the part of the public, and when as a sign that something is wrong with the opinions of the experts? Under what circumstances is it right to encourage a person to defer to the opinions of experts without first satisfying himself of the genuineness of their expertise?

The choice is not between Toleration and out-and-out repression; there are other possibilities between these extremes. It may be that free and equal discussion with all comers is the best policy for experts and trainee experts, and deference to experts the best policy for the public. The leadership of the experts may be more or less 'authoritarian' even if there is no use of coercion. But if it is best for the public - or some sections of it - to defer to experts, at least in some subjects, why is it never justifiable to protect this deference by restricting the propaganda efforts of people likely to mislead the public or waste their scarce time? Restriction need not be total repression; perhaps the non-experts prevented from wasting the time of the general public could be encouraged and assisted to hold discussions with the experts. Before an intelligent answer can be given to our main question it is advisable to distinguish in more detail
between possible factual hypotheses about the distribution of capacity in the community, and between possible policies. In the next five sections I will leave Mill and other writers aside and offer my own analysis of the relevant possibilities. In section VIII, I will make some suggestions about the choice among them.

II. MODES OF DEFERENCE

Deficient capacity for certain inquiries, and the scarcity of time and resources needed for inquiry, may make it reasonable for a person to make use of experts, either by taking some of their opinions on trust, or by following their advice about the most economical way of conducting inquiry. A person accepting an opinion on trust may believe it under the influence of the expert's authority, (cf. Appendix, p.174), or he may accept it in the sense that he thinks it reasonable to act as if he believes it (cf. above p.163). Reliance on experts may increase one's stock not only of true opinions but also of knowledge. True opinions become knowledge when a reasonable effort is made to find serious conflicts and disagreements; the minimum effort that counts as 'reasonable' may be less if the inquiry is efficiently conducted on expert advice. False opinions may be replaced by knowledge through investigation guided by an expert; if he advises me that some of my opinions are probably mistaken, that I should carry out some experiment or read some book, and I accept the advice, the propositions which I accept from him are not knowledge, but when I act on them I may gain knowledge - and gain it more cheaply than if I had not
followed his advice.

Suppose two people, A and B, are accustomed to work together on various problems; suppose A finds that, with problems of a certain type, B's promptly-given opinion, though it often does not seem right at first, almost always comes to seem right after more thorough investigation (including under 'investigation' seeing whether predictions are confirmed or refuted by events); then A has inductive grounds for supposing that with this type of problem he would generally end up agreeing with B if he investigated for himself. In fact, B may often be wrong; but if he is, A falls into the same mistakes when he investigates; so he cannot do better by investigating for himself than by accepting B's advice — and by doing that he can save time and scarce resources. It is reasonable then for A to recognise B as an expert on that type of problem. If he begins to find later that when he does investigate he often ends up disagreeing with B, he has reason to withdraw his recognition of B as an expert. The more possible this eventuality seems, the more of his time and resources it is reasonable to spend testing B's advice occasionally; but even if he does a lot of testing, some time and trouble can be saved by reliance on B's judgement.

Suppose B tells A that C is also a reliable judge of the questions on which A regards B as an expert; then it would be reasonable for A to regard C also as an expert, even without testing C's reliability for himself, on B's recommendation. However a lower degree of confidence is
appropriate. B might be good at deciding a certain type of question, but not very observant of the way others decide such questions, and consequently not reliable in his estimate of others' expertise in that field; or he may not be good at classifying the kinds of questions. If A finds that other experts whom B recommends generally pass the sort of testing that led A to regard B as an expert, then A has inductive grounds for regarding B as an expert in this field, and also as an expert in spotting other experts. A may also increase his panel of experts by finding people whose opinions tally with B's in the subject in which he finds that investigation generally leads him to agree with B.

This may sound elaborate, but I believe it corresponds to something that goes on in real life. People accept some experts on other than inductive grounds, but they follow others because they find by experience that their advice is confirmed by their own investigations when they investigate. For example, a reader may switch from one book to another because the latter seems more accurate on those matters which he is able to check. He may select books on the advice of a friend, or of a reviewer, because he finds that the books recommended generally turn out to be sound whenever he checks them. If someone finds that in discussion one person can, and another cannot, generally make out his case, then he will spend most time with the first, and may take his word for some things.

To use inductively selected experts is to take a
short cut to the conclusions one would reach through investigation. It may happen that a person's impromptu opinions are generally closer to the truth than his carefully considered opinions, because of defects in his way of investigating. But if investigation does improve his opinions, then by using inductively selected experts he can improve them more than he could by unaided investigation, since use of such experts economises time. It is possible, however, that his opinions would be improved still more if he followed the guidance of someone whom he would not select inductively as an expert. A and B may both, because of similar mental qualities or experiences, fall into mistakes avoided by M; A will then find that his investigations generally confirm B's opinions and not M's, which are nevertheless closer to the truth. In this case A would do better to follow M, but B would be selected inductively. (Bear in mind that investigation includes seeing whether predictions are confirmed by events; if investigation confirms B's opinions, then it must seem to A that B's predictions are borne out, and experience does not reveal to him the superiority of M's opinions.) In fact A may believe that M is the better guide: he may mistrust the results of his own investigations, and may have a hunch that M is actually right even though he seems wrong. For example, he may be impressed by the fact that almost everyone agrees with M; investigation may not lead him to M's opinions, but he may decide that everyone else cannot be wrong, that there must be
something wrong with his own investigations. (Notice that in this illustration the belief that everyone else cannot be wrong is not inductively based.) Or M may have an air of authority; A may find he just cannot help believing that M knows what he is talking about, even though investigation does not confirm his opinions, even though the world at large does not agree with M. Some of the converts of early Christian missionaries seem to have been impressed in this way; they attributed their conversion to the mysterious action of the Holy Spirit. If in such a case A decides to follow M's guidance, then he regards M as an expert, but he is not an inductively selected expert like B in the previous example. In believing that M's opinions are closer to the truth than B's, A may of course be mistaken; but he may not.

In many cases people do not deliberately decide whose guidance to accept. Suppose A has been brought up from infancy in a habit of following the guidance of W; or he may have dropped into this habit unreflectively; W may have an imposing manner, and A may be easily dominated. A never considers whether he ought to follow W or not. In such a case A treats W as an expert, and (tacitly) believes that W's opinions are generally true. It is possible that if A tested W's opinions his investigations would generally bear them out; or perhaps they would not, but A might nevertheless decide to follow W because everyone else agrees with him, or for some other reason (cf. M in the previous example). But in fact A has not tested W's opinions, or decided to follow his guidance.
W's guidance may or may not improve A's opinions.

Let us call the three modes of deference so far distinguished modes I, II, and III. Deference is of mode I if the person follows the expert because he believes he has reason to suppose that if he investigated thoroughly for himself he would arrive at opinions the same as the expert's. Deference is of mode II if the person believes the expert must be a good guide even though he does not suppose that his own investigations would have led him to opinions the same as the expert's. Deference is of mode III if it is unthinking, unquestioning; if the person simply takes it for granted that the expert is to be followed. A given expert may be deferred to by various people in all of these ways.

III. THE PUBLICLY RECOGNISED EXPERTS

In our community there are, besides 'private' experts followed by a few people (informal opinion leaders), publicly recognised corporations of experts whose social role is somewhat like that of Comte's Spiritual Power. They are the educators, the technical consultants, and to some extent the leaders of public opinion in moral and social matters. Their influence is considerable: they provide laymen with opinions; they select students and teach them, advising them about what to read; they decide whether to certify newly trained experts of their own kind, thus giving or withholding a title to income and prestige; they help select people for jobs, thus giving or withholding from applicants the chance to try out in practice
some of their ideas; they help select articles and books for publication, and review those which are published. Since they influence the allocation of things most people want, they can 'reward' and 'punish' in the extended sense of these words (see above, p. 112); their use of this power is supposed to be regulated by various rules of morality prescribing fairness, openness to unorthodox ideas, and so on. Their social status is marked by titles, sometimes by a certain manner of speech, and so on. Most members of the public defer to some extent to the opinions of the publicly recognised experts, often (not always) following them rather than 'private' experts when there is a difference of opinion; some religious or political groups have their own set of 'public' experts ('public' in that group) whom they prefer to the rival body of experts recognised by the community at large.

For most people deference toward most of the public experts is of mode III; as one grows up one adopts unreflectively the habit of most members of the community of accepting guidance from the publicly recognised experts. However, a person may come to question whether the guidance offered by some individual expert or group of experts is really reliable. He may try to decide its reliability by investigating a selection of the opinions on which it is based; if he is satisfied, then his deference is from then on of mode I. If he is not satisfied but decides that since the experts agree, or since they agree and are followed by most people, there must have been something wrong with his own investigations, and
decides to continue to follow their guidance, then his
deferece is of mode II. A given person may defer to
different 'public' experts in each of these ways.

Suppose a person decides that mode I is the only
proper mode of deference; i.e. that he should not follow any
expert unless he has reasons for supposing that if he
investigated the expert's opinions for himself he would agree
with them. He could not test many experts for himself; but
once he has tested some experts and been satisfied, they may
recommend other experts. If he has tested their expertise in
the recognition of other experts, or if he has reasons for
supposing that expertise in a subject and expertise in
recognising other experts in the subject usually go together,
then he has reasons for trusting the recommended experts also.

He would need a great deal of time and trouble to locate a set
of experts in all the subjects in which most people are
accustomed to follow public experts. However, he could follow
all the publicly recognised experts, if he had reason to
believe that the public experts would not have won or
maintained their present position of leadership unless they
were able to satisfy on most points anyone or almost anyone
who investigated for himself - provided also his experience
had shown that investigation usually leads him to the same
conclusions as it leads most other investigators to adopt.
(If this is so in only some subjects, then he could follow the
public experts in those subjects.)

But there are reasons for doubting that the public
experts must owe their position to their ability to satisfy all comers. First, they owe their position in part, perhaps in large part, to tradition. As each generation grows up, it finds such experts already in position, respected by most adults, who urge the younger generation to pay attention to the experts; most people assume their expertise without question or investigation. One generation of public experts selects the next. They have power to 'reward' and 'punish'. Even if they fully intend to be open to criticism, their critics may be too conscious of the experts' power, or too deferential, to criticise vigorously; onlookers may not judge the debate impartially; the public may not believe reports from people who are not recognised experts that the experts have been worsted in debate. Even if most of those who associate with the experts soon break off the association, at any given time the audience may be big enough to attract more listeners at a fast enough rate to replace those who leave, thus maintaining the appearance of support for the experts. Once a body of people have attained public recognition as experts, they and the successors they select will not easily lose their position, even if independent investigation often does not confirm their opinions.

Second, consensus within the expert body may be maintained at least partly by the elimination of dissidents. It is therefore a mistake to suppose that if their expertise were bogus the experts would disagree. An expert examining candidates for admission to the expert body may say that he
gives good marks whether the candidate's opinion is orthodox or not, as long as it is well-argued, or tenable, or worth serious consideration, or such as a well-informed and reasonable person might hold. But the examiner must rely on his opinions about which propositions have a fair chance of being true. A person does not show competence in a subject merely by avoiding self-contradiction, and validly deriving some of his improbable opinions from others. If he puts forward a position which the expert estimates has little chance of being right, answers weak objections but seems unaware of strong ones (a strong objection being a conflict with propositions the expert thinks very likely to be true), and argues from premisses as doubtful as his conclusions, then he cannot reasonably be admitted to the corporation of experts. Similarly decisions about what to recommend for publication, book reviews, and lists of recommended reading, must reflect the experts' opinions. One can judge that a certain proposition has a fair chance of being true without believing that it is true, so the experts need not impose a monolithic orthodoxy; but to take up a position outside a certain range of positions will be taken as prima facie evidence of ignorance or incapacity. Thus, if there is a serious attempt by each generation of experts to select competent successors, one of the results may be a narrowing of the range of opinions among the experts. Even if the experts do not deliberately select their successors, the process of self-selection among aspirants may have the same effect: people who find
themselves too much out of sympathy with the opinions of the existing experts may decide that they are not after all cut out for that sort of role, and withdraw. So consensus among the experts may be due not to the spontaneous convergence of independent investigators, but to the elimination of dissidents.

Third, it cannot be assumed that if the experts' opinions had been criticised in a damaging way by people outside the expert body this would be generally known. Experts draw up reading lists, advise publishers, review publications, and help employers select employees. People whose ideas are too much at variance with what the experts think has a fair chance of being true will seem wrong-headed, and they will find it difficult to catch public attention, and difficult to get into a position to put their ideas into practice. Laymen actively discourage criticism of experts by non-experts; people who 'do not know what they are talking about' are supposed to keep quiet. It is unprofessional for an expert to appeal to critics outside the expert body for support in his disagreements with other experts.

It seems then that, from the facts that a certain body of people are publicly recognised as experts, that they do not disagree much with one another, and that their opinions are not seriously challenged by people outside their body, it cannot safely be inferred that they can probably satisfy most people who test their opinions. Hence, even if a person has reason to suppose that what will satisfy most
people will satisfy him, he cannot infer that he would probably agree with the public experts if he investigated for himself. So a choice has to be made between relying without adequate investigation on the generally recognised experts, and the policy of deferring only to experts whom one has trusted and found reliable.

To rely only on the experts who satisfy one's own judgement can seem simply inevitable. If I am called upon to follow some expert, and do so, surely this must be because I believe that the expert is reliable. In fact, I may have tested the expert and not been satisfied, but decide to defer to him anyway (deference of mode II); but even then, I follow him because I believe he must be reliable. However reliance on one's own judgement is not inevitable. People can be pushed into following a leader without questioning or deciding. More importantly, they may grow up in a habit of following a traditional guide, without being 'called on' to follow him.

Although it is not inevitable, it may be desirable that people should follow only guides whom they have tested and found satisfactory. It may be regarded as a duty, at least of Imperfect Obligation, to make sure that what one believes is true, and this may suggest that it is a duty, if one believes anything on the authority of experts, to check the reliability of the experts. On the cautious theory of justification, one should check first, before one follows the expert; on the more optimistic theory, one may follow experts whom one has not checked, but checking them should appear
somewhere in the agenda of investigations to be undertaken if time permits (see Appendix, p.193).

Why should checking be regarded as a duty? That everyone has such a duty may simply strike one as true. If a reason is sought, the one likely to be offered is that if every individual thinks critically, his own opinions will come closer to the truth, and the whole community will move closer to the truth. But this assumes that the more a person thinks and investigates the closer he gets to the truth; but some people's investigations may actually take them away from the truth (see above p.212). So perhaps it would be better not to regard it as everyone's duty to check the truth of his opinions and the reliability of experts. Perhaps it is not only not inevitable, but also not desirable, that everyone should follow only the guides whom he has tested and found satisfactory.

Those whom I will call populists believe that it is best to regard it as everyone's duty to check for himself; those whom I will call elitists do not agree, and sometimes deliberately avoid disturbing a person's mode-III deference to experts by raising in his mind the question whether the experts are reliable.

IV. POPULISM

One person may be good at investigating, another may not. The first may do well to follow an expert to economise the time and resources investigation requires. The
second may do well to follow the expert because the expert's opinions are closer to the truth than he could get by investigating for himself, even if his time and resources were unlimited. Populists believe that the second person represents a small fraction of the population, elitists that he represents a large fraction.

To be more exact, what I call populism consists of the following points. (1) Almost everyone possesses in good measure at least one of the following abilities: (a) to investigate; (b) to judge whether another person has correctly assessed the results of his investigations; (c) to recognise those who possess (a) or (b); (d) to recognise that he himself lacks (a) - (c). (2) It may be that a small minority do not possess any of these abilities. (3) To exercise these abilities successfully a reasonable amount of discussion is needed with people of differing opinions. (4) Everyone has a desire to know, and to help others know, the truth; but (5) this desire is often overbalanced by selfish desires for power, wealth, etc.

The danger of being misled by inadequately tested 'public' experts arises from (2), (3) and (5). One or other of the corporations of public experts may by accident come under the control of people who belong to the minority who are deficient in the abilities listed above (cf.2); since one generation of experts selects the next, they may perpetuate their type. Even if this does not happen, since people who disagree with the opinions of the public experts may hesitate
to express their disagreement vigorously (see above, p.217),
the experts' abilities may not save them from serious errors
(cf.3). The public experts may have, in Bentham's phrase,
'sinister interests', and may consciously or self-deceIVINGLY
pervert the truth to serve selfish ends (cf.5).

For the populist the main point of having experts
is to economise time and resources. However there is a risk
of being misled. Hence the populist favours the establishment
of institutions which can guarantee to someone who has not
himself tested the experts that some competent persons have,
and have been satisfied. Bentham's 'Public Opinion Tribunal',
deliberating in the press, or in formal or informal
'committees', is a typical populist scheme. The public at
large does not have sinister interests. Most members of the
public - provided there is a fair amount of discussion - will
either recognise the genuine experts (cf. point 1 (a), (b)), or
recognise those able to recognise them (cf.1(c)), or realise
that they are out of their depth (cf.1(d)); so when the
question whether certain public experts ought to hold that
position is put to the vote, some will abstain, some will vote
on the advice of others, and some will give the vote they are
competent to give. Some may give a vote they are not
competent to give, but these will be a small minority (cf.
point 2); if the decision is nearly unanimous, it can be
relied on. It should be noticed that on the populist
suppositions it is appropriate to 'count heads', not to
'weigh' them. No authority can be trusted to assign weights.
But most people whose judgement deserves little weight will, in the course of discussion, come to realise this, and either abstain or vote on the advice of others they recognise as more competent. Thus opinions are weighed, but by the voters, not by the persons who count the votes. 59

Bentham and James Mill saw the press as the chief medium for carrying on discussion of the performance of the experts, especially of those who claim expertise in the art of government. In the press the Public Opinion Tribunal deliberates, as it were, in a committee of the whole. Experience has shown, it seems to me, that such 'deliberations' fall far short of the standards suggested by the image of a Tribunal. 60 New issues constantly arise, and there is not time to deal with any of them properly. A multiplicity of issues are mixed in together; the hearing of a given case is constantly interrupted and it may be dropped altogether before it is heard out. A 'juryman' will have heard only some of the argument; he may be impressed by a point on Monday, and not notice that it is contradicted on Friday; his memories are too confused for the arguments and counter-arguments to be compared point by point, as they might be in the judge's summing up in a trial before a legal tribunal. He may need to assess the honesty and competence of a large number of witnesses, without being able to watch them under cross-examination. A 'witness' before the Public Opinion Tribunal cannot be compelled to submit to cross-examination. The witnesses' sinister interests often remain undetected. 61
These points have less force the closer the matter is to the central interests of most members of the public. The public's estimate of national political leaders is probably more reliable than their estimate of local political leaders - despite the alleged closeness of local government to the people. National politics is covered in the press more continuously, readers remember more because they are more interested, 'witnesses' may be compelled by public opinion to answer certain questions they would prefer to leave unanswered, and so on. But the performance of any given type of academic experts is never likely to be central to the interests of most members of the public.

Perhaps the task of assessing the experts might be entrusted to 'committees' of the Public Opinion Tribunal. If a committee is small enough and active enough, most of its members can make most of the points that occur to them and be heard by most of the others; arguments can be criticised promptly, point by point; the course of discussion will be remembered, members can form well-founded judgments of one another's motives and competence. If there are many such committees each assessing a few of the experts there will be a division of labour: the members of each committee will be able to take time and trouble in their special task which it would not be economic for all members of the public to take in assessing all of the experts. If the public are assured that some representative and disinterested group of people
assess each expert's performance, and can destroy or reduce his influence if he performs badly, then - on the populist assumptions - they can reasonably take the fact that the experts still occupy their positions as evidence that their advice can be relied on.

The most economical way of constituting such committees is to form them from the experts' students, assistants and clients. They already meet in small informal groups which often discuss the performance of the experts they associate with, and are sufficiently concerned to spend a fair amount of time in such discussions. Populists therefore favour various schemes for collecting the opinions of such groups (e.g. student assessment schemes for university teachers), or for including students and other interested laymen in significant numbers in committees that make decisions affecting the experts' roles - decisions about appointments and promotions, allocation of research funds, the licencing or practitioners, the defining of qualifications for jobs, the curriculum of courses of study, and so on.

Institutions will not work unless the people who man them have the appropriate attitudes and principles. To work the populist institutions it is necessary that ordinary people be critical, frank, non-deferential, courageous, in their assessment of the experts; experts should be unassuming, willing to try to justify their opinions to laymen. For populists it is a principle of prudence or even of morality that no-one should follow an expert without deciding whether
it is reasonable to do so. If the traditional religion and morality are losing their influence, the populist will disapprove of efforts to impose it; he will hold that the exponents of the traditions should frankly submit their arguments to the public, and accept an unfavourable verdict as an indication that there is something wrong with the tradition. Experts of all sorts should take the trouble to enter into dialogue with laymen, and be prepared to accept the verdict. The universities should not demand funds and refuse to explain the value of what they are doing; they should explain, and allow the public to decide the priorities for expenditure of public money.

There is, however, a serious objection to the populist programme. The need for supervision of the experts arises mainly because they may develop sinister interests. But so may the leading critics of the established experts; so may the committees which assess the experts. The general public may then be called on to adjudicate a confused debate in the mass media between representatives of two sinister interests. There is no assurance (as is sometimes supposed) that when sinister interests conflict they neutralise one another.

Suppose adequate supervisory institutions could be designed, and suppose the community were converted to populism and established them. In such a community few people would defer unthinkingly to any experts. For one who was
himself a competent investigator, deference to the public experts would be of mode I, i.e. he would have reason to believe that he would agree with their opinions if he investigated thoroughly for himself. For others, who are not competent investigators, and know it, and believe they do well to follow the experts which meet with general approval, deference to the public experts will be of mode II.

What of the minority who lack the wisdom even to realise that they should defer to competent guides (above p.222 point (2))? There are two possibilities. First, the incompetent minority will choose their own experts, and will choose badly. The populist may regard this as a price worth paying for the public at large to have a critical habit, without which the populist institutions could not be established or worked. Second, the incompetent minority, while remaining critical towards individuals claiming to be experts, may be deferential towards public opinion, i.e. towards the opinions held by people - experts and not experts - generally. If this happens, the incompetent minority are less likely to become troublesome fanatics. For this reason populists might encourage or demand deference to public opinion; this variant might be called 'authoritarian' populism.
V. ELITISM

The elitist is not confident that a moderate amount — or even any amount — of discussion will bring all or most of those whose judgement is unreliable to realise that this is so. He is therefore not confident that 'head counting' will reflect a proper weighting of opinions: he fears that the incompetent will not abstain from voting or follow the lead of the competent, and that the incompetent may constitute a large fraction of the population, even in advanced nations. He may not claim that they constitute the majority; he claims at least that they are a large enough fraction to make a majority vote, taken after the amount of discussion the majority is likely to regard as sufficient, unreliable in most important subjects. 63

He does not believe that the abilities listed in (1) on p.222 above are widely distributed. Talents are distributed unequally. Besides talent, experience in investigation is needed. Only those who have conducted thorough investigations can know how much difference thoroughness can sometimes make. Some subjects have unexpected twists and turns: investigation may seem for a while to confirm commonsense opinion, but difficulties hidden from beginners eventually force large departures from commonsense; in such subjects thoroughness may make more difference than in most subjects. Besides talent and experience, knowledge is needed. What one thinks is, or is likely to be, true affects one's estimate of another's
expertise (see above, p.218). The more a person's opinions are at variance with the truth the more time he needs to arrive at a just estimate of the competence of himself and other students of the subject. For all these reasons it may take much more investigation than even intelligent persons realise before they can make a reliable estimate of anyone's expertise.

The elitist concludes, then, that to bring a body of experts under the supervision of the 'public opinion tribunal', or of subcommittees of it, will not necessarily improve matters. It may, if the existing public experts happen to be very unsatisfactory; but it may not, if the experts are superior to most members of the community, as they easily may be. It is desirable that the public experts be people who can satisfy competent judges. There may be some people outside a given corporation of experts who are competent to judge them - the experts in some superior subject, or perhaps outstanding amateurs. On the other hand it may be best if the present leaders of the corporation are given a free hand in recruiting new members and promoting new leaders. The elitist may regard the present public experts as bogus, and wish to see them replaced; in that case he may form a temporary alliance with populists, hoping that genuine experts will win popular support and then make themselves independent of it. (Principles of frankness and of fidelity to engagements may restrict the making and breaking of alliances. It may be that in forming an alliance he should avow his elitist opinions, or at least not deny them, and that if he
agrees to majority rule he should keep the agreement - he may try to establish the independence of the genuine experts by persuading the majority voluntarily to give them a free hand). A person might hold the elitist theory, but not regard himself as competent to recognise true experts, and in that case he will do well to be neutral and let things take their course.

There seems to be no single policy an elitist can follow in all circumstances, no institutions which consistently tend to promote genuine experts into positions of leadership. The populist believes that certain institutions favour the truth - not necessarily the set of opinions that he regards as true, but whichever opinions are actually true; he believes that even if most of his opinions happen to be false, he can advance the cause of truth by supporting populist institutions. If the elitist is to further the cause of truth, what is true must be known to him, at least in substance. He must decide which opinions are true and propagate them by methods adapted to the particular circumstances. The progress of truth, on the elitist view, depends on ad hoc action by wise men. Really wise men know they are wise; the trouble is that some who are not wise think they are. Both sets of men will try to propagate their opinions. The triumph of truth requires conflict between real and bogus experts;*64 no institutions can make such conflict unnecessary, or guarantee that it will have the right outcome.

If the public are in the habit of following unthinkingly people who happen to be genuine experts, the
elitist will see no point in disturbing the habit by raising the question whether they should follow these experts. The populist would think this worth doing: there might be some initial confusion, but soon the public will see that the experts are genuine; in the long run the cause of truth will benefit if everyone develops the critical habit of checking experts. The elitist disagrees; he sees no long-run benefit in the general dissemination of the habit of criticism, and if the presently followed experts are genuine, to get people to wonder about their genuineness risks an immediate loss. Since what people believe affects their assessment of experts (cf. above p. 218), the elitist will believe that the best way of securing the long term, as well as short term, progress of truth is to disseminate true opinions widely, so that if the public do start to check experts they will be less likely to make mistakes.

Hence the elitist expert does not encourage the less competent members of the public to adopt a critical and questioning attitude to his advice. If he is challenged by a pseudo-expert, he does not stop and invite the challenger to share the platform while they submit their disagreement to the adjudication of the audience. Instead he brushes the challenge off. He believes that the best way he can serve the truth - in the long run, as well as in the short run - is to make full use of his moral authority to lead people toward truths they would not learn if they investigated for themselves, or followed leaders who could satisfy the Public Opinion Tribunal.
It may be objected that if when they have the ear of the public, the real experts make use of their authority and brush challengers aside, pseudo-experts will do this too if they happen to be the public experts. The elitist might reply that he has not said that it should be made a matter of principle to defer to the established experts whoever they are. If the pseudo-experts when in power ignore, and encourage the public to ignore, the genuine experts, the genuine experts will fight for attention - just as the pseudo-experts will if they are ignored. No general rule, whether it prescribes deference or a critical attitude, can increase the likelihood that such conflict will have the right outcome.

Elitists are not all conservatives. It seems to me that liberals are divided, some of them being populists and others elitists; some are populists in some subjects and elitists in others. Liberals believe that the exponents of liberalism are the genuine experts in the subject the liberal ideology is concerned with. Now it is well-known that even in liberal democracies the 'working classes', indeed the greater part of the population, are illiberal in certain matters, for example with respect to the legal or informal sanctioning of specifically moral rules. It may be suggested that the exponents of liberalism should submit their arguments to the judgement of the general public, being ready to take rejection as a sign that there is something wrong with their arguments, and being resolved not to take advantage of any opportunity to impose their views against majority opinion (cf. above p.227).
On the other hand it may be suggested that if liberals gain political power, they should 'liberalise' various laws even if a morally conservative majority does not approve, if possible without stirring up the opposition. It is likely that some liberals will favour the first suggestion, which is populist, and others the second, which is elitist. Many academic liberals are strongly opposed to populist proposals for democratising institutions of learning, and try to avoid public discussion of them.

There are radical elitists too. They sometimes combine elitism with populism: elitism is right now, populism will be right when present conditions are corrected. The people's thinking has been conditioned by the existing social system. The liberated minority must act vigourously in the true interest of the people, without too much concern for formal freedom and equality of discussion. Once the people's minds have been liberated, free and equal discussion will serve truth.

The disagreement between populists and elitists is over certain questions of fact: whether the populist theses (above p.222) are true or false, whether the elitist is right in claiming that it is easy for even a talented person to overestimate the weight due to his own judgement of the public experts (above p.229-230). If these questions are decided in the populist's favour, it has then to be decided whether the institutional arrangements he proposes - freedom of the press, the 'democratisation' of institutions of learning, and so on -
are likely to have the effect he hopes for, viz. of making the influence of putative experts dependent on their ability to satisfy disinterested and competent laymen who test their expertise. If the former questions are settled in the elitist's favour, no questions about institutions arise, since the elitist does not put his trust in institutions or long-run policies; what remains is for the wise to decide what action is called for in the particular situation in which they find themselves.

VI. REPRESSIVE POLICIES

By 'repression' I mean the intentional obstruction, by whatever means, of communication between people. In any society there are many different actual or possible lines of communication; the repressor may decide to block some and not others. There are various means of obstruction, some involving the use or threat of physical force, others not. Thus there are various possible repressive policies, some of which I will discuss in this section.

The ruler may believe that he has himself a duty to hold certain beliefs, and that it is wrong on his part to listen to criticism of those beliefs, or to advocacy of opinions which conflict with them. He may then forbid certain opinions to be communicated even to himself. At the same time he might be willing to listen to, and even allow publicly, discussion of whether there really is a duty not to listen to anything that conflicts with the beliefs in question, and
whether it is right and expedient to try to prevent critics from speaking (it might be best to allow them to speak, while refusing to pay any attention). The ruler may believe that his subjects should not hear anything in conflict with certain beliefs, without believing that anyone has a moral duty to hold those beliefs; in that case he may be willing to hear private representations not only against his policy of repression, but also against the belief in favour of which the policy was adopted.

So much for the lines of communication from subject to ruler. Repression is mostly concerned with communication between subject and subject. The ruler may prohibit all such communication on certain matters. Or he may distinguish different groups among his subject. He may allow completely free discussion among experts, provided they do not without his permission communicate to the public anything in conflict with the protected beliefs; and he may allow non-experts to communicate their opinions freely to experts. Distinctions may be drawn between various grades of experts; or between special commissions of experts and the rest (e.g. some, and not others, may have access to secret information, and be allowed to discuss freely matters to which it relates).

Another possibility is that the prohibition may be only against certain modes of presentation. The ruler may prescribe that a certain opinion is not to be presented to certain audiences except as a possibility, not as something probable or certain in the present state of knowledge. He may
prescribe that the standard criticisms and the more probable opinion must also be presented.

The prohibition may be only temporary - until a certain crisis has passed, or until the opinion prohibited has been more thoroughly discussed by experts so that they will be prepared to combat it if need be.

The prohibition may not be meant to give a monopoly to one opinion. Perhaps a whole range of opinions is allowed, and just one or a few repressed. These may be opinions which the experts regard as almost certainly wrong, but which laymen find very plausible.

There are various possible ways of preventing or impeding whatever communications it is decided to block. Some people may be forcibly prevented from saying certain things to others, e.g. by being kept in prison incommunicado. It may be threatened that if certain things are said by certain persons to certain others some punishment, physical or other, will be inflicted. People may be conditioned to 'feel bad' if they talk in forbidden ways, or if they listen to certain talk. Expressions of blame, disapproval, or dislike, may be directed against people who break the rules; this may exert strong moral pressure even on people who do not approve of the rules. Facilities normally available for communication may be withheld; e.g. newspapers may refuse to publish letters to the editor if they express certain views. A person whose attempts to start a discussion produce no reaction, not even
disagreement, may get discouraged and give up; to seem not to notice expressions of certain opinions may thus be repressive in its effect. Or the public may be advised explicitly to ignore certain people when they speak on certain subjects; or the same advice may be conveyed implicitly by scoffing or ridicule.

The methods used to obstruct communication may also have collateral effects. For example, if physical force is used, communication will be obstructed and physical pain may also be caused; if the public is advised not to listen, communication is obstructed but no physical pain is caused - frustration of an urge to communicate causes a different kind of pain. If ridicule is the method, communication is obstructed and embarrassment is caused. The method used may attract certain kinds of people to, and repel others from, employment in the agencies of repression. The method of ridicule will attract arrogant people, the method of physical force will attract sadists, the method of advice will attract the fatherly sort, and so on. Because of the difference in collateral effects, one method may be preferable to another, all things considered. But from the point of view I have adopted in this chapter - where the question is what effect certain acts will have on the discovery and dissemination of true opinions and knowledge - the collateral effects can be ignored, except insofar as they influence the effectiveness of the act in obstructing communication. From this point of view, there may be nothing to choose between the methods of advice,
ridicule, moral pressure, force etc. If influential people advise the public to ignore someone, the effect on communication may be the same as if they had forcibly silenced him.

A ruler contemplating repression, then, has a choice between many different possible policies. Some of them are relatively mild: non-experts may be advised not to discuss or listen to certain views for the time being, until the experts have examined them. Others are harsh; death may be inflicted on anyone, expert or non-expert, who communicates a certain opinion to anyone else at all.

It should be noted that some of these policies might be adopted by a ruler responsible to a popular electorate. One can imagine an election campaign debate over whether public servants should be allowed to make public statements critical of government policy, or whether philosophers in universities should be allowed to raise publicly questions likely to undermine belief in the traditional morality. The discussion in this country about whether the functions of American bases should be revealed to the Australian public, and the discussion in the United States about whether Mr Nixon should release certain tape recordings, illustrate the possibility of discussion in public about whether the public should hear certain things.

One of the strands of argument in Mill's chapter 'Of the Liberty of Thought and Discussion' is closely related to the matters we have just been considering. Mill does not
deny that in general one must try to distinguish different degrees of likelihood and do the thing most likely to be beneficial, even though it remains possible that a mistake is being made. But he makes an exception of cases in which the thing involves the repression of discussion: if it is in any degree likely that a mistake is being made — and it always is likely in some degree — then repression cannot be reasonable. Given human fallibility, it is reasonable to act on one’s opinion only if it has first been thoroughly tested in discussion, and if it remains open to criticism even after action has begun. If the action involves repression these conditions cannot be met, so repression is always unreasonable. 68

But even if there is some degree of repression, the conditions may be met to some extent, that may be sufficient. We need not choose between testing by discussion with everyone who has something to say, and not testing at all; or between leaving open every possible means of drawing attention to a mistake, and closing them all. Decision usually cuts discussion short, before every last critic has made every last point. Action usually blocks some of the criticism that might draw attention to a mistaken decision, if only because the actor becomes too busy to listen. If it is ever reasonable to decide and to act, then it must be sometimes reasonable to cut critics short, even though this is risky. The problem is to decide how big a risk to take. The higher the likelihood of error, the more reason there is to postpone decision for
further discussion, and the more reason there is to act so as to keep open possibilities of correction. The lower the likelihood of error, the more reasonable it is to cut criticism short, or (what amounts to the same thing) to repress it.

In fact criticism need not be cut short: the person deciding and acting may be quite open to criticism of the propositions on which he acts, even while he prevents criticism of these or other propositions from being addressed to the general public. Since he is the person deciding, he is the one who ought to hear the criticism. The repressor, let us suppose, acts on the proposition 'Criticism of the doctrines of Marx should not be addressed to the general public'; he may himself listen freely to criticism of this proposition, and also of the doctrines of Marx. So it is not the case that the repressor must repress and refuse to listen to criticism of the propositions on which he acts.

No-one has time to listen to everything everyone says in free-for-all public debate. If the debate is 'structured', so that non-experts address only experts, experts debate freely among themselves, and the ruler listens to the considered opinion of the experts, the criticisms the ruler hears may be of better quality than those that would have come to his notice in the course of a general public debate. If the experts are freed from the need to combat fallacious theories which spread like wild-fire through an easily-misled populace, new delusions arising as fast as old ones are dissipated, they may have more time for thorough
debate among themselves. If their expertise is genuine, this will improve the quality of the criticism they offer the ruler. If the oscillations of public opinion are 'damped' by slowing down the spread of new ideas, the experts may be able to keep pace with superficial propagandists, and teach the public habits of caution and thoroughness, and thus even non-expert opinions may improve in quality.

VII. A DEFENCE OF A MILDLY INTOLERANT REGIME

Let us assume for the moment that on the questions of fact at issue between them, the populists are wrong and the elitists are right. Suppose that there is a group of people who believe rightly that they are experts on a certain subject of great importance. Let us suppose that their expertise arises, in part, from a special kind of perceptiveness, or from acquaintance with an historical tradition (as expertise in medicine requires acquaintance with the Western - or Chinese? - medical tradition; or as expertise in matters of salvation requires, according to Christians, knowledge of what happened in Palestine two thousand years ago). Suppose also that the experts realise they may be mistaken, and that they agree with Mill that 'the only way in which a human being can make some approach to knowing the whole of a subject, is by hearing what can be said about it by persons of every variety of opinion'; hence they engage among themselves in unrestricted open-minded debate, and are also willing to listen patiently and openmindedly to the views of the non-experts. They have
arrived at something close to unanimity among themselves on the questions about which they are experts. The public thinks differently; but this is to be expected, since sound judgement on the subject requires special perceptiveness, or an acquaintance with an historical tradition, which the public mostly lack; hence the fact that the public thinks differently is not a strong reason for suspecting that the experts are mistaken.*69 (European medical missionaries in Africa had no reason to become sceptical of their medical knowledge, or of their theology, in the fact that the Africans had other ideas about medicine and religion.) The experts teach their doctrines to the public; their manner is authoritative - confident, impressive, compelling; they ignore challengers; they advise those of the public with whom they have any influence not to waste time, and risk being misled, by listening to pseudo-experts.

Suppose they gain enough influence over the ruler to set up machinery of repression. They still engage among themselves in free discussion, and still listen to criticisms from non-experts; they listen to criticism of their repressive policies. They still rely mostly on the effect of advice to control the influence of their rivals, because they recognise that even when it favours the cause of truth forcible repression has undesirable side effects. They do not try to destroy rival schools of thought altogether; normally they allow members of these schools freedom of discussion among themselves in private, and they allow small-scale proselytising.
But when their rivals seem to be on the point of misleading large sections of the public, they intervene as forcibly as the situation seems to require - refusing licences to publications, banning certain meetings, banning certain kinds of advertisements in certain media, and repressing various private associations. When the danger passes the repression is relaxed again. Let us suppose that the motive of this policy is zeal for the cause of truth.

It is obvious that this conduct violates many of the rules of toleration - rules 6, 7, 14, 15, 19 and 20, at least (see above p.151-2). The regime described is 'tolerant' for most of the time, but its tolerance is not a matter of principle. When their rivals look like gaining much influence tolerance is temporarily set aside.

The question is, might such a policy further the cause of truth, not only in the short run but also in the long run? We have assumed that the opinions of the repressors really are closer to the truth than the opinions of most members of the public, and of the rival schools of thought. On these assumptions, the elitist will answer my question affirmatively. Let us see whether this answer is defensible.

First, it might be argued that if Mill is right in holding that the only way human beings can approach complete knowledge is by listening to every variety of opinion, then this must be the best method not only for experts but also for members of the general public; but a policy of repression
prevents the public from following it. The elitist might reply that it does not follow that because a certain method is best for those seeking to approach complete knowledge of a subject, it must be best for those whose knowledge must always remain partial and superficial. For beginners in a subject, and for those who will never go past the beginning, the best method is to pay most attention to experts. Only after much progress has been made, and it is desired to go as close as possible to complete knowledge, does it become appropriate to listen even to varieties of opinion which seem to have little chance of being right or instructively wrong.

Second, it might be argued that, granting that it is best if most people are guided by expert opinion, still they should be able to test its reliability for themselves; if guidance is by advice, it can be tested, but if dissent is silenced, testing is not possible. The elitist might answer, first, that if elitism is correct, there is no advantage in having the public pass judgment on the opinions of genuine experts, as these are supposed to be; and second, that if the public act on advice not to listen to certain people, the effect on communication is the same as if those people were silenced (see above, p.238-9); so if the giving and following of such advice can further the cause of truth, as the objector grants, so can forcible repression.

Third, it might be said that use of force creates a dangerous precedent: the school of thought silenced this time may be of little value, but some other time real experts may
be silenced. In this chapter we are concerned with the likely effect of certain causes on the spread of true opinion and knowledge; so the question is not about what the precedent might justify, but about what it will actually cause.*70.

If force had never before been used to repress any school of thought, the effect of this act of repression might be considerable; but as there are already many precedents, the elitist might reply that what is done now will probably make little difference to what is likely to be done in future. If in future anyone is inclined to silence people who happen to be real experts, the fact that repression was not practised at this time when it could have been is not likely to stop them. On the other hand, if the use of force on this occasion quickens the spread of knowledge or true belief, it may reduce the likelihood that real experts will be silenced in future, since people with true beliefs are more likely to recognise genuine expertise (see above, p.232).

Fourth, it might be said that, although in some cases forcible repression might further the cause of truth, in the long run truth is most likely to be furthered if everyone in the community is in the habit of critically examining received opinions and pretensions to expertise; even occasional acts of repression destroy or weaken this habit. In answer to this it might be said, first, that the weakening of the habit might be a price worth paying - even when truth is the only value taken into account - for the repression of a plausible and serious error, since how much
people know of the truth affects the value of their critical evaluation of experts; and, second, that it is only on populist assumptions that it is true that the cause of truth is likely to be furthered if everyone in the community has the critical habit (see above, p.232).  

Fifth, it might be said that the power to control discussion cannot safely be entrusted to anyone; the controlling group may develop a sinister interest, or it may be invaded by people of undesirable personality-type; in time the repressors will cease to engage in free discussion among themselves, will cease to listen to representations from outsiders, and will use force even when it does not serve the cause of truth. The elitist might reply that this is indeed a risk, but that it might in some cases be a risk worth taking. There is a danger of abuse if any group has so much influence that its advice is usually taken (see above p.239). If it is ever reasonable to give anyone such influence, then it may be reasonable to give them power to control discussion. It is not a good rule always to act as if power and influence will be abused to the utmost; some people are more trustworthy than others, and should be trusted accordingly.  

If the controlling group seem genuinely to believe that free discussion among experts is best for truth, and if they seem genuinely zealous for the cause of truth, then it may be reasonable to risk giving them power to control the course of public discussion.
Sixth, it might be said there is too great a risk of error in the judgment that on this occasion forcible repression will serve the cause of truth; it is safer, in view of human fallibility, to make it a policy to let discussion take its course freely. Many difficult questions have to be answered: whether and to what extent the experts' opinions are likely to be closer to the truth than those of non-experts and rival experts; to what extent would free public discussion raise or lower the quality of non-expert opinion; to what extent would the proposed forcible intervention improve the quality of non-expert opinion (it might exacerbate opposition); is the elitist right in his judgement that there is no advantage, and even some disadvantage, in the general diffusion throughout the community of a habit of questioning claims to expertise; what is the risk that forcible repression now will result in other such acts in future, and with what likely effect on the progress of truth; what is the risk that a policy correctly decided on now will be departed from in undesirable ways because of deterioration in the quality of the expert group; if the decision to coerce is actually a mistake, how soon is this mistake likely to be discovered, how much damage will have been done by then, and how easy will it be to change the policy (see Appendix, p.190)? No-one can ever be very sure that he has answered these questions rightly, and correctly weighed the opportunities and risks. Many in the past who repressed what now seems like the truth were convinced that
they had decided rightly; their example should teach caution.

The force of this objection might perhaps be weakened by pointing out that a similar fearsome list of questions could be made out for any choice between alternative courses of action; for example, for the choice between having public experts to advise people in choosing what to read and whom to listen to, or leaving the choice to each individual. If the experts advise the public to ignore certain rivals, or if the experts ignore them and themselves engross public attention, the rival experts might as well have been silenced, for all the effect they will have on the public's thinking (see above, p.238-9). But the publicly recognised experts may be wrong; their behaviour may weaken the public habit of critical thinking; it may establish a precedent; and so on. If the risk of forcible interference is too great, then the risk of guiding by advice may be too great; should the institution of publicly recognised experts be abolished? Of course this is ad hominem; perhaps the public experts should be abolished, and discussion left to take its course without any sort of guidance.

For putative experts to try to economise the community's time and resources by guiding thinking, by advice or forcibly, is risky, since the guidance may be misguidance. But even if the guidance is only moderately reliable the saving in time and resources when it is right may be enough to compensate for the harm done to the cause of truth when it is wrong. If it is fairly reliable, not to follow it may
seriously harm the cause of truth; progress towards the truth requires the use of time and resources in inquiry and teaching, and not to follow reliable experts is wasteful. So there is risk either way. The choice to which the questions listed above (p.248) are relevant is not a choice between a risky policy of interference and a safe policy of free discussion; it is a choice between risks - between risking harm to the cause of truth by relying too much on experts who are sometimes wrong, and risking harm to the cause of truth by not relying enough on guides who may be at least sometimes right.*73

The choice may not be seen this way for various reasons. Some people habitually fail in practice to take account of what may be lost by not taking a certain risk, though in theory they acknowledge that it is right to do so. Some hold moral beliefs according to which the commission of a harmful act is to be avoided even at the cost of omitting a probably beneficial act (see above, p.148). Others hold the populist belief that the natural instinct for truth is bound to lead men right 'in the long run', if there is free and equal discussion, and they do not seem to care how long the run is. If we do care about this, and if we put possibly harmful acts of omission on a par with possibly harmful acts of commission, and if we take account not only of the risk that to direct discussion may do harm but also of the risk that failure to direct it may do harm, then the fact that the relevant questions may be answered wrongly will not seem like an
argument for one alternative rather than the other.

The decision-maker believes that if he chooses certain acts of repression rather than the alternative, to leave discussion completely free, he will probably benefit the cause of truth; but possibly he will do harm. The sixth objection calls on him to act on the proposition he regards as possible instead of on the proposition that he regards as probable. This might be reasonable if it were safer; but as I think I have shown, there is no safety in either choice. The most reasonable course then is to act on the propositions that seem most probable.

The possibility of error is a reason for caution, though not for choosing free discussion instead of control; it is a reason for delaying decision while the relevant questions are considered more carefully, for using a more conservative decision rule (though, since neither of the alternatives is safer, there seems to be no application for such a rule), or for keeping open possibilities of corrective action if the decision turns out to be mistaken.

The third of these points is the basis of an argument by which Mill thinks he can rule out repression altogether; but I believe I have shown that a repressive policy can leave open possibilities of correction (see above, p.236-7). The mildly repressive regime described above (p.242-244) does not seek to destroy altogether the rival schools of thought, and the established experts give a hearing to their critics. It might have been decided that it would be
enough insurance against error to preserve the memory of the rival schools' doctrines in history books, to be taught by members of the established school to advanced pupils. Or on the other hand it might have been decided that almost complete freedom to proselytise should be given to at least some of the rival schools. To keep open the means of correction costs something (since people are misled, time is wasted in discussion of opinions that have little chance of being right, etc.); how much it is reasonable to pay depends on how likely it is that the dominant school of thought is mistaken. There seems no reason not to act on one's estimate of the likelihood, since there seems no safer way of deciding.

Compare the conservationists' argument that no species of living thing should be allowed to perish, since we cannot be sure we will never have a need for it in future. But if it now seems useless or harmful, it might be reasonable to eliminate it from some places, preserving it perhaps only in zoos or laboratory cultures. But the zoo specimens may perish, or the future need when it occurs may be so great and sudden that it could only have been met if the species had been left quite free to proliferate. But if it had been, some other species would have suffered, and that might have been the species needed. Whatever we do may lead to disaster. The only reasonable course is to act on our fallible estimate of the risks: preserve some, but without allowing them to run wild if at present this seems harmful and unnecessary.
253.

Or compare defence planning: we might at some time in the future be attacked by a Great Power; to provide against this remote possibility would frustrate many other projects; so let us provide against attacks by smaller powers only. It may be reasonable to pay a small insurance premium against small dangers, and not to pay a larger premium against larger dangers, although we do not know whether the small dangers are more likely to eventuate than the large ones. It seems so to me, anyway.

VIII. CONCLUSION

Since time is scarce, the seeker after truth and knowledge is most likely to approach his goals if - at least in the earlier stages of his search - he does not listen to representatives of every school of thought, but instead spends most of the available time listening to experts and to those whom they recommend. This is true as long as the experts are indeed genuine; it makes no difference whether the student has himself checked the genuineness of their expertise, whether he would be satisfied if he did check (see above, p.212), or whether he has reason to believe that anyone else has checked.

Who are the genuine experts? This question does not occur to some people; they follow the publicly recognised experts as a matter of course. If the publicly recognised experts are genuinely experts, those who follow them unthinkingly will come closer to the truth than they would have if they had not followed them.
But their expertise may not be genuine. To provide against this possibility, those whom I have called populists propose a policy consisting of the following elements:

(1) Each person should resolve not to follow putative experts without first verifying their expertise — or at least, without putting the genuineness of their expertise on his agenda of questions to be investigated (see above, p.220-1). (2) Since no-one can hope to check many experts personally, there should (if possible) be institutions to ensure that anyone who gets and keeps public recognition as an expert has been checked by, and has satisfied, a panel of people representative of the lay public. The populist believes that the Public Opinion Tribunal or one of its 'committees' can be relied on to decide rightly after discussion sufficient to bring its members close to unanimity, since almost everyone can with enough discussion be brought either to recognise genuine experts, or to recognise those who can recognise experts, or to realise that he cannot recognise either.

Those whom I have called 'elitists' reject this policy. They believe (1) that only some people should be encouraged to try to decide who are the genuine experts — if others are following genuine experts unthinkingly their habit should not be disturbed; and (2) that there is in general no advantage in arranging things so that no-one will be recognised as an expert unless he can satisfy the Public Opinion Tribunal. Abilities are not distributed as the populists suppose; and in any case ability is not enough without experience in
investigation; even wide experience in investigation in other subjects is not enough sometimes, because there are subjects in which inquiry takes surprising twists and turns (see above, p.229). Hence it is only a talented and experienced minority - sometimes only experts in the subject - who can be relied on, after the amount of discussion likely to satisfy most people, to recognise the genuine experts, or to defer to the opinion of those who can. Hence institutions which bring experts under popular supervision may harm as often as they help the cause of truth. If the publicly recognised experts are genuine experts, it is well if the public follow them without asking whether their expertise is genuine, since as likely as not they would answer the question wrongly. If the public experts are bogus, it is up to those who know better to challenge them and if possible take their place. No institutions can make it probable that conflicts between rival schools of thought will have the right outcome. There may be circumstances in which it is reasonable for the genuine experts to resort to force.

If the genuine experts win the contest, and consolidate their position by means of forcible repression, not carried to extremes, the result might be the establishment of the mildly intolerant regime described in Section VII. If (a) the ruling experts do really have more knowledge than their rivals and more than the rest of the community, (b) they are genuinely zealous for the cause of truth, (c) it is really the case that free and equal public discussion of the question
whether their expertise is genuine is quite likely to reach the wrong conclusion, (d) their intolerance does not extend to attempts to destroy rival schools altogether, and does not prevent the established experts from listening open-mindedly to representations critical of their opinions and policies, (e) I am right in my account of the appropriate way of deciding the relevant questions in the face of the possibility of error (see above, p.249-253), then the intolerant regime might, not only in the short run but also in the long run, further the cause of truth. (It might: for other points that need to be considered, see above p.248).

If it might, then the claim that the general adoption of the principles of Toleration is the best way of serving the cause of truth is mistaken. The best way would be to be tolerant mostly, but resort to repression occasionally when this would (in the long run) advance the truth. One who adopts the principles of Toleration renounces repression altogether as a means of advancing truth. It would be well if those not competent to recognise genuine experts never practised forcible repression, while those competent had a free hand to practise it when they saw fit. In fact the competent may have reason to renounce forcible repression to induce the incompetent to do so too; this possibility will be discussed in the last chapter. If the incompetent are in fact not in the habit of intervening, and seem unlikely ever to do so, a treaty renouncing repression may be unnecessary. But
bargaining apart, it does not seem – unless the populist
doctrines are true – that truth is served by making
Toleration a matter of principle, even though in most cases
to tolerate will be expedient.

Notice that the elitist does not dispute two of the
strongest points Mill makes: that listening to representatives
of every school of thought is the only way of approaching
complete knowledge of a subject, and that since human judgement
is fallible the means of correction should be kept at hand.
To the first the elitist adds: not everyone should attempt to
get, anything like complete knowledge of a subject, and in the
earlier stages of study it is best to listen mostly to experts.
To the second he adds: what opportunities for disseminating
probably true opinion it is reasonable to forego in order to
keep open certain possibilities of correction depends on how
likely it seems that there are mistakes to be corrected. These
additions are surely acceptable. They provide, together with
assumptions about the distribution of talent, experience and
knowledge, the basis of an argument to show that repression,
even forcible repression, may further the cause of truth.

The success of the argument for Toleration as a
means of furthering truth mainly depends, then, on the answer
to the questions of fact at issue between the populist and the
elitist. (What is the appropriate response to the possibility
of being mistaken is also a relevant question.) What is the
pattern of distribution of the relevant abilities, experience
and knowledge through the community? The cautious reasoner
who regards it as irrational to affirm anything without sufficient evidence that it is true may refuse to decide. According to my own theory of justification, decision should be made by assigning truth values to relevant propositions (including estimates of the likelihood of certain assignments being mistaken) at the prompting of feelings of belief. Since mistakes are quite likely, no policy is likely to be reasonable unless it allows for further investigation and for the substitution of another policy. Hence no extremely intolerant policy is likely to be accepted. But it seems quite possible that occasional violations of the rules of toleration might be judged favorable to the cause of truth; that is, that the adoption as moral principles of the rules of Toleration would not be judged to favor the discovery and dissemination of true opinion and knowledge.

My own hunches, for what they are worth, are as follows. With respect to most subjects worth arguing about the populist is wrong. It is not true that conclusions agreed on by a majority (even an overwhelming majority) after free and equal public discussion are as likely to be true as the conclusion adopted by individuals of better than average capacity with a special interest in the subject. In particular I reject the authoritarian variant of populism (above, p.228); there is no reason why anyone should defer to the general consensus, even when it rests on much discussion (in some subjects, especially when it rests on much discussion). On the other hand, I do not believe that the
existing bodies of publicly recognised experts in 'ideological' subjects are more reliable judges in their subjects than many members of the public. Christianity seems to me to be false; but the arguments against it of the rival school of experts - the agnostic philosophers - usually presuppose an epistemology which also seems to me to be false. Apart from Christians and perhaps some liberals no-one even claims expertise in substantive questions of morality. I do not believe that there are any reliable experts in the arts of governing the country, or of governing universities and other educational institutions. The situation seems to be as it was in Comte's day - there are reliable publicly recognised experts in astronomy, physics, chemistry, medicine, engineering, etc., but not in social and moral matters. Although free and equal public discussion does not give reliable results, the populist institutions are worth supporting as a check upon the self-assurance of the recognised experts. However, this situation might change, and already there are experts in some of the questions in which a choice has to be made between repression and toleration; whether the adoption of rules of Toleration as moral principles would in the long run help or hinder the cause of truth I do not know. Consequently arguments for Toleration as a means of furthering the truth do not impress me.
CHAPTER 5: THE FUNCTION OF THE STATE.

Many liberal writers have argued that the State (or the Law, or Society insofar as it controls its members) has a limited function, viz. to prevent people from harming one another; they then point out that it is no part of this function to foster religion or morality ('as such') or knowledge of speculative truth; from which they infer that, since each institution should stick to its own function, the State (Law, Society in controlling its members) should not act for the sake of religion, morality or truth. In this chapter I will leave Law and Society aside, and also morality and truth, and consider the functions of the State in relation to Religion; what I have to say about this could mostly be applied easily enough to the matters I am leaving aside.

I. THE FUNCTION OF AN INSTITUTION.

Argument from the supposed function of an institution is common in public debate. Sporting organisations exist to organise sport, Trade Unions to improve pay and working conditions; neither has any business trying to change South Africa's racial policies. Trade Unions exceed their functions if they engage in business undertakings, or in political agitation, or if they impose 'green bans' at the behest of conservationists. Universities should not set out to change society; their business is the pursuit of knowledge for the sake of knowledge. Colleges of Advanced Education exist to give tertiary-level vocational training; Universities and Colleges of Advanced Education should not try to perform one another's functions. The community's institutions are like a
set of tools each with a specialised function (what only it can do, or what it does better than any other institution does); the community will work best if its set of institutional tools includes a specialised organ catering to each identifiable social need, and if each institution does the job it does best and leaves the other jobs to the other institutions. The liberal conception of the State fits into this pattern: the State has certain limited functions, and should stick to those.

It is often supposed that an institution's function ought to be single; there ought to be a single objective to which all the institution undertakes should be directed. The function is supposed to be rather narrow. Some ends of human activity stand 'higher' than others: some ends are means for higher ends, which may themselves be means to yet higher ends; some ends are sought for their own sake. An institution which seeks an end some distance up this scale should, it is supposed, assign concern for the lower ends which are means to its own end to lower organs - its departments or other institutions - and confine itself to co-ordinating and bringing to completion the work of the lower organs. Thus each institution, even at higher levels, has a narrow job to do. The State, for example, although it stands highest in many respects, should not itself do anything that can be left to lower organs. Of course not everyone who argues in terms of function subscribes to all of this; but I think it is a fair illustration of common ideas on the subject.

In the present context, talk about function is normative. An institution's function is not whatever it actually does, but what it ought to be doing: the function is normative for the institution's activities. The doctrines that an institution
should have a single overall objective, and that its function
should be narrow, and that it should perform only its own
function, are normative, prescribing what sort of view one
should take about what an institution ought to be doing.
There seem to be three sources for these norms: contracts,
'ideas', and considerations of utility. What I mean will
become clearer shortly.

Some associations are founded by calling a meeting of
persons interested in a certain objective, to draw up a
constitution, elect officers, and decide on a programme of
activities to achieve the objective. In such cases it may be
reasonable to hold that there is a mutual understanding (or
'contract') among the members to the effect that the society's
name, funds, facilities etc. are to be used only to further the
objective; any other use would be a violation of this
understanding, and therefore - since it is a moral principle
that agreements are to be kept - wrong. People who join after
the original meeting know or can easily find out what is the
society's objective, and can be regarded as having become
parties to the original understanding. The objective can be
changed, but only by unanimous consent; a minority would be
entitled to demand that the majority form a new society, rather
than divert the existing society to a new objective.
(See above, p.118).

The 'contract' may specify that the society is to seek
more than one objective, and that it perform a broad rather
than a narrow function. The contract can explain why the
society should perform only the agreed function, but it cannot
explain why institutions should be specialised. For many
institutions no contract seems to exist - members are
and always have been of different minds about what the institution ought to be doing.

By an 'idea' I mean a clear conception offered as a definition of some sort of institution, which is taken as supplying norms for institutions called by the corresponding sortal term. For example: suppose someone gives a clear definition of a University, according to which it is devoted to the pursuit of knowledge for the sake of knowledge; suppose someone then points out that modern universities appear to be devoted to many other things as well or instead; for one who treats the definition as an 'idea', this will seem a damaging criticism of modern universities. Ideas seem to get their normative force from the impression of beauty that an orderly system of clear and definite concepts may make on the mind. Clarity and definiteness in sortal concepts requires that there be a special pigeonhole corresponding to each distinguishable set of characteristics. Hence the desire for clarity and definiteness may lead to a narrowing and multiplication of classifications; if institutions are classified by their purpose, it may lead to a narrowing of functions and a multiplication of institutions. Orderliness has an aesthetic appeal: it is satisfying to the mind if all the activities of each institution are ordered in each case to a single goal, and if various institutions are co-ordinated towards an over-all goal. If an account of the organisation of society, or of some segment of it (for example, of intellectual activity) attributes to each institution (e.g. to each academic discipline) a clear and definite task in such a way that they form an orderly and intelligible system, the beauty of the scheme may give what might otherwise have been
merely an inaccurate factual description a normative force; it will seem a falling short of ideal perfection if existing institutions do not quite correspond to the scheme. (If they altogether fail to correspond, then it will probably seem that some other ideal is appropriate).

A desire that Society should be organised in a way that the mind can grasp and find satisfying may thus be the cause of a trend towards specialisation of functions and the exclusion of activities unrelated to the function.*3

The influence that 'ideas' exert on social reality may not be noticed, since usually people argue in terms of utility for changes they want partly for aesthetic reasons. The 'utility' argument for multiplying institutions and specialising their functions, and excluding activities unrelated to the function, is that a division of labour increases productivity. Each institution will be more effective if those who man it have fewer objectives to think about and fewer skills to learn; members of a society will achieve more of its purposes if they work through a wide range of specialised institutions, just as a carpenter will produce more if he has a range of tools each exactly adapted to special purposes rather than a few multi-purpose tools not well adapted to any of the purposes for which they have to be used.4 Another argument is that an objective is likely to be overlooked and neglected unless there is a special institution concerned with it. For every socially important purpose there should be an institution which regards furthering that purpose as its main business.

Those who take utility more seriously than conceptual neatness may hold a 'moderate' version of the doctrine of specialisation of functions, allowing a certain untidy mixing
of functions - since this may be useful - within a system of more or less specialised institutions. Let us distinguish 'primary', 'instrumental' and 'incidental' activities. 'Primary' activities are those in which the institution realises its principal goal or goals; instrumental activities further ends which are also means to a principal goal; incidental activities do not further either intermediate or principal goals. The moderate doctrine is this: (1) Each socially important goal should be the one object of the primary activity of some institution; in those institutions, incidental activities should not be allowed to interfere with the primary activity. (2) There may be other institutions which have several leading goals, or allow incidental activities to compete with primary activities. Let us call the institutions of (1) specialised, and those of (2) unspecialised. Some of the activities of an unspecialised institution may be the same as the primary activity of some specialised institution; i.e. socially important goals may be pursued by both specialised and unspecialised institutions. Sometimes a specialised and an unspecialised institution may be called by the same name (e.g. 'university'). According to the moderate doctrine, specialisation should be carried at least to the point where there is at least one specialised institution (or class of institutions) which makes furthering that goal its single primary function, and which gives the performance of its primary function precedence over other activities (though it may engage in incidental activities when these do not interfere with its primary function). Uns specialised institutions may not be said to have 'a function'.

Suppose a certain activity becomes socially important for
the first time. It may be already carried on incidentally in some specialised institution, but for that institution to give it the attention its social importance now warrants will interfere with the institution's existing function. The more important it becomes, the stronger the case for setting up a new institution specialising in it, or for converting some existing unspecialised institution into a specialised institution with this activity as its one primary activity, discontinuing or subordinating other activities. For example, while the training of 'technologists' was not of major social importance, it could be done incidentally in universities; when it began to become important it threatened to interfere with the university's primary activities, and eventually Colleges of Advanced Education were set up, by founding some new institutions and converting some others.

What the moderate doctrine holds in common with strict forms of the 'utility' doctrine of specialisation of functions is that society's objectives are most likely to be attained satisfactorily if each objective (at least each important objective) is made the one main concern of certain institutions, and if in (at least) those institutions activities not conducive to the main objective are engaged in only if they do not interfere with the primary and instrumental activities.

In the next three sections I will deal respectively with 'contract', 'idea', and 'utility' doctrines of the functions of the state.

II. LOCKE ON THE CONTRACT.

The argument of Locke's first Letter rests mainly on a distinction between Church and State, the former being a
voluntary society devoted to the salvation of souls, the latter an agency of coercion devoted to the securing of certain temporal interests. The basis of the distinction is the doctrine that the State was formed by contract for certain limited purposes—to secure each one's life, liberty, and property against unjust violence on the part of others—which do not include the fostering of religion, and that to enable it to perform its function the contract gave to the State the exclusive right to coerce citizens and to inflict 'civil' penalties—i.e. penalties which affect life, liberty, or property. Since only the State has the right to coerce and inflict civil penalties it follows that all other societies must be 'voluntary' in the sense that they lack this right. Hence the State cannot foster religion, since this would violate the contract (see above p.262); and societies formed for religious purposes cannot be allowed to coerce or inflict civil penalties.5

It might be supposed that a multitude which forms a State by contract could give it any functions they pleased. They might empower the magistrate to do whatever seems to him to be for the good of citizens; or, if they are not prepared to trust his judgment to this extent, they might empower him to further certain purposes which the constituent assembly regards as good, or to further whichever purposes a representative assembly may from time to time regard as good.6 In particular, the contracting parties might empower the magistrate to foster some particular religion, if they regard this as good.7 For example, members of a sect migrating to the wilds of America might agree that their State is to enforce rules of their religion upon all who choose to live in its territory. To
decide whether a magistrate had power to coerce on account of religion it would then be necessary to study the history of the State to discover what its citizens had in fact agreed to.

However Locke tries to show, on the assumption that the parties to the contract were reasonable, that, first, the contract cannot have entrusted the State with any functions but the one Locke attributes to it; and second, that in particular the contract cannot have entrusted the State with power to enforce any religion.

On the first point Locke does not say much. He holds that the State's function even in temporal matters is limited; it does not have a commission to do whatever temporal good it can. The State does not, and Locke assumes should not, compel people to take proper care of their own temporal interests. It fosters commerce, but only because a flourishing commerce is conducive to security. But why must its function be limited in this way? In the passage in which Locke comes closest to giving an answer, he says that all things except security were as well attainable by men living 'in neighbourhood without the bounds of a commonwealth'. Perhaps Locke imagines that a State is formed only after men have lived in a region for some time, so that only security functions are left unprovided for by the time the State is established. But new-founded colonies may be political societies from the beginning, and in new colonies the State does often assume a wide range of functions. In any case, why should functions previously performed by other means not be undertaken by the State once it is formed? For some reason Locke is assuming that the State must do only what only it can do; I suspect the influence of an 'idea'. Locke's 'ideas' of Church and State
will be examined in the next section.

However even if Locke cannot prove that the State's temporal functions are as narrow as he claims, he might still be able to show that the State has no religious function. He offers several arguments to show this, but against each of them there are strong objections.

First, Locke argues that 'no man can so far abandon the care of his own salvation, as blindly to leave it to the choice of any other ... to prescribe to him what faith or worship he shall embrace'. To this two replies are possible. First, it is not impossible, nor unreasonable, that a man who puts a modest estimate on his own wisdom in such matters, should allow another whom he believes to be wise to choose for him. Second, it is not necessary that the magistrate be empowered, if he is given any religious power at all, to impose any religion he pleases. His commission may specify what religion he is to impose; for example, the emigrating sect might empower their magistrate to impose their religion on whoever live in their territory. In this case the contracting parties agree to impose their own religion on other people, and on those few of their own number who try to abandon their religion.

Second he argues that it would be futile to empower the magistrate to impose a religion, since religion is a matter of belief, and 'no man can, if he would, conform his faith to the dictates of another'. But persecution is not altogether futile; belief is indirectly and imperfectly under the influence of the will; if penalties have been attached to certain beliefs, those beliefs may as a result be less common than they would otherwise have been. In any case, the magistrate can certainly exact outward conformity.
Third, Locke argues that in religion outward conformity is of no value, and that outward conformity without belief is hypocritical and therefore evil. Against this several things may be said. First, it may be that the exacting of conformity is of value, even if the conformity exacted is not, since it shows zeal for God's glory (see above, p.121); I regard this myself as a weak point. Second, the outward conformity of A, valueless in itself, may protect the inward belief of B, which may be of religious value, and also of temporal value, since B may be more obedient to certain socially useful moral rules if he holds certain religious beliefs, and if he believes that most of his fellow citizens hold them too he may trust them more, and be less unwilling to accept restraints for the sake of social harmony. Third, the evil of hypocrisy cannot be a conclusive objection, or it would be necessary to do away with all use of force for no matter what purpose, and all rewards and punishments, since these may cause hypocrisy. Perhaps it is worthwhile to risk causing hypocrisy if the end sought is important enough.

Fourth, Locke argues that in any case it would not be to the advantage of the true religion to empower the magistrate to impose it by civil penalties, because every magistrate will then be empowered to impose the religion he or his community think true, and in most cases the religion imposed would not in fact be true. Why is it that if one magistrate has a certain power all others must have it too? One would suppose that if the magistrate's commission is drawn up by those who by compact place themselves under him, the commission will vary from place to place; for example, a community who are all of one religion and take it seriously will
empower the magistrate to enforce their religion, a community who cannot agree about which religion should be enforced, or who do not care much about religion, will empower their magistrate for temporal purposes only. I suspect, again, the influence of an 'idea': the one definition is being taken as supplying a norm for all functionaries called by the same sortal term (see above p.263). Or perhaps Locke means that to empower one magistrate to enforce a religion establishes a precedent which may be imitated; if he means this, the force of the point depends on how likely it is that the precedent will actually be imitated (see above p.246).

So much for the arguments to show that if the parties to the compact are reasonable, the magistrate cannot be empowered to impose any religion.\(^{19}\) It is also essential to Locke's case to claim that the compact gives the State an exclusive right to inflict temporal penalties (see above p.267). Why must this be so? According to some medieval theorists, Church and State are both self-sufficient societies; therefore the Church can in its own right exact, by coercive means if need be, obligations owed to it. What objection would Locke make to this? His earlier political writings suggest that he might say that unless one authority has a monopoly of the legitimate use of force there may be conflicts which cannot be resolved without use of arms, which the establishment of the State is meant to prevent.\(^{20}\) In his later writings he does not attach overriding importance to the avoidance of conflict not resolvable by peaceful means: force not regulated by law may be the only way of preventing the magistrate from behaving as a tyrant, and the good sought may be worth the risk.\(^{21}\) Similarly it might be held that the Church's purposes are
important enough for some risk of conflict to be tolerable; if there is general agreement throughout the community about which obligations Church officials may exact by coercive means under circumstances likely to arise, the risk of conflict may be low. It might be written into the contract that Church officials are entitled to coerce in various cases, and that in those cases the magistrate is not to interfere. Or it might be provided that when opinions differ, the Church officials' judgment is to prevail; this was the medieval solution. It might be objected that the magistrate might interfere when the contract did not authorise it, and armed conflict might then occur; but no contract can prevent conflicts that result from violations of the agreed rules. At all events, it is not clear that the contract could not, in reason, entrust coercive power to two independent authorities under appropriate conditions.

If these objections are sound, then Locke has not shown that reasonable men must make a contract that excludes all use of coercion and temporal penalties for religious causes. In any case the parties to the contract may not have been reasonable men; generally people are to be held to what they did agree to, not to what they would have agreed to had they been reasonable. The making of an historical inquiry seems unavoidable, if the 'contract' argument is to be invoked; only if it can be shown that the person using coercion for religious ends did in fact undertake not to do so can he be accused of violating an agreement.

III. 'IDEAS' OF CHURCH AND STATE.

Locke's distinction between Church and State has the
clarity and neatness that may make a doctrine seem self-evident. A man has a mortal life on this earth, and an immortal soul, hence he has interests in this world, and an interest in the world to come; the State cares for his this-worldly interest in security, the Church for his other-worldly interest in the salvation of his soul. I have no objection in principle to the acceptance of a doctrine, without argument, because it seems self-evident. However Locke's, and other, doctrines of the distinction of Church and State lose their appearance of self-evidence, I believe, when they are compared with one another; just as a good explanation may cease to seem obviously the true account of the matter when it is realised that there are other explanations just as good. Besides Locke's, there are a number of other Ideas of Church and State, equally clear and neat. According to some of these, coercion for religious purposes may be legitimate.

Consider first the Aristotelian idea of the State. The end is the same for an individual and for the State. The individual's aim, if he is wise, is to engage for as much of his life as possible in intrinsically valuable activities; among such activities thought stands first; activities not intrinsically valuable should be engaged in only insofar as they enhance intrinsically valuable activity. What makes it possible to say that the end is the same for the individual and for the State, is that Aristotle holds that it is best to engage in intrinsically valuable activity together with friends: friendly intercourse is itself intrinsically valuable, other intrinsically valuable activity such as speculation is done best with friends, what is good intrinsically is not diminished by being shared; a friend is 'another self', not a competitor.
The State is a company of people living together in a kind of friendship. The State is not a specialised 'service' organisation, it is like a club, an association of men who meet to engage together in a wide range of activities. The State's function is to promote, and to be the locus of, the good life, in all its aspects. It engages not only in coercion, but also in moral exhortation, rational discourse, education, intellectual activity; in acts of worship, in art (public building etc.), in theatre, games, festivals, feasts, etc. Concern for the 'salvation of souls' is not in principle excluded; if Aristotle had believed in immortality, and believed that how one lives in this life influences one's chances of engaging in intrinsically valuable activities in the next, then he would no doubt have believed that the State is concerned to maximise its citizens' chances of a good life after death; the wise man's aim is to engage in valuable activities for as much of his life (or existence) as possible. The State's purpose is, then, the same as the purpose of a wise individual, or a group of friends; it is distinguished from smaller groups within it by the fact that it is large enough to be self-sufficient, or nearly so. The State is in this sense a 'perfect' society.

Scholastic theorists had much the same idea of the State as Aristotle's: it is a perfect society whose purpose is to promote its citizens' whole good - in this life and the next - by every available means. However they added that the means available to the State are merely natural means, by which the good for man is only imperfectly attainable. The Church has at its disposal supernatural means - the sacraments. Both natural and supernatural welfare are worth aiming at, neither
is merely a means to the other; but supernatural welfare is
infinitely more important, so that one may reasonably seek it
and neglect one's natural happiness, and if the two should
welfare
come into conflict natural / should give way. So the Church
is not (or not much) concerned with man's natural well-being;
and if Church and State come into conflict, the State ought to
give way. The Church may call on the State for help in its
work, and the State ought to give what help it can, because of
the superior importance to men of their supernatural well-
being. 31

In the scholastic theory the Church is a voluntary society
in the sense that none can rightly be compelled to become a
member of it. However if he does join it, he comes under
certain obligations: he promises to believe what the Church
teaches, and he ought to obey ecclesiastical authority in
certain matters. He cannot escape his obligations simply by
resigning; he cannot resign. 32 The Church authorities may,
with or without the State's leave, exact these obligations.
Expulsion (excommunication) was not the only available
penalty; 33 if coercion was necessary, it could rightly be used,
though it was believed that the Church for religious reasons
could not impose the death penalty. For example, an abbot
might imprison a monk on bread and water for violations of the
monastic rule. For the use of temporal penalties the Church
need not ask the State's permission; it is a 'perfect'
(self-sufficient) society, and is competent to use whatever
means it deems suitable to exact obligations its members owe
to it. 34

In this theory the distinction between State and Church
is not based on the distinction between man's body and his
soul, or between this life and the life after death, but on the
distinction between natural and supernatural means. The good
sought by both Church and State is the good of the person,
not his body or his soul. Both seek his good in this life and
in the next - the State should remember that the citizen will
live after death, and the supernatural life fostered by the
Church begins on earth though it is consummated in heaven.
The State is Aristotle's city, promoting the good life by
every (natural) means; the Church is a society, independent of
the State, of those living a superior kind of good life by
supernatural means.

Most Protestants in the XVIth and XVIIth Centuries had
another 'idea' of the distinction of Church and State, founded
not (as in Locke's theory) on the this life - next life
contrast, nor (as in the scholastic theory) on the natural
means - supernatural means contrast, but on a contrast between
inward and outward acts, acts of mind and acts of body. On
the occasion of the Church's preaching and administration of
sacraments, God may give the grace needed to move the mind.
The State, on the other hand, wields the sword, i.e. attaches
bodily penalties, of which death is the most severe, to
various outwardly observable acts, so as to bring outward
action into conformity with the will of God. There is only
one end of human life, the glory of God; the ministers seek
God's glory by preaching and administering sacraments, the
magistrate by exacting outward conformity to God's will.35
Some of God's laws are meant to protect men from one another,
but the magistrate is no more concerned with these than with
others of God's laws; all are enforced under the same formality,
_viz._ as willed by God, and to the same end, _viz._ God's glory.
God wills the existence and activity of various other agencies besides the State. The magistrate must not assume the functions of these other agencies, but it is within his function to ensure that the outward acts of those whose function it is to establish and operate these agencies are in accordance with God's will, i.e. to ensure that other agencies are established and operated in all outward respects as God wills.\(^3\) In this way the theory gives the magistrate, indirectly, a concern with human welfare: God wills the performance of various outward acts, many of them beneficial to man in soul or body; the magistrate exacts the acts God wills.\(^3\)

Among the agencies God wills is the visible Church. The magistrate must not assume ecclesiastical functions, but he must ensure that the outward acts required in setting up and operating the Church are performed in accordance with God's will. The magistrate is responsible himself for discovering what God's will is - he cannot take ecclesiastics as sufficient authorities on the subject (see above, p. 4). However it is God's will, and not the magistrate's understanding of it, which is normative. If he misunderstands, and directs what is contrary to God's will, Christians must not obey - though they must not themselves take up the sword to resist the magistrate. The ministers have a duty to God to preach and exhort; if they are forbidden by the magistrate they cannot obey; they may have to tell the magistrate that his orders concerning the Church are contrary to God's will. The ministers say how they think God wills the Church to operate, the magistrate compels outward conformity to what he thinks is God's will; for both the objective norm is whatever God does really will.\(^3\) The ministers in preaching are not the
magistrate's instruments, the magistrate in coercing is not the ministers' instrument, both parties are God's agents operating in different ways.

The civil power is the same in every place. To be a Christian is not of the essence of magistracy. Caesar's function was therefore the same as that of the Christian magistrate. This presented a problem, since Caesar's knowledge of God's will was imperfect. Some Protestant theorists held that the magistrate's function was to exact outward conformity to God's will, however known; Caesar's performance of this function was inevitably imperfect. A few held that the magistrate's function is to enforce God's will as knowable by natural reason. This would leave some room for religious diversity, since a Christian magistrate would not enforce his understanding of the Scriptures, but allow any religion not in conflict with natural law.

The Protestant conception of the State is a good example of an 'idea'. A single specialised function is assigned to the magistrate, which other agencies are forbidden to attempt: the magistrate's sole task is to control outward acts by a single means, 'the sword'; no one but the magistrate or his agents may wield the sword. The inessential is clearly marked off: if the magistrate exhorts or persuades or advises, then he does not act qua magistrate. The idea is normative for every individual of the sort: 'the civil power is the same in every place'.

The statement that civil power is the same in every place sounds descriptive, but is normative: the civil power ought to do the same things in every place and time. The people the 'idea' theorist groups together as 'magistrates' are called by
different terms in different languages and in fact do rather different things. Because some of the things they do are the same, the theorist classifies them all as magistrates, calls what they all (or most of them) do the essence of magistracy, disparages the rest as 'accidental', and asserts that all the people he calls magistrates should do in their official capacity only what belongs to the essence of magistracy. Because being a magistrate does not 'necessarily carry along with it' knowledge of true religion, the magistrate ought not foster true religion even if (per accidens) he is an expert in philosophy and religion.*43 Because the theorist, and those who think as he does, are prepared to put both A and B into the same class, although A is ignorant of a certain subject which B knows about, therefore B ought not act on his knowledge of that subject, except in his private capacity.*44

Locke followed the Protestant theorists in regarding the magistrate as the specialist in coercion: no one but the magistrate may coerce, and the magistrate qua magistrate does nothing except by coercive means. However according to Locke the purpose of this coercion was not to exact conformity with God's will, but to protect each man's this-worldly interests against other men.45

There were, then, in Locke's time at least three 'ideas' of the State: his own, the scholastic idea according to which the State seeks the whole good of man by every available natural means, and the Protestant idea according to which the State exacts outward conformity with God's will by coercive means alone. It seems to me that these three ideas are equally coherent and intelligible. If one is to be adopted rather than another, one must go behind the appearance of
self-evidence which any of them may have when considered without comparison with the others, and look for supporting arguments.

**IV. SPECIALISATION AND EFFICIENCY.**

Macaulay's essay 'Gladstone on Church and State' is a refutation of Gladstone's claim that the State has a duty to profess a religion. For most of the essay Macaulay argues for the negative of Gladstone's thesis, that it is permissible for men to combine in states and other associations to pursue some good objects without a corporate profession of religion. But at the end of the essay (p.493 f.) Macaulay puts forward his own theory. He holds that each institution should have a single main end, which for the State is the security of life and property. To further this end the State will engage in what I call (see above, p.265) primary activities, and also in instrumental activities - Macaulay instances the encouraging of steam navigation, which 'consolidates the force of our empire'. He also approves of what I call 'incidental' activities, provided they are carried on without any sacrifice of the State's efficiency for its main end; for although the encouragement of the fine arts is not the main end of government, it would not be improper for a government to form a national gallery of art. Macaulay believed that the promotion of Christianity is a good object, indeed that it is intrinsically better than the securing of life and property. Consequently he believed that the State should, incidentally, promote Christianity e.g. by supporting common religious instruction in the schools, by continuing the establishment of the Church of England and the Church of Scotland, and by
supporting the Catholic Church in Ireland. But this must be done only insofar as it can be done without reducing the effectiveness of government in securing life and property. This rules out persecution, which makes life and property insecure, it rules out religious tests for public office, since efficiency requires that the government be able to call on the services of all who value security of life and property, it rules out the provision of religious instruction by means that excite discontents dangerous to public order - e.g. by means of the established Church of Ireland, or by government sponsorship of Christianity in India. This amounts to a defence of the current religious policies of the Whigs, based not on any contract or abstract idea, but on considerations of expediency.

To generalise: Macaulay's rule is that an institution should not do something that would further end A when this would hinder end B, even if A is more important than B, if B is the institution's main end. He justifies this rule 'after Plato's fashion' by an illustration taken from familiar objects: 'A blade which is designed both to shave and to carve will certainly not shave so well as a razor, or carve so well as a carving knife'. (Compare the passage from Aristotle quoted above in note 4). Similarly one institution equally concerned with several ends will not be as effective as several institutions each concerned with one of these ends.

Comparison of Macaulay's position with the two points which constitute what I called the 'moderate' doctrine of specialisation (see above p. 265), will show that Macaulay would accept the first, but not the second. He would not agree that some institutions can usefully be left unspecialised,
but he does hold that an institution may engage, incidentally, in activities that do not further its main aim.

If the State is to have one main end, what that ought to be is a question to which there are several answers as plausible as Macaulay's, that it is to secure life and property. The possibilities were sufficiently discussed in the last section. In the rest of this section I will see what can be said against the claim that every institution should have one main end, and should not sacrifice efficiency in other end, pursuing this end for any/ however important. In fact, the objections I will assemble tell against both Macaulay's position and the 'moderate' doctrine of specialisation. They tend to show that the division of an institution into two more specialised institutions may not increase but reduce efficiency; the arguments to show this do not depend on whether or not the process of division is carried so far that every (or any) institution is left with only one purpose.

Let us begin with the illustrations taken from familiar objects. Macaulay claims that a blade designed especially as a razor will shave better, and a blade designed especially as a carving knife will carve better, than a blade designed to do both jobs; in general, that a tool designed to do many jobs will probably not do any one of them as well as a tool designed specially for that one job. But it does not follow that a person (say, a carpenter) will necessarily come closer to his goals (even his goals qua carpenter) if he equips himself with a special tool for each of his tasks; a carpenter may do better to use a smaller range of multi-purpose tools than a larger assortment of more specialised tools. The Delphian knife Aristotle mentions was made to do many jobs not because the
smith was 'niggardly', but because his customers found a multi-purpose tool useful. Nature does not, as Aristotle says, make each thing for a single use; for example, the hand has many uses, and we would be worse off if we had instead an array of organs each specifically adapted to one of the tasks we do with our hands. To have many tools may be a nuisance; it takes time and effort to change from one to another; to make and maintain a large assortment of tools requires resources that otherwise might have been available to further one's goals in other ways. There is an optimal level of specialisation, which may well fall short of having one special tool for each kind of job. Whether at the optimal level any tools will be fit to do only one narrow job cannot be known a priori, without detailed analysis of the work process.

Another kind of example: During the 1950's some urban planners worked in accordance with Macaulay's rule that each thing - in this case, each element in a 'development' - ought to have one main function, and that other functions should not be allowed to obstruct the main function. For example, a pathway is primarily for facilitating movement from point to point; it should not be obstructed by children playing (they should do that in a playground), or by people looking in shop windows (shops should be in shopping centres, display windows should be separated from pathways by an area for window shoppers), or by people standing or sitting around talking (there should be small parks for this). Similarly, shops, factories, residences, public institutions, should not be mixed together; they should be in specialised areas (as is the case, for example, in Canberra). Jane Jacobs in The Death and Life of American Cities argued against the principle of
specialisation of functions in city planning: if sidewalks are simply sidewalks people will be able to move more quickly, but children will not be as well supervised, strangers will not be kept under informal surveillance and the crime rate will rise, neighbours will not know one another so well and it will be more difficult to organise local co-operation, and so on; some degree of obstruction of movement may be a price worth paying for other benefits. Many planners now like to combine and mix functions.

Let us leave analogies aside. My claim is that there is no general presumption that an institution's efficiency will be increased if its functions are narrowed. I do not deny that in some cases it may. In particular, if there is serious conflict over certain projects among members of an institution, its efficiency may be increased if they all agree not to try to engage the institution in such projects - which will narrow its range of functions (see Chapter 2, note 142; the argument here is a 'reciprocity' argument, to which the next chapter will be devoted). What I claim is that whether specialisation will increase efficiency must be decided case by case; there is no presumption that it will. Those who believe there is overlook a number of reasons why specialisation may diminish efficiency.

First, to set up new institutions and narrow activities of existing ones will cost something - time and effort at least; the investment made in further specialisation might have returned more if it had been available to less specialised institutions for use in other ways. Specialisation may use, or tie up, physical resources inefficiently.

Second, the more narrowly specialised an institution is, the less satisfying it may be to work in it, because the
members' talents and interests are not all engaged. The less satisfying a job is, the more has to be paid to get suitable people to do it; this transfers resources from institutional to private uses, and if this is carried past a certain point the 'quality of life' suffers. The less satisfying a job is, the more the person doing it has to be supervised.

Third, if institutions are many and highly specialised, it becomes difficult to find where the 'proper channel' for some complaint, request, or suggestion, begins. (This corresponds to the cost of putting down one tool and picking up another). A person may spend time and energy in a particularly frustrating way trying to get in touch with the institution appropriate to his purpose.

Fourth, those who staff an institution develop group solidarity, and often antagonism towards outsiders and newcomers. (This is one of the reasons why co-operation between small institutions is often more costly to organise than co-operation within a large institution). For example, if someone goes to a meeting of a voluntary association and suggests a project, the suggestion is likely to be repelled unless the person making it is known to the members. If institutions are relatively unspecialised, an individual may at least get a serious hearing for a wide range of suggestions from members of his own institution.

Fifth, if institutions are unspecialised there is a greater degree of flexibility. People within the one institution, who know one another and are accustomed to co-operate, can form temporary ad hoc 'working parties' within their institution for furthering some project which in a more specialised regime might be regarded as none of their
institution's business (it might happen not to be the business of any institution).

Sixth, somehow, at least by default, a balance will be struck among the purposes pursued by the various specialised institutions. It is difficult, if not impossible, to discuss in abstracto the weight due to various values (see above p.50); people work out their own, and come to understand others', sense of relative importance by deciding cases together. It seems more likely that the right balance will be struck between two purposes if it is done by people who are all in the habit of taking both purposes seriously, who know one another, and make many decisions together; these conditions are more likely to be satisfied if the balance is struck within one multi-purpose institution, rather than by negotiation between specialised institutions, or by a higher institution (such as government) not habitually concerned with either purpose.

These arguments do not establish a general presumption against specialisation. The point is merely that further specialisation may or may not increase efficiency; there is no general presumption either way. Which institutions, if any, ought to be conducted with one main end kept singly in view, and whether the State in particular should be conducted in this way,56 are questions that cannot reasonably be answered without detailed consideration of the circumstances of the society in which the institutions are to operate. It is a question of special expediencies, not of general principle. If religion is worth fostering, then no principle of specialisation grounded on considerations of efficiency prohibits the State from fostering it, or requires the State to do this without prejudice to any other goal.
Liberals generally hold that the State ought not try to further religious purposes by any means, and that it ought not to allow individuals or other institutions to further religious purposes by means of civil penalties. Until the present century, at least, most liberals believed that the State's main function was to protect the lives and livelihood of each citizen against other men. Some may have believed this doctrine without argument because it struck them as true. In Section III I tried to destroy its appearance of self-evidence by comparing it with other ideas of the State, equally clear and neat. These other ideas attribute to the State other functions besides those recognised by the liberal doctrine, and would permit the use of force for religious ends.

(Continued on next page)
Locke gave the liberal doctrine a contractual basis. He argued that a contract between reasonable people establishing a state will give the State the sole function of protecting the civil interests of each citizen against others, that it will not give it any religious functions, and that it will provide that civil penalties are not to be used except by the State for civil ends. In Section II I raised various objections against Locke's arguments to show that the contract must take this form. Whether his arguments survive these objections depends upon how one decides various questions, some factual, some moral: Can civil penalties influence belief? Is there a duty not to do what may occasion hypocrisy, and if there is, how weighty is it? Is outward religious conformity, or the act of enforcing it (see above p.11), of any value? Is 'cloistered virtue' (see above, note 16) of any value? If more than one institution has coercive power, what is the risk of conflicts unresolvable except by force, and how important is it to avoid these conflicts?

Macaulay argued that efficiency requires that each institution have one paramount aim, and that the State's aim is to protect life and property. In Section IV I gave reasons why specialisation may reduce efficiency. To evaluate these reasons it would be necessary to decide various questions of fact.

Even if the liberal doctrine of the function of the State is correct, this would not suffice to show that the State ought to abide by the rules of Toleration as they apply to religion. To punish unorthodox religious belief, to sponsor religious instruction, to require attendance at religious services, to prohibit advocacy of certain religious
beliefs, are things that might under some circumstances further what liberals believe to be the State's ends. For example, life and property might be more secure if citizens were united in certain religious beliefs which encourage respect for law, or for life and property. Some argument would be needed to show that religion is not to be used for the State's ends.

Propositions limiting the State (or Society, \textsuperscript{57} or Law, or Morality\textsuperscript{58}) to certain definite functions do not strike me as true. The arguments examined in this chapter do not seem compelling; in fact they seem weak, and the objections seem to me to be strong. I believe that the State has and ought to have many concerns, some of them competing with others; I do not believe that there is any general principle determining what the State ought to be concerned with, or requiring it not to foster religion, if it judges that religion is worth fostering.

However it may be that some people have given, or should give, an undertaking not to use State machinery to foster religion. Such an undertaking might be given unilaterally, or it might be part of a contract; in the latter case the contract need not establish a State or positively specify its functions. In other words, there might not be any contract-based magistrate's commission listing what the magistrate is to do, and not to do; but some of the magistrate's subjects might give an undertaking not to try to get him to do certain things, and not to do them if they ever become magistrates themselves - leaving it undetermined what else the magistrate may or should do. This would not be equivalent to the contract Locke talks about, though in some of its effects it would be similar.

Similarly one might undertake not to use the State to
foster morality, or to propagate political or speculative opinions; and not to use informal social sanctions for such purposes. In fact it is possible, while not adopting any theory of the functions of the State, the Law, or Society, to undertake - unilaterally, or as part of a contract - to observe all the principles of Toleration; and then one will be bound not to use political and popular sanctions in certain ways. The functions of the State and Society would be vague, except for limits set by general acceptance of the principles of Toleration. The principles of Toleration would not rest on a conception of the functions of the State; but the functions of the State would be limited by the principles of Toleration. In the following chapter I try to specify circumstances in which one ought to undertake to observe the principles of Toleration.
CHAPTER 6: RECIPROCITY.

If there are several mutually intolerant sects, it might under certain circumstances be reasonable for certain of them to adopt the principles of Toleration (or some of them) in the expectation that the other sects will reciprocate by adopting them also. How this might be reasonable was considered briefly in Section V of Chapter 2 (above p.149). In this chapter I will discuss the matter more fully. To begin with I will suppose that the rival sects are to enter into a contract; later I will consider whether the contract can be replaced by other ways of assuming obligations. But first I will show the inadequacy of a simple appeal to reciprocity; 'do unto others' - 'acknowledge in others the rights you claim for yourself' - will not carry the case against intolerance very far. Argument is needed to show that there ought to be rules governing ideological competition, and that the rules ought to take no account of the difference between truth and error. The more elaborate reciprocity argument may in some circumstance be able to show this.

I. TREATING LIKE CASES ALIKE.

Earlier I imagined a case in which one group of publicly recognised 'experts' are challenged and replaced by another group, who then set up an intolerant regime; when they are challenged by a third group they brush the challengers off, advise the public to ignore them, or silence them forcibly (see above p.243). Luther's career provides an historical example: he and his associates challenged the established religious experts, and in some parts of Germany replaced them;
when the Lutherans were challenged by the 'radical' sects, Luther called on the Princes to repress the heretics. To some people such conduct seems morally inconsistent. They will say that the group currently in power should acknowledge that the new challengers have as much right to a hearing as they themselves had when they challenged the old experts; that their own challenge implicitly asserted rights to think for oneself, to express publicly one's disagreement with the recognised experts, and to have one's case heard by the public, rights which are implicitly denied by the obstruction of the new challengers.

There are two answers to this. It may be said, first, that the earlier challenge did not implicitly assert rights, e.g. that there is a right to a hearing, but merely liberties, e.g. that it is permissible to try to obtain a hearing. It may be that a person can rightly do something without having a right to do it. To say that he can rightly do it means that it is morally permissible, that it is not a violation of his duty. To say that he has a right to do it implies not only that he can rightly do it, but also that others have a duty not intentionally to obstruct him in doing it. It may be that there is no duty not to challenge publicly recognised experts, but no duty, either, not intentionally to obstruct those who challenge the experts. The challenge made formerly by the now established experts was an implicit denial that public recognition of a group as experts makes it a duty not to challenge them, but it did not implicitly assert that anyone has a duty not intentionally to obstruct challengers. It would be a moral inconsistency on their part now to blame the new challengers on the ground that established experts should not be
challenged; but they are not necessarily*1 inconsistent in brushing the challengers off, advising people to ignore them, or silencing them forcibly.

Secondly, it may be said that the cases are not similar; that what the new challengers are doing is not morally the same kind of act as what the currently recognised experts did when they challenged their predecessors, that what the latter did in repressing the earlier challenge is different from the current experts' repression of the new challenge. If this is so, then even if challenging does implicitly assert rights, there may be no inconsistency in the currently established experts' intentionally obstructing the new challengers. Of course the cases are similar under some descriptions; e.g. both can be described as cases in which publicly recognised experts are challenged. But it may be claimed that such descriptions do not include all the morally relevant features; that what is left out is that the currently established experts are genuine experts, whereas the expertise of their predecessors and would-be successors is spurious. The positions of leadership ought to be occupied by real experts; the old 'experts' were (objectively) in the wrong in obstructing the attempt by genuine experts to take their place, the new challengers are in the wrong in attempting to take the place of real experts, and the currently recognised experts do right in defending their position. It is not the mere fact that they are publicly recognised that makes it a duty to defer to them - this is what they denied in challenging the old 'experts' - but rather, the fact that their expertise is genuine.

To claim a certain right and deny it to others on the ground that 'we are right and you are wrong' is sometimes
regarded by liberals as absurd. It seems obvious to them that there is no morally relevant difference between being right and believing oneself to be right. Each side believes it is right and the others wrong; if this belief gives one side the right to make a bid for the leading position and to obstruct rivals, then the other side has the same right. Conservatives, on the other hand, are shocked at the suggestion that 'truth and error' should be put morally on the same footing; only a sceptic - one who believes that no one can tell the difference between genuine and spurious expertise - or an 'indifferentist' - one who believes that the difference between truth and error is of no importance - could suppose that pseudo-experts have as much right as genuine experts to positions of leadership.

It seems to me that this conservative reaction should be taken seriously: liberals should try to find arguments to support their opinion that genuine experts have no better right to lead and to obstruct challengers than those who wrongly think they are experts have, arguments which do not imply scepticism or 'indifferentism'. The difference between truth and error does matter. Scepticism might be true, but I do not believe that this possibly makes it always unreasonable to form a judgment and to act on one's judgment (see Appendix, p. 186). At a given moment, I cannot distinguish between expertise that appears to be genuine, and expertise that really is genuine; but it does not follow that it is absurd to attribute to genuine experts rights not attributed to pseudo-experts. At a given moment, I cannot distinguish between real and merely apparent possession of a right-conferring characteristic of any sort, but no one holds as a universal proposition that whoever believes mistakenly that he has a certain characteristic (e.g. that he is the true heir)
must be deemed to have the same rights as he would have if he really had that characteristic. If spurious experts are to be deemed to have the same rights as genuine experts have, it must be for some special reason, other than general human fallibility and the possibility that the sceptics may be right.

The charge of moral inconsistency can be replied to, then, in two ways: first by claiming that the difference between genuine and spurious expertise ought to be taken into account in the moral classification of cases, so that obstruction by genuine experts of a challenge by pseudo-experts is not morally in the same class as obstruction by pseudo-experts of a challenge by genuine experts; and second, by denying that those who challenge the currently recognised experts thereby assert a right to be heard or a duty on the part of others not to obstruct their attempt to win a hearing.

The reciprocity argument can, on certain assumptions, preclude both of these replies. The argument is, in brief, that the consequences of ideological competition unregulated by the rules of Toleration may be bad enough to justify the adoption of these rules, which attribute to the competitors certain rights and duties which do not vary according to the truth or falsity of the competing ideologies. The principle that like cases are to be treated alike is of use against intolerance only if it is first shown that the competitors have rights and duties, and not merely liberties; and that the rules asserting these rights and duties do not attribute any rights or duties to genuine experts that they do not also attribute to those who are in error.
II. CONTRACTS AND PROMISES.

The rules of the common morality impose a set of 'basic' duties,\(^6\) and also provide for the creation of 'additional' duties. Among the 'basic' duties are fidelity to promises and obedience to properly authorised commands. By voluntarily promising to do a certain thing, one creates an 'additional' duty to do that thing, by virtue of the basic duty to keep promises; similarly an authority can add to the duties of other persons.

Some promises are given to make a contract. By a 'contract' I mean an exchange of promises between two (or more) parties, each promising in return for a promise by the other (or others).\(^7\) The first party (or, every party but the last) makes his promise conditional upon the other's (others') promising; the second (or last) party's promise fulfils this condition and brings the contract into being. As I use the term there is a contract only if both (or all) parties promise. If I offer to do something forthwith on condition that you make some promise, this is not a contract, unless the offer is interpreted as a promise.\(^8\) If I promise to do something at some future date, on condition that in the meantime you do something else, there is/no contract, since I am not asking you for a promise. In the making of a contract the first promise is conditional not upon the performance of what the other promises, but on his promising. This is obvious in the case where the first promiser is to perform first, but it is true also when the second party is to perform first - if he is unable to perform the contract still exists and the first party is not entitled to act as if he had never promised.\(^9\)
Some promises are 'unconditional'. In the sense in which I will use this term, a promise is unconditional if it does not require to make it operative an act or promise from some other person. 'I promise to take you swimming tomorrow, if it does not rain' is unconditional in this sense. The first promise in the making of a contract is conditional - it does not become operative until all parties have promised; the last promise is unconditional. A promise which is not part of the making of a contract I will call 'unilateral'. If I promise to do X on condition that you do Y (not promise to do Y), the promise is conditional and unilateral. Many promises are unconditional and unilateral. Some of these are meant to influence the actions of others (they look for some reciprocation), others are not. I may promise to take my neighbour's children swimming next summer in the hope that he will take mine skating in the remaining part of this winter; I do not try to make a contract - I do not wish to seem to be driving a bargain - but I hope for a return. On the other hand, I may make a promise to a dying man simply to put his mind at rest, without seeking any return. Later in the chapter I will suggest that a 'reciprocity' argument may give reason to make an unconditional and unilateral promise to practise Toleration, in the hope of influencing the actions of others; the reciprocity argument need not lead to the making of a contract.

To make a certain promise may in some circumstances be a quasi-duty (see above, p. 38), though never, I believe, an actual duty. For example, it may be that if I make a certain promise, it will further some end which I have a duty of imperfect obligation to further; this is a reason for making the promise, and in some circumstances the reason may be so strong as to make
promising a quasi-duty. Once the promise is made, to carry it out is a matter of perfect obligation. Thus a duty of imperfect obligation may lead to the assumption of 'additional' duties of perfect obligation. At its strongest, the reciprocity argument may make it a quasi-duty to promise to obey the rules of Toleration; what those rules require will by the promise be made a matter of perfect obligation.

III. A CONTRACT TO PRACTISE TOLERATION.

Let us suppose that there are two mutually intolerant sects, A and B, which are considering whether it would be reasonable to enter into a contract not to behave intolerantly toward one another. In what circumstances would it be reasonable for them to make such a contract? To specify the circumstances in detail would be a very large task; I will merely indicate in general terms what sort of things each sect's deliberations should take into account. The most important of them come under four heads: likely future changes in their relative strength; the sect's moral code; the reliability of the other sect's promise, if a contract should be made; the likelihood that the future generations of the other sect will observe the contract.

1). Likely future changes in relative strength.

If A and B divide the population between them, and one is so much stronger than the other that it can expect to triumph completely with a moderate effort, then there is good reason for the weaker sect to take the first step in making the contract, but little reason for the stronger sect to complete the contract, which will therefore probably not be made. For
the contract to be a reasonable one for both parties, they must be pretty evenly matched; or the stronger one must regard the future as too uncertain for any prediction to be reasonable.

If there are many sects, coalitions might be formed among them. If the coalitions are likely to be unstable, in the long-term view this possibility can be ignored; if there are many sects pretty evenly matched, or for some other reason uncertain of the future, a contract embracing them all might be reasonable. If some coalitions are likely to be stable, the coalition can be counted as one sect. If one sect, or stable coalition, is strong enough that it can expect to triumph completely, it will not have reason to enter into the contract.

If one sect is powerful enough not to fear the future power of the other, and both sects are also found in another community in communication with this one, in which the sect powerful here is not powerful, then both sects may have reason to enter into a contract applying in both communities.


The reciprocity argument will have little 'bite' unless it can show that even a person who believes he ought to do certain intolerant things should renounce such practices. To adapt one's argument to the position of such a person is not to endorse his belief that he has some sort of duty to be intolerant. The force of the argument is this: even if it were true that one has a duty to repress outward abominations (for example), still it is in these circumstances right to promise never to do so. In the interests of truth one might later go on to argue that there never was a duty to repress outward abominations, but (if the reciprocity argument is strong enough) this would not be a necessary part of the case for
Toleration.

The duty to repress outward abominations (to continue with this example) might be supposed to be absolute, or presumptive, or a duty of imperfect obligation. If it is believed to be absolute, then this belief must be contested before the reciprocity argument can get under way: a person cannot (I assume) rightly promise not to do what he has an absolute obligation to do. If the duty is believed to be presumptive, or of imperfect obligation, it is permissible to consider reasons against carrying it out.*

The consideration of certain things may be forbidden by certain rules of deliberation which the person believes bind him; or his rules may direct that little weight is to be given to some considerations. A sect may believe that the temporal cost (human suffering) is not to be weighed against certain duties which give rise to intolerant acts; or that it is to be weighed only when other things are equal (e.g. if free discussion and repression are apparently equally effective for the dissemination of orthodoxy, the suffering caused by repression may be allowed to tip the balance); or that the sufferings of the saints should be weighed, but not those of heretics - or that the sufferings of heretics are not to be given as much weight; or that one's own suffering is not to be weighed, while the suffering of others should be.

What moral rules a person believes he is bound by will obviously influence his judgment of whether in the given circumstances it is reasonable to contract to observe the rules of Toleration. If he thinks that his sect is likely to remain strong enough to avoid persecution, but that the rival sects are strong enough not to be repressed without a great deal of
persecution, whether he will judge it reasonable to renounce persecution will depend on how much weight he gives to the sufferings of heretics.

3). The reliability of the other sect's promises.

Suppose the members of sect A are contemplating making a contract with sect B, and have considered future changes in their relative strengths in accordance with their moral code, and are on the point of contracting; they may be made to pause by the thought that the other sect may not keep its promises. If A is now powerful enough to persecute, by contracting not to do so it may forgo its present opportunity to strengthen its position, only to be persecuted later by a sect which does not keep its promises. Some sects have believed, or have been suspected of believing, that faith is not to be kept with heretics, or that promises which turn out to be detrimental to God's cause ought to be broken; some sects may be unconscientious, not taking seriously obligations they will admit they have.13

What the others believe about their obligations, and how conscientious they are, determine whether their consciences are likely to move them to fulfil their promise. But besides the 'conscientious' there are also the 'political' and 'popular' sanctions. It may be possible to give legal effect to the contract not to persecute - it may be written into the constitution, for example; and then the reliability of the arrangement depends partly on how easy it is to change the constitution, and on how likely it is to be obeyed. If there are many people in the community who belong to neither sect, who value the practices of contracting and promising, their likely reaction to a violation of the contract may ensure that it is
4). **Observance of the Contract by Future Generations.**

Can the will of an earlier generation bind their successors in later generations? It seems to me that it is very useful, if not essential to human welfare, for one generation to be able to bind future generations, just as it is useful for a man to be able to bind himself for the future by promising. I believe that there is a duty, grounded in utility, to respect agreements made before one's time by people to whose position one has succeeded. However it has often been maintained that one generation cannot bind its successors, in particular, that it cannot bind them by contracts or promises, since no one is bound by a promise made by another unless he has beforehand authorised the making of a promise on his behalf. If future generations cannot be bound, then even if those who make the contract keep their promises, it is possible that their successors may persecute; in this case it may not be reasonable for the stronger sect to forgo its present opportunity to strengthen its position.

Various possible ways around this difficulty suggest themselves. Perhaps the contract can be framed so that it can be performed within one generation, and bring about a state of affairs that will ensure that future generations will not persecute even if they do not believe themselves bound by their predecessors' contract. For example, the agreement might be to teach children the principles of Toleration as rules of 'basic' duty (see above p. 296); or to write Toleration into the constitutional law of the country. Against the first expedient it may be objected that it is improper, a kind of untruthfulness, to teach children to regard something as a basic duty if you do
not yourself regard it as such. Against the second it may be objected that if one generation cannot contract on behalf of later generations, the constitution ought to be rewritten every generation.\textsuperscript{16}

Another possible solution relies on the notion of succession. A successor, by succeeding, not only acquires the rights, but also undertakes the obligations, of the person to whom he succeeds; he is not bound by the other's promises, but by accepting the inheritance binds himself to do what the other promised. However, although the later generations of a sect 'succeed' the earlier generations, they may not succeed them in every capacity; they may succeed them as property-holders, for example, and be bound to pay off mortgages, but perhaps they are not bound to keep their promise to practise Toleration.

A fourth possibility is to say that the continuation of the policy of Toleration is required by respect for 'vested rights'. A vested right is one that comes into being as a result of the long continuance of some state of affairs; it is believed to be unfair to change that state of affairs suddenly and without compensation.\textsuperscript{17} However, it may be that the rule of respect for vested rights is to be understood as an application of the rule of respect for promises, the promise in these cases being 'tacit'. If a new generation is not bound by its predecessor's promises, then perhaps it is not bound to meet expectations raised by its predecessor's conduct.

What the other party to the contract believes - more exactly, what their successors are likely to believe - about the effect on the obligations of one generation of contracts made by earlier generations determines whether the arrangement established by the contract is likely to be supported by the
consciences of future generations of members of the contracting sects. However the beliefs of other sections of the community are also relevant. They might be outraged if the arrangement were repudiated on the grounds that an earlier generation cannot bind its successors, and this might ensure that the arrangement is continued (cf. above, p. 301).

Even if the other party's fidelity to contracts is doubtful, and even if it is doubtful whether later generations will believe themselves bound, it may still be reasonable to make the contract, gambling on some change in beliefs, or on the stability of peaceful habits. If the practice of Toleration becomes well established, the question whether it ought to be continued may not occur to the new generation of members of a contracting sect, even if the balance of power has shifted in their favour.

IV. TREATMENT OF THOSE NOT PARTY TO THE CONTRACT.

If two sects contract to practise Toleration toward one another, they may still persecute other sects. Their contract may be a mutual non-aggression pact to free them to attack other rivals. This is still a long way from adoption of the liberal principles of Toleration. If one of the other sects turns out to be well able to retaliate, the pact may be extended to admit it, but a non-persecuting sect might not have enough bargaining power to get admitted. However the fear of being persecuted is not the only inducement to the contract; a milder inducement, which may in some circumstances be sufficient, is dislike of being an object of precaution. There is a difference between intolerant of those who are intolerant, and taking precautions against their intolerance (see above p. 56). But even if the
precautions are genuinely precautions, and not disguised punishment (in the proper sense - above p. 54), and even if they are carried no further than reasonable fears justify, they may bear quite onerously on members of a feared sect. If a non-persecuting sect takes precautions against those who might persecute it, it may be reasonable for persecuting sects to enter into a contract with it.

Suppose now that the terms of the contract are altered, so that the parties promise not merely that they will not behave intolerantly toward one another, but that they will not behave intolerantly toward anyone - including those who do not enter into the contract, and also those who enter it but later violate it; and suppose the contracting parties reserve the right to take reasonable precautions against sects which have not renounced persecution, and sects whose beliefs or behaviour give rise to reasonable doubt whether their renunciation is genuine.*18 Such a contract would bring the parties much closer to what liberals mean by Toleration than would the 'mutual non-aggression pact'.

To formulate the contract in this way may make it more difficult for the reciprocity argument to succeed: in taking 'reasonable precautions' instead of persecuting there is a sacrifice of security, which a sect which is now powerful enough may regret if it turns out that the other parties are untrustworthy; and sects which do not join in the compact at the beginning are less likely to join later, since being the object of precautions is not as strong an inducement as being the object of persecution.*19

But these drawbacks may be partly balanced, or even overbalanced, by the fact that a contract so formulated is more
likely to endure. In the first place, the intolerant acts of an unrepresentative minority, or a false rumour of some intolerant act, or a real but temporary relapse into intolerance, is not so likely to cause the collapse of the agreement and the renewal of mutual persecution; instead it will lead to a heightening of precautions, which provides a mild incentive to the erring party to honour the agreement for the future. Secondly, the practice of practising Tolerance uniformly towards all, rather than only towards those who are parties to the contract, is more likely to develop into an unquestioning habit, which as was noticed above (p.304) may help to ensure that the arrangement will endure through several generations. If some sects are persecuted, the fact that the toleration of others rests upon a voluntary agreement is kept in view.

References to inducements and security are not to be understood as if the calculation must be selfish. It is to be assumed that it is done consistently with the deliberator's moral code (since we are asking when it would be reasonable for him to promise to practise Toleration), and his moral code will limit the extent to which his selfish interests may be taken into account (see above p.300). If all that matters is the Cause, then 'security' has been sacrificed if there is a chance that at some future time opponents will be able to frustrate efforts for the Cause; the 'inducement' is that to enter into the contract is, on balance, favorable to the progress of the Cause.
V. UNILATERAL ADOPTION OF THE PRINCIPLES OF TOLERATION.

In Section III we imagined the A's saying 'We promise not to behave intolerantly toward the B's, on condition that they promise not to behave intolerantly toward us; but we reserve the right to persecute others.' Then in Section IV we imagined the A's saying, 'We promise not to behave intolerantly toward anyone, on condition that the B's also promise not to behave intolerantly toward anyone; but we reserve the right to take reasonable precautions.' Now let us imagine that the A's say, 'We promise not to behave intolerantly toward anyone, though we reserve the right to take reasonable precautions.' On the third supposition their promise is unconditional and unilateral (in the terminology explained above on p. 297). It is made with the intention of influencing the actions of others (cf. p. 297 above): it is made in the hope that the B's, or other sects, will also promise not to behave intolerantly toward anyone. The inducement for them to do so lies in the fact that the A's will treat those who reciprocate more favorably than they treat those who continue to behave intolerantly - they will not take precautions against them.

Just as on the second supposition there is a sacrifice of security in comparison with the first, so on the third there is a sacrifice in comparison with the second: to renounce persecution without waiting for others to do the same may sacrifice an opportunity to strengthen one's position, and receive nothing in return, since the hope that others will reciprocate may not be realised. How important this sacrifice is depends on circumstances. If the A's are at present weak and expect to remain so, then in renouncing persecution they would sacrifice nothing - though their act
would also be unlikely to be reciprocated. But if the B's are now not too strong for the A's to persecute them, and are likely to become strong enough to persecute the A's in the future, then for the A's to renounce persecution without waiting for the B's to do so too might be unwise. Thus there may be circumstances in which it would be unreasonable to make an unconditional and unilateral promise, but reasonable to try to enter into a contract. If there are many more or less equally matched sects, a contract embracing enough of them to give real security may be difficult to organise; in that case the making of an unconditional and unilateral promise to practise Toleration may be the best thing any single sect can do towards bringing about peace, and the risks may be worth taking. If a few sects (say the A's and B's), together strong enough to be formidable to the rest, enter into a contract to practise Toleration toward all (while taking reasonable precautions), their declaration of Toleration toward sects which are not parties is unilateral and unconditional; and if any of the others reciprocates, to avoid being an object of precautions, its promise is not part of the contract (which was completed when both the A's and the B's promised), but is unilateral and unconditional. Thus a movement toward the general practice of Toleration might begin by contract, and be carried forward by unilateral and unconditional promise.

This is enough, I think, to show that the reciprocity argument need not lead to the making of a contract. In fact, it need not even lead to the making of a promise. Put most generally, the argument is this: it is (under certain circumstances) reasonable, even a quasi-duty, to act so as to cause certain others to hold the belief that it is (in some
probable that one's future actions will not violate certain rules; the reasonableness of this is seen in comparing the likely consequences of their holding that belief with the likely consequences of their not holding it; among the likely desirable consequences of their holding it is that they themselves will in future act in accordance with the rules.²⁰ To promise to obey the rules is a way of causing the belief, but there are other ways. One possibility is simply to say that one intends to follow the rules; but this simple statement of intention may not be enough. The belief is more likely to come into being if people can see (or think they can see) that there are certain sanctions strong enough in most circumstances to hold one to the rules even against temptation. Let us follow Mill's classification of sanctions as internal (conscience) and external (the religious, popular and legal sanctions).²¹ To cause others to believe that I will follow a certain rule it may be necessary to arrange matters so that they believe that the rule is sanctioned by my conscience, and/or by one or more of the external sanctions. As I remarked earlier, sometimes the promise may need to be supported by law or public opinion or both (above p.301). In some circumstances the sanction of the law or public opinion might be enough without a promise. The point of promising is to attach to the rule the sanction of conscience; this may be weaker than the legal or popular sanctions, but it has the advantage of operating even when the violation can be kept secret, and when the violator is too powerful to be reached by the law or by public opinion. (The religious sanction also has these advantages: it might be attached to the rule by the making of an oath).
There are other ways besides promising of attaching the sanctions of conscience to a rule. One way is to cultivate in oneself a conscientious commitment to the rule directly and immediately, as a rule of 'basic' duty (cf. p. 29 above). The sanction of conscience, like the feeling of belief, is not something that can be directly willed (see Chapter 2 note 16), but it may be indirectly at the disposal of the will — it may be possible to do at will various things that may eventually produce a sense of obligation to the rule.

A promise attaches the sanction of conscience to a rule by bringing it under another rule which (it is assumed) conscience already sanctions: the rule that promises are to be kept. A person's conscience may sanction various other rules under which the new rule can be brought: e.g. that reasonable expectations arising from one's past conduct are not to be disappointed. If the new rule acquires the backing of conscience through its being brought under another rule, it is not an independent and basic rule, but an 'additional' rule; conscience sanctions it indirectly.

Philosophers sometimes talk about 'adopting' principles as moral principles as if this can be done directly simply by willing it. It seems to me that a principle has not become a moral principle until one's conscience sanctions it. Let us say then that a person 'adopts' a rule as a moral rule when he brings it about that his conscience sanctions the rule, either directly as a 'basic' rule, or indirectly as an 'additional' rule. When I wrote earlier of promising to obey the rules of Toleration, I can now write of 'adopting' them, leaving it an open question which of the various ways of doing so is to be used. The reciprocity argument tries to show, then, that under
some circumstances it may be reasonable to act (unilaterally, or on condition that others do the same) so as to cause certain people to believe that one has 'adopted' the rules of Toleration as moral principles, or that they are externally sanctioned, or both.

The argument is not merely that one should 'adopt' the principles, but that one should act so as to cause others to believe that one has adopted them. Adoption in secret without publicity would not bring about the consequences for the sake of which the principles are adopted. Now it is sometimes possible to cause people to believe something by deceiving them. One might pretend to have adopted the principles of Toleration without having done so, intending to violate them when it is to the advantage of The cause to do so, meanwhile taking advantage of the conditions that result from being believed to have adopted Toleration. It was because of this possibility that I listed 'The reliability of the other sect's promises' as a matter to be considered in deciding whether to enter into the contract (above p.301). A sect suspected of deception may have precautions taken against it even if it does promise to practise Toleration. The efficacy in producing the desired belief of 'adopting' a rule depends on how easily people think the signs of conscientious commitment can be counterfeited; in this their experience in everyday social intercourse guides them, even if mutual Toleration is an untried experiment. There is in most people's moral code a duty not to deceive other people, and it may be this that prevents the attempt to deceive, and not merely the belief that the attempt will fail; though a sect which believes that stratagems may be practised against heretics may be deterred only by fear of failure.
It should be noted that the argument that a certain set of rules should be adopted because of the likely consequences of doing so is not specifically 'consequentialist'. Use of the reciprocity argument does not commit one to the thesis that men are or ought to be selfish (see above p. 306), nor to the thesis that every moral principle is to be justified in terms of the consequences of adopting it. Even a non-consequentialist may decide to do some things - which may include adopting certain principles - on account of their good consequences. His moral code may include some rules which he holds on account of their consequences, and others which he holds for other reasons, and others for which he can give no reason. The reciprocity argument is available to consequentialist and non-consequentialist alike.*24

VI. THE INFLUENCE OF THE RECIPROCITY ARGUMENT IN HISTORY.

This section is a digression from the philosophical analysis of the argument to put forward an historical hypothesis. If we suppose that the reciprocity argument was the main reason moving Europeans since the sixteenth century in the direction of Toleration, many features of the historical process and of the end-product can be explained better than on any other assumption. I do not suggest that people explicitly reasoned the matter out, but that their thinking was shaped by the considerations we have been analysing, sometimes at the conscious level, often not.

Some historians25 suggest that religious toleration came about first as a 'peace of exhaustion', by a process in which reason and moral principle played little part: the warring sects gave up persecuting when they all found that they were
making little or no headway at great cost. It is suggested that it was only in later times that Toleration became genuinely a matter of moral principle, except for some illiberal sects which would persecute again if circumstances changed. But perhaps reason and moral principle played a bigger part in the development than this account suggests. Moral reasoning of the kind I have been concerned with in this chapter might under some circumstances justify just such a series of steps as historically seem to have been taken: mutual persecution giving place to 'non-aggression pacts' among a few sects (cf. Milton's toleration of 'neighbouring indifferences' - above, Chapter 1 note 31); this giving way to general Toleration as mutual understandings become unilateral and unconditional commitments to tolerate all who are not intolerant, and as more and more sects see the advantage of adopting Toleration - the advantage becoming greater as more sects join the party of Toleration; persecution of the intolerant giving way - when the intolerant have become a less serious threat - to Toleration of all, with reasonable precautions against the intolerant; deliberate adoption and proclamation of tolerant principles giving way to unquestioning acceptance of Toleration as a matter of 'basic' duty. It is understandable that at the end of this process, when the principles of Toleration have been taught as part of 'basic' morality for several generations, the intolerance of those who lived before the movement toward Toleration began should seem plainly immoral and the bargaining process unprincipled.

The end-product - the principles of Toleration formulated in Chapter 2 - has features easily explained if we assume that the rules were adopted, in the circumstances historically
prevailing, under the influence of the reciprocity argument. Imagine the deliberator considering alternative sets of principles; paired with the set containing a certain rule, or clause within a rule, is another set identical with it except for not containing that rule or clause; the deliberator considers the likely consequences, in the circumstances prevailing, of choosing the various sets; and let us suppose he makes the choice likely to have the best consequences (i.e. he maximises). Under the circumstances obtaining in Europe during the post-Reformation period, such a deliberator would, I believe, select something very much like the principles listed in Chapter 2 - complex and untidy, as peace treaties often are. The absoluteness of the principles relating to religion reflects the bitterness of the sectarian struggle; on the other hand, since there has been much less serious disagreement until recently about morality, the principles relating to morality are more recent, they are at the 'margin' of the package (some people would not regard them as part of Toleration), and they are not absolute. For example, the State is permitted to enforce moral rules when they are not specifically moral, whereas it is not permitted to enforce participation in religious worship or support religious education even when to do so would serve some secular purpose. The restrictions attached to various rules - against allowing the interests of truth, social consensus, morality, and religion to weigh against the rights and duties asserted by the rules - are aimed at the main historical motives of intolerance. It seems to me that these are not things easily accounted for on the assumption that Toleration was adopted on other grounds. The finer details of the concept of Toleration dropped out of view in Chapters 4
and 5, because the arguments dealt with in those chapters are not capable of justifying the details.

VII. A LIMITATION OF THE ARGUMENT.

Unless I am mistaken, Liberals regard the principles of Toleration as permanently and universally valid moral principles; the intolerance of past ages may be excused by ignorance, but objectively it was wrong. But the reciprocity argument cannot justify this position. During the Middle Ages in Europe Catholics were much stronger than other sects; they believed that this would be a permanent state of affairs - that 'the gates of hell' would not prevail; communication between Europe and other parts of the world was poor, so missionaries could be sent to distant lands without fear that they would be excluded or persecuted because of Catholic intolerance in Europe. Given these facts and their beliefs, medieval Catholics could not reasonably have judged that the consequences of adopting the principles of Toleration would on the whole be better than the consequences of not doing so. The reciprocity argument for Toleration would have failed, if it had been addressed to them.

It might be said that although it would probably have failed to convince them, objectively it would have been a good argument, since the hegemony of the Catholic Church did eventually come to an end; medieval Catholics could not have foreseen this, but they ought to have realised that it was possible, and should have provided against this possibility by adopting the principles of Toleration. It might be said that, in general, history shows that no group can be sure that it will not need the protection afforded by general adoption of
of the principles of Toleration, so in all times and places it is wise for every group to acknowledge those principles. The answer to this is that, once again (see above p. 248), the liberal side of the argument presupposes a cautious policy in risk-taking, and once again the caution is self-defeating. A nation would not increase, but reduce, its security, if it now held itself bound, unilaterally and unconditionally, by the terms of the treaty it might have to accept some time in the future if the worst possibilities happened, no matter how remote these possibilities seemed; similarly it would not have been reasonable for the medieval Church to hold itself bound by the principles of Toleration when the possibility of conflict with some more or less equal antagonist seemed so remote.

The most the reciprocity argument can show, I believe, is that it is reasonable to adopt the rules of Toleration as 'additional' principles when the circumstances are as they have been, and are likely to continue to be, in modern times. From now on they can be treated as part of 'basic' morality, but at the risk of distorting our judgment of the morality and intelligence of the men of the past.

However, John Rawls's version of the contract theory might suggest a way of overcoming the limitation. On his account, the contract is agreed upon (the agreement must be unanimous) in ignorance of the relative strength of sects, and in accordance with a cautious decision rule; he believes that equal Liberty of Conscience, limited only by the interest in public order and security, would be written into the contract. 31

In the Original Position, Rawls's contractors do not know whether in ordinary life they belong to a strong sect or to a weak one, and they do not know what in ordinary life their moral
and religious convictions may be. But, it is assumed, they realise that it is possible that they may have moral and religious convictions that impose 'absolute' obligations, obligations not to be compromised for the sake of the 'primary goods' (in which they know they are interested). In deciding the rules of Justice, they assume the worst - that their place will be allocated by an enemy, as Rawls sometimes puts it; so they assume that they will be in a weak position. The only way they have of ensuring that, in such a position, they will be able to carry out the absolute obligations they may have, is to include among the rules of Justice rules guaranteeing equal Liberty of Conscience. However they also agree that the State may regulate Liberty of Conscience for the sake of public order and security (the regulations to be shown to be necessary by 'ordinary' - non-ideological - modes of argument). The State has no moral or religious function, its duty is limited to underwriting the conditions of equal moral and religious liberty, which it does by ensuring public order and security.

It seems to me that this argument fails, because it does not take adequate account of the possibility that the moral and religious convictions some people in ordinary life may have may oblige them to obstruct acts that others' moral and religious convictions oblige them to do. (The obligation need not be 'absolute' in my sense; the argument fails if it is possible that a person may believe he has an actual duty - on moral or religious grounds - to obstruct an act another believes he has a similar actual duty to do). If the contractors must hold themselves free to perform their (possible) moral and religious duty, they must hold themselves free to persecute. Rawls sees
this difficulty, and answers that still the principle of equal Liberty of Conscience must be agreed upon, if any principle can be. This is true, but not adequate as an answer. If the contractors must hold themselves free to discharge their moral and religious obligations, and if these may include obligations to perform intolerant acts, then — if they decide by a 'play-safe' rule — they cannot agree upon any principle. They must leave ideological conflict unregulated by rules of right and duty (cf. above p. 292). Not only will rules of Toleration not be adopted, no rules or institutions will be adopted which might hinder intolerant acts anyone might think he had a moral or religious obligation to perform. So there will be no State to underwrite the conditions of equal Liberty of Conscience by preserving order and security.

If the 'veil of ignorance' were lifted to allow them to discover whether they do believe they have obligations requiring them to coerce others, some of them will discover that they do. Unanimous agreement on any rules or institutions will still be impossible (unless they gamble), until they are all allowed to discover the relative strengths of the parties (and it might be impossible even then). But once the veil of ignorance has been lifted to this extent, the argument is the same as that which was discussed earlier in this chapter, and does not overcome the limitation I have noted in that argument.

In any case, the question would arise, why reason behind any veil of ignorance? The reasoners are not actually in Rawls's Original Position; they are asked to reason as if they were, to disregard as irrelevant, in deciding what is just, the relative strength of the parties, and most of their moral code. The reason Rawls gives for doing this is that if we do, the rules
we will acknowledge will, on reflection, satisfy our moral intuition. It is certain, however, that a Calvinist's moral intuition would not be satisfied. If one believes one has moral or religious obligations requiring behaviour inconsistent with the rules of Toleration, the fact that contractors in the Original Position (however defined) would agree upon rules of Toleration would be an objection against reasoning as if one were in that position.

R.M. Hare's 'golden rule' arguments are not reciprocity arguments as I use the term (they are not arguments for adopting a rule so as to induce others to do so too), but they are of interest in the present context because for such arguments the difference between hypothetical and actual cases is irrelevant - the reasoner using such an argument does not need to know anything about the relative strength of parties. I will discuss what Hare has to say about 'Toleration and Fanaticism' in a footnote.

VIII. CONCLUSION.

When the Reciprocity Argument succeeds, it gives reason to acknowledge a set of rules regulating ideological conflict by attributing certain rights and duties to both sides equally, without concern for whose opinions are true and whose false. Those who acknowledge these rules do not thereby imply scepticism or indifference to truth, any more than a nation which acknowledges laws of war implies doubt about what its interests are, or indifference toward them. The rules are formulated to apply to true believers and heretics alike, because only if they are will they have the good consequences for the sake of which they are adopted; they will reduce the
harmful consequences of conflict only if they can be applied with a minimum of ideological controversy.

The Reciprocity Argument shows that it is reasonable, even a quasi-duty, to adopt these rules; once they are adopted (by promising, or in some other way) conformity with them becomes a matter of perfect obligation, in every case to which they apply. This is a more stringent obligation than could be established by certain other common arguments for Toleration. If it could be shown, for example, that generally speaking Toleration is conducive to the progress of truth, this would show, perhaps, that generally one should be Tolerant; but it would not show that it would be wrong to violate the rules even in the odd case when the violation would serve truth. But if we have (for example) promised always to observe the rules, it would be wrong to violate them even in that odd case; the rules specifically forbid the deliberator to take into consideration the fact (or alleged fact) that something prima facie inconsistent with the rule would serve truth.

The limitation of the Reciprocity Argument is that it does not seem capable of showing that the rules of Toleration should be observed semper, ubique, et ab omnibus, as a good moral principle should be. Since a given generation cannot be sure that any reason will move later generations to practise Toleration when circumstances change, the stronger sect may (rightly) not judge it reasonable to adopt the principles of Toleration.
CONCLUSION

In Part I I gave what I believe is a complete analysis of the concept of Toleration, in my extended sense - that is, of the chapter of the liberal platform concerned with freedom of religion, speech, association, and related matters, of which Toleration, in the ordinary sense, forms the main part. The features of this analysis that I regard as important are these:

(1). It specifies, as far as can be done in the abstract, how the rights and duties asserted by the rules of Toleration are to be balanced against competing considerations - some are 'absolute', some are 'presumptive', some of the duties are of 'imperfect obligation'. Some of the presumptive rights and duties are 'conclusive against' certain kinds of considerations (cf. the restrictions attached to rules (6) and (7) and several others). In formulating the rules in this way I avoid the need to foresee all the kinds of considerations that will enter into competition with the rights asserted.

(2). It allows for the fact that liberals are prepared to recognize as tolerant many people whose thinking is in most respects not liberal; no more than is necessary of the liberal creed is built into the rules.

(3). It allows for the feeling that incidental obstacles to the exercise of the asserted rights should be removed, and that positive assistance should be given, without making the rules too stringent. I suggest that there are duties of imperfect obligation to facilitate the exercise of rights, and to arrange things so that presumptive rights are actual reasonably often.
(4). It observes the distinction (often blurred in the literature of the subject) between punishment in the proper sense and punishment in the extended sense, between persecuting the intolerant and taking precautions against them. This distinction is important for the argument of Chapter 6.

(5). It avoids involving Toleration with relativism or 'indifferentism'; the tolerant person may be zealous for objective truth, as long as his zeal is not manifested in certain specified ways.

The practical implications of assertions of presumptive rights and duties of imperfect obligation are vague. But the analysis must acknowledge that at some points Toleration has some 'give' in it, or it will seem unreasonable as soon as the complexities of life are encountered. At some points the line is drawn absolutely. I have suggested that even when all we can say in the abstract is that a certain consideration deserves 'some' weight, there may be an objective standard determining how much weight it ought to get, a standard that can be learnt through discussion with others of concrete cases. I have listed for each principle the standard applications from which the standard may be learnt.

Part II is a contribution toward deciding whether the principles of Toleration are morally binding. To investigate this question completely, it would be necessary to consider: (a) arguments to show that the principles are morally binding; (b) objections to those arguments; (c) arguments to show that certain intolerant acts are morally obligatory; (d) objections to the arguments of (c). (An objection against an argument is
not an argument for the contradictory of its conclusion; (a) and (d) are not identical, and neither are (b) and (c)). In Part II I have not dealt with (c) or (d), and my treatment of (a) and (b) is incomplete. As I explained in Chapter 3, I believe that completeness is unattainable, and that, short of completeness, there is no natural stopping point for investigation. I took up several arguments which interested me, and about which I thought I had something to say; the availability of time and space also helped determine the limits.

As I also explained in Chapter 3, I believe that the project some philosophers have of building all their arguments on basic premisses, especially premisses which are conceptually true, is doomed to frustration. The arguments and objections which I have assembled proceed in many cases from low-ranking premisses, often assertions of fact. My presentation of these arguments has been mostly non-committal, though I believe that the premisses of both the arguments and the objections to them have enough likelihood to make them worth considering. I have tried to make clear which questions would need to be considered in order to decide about the soundness of the various arguments and objections. Different readers will no doubt have different hunches about how these questions will be answered.

According to the theory of Chapter 3, it is rational at any state in investigating a question, or even without investigating it, to affirm and act on whatever answer seems true. At the beginning of this investigation it seemed to me that the principles of toleration are morally binding. I must admit that I have no intuition about the more complex
details - e.g. the restrictions; but the assertions of the various rights and duties seemed true. They still seem true. However I would now put a higher estimate on the possibility that those who reject Toleration might be right. The 'elitist' position outlined in Chapter 4 (to which the first section of Chapter 6 is also relevant), and the view of the State which attributes to it a multiplicity of functions, including the furthering of non-utilitarian ideals, seem coherent and intelligible and quite likely to be correct; though, all things considered, in heterogeneous modern societies the liberal policy seems the right one, in view of the harmful effects of ideological conflict.

But I cannot help feeling that Toleration is right always and everywhere, not only in ideologically divided societies. It may be true that some elite knows better in some subject than most people, and it may be true that intolerant policies would be most effective in furthering their ideal; but such policies seem an excessively unfriendly way of treating people. This is vague; perhaps it could be developed into an argument from 'fraternity' or 'respect for persons'. Such arguments do not seem to exist properly worked out in the literature on Toleration, and the attempts I made to work them out myself have not looked very promising. I decided, therefore, not to include them in this thesis, hoping that the future may provide me with more insight, or that they may be worked out by other contributors to the subject.
TOLERATION

by

John Kilcullen

Volume 2: Notes.
1. Raphael writes (p.233): 'When one ought to tolerate practices or expressions of which one disapproves, the reason why one ought is that toleration contributes to liberty .... [I]n the absence of ... counter claims, toleration is to be advocated simply because it allows liberty, and liberty is to be advocated because it enables human beings to do what they choose or want to do. The underlying value is the value of choosing for oneself.' This seems to me to obscure important differences between kinds of liberty, some of which have other grounds besides the value of choosing for oneself. See Benn, 'Privacy' p.15: the right to privacy may be more stringent than the prime facie right to do as one chooses.

*2. On the history of religious toleration see Bainton, Henriques, Jordan, Lecler, Lyon, Seaton and H. Smith. The early advocates of toleration might be surprised to find themselves put at the beginning of the Liberal tradition. The tradition is to some extent constructed retrospectively. When the Liberals (or Whigs) became a recognisable party, they made up their own pedigree, going back (in one line) through the Puritans and the Reformers. The literary tradition consists not only of books that were meant to further the cause of the liberal party when they were published, but also books published
before there was such a party, if modern Liberals take
them (or would, if they read them) to advocate things
they themselves stand for.

3. Both Catholics and Protestants held that a person could
not rightly be punished just because of erroneous
religious beliefs. Heretics were punished, in theory at
least, for breaking a freely-given promise, or for some
outward act. Thomas Aquinas, *Summa Theologiae* 2-2 q10
a8, Vol.3. p.77; Lecler Vol.1, p.72, 151, 155, 334.

4. On the difference between *les dévots* and *les politiques*
see Lecler vol.2 p.50-1, and Figgis p.100-1. The
following illustrate the 'devout' attitude: 'A Synod at
Sneek in 1587 declared that only one religion [Calvinism]
was to be allowed and all heretics were to be expelled,
since it was better to reduce the state to a desert than
to suffer corruption with prosperity'; Nobbs p.xii. The
Duke of Alba wrote: 'It is infinitely better to preserve
by war for God and the king an impoverished and even
ruined kingdom, than to preserve it in its entirety
without war for the devil and his disciples'; Lecler
Vol.2 p.201.

*5. A person is not genuinely tolerant unless he can be
trusted not to persecute even if he has the power to do
so with impunity, even if he sees some great advantage in
doing so. To guarantee this (insofar as it can be
guaranteed), toleration must be for him a matter of moral
principle; either the rules of toleration must be
themselves among his moral principles, or else they must be rules which he recognises a moral obligation to obey (e.g. because he has undertaken to do so). A conscientious person's moral principles control his behaviour when external sanctions are lacking or weak.

6. E.g. Locke argued that the State should be completely neutral, but used 'Toleration' in the title of his letters on the subject. 'Liberty of conscience and toleration were almost interchangeable'; H. Smith p.7. 'No clear distinction was made in the eighteenth century controversies'; Henriques p.18.

7. This was a commonplace in the nineteenth century: 'One often hears it said that Protestantism introduced a new era, radically different from any the world had ever seen before: the era of "private judgment", as they call it'; Carlyle, p.354. These days some historians deny that this was an original principle of Protestantism. According to Chadwick (p.23) it was Lessing who 'imported into German Protestantism and many history books the legend that the fundamental principle of the Reformation was the right to exercise unrestricted private judgment'. But already in 1659 Milton wrote: 'no man ... can judge definitively the sense of scripture to another man's conscience, which is well known to be a general maxim of the Protestant religion' (Of Civil Power p.12); 'with that name [Protestant] hath ever been received this doctrine, which prefers the scripture before the church,
and acknowledges none but the scripture sole interpreter of itself to the conscience' (p.7); this doctrine is 'the main foundation of our Protestant religion' (p.6).

Sometime in the first half of the seventeenth century John Hales wrote Of Enquiry and Private Judgment in Religion; see Allen English Political Thought p.234. Chillingworth used the phrase 'liberty of judgment'; see Jordan Vol.2 p.389. Chillingworth makes the doctrine which this phrase represents the distinctive tenet of Protestantism, though he does not often use the phrase. For the eighteenth century see Hoadly, quoted note (9) below; and C. Leslie's Dissertation Concerning Private Judgment and Authority. The doctrine, though not the phrase, is in Luther To the Christian Nobility p.73-6, and in Calvin p.1155-63.

8. On 'implicit faith' see Calvin p.544-6. 'All Protestant Churches ... maintain these two points, as the main principles of true religion: that the rule of true religion is the Word of God only: and that their faith ought not to be an implicit faith, that is, to believe, though as the Church believes, against or without express authority of Scripture'; Milton Of True Religion p.166. 'Mr Gladstone seems to imagine that most Protestants think it possible for the same doctrine to be at once true and false; or that they think it immaterial whether, on a religious question, a man comes to a true or a false conclusion. If there be any Protestants who hold notions
so absurd, we abandon them to his censure. The Protestant
doctrine touching the right of private judgment ... we
conceive not to be this, that opposite opinions may both
be true; nor this, that truth and falsehood are both
equally good; nor yet this, that all speculative error is
necessarily innocent; but this, that there is on the face
of the earth no visible body to whose decrees men are
bound to submit their private judgment on points of
faith'; Macaulay Gladstone p.477. 'Even when they
[Protestants] held as firmly as Catholics that salvation
depended on having the true belief, they still maintained
that the belief was not to be accepted from a priest, but
to be sought and found by the believer, at his eternal
peril if he failed; and that no-one could answer to God
for him, but that he had to answer for himself'; J.S. Mill

9. The anonymous author of 'The Ancient Bounds' made it part
of the Christian's Liberty of Conscience: 'There are two
things contended for in this liberty of conscience: first
to instate every Christian in his right of free, yet
modest, judging and accepting what he holds...'; 'And
this is the dignity, as well as the duty, of a spiritual
man, that he judges all things, and is not concluded by
the former judgment of any. And this liberty is as
worthy the vindication as any in these exonerating times,
this liberty of judging' (Woodhouse, pp.247, 258). Some
mid-seventeenth century writers treated 'Liberty of
Conscience' as a general human right. E.g. according to Jordan (Vol.4 p.58), Sir Henry Vane held that freedom of conscience 'accrues to us generally as we are men and specially as we are Christians who have no overlord of conscience save Christ'. Similarly, in the eighteenth century Hoadly treats 'Private Judgment' as part of Christian Liberty, and also as a right of men generally: '[If] any restraints [are] laid upon this Christian Liberty, any discouragements to the Freedom of Inquiry and Judgment of Christians, I am sorry for it' (p.131-2); 'It is the liberty, which resolves itself at last into the Right of everyone to judge for himself in religion, and to conduct his practice by that judgment, ... resulting from the nature of true religion, which requires choice, and will, in every particular man's conduct' (p.133). A. Collins' A Discourse of Free-Thinking argued that 'free-thinking' was everyone's right and duty; in An Apology for Free Debate and Liberty of Writing, he claims that 'it is every man's natural right or duty to think, and judge for himself in matters of opinion' (quoted Levy p.122).


11. Calvin p.846-7. The Puritans emphasised this doctrine; see e.g. Woodhouse p.392.

12. For Luther, see Kerr pp.222-3, 226-32; Calvin pp.1510-
1517, 1520-3; Church of England, 'An Exhortation to Obedience' p.77; Allen Sixteenth Century p.125 f; J. Taylor Ductor Dubitantium Vol.10 p.185 - 199. The doctrine has a place in Locke's political theory: '... such a private person is to abstain from the actions that he judges unlawful; and he is to undergo the punishment, which is not unlawful for him to bear; for the private judgment of any person concerning a law enacted in political matters, for the public good, does not take away the obligation of that law, nor deserve a dispensation'; Locke First Letter p.43.

13. Calvin pp.1183-4, 1205-6, 1208. Anglicans followed Calvin on this point: 'If a governor commands us to do a thing indifferent, and says it is necessary, we may not do it under that compliance; that is, we may not betray our Christian Liberty, and accept that as simply necessary which Christ hath left under Liberty. We must do the thing, but not own the necessity'; Taylor Ductor Dubitantium Vol.9 p.136. Cf. Sanderson p.124-5, Locke Two Tracts p.239, 138-9 (Locke was on this subject an Anglican at this stage of his life), and Stillingfleet (in Tullioch Vol.1 p.434-5).


15. '... you Dissenters, who instead of observing and doing whatsoever is commanded you, though it be lawful; will do nothing you are bidden; and for that very reason, because
you are bidden; insomuch that what you yourselves own to be lawful, and indifferent, and that you might do it of your own head; you think it becomes sinful, merely because enjoined by your lawful superiors! For then it is an encroachment upon your Christian Liberty!'; Leslie p.35. Cf. Milton, in Woodhouse, p.227; and H. Smith, p.29.

16. See Woodhouse p.24, 210-20, 325-6, etc. Many who otherwise followed Luther or Calvin had also come to think that resistance might sometimes be justified. See Allen Sixteenth Century p.103f.

17. For an example of this disagreement, see Woodhouse p.125f.

18. According to Richard Baxter, among the theological amateurs in the Parliamentary army, the 'most frequent and vehement disputes were for liberty of conscience, as they called it; that is, that the civil magistrate had nothing to do to determine of anything in matters of religion by constraint or restraint, but every man might not only hold, but preach and do, in matters of religion what he pleased; that the civil magistrate had nothing to do but with civil things, to keep the peace, and protect the church's liberties, etc.'; Woodhouse p.388-9.


9.


22. J. Black p.191; Abrams p.36-49. I have found Abrams' essay and notes very useful.


25. 'I cannot deny but that the sincere and tender-hearted Christians should be gently dealt with and much might be indulged them, but who shall be able to distinguish them, and if a toleration be allowed as their right who shall hinder others who shall be ready enough to lay hold on the same plea?' Locke Two Tracts p.160 (my italics); cf. p.226-7, 237. See Taylor Liberty p.536-9.


27. Abrams p.36, Cobbett Vol.4 Cols.184,252.


29. Fox Vol.4, p.419.

30. 'With regard to toleration, every gentleman in that house was, he believed, a friend to it; tender consciences ought undoubtedly to be treated with every possible regard and attention; but by religious toleration, as he had ever conceived, was meant...'; Mr Powys, Cobbett Vol.28 Col.428-9. This respect for toleration, with opposition to what liberals thought it implied, was typical. See Walpole in Cobbett Vol.9 Cols.1052-3, Lord North in Cobbett Vol.26 Col.818, Pitt in Cobbett Vol.28 Col.406, Sir Robert Inglis in Hansard Vol.18 (1828) Col.711, Palmerston in Hansard Vol.18 (1828) Col.778. As Fox said
10. (1-31)

'All agreed that toleration was in itself abstractedly just'; 'the question now was, what was, and what was not, toleration'; Fox Vol.4 p.418, 421.

31. The Independents, who stood near the middle of the Puritan spectrum, stopped at the toleration of 'such differences about the doctrines of the gospel, or ways of worship of God, as may befall men exercising a good conscience, manifesting it in their conversation, and holding the foundation', and the magistrate was to prevent publication of blasphemy and error by men of corrupt minds and conversation; Savoy Declaration (1658) in Schaff Vol.3 p.720 (my italics). This was also the position of Milton: he did not advocate toleration of Popery, superstition, or immoral opinions, but of 'those neighboring differences, or rather indifferences,...which ...need not interrupt the unity of spirit'; Areopagitica p.349. The same attitude lingered in the nineteenth century: 'Toleration was the great corner-stone of the religious liberties of this country; but do not let them abuse that precious word toleration. As he understood it, it meant the complete liberty to all, freedom of worship, among Christians, who worshipped upon the same foundation. It meant toleration of all sects and denominations of Christians who believed in the one mediation'; quoted in Mill Liberty p.92. This was directed against the native religions of India, but also implies the exclusion of Catholics, perhaps through inadvertence.
32. See Hoadly, *passim*, and Plumer in Cobbett Vol.9 Cols. 1047-9. Beaufoy, one of the leaders of the parliamentary campaign against the Test and Corporation Acts in the 1790's, used the same argument. 'They [Dissenters] are subjected to punishment without the imputation of guilt; amerced of the common privileges of citizens, without the suspicion of offence; and condemned to perpetual degradation and dishonour, unless they will consent to incur the guilt of renouncing that right of private judgment in matters of religion which the God of nature has given them'; Cobbett Vol.26 Col.785; cf. Vol.28 Cols.7 and 424-5. Opponents argued that public office was not a right, and exclusion not a punishment; e.g. Pitt, in Cobbett Vol.28 Col.409.


34. Pitt had suspected that if the Dissenters got repeal of the Test and Corporation Acts 'their next application might be for an exemption from church dues, to which every argument advanced in support of the present question would equally apply'; Cobbett Vol.28 Col.412. The Church rate dispute arose in 1834 - see Hansard Vol.22 Cols.381f, 1012f. Many speakers emphasised that it was the principle, not the money, they cared about; the principle that 'no individual ought to be compelled to pay for the maintenance of a church from which he conscientiously
dissented'; Hansard Vol.22 (1834) Col.1030. Church rates were 'an infringement of religious liberty - for the restraint was the same whether it presented itself in the form of a pecuniary payment, or of personal imprisonment'; Col.1031. Education later became the battleground. The same idea of religious liberty was used; the Wesleyan Methodists claimed 'that direct violation of the rights of conscience ... would be perpetrated, if Parliament were to sanction the taxation of the protestants of England, for the establishment and support of Romish schools'; Hansard Vol.48 (1839) Col.572. Religious liberty apparently required that money should not be transferred by tax and subsidies from one denomination to another. These days this argument is used mostly by Catholics; then it was used mostly by Dissenters, with support from O'Connell (Hansard Vol.47 (1839) Col.1390-91; cf. Norman p.149-50).

35. At the end of the eighteenth century 'toleration' began to be contrasted with 'equality', both by those who opposed equality - e.g. Pitt, Cobbett Vol.28 Col.406 - and by those who favoured it - e.g. Paine (p.107-8), Kant (Enlightenment p.91), Mirabeau (in Lyon p.1), and Bright (in G. Smith Vol.1 p.31,32).

36. E.g. Sir James Graham 'gloried in the name of Protestant, and it was a ground of proud pre-eminence in the Protestant creed, that it ... left everyone perfectly free to his own private interpretation and judgment of
the sacred truth. That was the true ground of toleration..." But he opposed the government's education plan, because it treated all denominations equally, and thus was inconsistent with the establishment of the Church of England: 'That plan viewed no religious creed with favour; it went to admit an equality of right for state endowment for all'. His criticisms, however, 'were not inconsistent with perfect toleration, for perfect toleration was satisfied by an admission of all classes to a full participation in the civil rights of citizenship, without reference to religious creed'. But to go a step further and treat denominations equally was inconsistent with establishment. 'He was prepared to go to the extent of complete toleration...But to advance a step more would be most imprudent'. Hansard Vol.48 (1839) Col.653-4. Similarly Pitt rejected equality, but claimed to support Toleration; Cobbett Vol.28 Col.406.

37. Other attempts at summing up: Virginia's Bill for Establishing Religious Freedom (1786) provided: 'that no man shall be compelled to frequent or support any religious worship, place or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinion in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil
capacities'; Konvitz _Fundamental Liberties_ p.26. 'The phrase religious toleration has come to be commonly used in a sense almost technical. In the fullest sense it means that law imposes no penalties, disabilities or restrictions on the expression by word or act of religious opinions; that men are legally free to follow their own religion so long as they do not trespass on the legal rights of their neighbours'; Allen _English Political Thought_ p.200-1. 'The legal rights of their neighbours' requires some restriction.

38. In modern statements of human rights, religious opinions are mentioned alongside other kinds of ideological opinions: 'No man is to be interfered with because of his opinions, not even because of religious opinions...'; _Declaration of the Rights of Man and of the Citizen_, Brownlie p.9. 'Everyone has the right to freedom of thought, conscience, and religion...'; _Universal Declaration of Human Rights_, Brownlie p.110. 'Freedom of faith and of conscience, and freedom of creed, religious or ideological (Weltanschaulich) shall be inviolable'; _Constitution of German Federal Republic_, Brownlie p.19. 'Toleration is the practical recognition of the right of the individual to form and to act upon his own opinions on the great issues of life generally... As a matter of fact the battle for toleration has been fought...mainly in relation to one of those issues, religion'; Seaton p.1. Cf. Cranston _Toleration_ p.145-6, on 'Political
It is not an accident that freedom of religion, of speech, of the press, and of political meetings are sometimes associated together in 'Declarations of Rights' — in the American First Amendment, in the Universal Declaration of Human Rights arts. 18-20, etc.; see Brownlie p.11, 110.


41. See Fox's speeches on the Treason and Sedition Bills of 1795: Fox Vol.6, p.1f. 'All the liberty that subsisted in the country was preserved only by the freedom of speech and the liberty of the press'; p.14. Cf. p.45, 'Freedom of discussion' is Fox's usual term.

42. See Chapter 3, 'Early English Theory: From Milton to "Cato"' in Levy, p.88f; and Chafee p.497f.

43. This is the thesis of Levy's book. In 1819 Sidmouth still defined Liberty of the Press as absence of prior censorship; see Wickwar p.15n.

44. See Gash p.310-l.


46. Mill Liberty p.75, 78n; my italics.

47. Mill Liberty p.75.

48. E.g. Hart Morality p.30-34. Cf. Barry p.66, who uses 'Liberalism' to refer to the doctrine that the State is not a means of making good men.

50. 'No proposition could, he contended, prove more consonant to common sense, to reason and to justice, than that men should be tried by their actions, and not by their opinions: their actions ought to be waited for, and not guessed at, as the probable consequence of the sentiments which they were known to entertain and to profess'; Fox, Vol.4 p.3. 'What was the principle of persecution? The condemnation of a man before he had committed a breach of the law; Fox Vol.4 p.421. 'To argue that, because a man is a Catholic, he must think it right to murder a heretical sovereign, and that because he thinks it right he will attempt to do it, and then, to found on this conclusion a law for punishing him as if he had done it, is plain persecution'; Macaulay Hallam p.124. 'It is time enough for the rightful purposes of civil government for its officers to interfere when principles break out into overt acts against peace and good order'; Virginia Act for Establishing Religious Freedom, in Jefferson, p.313. Cf. Furneaux, in Levy p.164-7.

51. To delay intervention until the last practicable moment seems to be the point of the attempt by Holmes and Brandeis to substitute 'clear and present danger' for 'dangerous tendency' as the test of the justification of restrictions of speech. See Chafee p.23-4, 35, 136-7.

52. For discussions of current usage of 'tolerance' etc. see the articles by Cranston, Crick, Hartenberg, Hearn, King,
17.

Lukes, and Raphael, listed in my bibliography.

53. For a summary of the views of Crick, King and Raphael on the distinction between 'tolerance' and 'toleration' see Raphael p.229. "The Oxford English Dictionary indicates that (1) there is some overlap in the meanings of the two terms 'tolerance' and 'toleration', (2) the dominant meaning of 'toleration' is the action or practice of allowing what is not approved, and (3) 'tolerance' is more common than 'toleration' when one wants to speak of purely physical or passive endurance or resistance'; Raphael, p.229. To (3) I would add: or when one wants to speak of the disposition to tolerate. '[T]olerance - the mental attitude which finds its outward expression in toleration...'; Seaton p.4.

54. This is exemplified in the following: 'We have made ... a great deal too much of legal and governmental toleration.... What is needed ... is not so much legal toleration as a mental outlook.... What is needed is tolerance of adverse opinion.... Such tolerance is the only foundation for religious or any other liberty.... It is not the mere development of legal toleration that of itself constitutes progress, but the development of that rational tolerance among men that makes legal toleration a matter of course. If religious toleration exists, as it may exist, without such tolerance, no great advance has been made'; Allen English Political Thought p.202. This use of 'toleration' and 'tolerance' sounds to me
like correct English.

55. 'There is a popular disposition to think of tolerance as good and of intolerance as an evil. There is some warrant for doing so. But the justification for thinking this is embedded, not in the previous analysis [of what the words mean], but in the history of human affairs. Since, speaking abstractly and strictly, we have no more warrant for being tolerant than intolerant, we must bring to mind those objects of intolerance which, historically and in practice, have been broadly regarded as improper objects of intolerance.... [I]ntolerance considered as a wrong must be regarded as such in respect of certain assumed spheres of application (not per se); and these spheres of application can only be explored in history, both distant and contemporary'; King p.203.

56. 'He [God] does not deal with us according to our sins, nor requite us according to our iniquities.... For he knows our frame, he remembers that we are dust'; Psalms 103: 10-14. The O.E.D. gives as one sense of 'tolerance': 'freedom from undue severity in judging the conduct of others'.

57. 'Only a scandal-monger is interested in judging people or their actions; "judge not" appears to some of us one of the fundamental and much too little appreciated laws of humanitarian ethics'; Popper Open Society Vol.1 p.237. Sometimes the argument for this is that other people are not responsible morally to me, so I should not judge
them, even if I think I do know all the circumstances. This argument seems to leave no room for any notion of moral responsibility, unless to God. Its ultimate source appears to be biblical: 'There is one lawgiver and judge...But who are you that you judge your neighbour?'; James 4:12; cf. Romans 14:4,13.

58. The political tolerance discussed by Hartenberg would satisfy this description. By the politically intolerant we sometimes mean those who are tempted by fear to violate the rules of democratic politics, and to entertain unjust or ungenerous suspicions of their opponents.

59. Unless there is something wrong with his conception of justice - see Hearn p.229 on the 'tolerant racist, who acts deliberately and in accordance with mistaken principles, not out of blind hatred.

60. Cf. the treatment of 'private' in Benn Privacy p.1-3. Sometimes when we say that something is done 'in private' we mean that it was not in fact observed. But sometimes when we call something 'private' we mean (roughly) that it ought not to be observed; then the word is being used to invoke norms.

61. Marcuse (p.83) mentions aggressive driving, deception in merchandising, waste, planned obsolescence. Ichheiser criticises agreeableness towards all and tolerance of evil in general; Hearn criticises him; p.225-6.

62. Cranston p.143. '[I]t suggests a latent disapproval',
63. 'For if tolerance presupposes disagreement, one who never disagrees is never tolerant or intolerant. That is, a person who is indifferent about some issue does not differ with anyone about that issue; if he does not differ, the question of tolerance logically cannot arise'; Hearn p.225.

64. 'If I tolerate something or someone, I am claiming that my disapproval is legitimate, that I have a right not only to feel it but to express it in action (and hence to forbear from expressing it in action)'. 'If I characterise someone as tolerant, I would naturally be understood to be endorsing his right to disapprove of what he tolerates, just as if I describe a person as having authority, I would naturally be understood to be endorsing his right to give orders'; Lukes p.224-5. 'It assumes the existence of an authority which might have been coercive'; Adeney p.360.

65. Hence the best evidence that a principle is part of the concept of Toleration is sometimes that some of the arguments for Toleration are strictly speaking arguments for that principle. The catalogue of arguments is thus evidence for my claim that liberals hold the principles I attribute to them.

66. See Waismann p.119-124.

67. See South Australia Parliamentary Debates, 1972-73, pp.1956-8, 2202, 2454-5. The Legislative Council voted
to define the crime as committing the act, and to allow consent (etc.) as a defence; the Assembly voted to define the crime more narrowly; the views of the Council prevailed.

*68. Rights and duties may be moral or legal or both. A person may have a moral right to do something he has no legal right to do, or a legal right to do something he has no moral right to do; the act may be punishable by law but not blameworthy, or the reverse. In some cases morality and law may coincide. One of the principles of Toleration denies that in general they ought to coincide. The principles of Toleration are themselves moral principles, asserting moral rights and duties and rules of moral deliberation. These and certain other moral principles asserted by the liberal creed are I believe excepted when it is asserted that the law should not enforce morality; they are simultaneously moral and political principles. However, their translation into law is usually not simple and direct; it is usually a matter of devising institutional arrangements with working rules not identical with the moral principle - see above, p.30-2. Hence the rights and duties asserted by the principles of Toleration are to be taken as moral rights and duties; whether there are or ought to be corresponding legal rights or duties, and if so what form they should take, is a problem in the application of the principles.
I do not follow Hart (Natural Rights p. 56n) in drawing a distinction between 'duty' and 'obligation'; what I say about duties is therefore to be understood also of what he calls 'obligations'.

What I call 'presumptive' duties (similarly, 'presumptive' rights) are like what Ross and others have called 'prima facie' duties; see Ross p. 19-20. However the latter term often seems to cover Duties of Imperfect Obligation, which I wish to distinguish. I do not define 'presumptive' duties in terms of tendency, or ground of rightness etc.; I intend the definition I have given to be taken strictly as the only meaning of the term. What I call 'actual' duties are by Ross and others sometimes called 'absolute'; see Ross p. 28. However I wish to allow for the possibility that there may be some exceptionless rules of duty; 'absolute' seems the appropriate term for duties prescribed by such rules.

This is a definition of duty simpliciter; actual duties are what are commonly called 'duties'. Other kinds - presumptive, imperfect etc. - are not species of the genus duty; they are called 'duties' because they give rise to actual duties in certain situations, or because they resemble actual duties in certain respects. Compare Aristotle's remarks on the kinds of goodness, Ethics I 6, 1096 a 17 - 29, 1096 b 20 - 30.


According to Kant, 'broad' duties are limited by other
duties (Virtue p.48). But the duty to further certain ends does not require all the time and energy left over after performing one's actual duties; room should be left for supererogation. See Mill Comte p.337 - 9, Later Letters Vol.2 p.762-3. This is a convenient point to explain that when I say that it is 'reasonable' to do X, or that there is reason to do it, or that it would be wise or well, or better or best, to do it, I do not imply that it would (necessarily) be wrong not to do it. There is no duty to maximise one's own happiness, and some acts done for others are supererogatory; occasionally to choose the second or third best for no particular reason is not irrational or morally reprehensible. I use 'reasonable' and the other terms just listed when I want to be non-committal about the moral stringency of the reasons.

*74. According to my definition an act may be 'obstructed' and still take place - e.g. the threats may be unsuccessful. 'Obstruction' covers attempts to prevent. Note also that blame, punishment or retaliation after the act count as 'obstruction', whether or not they were expected, and whether or not they are intended to prevent future similar acts. I am using 'obstruction' as a technical term. Threats or punishments can only be 'intentional' obstruction; physical interposition or removal of facilities may obstruct intentionally or incidentally.

75. See Mill Liberty p.150 on legitimate competition; Hart Natural Rights p.57 on 'liberties'. 
'The peculiarity of the evidence of mathematical truths is that all the argument is on one side... But on every subject on which difference of opinion is possible [to be expected among reasonable people], the truth depends on a balance to be struck between two sets of conflicting reasons. Even in natural philosophy, there is always some other explanation possible of the same facts'; Mill Liberty p.96. Mill spoils the point by going on to talk of 'dispelling' the appearances that favour the wrong side; the point is that there are reasons on both sides. Mill's characteristic thesis that a truth may be 'partial' or 'incomplete' alludes to the same point: a partial truth is simply a truth; but in drawing consequences from it it is necessary to take notice of other 'partial' truths which suggest the opposite conclusion - see Liberty p.105f. Compare Locke: 'Probability wanting that intuitive evidence which infallibly determines the understanding and produces certain knowledge, the mind, if it will proceed rationally, ought to examine all the grounds of probability, and see how they make more or less for or against any proposition, before it assents to or dissents from it; and, upon a due balancing the whole, reject or receive it, with a more or less firm assent, proportionably to the preponderancy of the greater grounds of probability on one side or the other'; Understanding (IV, xv, 5), Vol.2 p.227.
Rawls (Theory p.34) describes as 'intuitionist' any moral system in which balancing plays an essential part: 'the doctrine that there is an irreducible family of first principles which have to be weighed against one another by asking ourselves which balance, in our considered judgment, is the most just. Once we reach a certain level of generality, the intuitionist maintains that there exist no higher-order constructive criteria for determining the proper emphasis for the competing principles of justice'. I prefer to use 'Intuitionism' as the name for doctrines which claim for human beings a power of recognising self-evidently true basic moral propositions. What Rawls calls Intuitionism and what I call Intuitionism need not go together: I myself accept the former and reject the latter (as I will explain in Chapter 3). According to Mill, those who hold what I call Intuitionism ought not hold what Rawls calls Intuitionism; Utilitarianism p.3.

Cf. the passage from Mill quoted in note 76 above. It is a familiar point that a crucial experiment cannot decisively refute a theory; see Lakatos p.104-5. Lakatos has suggested that the 'elimination' of a theory should be understood rather as a decision to abandon a certain research programme; see Lakatos p.157 n 1. According to Kuhn, 'There is no neutral algorithm for theory-choice, no systematic decision procedure which, properly applied, must lead each individual in the group to the same
decision'; Structure p.200. If two men disagree neither can be 'convicted' of a mistake: 'Counter-arguments are ... always available, and no rules prescribe how the balance must be struck.' (p.204) As I will explain shortly, there is no objection to the project of devising a code of rules.

*79. Any action-rule can be translated into a rule of deliberation. E.g. 'do not do X' could be stated thus: 'That an act is classifiable as X-ing is to be taken as a conclusive reason against doing it'. But rules of deliberation cannot all be translated into rules of action. If they could, deliberation could be eliminated; this may be the ideal, but it cannot yet (or perhaps ever) be realised. I will state a principle of Toleration as a rule of deliberation only if I cannot formulate it as an action-rule.

80. Kurt Baier's The Moral Point of View originally set me thinking about rules of deliberation.

*81. Philosophers sometimes refer to 'prima facie' duties as ceteris paribus principles when they do not mean that such duties constitute reasons only when everything else leaves the balance equal. The correct phrase is perhaps pro tanto: the prima facie reason is a reason 'as far as it goes', but it is not a conclusive reason. If a rule of prima facie right is meant to be properly speaking a ceteris paribus principle, then to assert it merely puts onto the other party the onus of producing some reason,
some respect in which other things are not equal. If he can produce one the *ceteris paribus* principle ceases to apply; the right asserted may not in fact be overridden, but whether it is or not has to be decided some other way - when other things are not equal the *ceteris paribus* principle gives no guidance. *Ceteris paribus* principles may be accompanied by rules excluding some possible reasons: e.g. *ceteris paribus* a person has a right to do as he pleases, and his own welfare is not to be given as a reason why he should not (cf. Benn and Peters p.258-9). But as soon as an unexcluded reason is produced, the *ceteris paribus* principle ceases to apply. What I call presumptive rights are different: the assertion of a presumptive right does not merely put an onus of proof on the other party; it puts a weight into the balance, so that the reasons the other party produces have to be of at least the same weight.

*82. Unlike some of the preceding rules, rules determining the order of importance do not prevent considerations from being balanced against one another, but determine that when they are balanced some should be given more weight than others. The order of importance is not what Rawls (p.42-3) calls a 'lexical' ordering of principles; if it were deliberation would be eliminated, since there would never be any more than one reason to consider at a time.  

83. E.g. Crick p.144, 165.

84. The disagreement is about institutional arrangements.
rather than about questions of moral principle. Judge Black, who holds the 'absolutist' position, acknowledges that balancing is necessary at some stage: 'Of course the decision to provide a constitutional safeguard for a particular right ... involves balancing of conflicting interests ... I believe, however, that the Framers themselves did this balancing when they wrote the Constitution and the Bill of Rights ... The document settles the conflict, and its policy should not be changed without constitutional amendment...'; Hugo Black, p.879. Among those who reject this view, there is disagreement about the role of Court and Congress in balancing: some hold that the former institution should not invalidate a law unless it is impossible that Congress could have had reasonable grounds for striking the balance that it did. For a survey of the controversy about balancing see Shapiro (articles by Frantz and Mendelson), Emerson p.912-6, Nimmer p.939-48.

It is possible to imagine a multi-level scheme, in which deliberation is needed to decide how to deliberate ... to decide how to act. But the principles of deliberation I have noticed do not seem to need to be balanced against one another.

'But there is a species of controversy, which, from the very nature of language and of human ideas, is involved in perpetual ambiguity, and can never, by any precaution or any definitions, be able to reach a reasonable
certainty or precision... The disputants may... never be able to define their terms, so as to enter into each other's meaning: Because the degrees of these qualities are not, like quantity or number, susceptible of any exact mensuration, which may be the standard in the controversy'; Hume Dialogues p.193. The disputants can understand one another, however, if they discuss enough cases; e.g. if two examiners grade the same set of papers, each may understand what the other means by a 'distinction'. 
FOOTNOTES — CHAPTER 2

*1. Not all of the arguments I list are 'commonplace' in the modern sense; some of Mill's arguments, for example, seem not to have been used by many other writers, but they must have influenced many liberals, and are 'available' (if not common) in the liberal tradition, so I include them. In the case of some principles not explicitly asserted by liberal writers, which I nevertheless believe are part of the current liberal notion of Toleration, I have suggested arguments not found in the literature, modelled on arguments for other principles that were explicitly asserted and argued for.

*2. The proposition that no-one is to be blamed or punished without a reason is taken over from the larger moral system; see above p.33-34.

3. Frere p.229-30; Lea Vol.3 p.37, 42.

4. See illustration, New Catholic Encyclopaedia Vol.7 p.839. Pliny called on those who were accused of Christianity and denied it to repeat invocations to the Gods, to make offerings to the Emperor's statue, and to revile the name of Christ, 'none of which things, I understand, any genuine Christian can be induced to do'; Letters X 96, Vol.2 p.287-9. Hobbes (p.528,625) and some others held that one could rightly conceal one's beliefs by doing what the persecutor demanded. But generally it was held
that to deny one's faith, expressly or by implication, is a serious sin (cf. Matthew 10:33).

5. In the seventeenth century Atheism and Catholicism were considered dangerous, and not to be tolerated; today some would say the same of Communism. On Atheism see More p.127; Locke First Letter p.47; Bayle Commentaire p.431A; L'Encyclopédie art. Tolérance, p.394B; Erskine Vol.2 p.191. On Catholicism see Locke First Letter p.45-7, Essay Concerning Toleration p.187; Bayle Commentaire p.412C-413C, 559-60.

6. Francis Bacon's phrase; J. Black p.23.

7. 'None of these sort [Catholics] are for their contrary opinions in religion persecuted or charged with any crimes or pains of treason, nor yet willingly searched in their consciences for their contrary opinions that savour not of treason'; Cecil p.9-10, my italics. The implications of the italicised phrase are spelled out on p.13: those condemned to death held that the Queen was not queen, or that her subjects were discharged of their oaths, and warranted to disobey her laws, or they did not disallow the Pope's wars in Ireland. See also J. Black p.186; most of the priests who died were executed 'because they held opinions that were considered dangerous to the existence of the state'. According to Jordan (Vol.1 p.82-3), 'England, by the time of Elizabeth, ... had advanced to the position wherein dissenters are persecuted, not so much because of the
essentially evil character of their beliefs, though this may formally be argued, but because adherence to those beliefs is deemed to be dangerous to the established order. The State has relinquished the claim to punish opinion, though it may continue to order outward conformity'. Note the confusion in this passage - one sentence contradicts the other. The idea that persecution for political reasons is somehow less objectionable than persecution for religious error appears also in Acton's Protestant Theory of Persecution, though this time as an excuse for Catholics; he claims that medieval persecution was political, Protestant persecution for religious error as such (see p.108-9).

8. Macaulay: 'If those who deny that the founders of the Church [of England] were guilty of religious persecution mean only that the founders of the Church were not influenced by any religious motive, we perfectly agree with them.' However, 'To punish a man, because we infer from the nature of some doctrine which he holds...that he will commit a crime, is persecution...'; Hallam p.124,121. Cf. Fox, Vol.4 p.3-4, 422. According to Jeremy Taylor, if a person holds dangerous opinions, 'if he hold his peace, no man is to persecute or punish him; for then it is mere opinion, which comes not under political cognisance, that is, that cognisance which only can punish corporally'; Liberty p.595. In Utopia people with dangerous opinions are not punished; More p.127.
9. E.g. Popper *Open Society* Vol.1 p.235,265. Locke: 'These have no right to be tolerated by the magistrate; as neither those that will not own and teach the duty of tolerating all men in matters of mere religion'; *First Letter* p.46, cf. his *Essay Concerning Toleration* p.187-8; see also Bayle *Commentaire* p.413 BC.

10. This seems to be Bayle's meaning. See *Commentaire* p.412 CD. Bayle rejects the argument that those who persecute deserve to be persecuted in return; *Commentaire* p.470C, 496D.

11. G. Williams p.1-2; Fox Vol.4 p.3.


13. A well-worn maxim, according to Grotius; *De Imperio* p.24. See *Justinian Digest* XLVIII, xix, 18; Vol.1 p.816A.

14. See Chapter 1 note 3 above.

15. Thomas Aquinas *Summa* 2-2 q 10 a 8 c and ad 3, Vol.3 p.78. See D'Arcy p.159-163. Cardinal Allen argued (p.95-6) that since in Protestant baptism the profession of faith is intended as a profession of the true Christian faith, which is in fact the Catholic faith, a person baptised and brought up a Protestant could rightly be compelled to become a Catholic. For a Protestant use of St. Thomas's argument, see Nobbs p.158.

16. According to St. Thomas Aquinas, some beliefs may be adopted at will; *de Veritate* q 14 a 1, p.280-1. Duns Scotus denied this; the only effect of the will on belief is indirect, by diverting the attention from one matter
to another; Harris Vol.2 p.285-90. 'If the will were a cause of the act of belief, and if it were proposed to the intellect that the number of the stars is even, then, without any persuasive reasoning, the will could order the intellect to believe determinately that the number of the stars is even; and this is not so'; Scotus, quoted Harris Vol.2 p.287 n.l. Sarpi reports a dispute between Franciscans and Dominicans at the Council of Trent, 'whether it be in man's power to believe or not believe. The Franciscans, following Scotus, did deny it; saying that as knowledge doth necessarily follow demonstrations, so faith doth arise necessarily from persuasions, and that it is in the understanding, which is a natural [i.e. not free] agent, and is naturally moved by the object. They alleged experience, that no man can believe what he will, but what seemeth true; adding that no man would feel any displeasure, if he could believe he had it not. The Dominicans said, that nothing is more in the power of the will than to believe, and, by the determination and resolution of the will only one may believe the number of the stars is even'; Sarpi p.209. The doctrine that beliefs cannot be adopted at will, though the will can influence belief indirectly, is found in Taylor Liberty p.522-3; Spinoza Ethics p.124; Locke Understanding Bk IV xiii (Vol.2 p.220 f), Bk IV xx Secs.15-16 (Vol.2 p.292-4); Whichcote (Tulloch Vol.1 p.102); Stillingfleet, Vol.4 p.134; James Mill Formation, passim; J.S. Mill Logic
Bk V i Sec.3,p.483; Peirce Writings p.256; and in the articles by Evans, Fohr, Harrison, O'Hear and Price listed in the bibliography. See also references in the next note (concerned with the use of the doctrine in arguments against persecution).

17. 'How be it, they put him to no punishment, because they be persuaded that it is in no man's power to believe what he list'; More p.127. 'As for the inward thought and belief of men ... they are not voluntary...and consequently fall not under obligation'; Hobbes p.500-1 (cf.p.410,526,527). '...man is by his own reason necessitated to be of that mind he is, now where there is a necessity there ought to be no punishment, for punishment is the recompense of voluntary actions, therefore no man ought to be punished for his judgment'; William Walwyn in Levy p.315. See also Locke: Two Tracts p.127,129; Essay Concerning Toleration p.176; First Letter p.11,12,39-40; Third Letter p.436. Bayle Commentaire p.385D-386A; Spinoza Treatise p.257-8. For other references see Levy p.313-20.

18. This supposes that belief is voluntary. But 'willing' here means something more than merely voluntary: belief chosen out of fear is not 'willing' in the relevant sense. 'They [pagans and Jews] are by no means to be compelled to the faith, so as to believe it, because belief is voluntary'; Thomas Aquinas Summa 2-2 q 10 a 8, Vol.3 p.78. The secular power should 'permit men to believe one thing or another, as they are able and
willing, and constrain no-one by force. For faith is a free work, to which no-one can be forced. Nay it is a divine work, done in the spirit, certainly not a matter which outward authority should compel or create. Hence arises the well-known saying, found also in Augustine, "no-one can or ought to be constrained to believe"; Luther *Secular Authority* p.253-4. This argument has to do with religious beliefs only.

19. 'A court must be quite certain and clear about everything, if it is to pass sentence. But the thoughts and intents of the heart can be known to no-one but God; therefore it is useless and impossible to command or compel anyone by force to believe one thing or another'; Luther *Secular Authority* p.253. '[The Sovereign] hath the Supreme Power in all causes, as well Ecclesiastical, as Civil, as far as concerneth actions, and words, for those only are known, and may be accused; and of that which cannot be accused, there is no Judge at all, but God, that knoweth the heart'; Hobbes p.576, cf. p.501. Cf. Melanchthon: 'The civil authority is the keeper of the whole law where outward discipline is concerned'; quoted Lecler Vol.1 p.246, my italics. (This was standard Protestant doctrine - Lecler Vol.1 p.245-8, 156-7; Calvin p.847, 1495). '...as no temporal tribunal can search the heart, or fathom the intentions of the mind, otherwise than as they are demonstrated by outward actions, it therefore cannot punish what it cannot know'; Blackstone Vol.4 p.21.
'The thought of man is not triable, for the devil himself knoweth not the thought of man'; from a judgment given in 1477, quoted Williams p.2. Cf. Grotius On the Law of War and Peace II iv 3, Vol.2 p.221; and Nobbs p.78-9. In fact there are ways, more or less effective, of finding out what someone thinks - see above p.55.

20. 'As little as he can open or shut heaven or hell for me, so little can he drive me to faith or unbelief'; Luther Secular Authority p.253. 'For who is there, that knowing there is so great danger in an error [viz. 'that a man shall be damned to eternal and extreme torments, if he die in a false opinion concerning an article of the Christian Faith'], whom the natural care of himself, compelleth not to hazard his soul upon his own judgment, rather than that of any other man that is unconcerned in his damnation?'; Hobbes p.700. '...he [the magistrate] ought not to prescribe me the way, or require my diligence, in the prosecution of that good which is of a far higher concernment to me than anything within his power; having no more certain or more infallible knowledge of the way to attain it than I myself, where we are both equally inquirers, both equally subjects, and wherein he can give me no security that I shall not - nor make me any recompence if I do - miscarry....Nor can it be thought that men should give the magistrate a power to choose for them their way to salvation, which
is too great to give away, if not impossible to part with; since, whatever the magistrate enjoined in the worship of God [or in belief], men must in this necessarily follow what they themselves thought best, since no consideration could be sufficient to force a man from, or to, that which he was fully persuaded was the way to infinite happiness or infinite misery'; Locke *Essay Concerning Toleration* p.176-7. This argument is concerned only with religious belief; few Christians now believe that the stakes are so high; someone doubtful of his own opinion might as well adopt the magistrate's, and be comfortable at least in this world.

21. 'The magistrate ought not to forbid the preaching or professing of any speculative opinions in any church [or elsewhere], because they have no manner of relation to the civil rights of the subjects.... The power of the magistrate, and the estates of the people, may be equally secure, whether any man believe these things or no ... the business of the laws is not to provide for the truth of opinions, but for the safety and security of the commonwealth, and of every particular man's goods and person'; Locke *First Letter* p.40. On the State's monopoly of force, *ibid* p.16. Cf. his *Essay Concerning Toleration* p.175-6. Also *L'Encyclopédie* art. *Tolérance* p.393D-394B. This argument does not establish that dangerous opinions should not be punished.

22. 'Why then would they constrain people to believe from the
heart, when they see that it is impossible? In this way
they compel weak consciences to lie, to deny, and to say
what they do not believe in their hearts, and they load
themselves with dreadful alien sins. For all the lies
and false confessions which such weak consciences utter
fall back upon him who compels them'; Luther Secular
Authority p.254. 'But if a man cannot change his opinion
when he lists, nor ever does heartily or resolutely but
when he cannot do otherwise, then to use force may make
him a hypocrite, but never to be a right believer: and so
instead of erecting a trophy to God and true religion, we
build a monument for the devil'; Taylor Liberty p.522-3.
Compulsion 'cannot alter men's minds; it can only force
them to be hypocrites; ... he only constrains them to
L'Encyclopédie art Tolérance p.391c-d.

23. Statements of this argument are uncommon, perhaps because
it is assimilated to a similar argument for freedom of
discussion. But see J.S. Mill, Liberty p.94.

24. See Bayle Commentaire p.384d; D'Arcy p.161; Locke First
Letter p.13d.

25. For the identification of Locke's antagonist see Cranston
Locke p.331.

that no-one can innocently hold certain opinions, 'for
God hath not left those truths which are necessary for
conservation of the public societies of men... intricate
and obscure'; Liberty p.595, cf. Ductor Dubitantium Vol.9 p.139. St. Thomas Aquinas held that no-one can be innocently in error concerning the universal principles of the moral law; Summa 1-2 q 76 a 2, Vol.2 p.520D.

27. Most of the material is put together, though in view of a somewhat different conclusion, in Locke Third Letter p.297-9.

28. Bayle (Commentaire p.436D, 514C-D) argues that ignorance does not always result from sin; the soul is joined to a body, which subjects it to many misleading or distracting impressions, and for the first fifteen years we do not have the use of reason; education may send someone in the wrong direction, so that zeal for truth may carry him towards error (see Chapters 15 & 16, p.526-30). Who but God can know how far the force of education goes, and where the misuse of free will begins? (p.442d).

29. God has not printed a distinguishing mark on truths of revelation, they seem no different from many falsehoods; Bayle Commentaire p.437A,D. Grace does not give power to discern any mark of orthodoxy, p.439 A-D; grace itself is not discernible, p.545D-546B.

30. 'Evidence is a relative quality'; because men differ in natural endowment, education and experience, what suffices to convince one does not suffice with another (Bayle Commentaire p.396C-D). Hence only God can judge whether a person is opinionated (p.397A). 'Only God knows the measure of spirits, and the degrees of light sufficient
for them; this measure of sufficiency varies infinitely...'
(p.397B). Cf. p.442D.

31. 'Whoever will lend an ear to all who will tell them they are out of the way, will not have much time for any other business'; Locke Second Letter p.96, cf. p.102.

32. Suppose a person has been educated, or miseducated, to believe that people opposed to his faith are crafty seducers, and that he himself must mistrust his own capacities for investigation and power to judge right. Given these beliefs, it would not indicate that he is opinionated, or unwilling to know what is true, or subject to any other vice, if he refuses to inquire, to listen to the other side, or to abandon his faith though it has come to seem mistaken; he may close his mind out of fidelity to what he supposes to be the truth. See Bayle Commentaire p.528D-529A, 529D-530B, 532B-D.

33. '...this [may be] a case reserved to the great day, when the secrets of all hearts shall be laid open; for I imagine it is beyond the power or judgment of man, in that variety of circumstances, in respect of parts, tempers, opportunities, helps, etc. men are in, in this world, to determine what is everyone's duty in this great business of search, inquiry, examination; or to know when anyone has done it'; Locke Second Letter p.103-4. It is impossible for 'any man to know whether another has done his duty in examining.... Whether and how far anyone is faulty must be left to the Searcher of hearts...who knows
all their circumstances, all the powers and workings of their minds...'; Locke Third Letter p.299; see L'Encyclopédie art. Tolérance p.390B-391A (mixed in with other material); Bayle p.524A (point 5).

34. 'Ignorance is voluntary if it is of something one ought and can know... Ignorance of the universal principles of the law, which one is required to know, is voluntary, arising from negligence'; St. Thomas Aquinas Summa 1-2, q 6, a 8, Vol.2 p.64 (my italics). Cf. 1-2, q 19, a 6, Vol.2 p.145. Bayle criticises this: ignorance is invincible, however easy it would be to remove, if one has never suspected its existence; no-one is obliged to know anything of which he has not been sufficiently notified. Commentaire p.442CD; cf. D'Arcy p.127 f.


36. 'Undesirable': false, unorthodox, unusual, disturbing, dangerous etc.

37. Theologians seldom state that the Christian ought not to question his faith. The evidence that Christians have held this consists mostly in statements by critics. According to Chillingworth, Catholics 'either out of idleness refuse the trouble of a severe trial of their Religion...or out of superstition, fear the event of such a trial, that they may be scrupled, and staggered, and disquieted by it'; if they do it, it is rather for the satisfaction of others than themselves: but certainly
without indifference, without liberty of judgment, without a resolution to doubt of it, if...the grounds of it prove uncertain, or to leave it, if they prove apparently false'; to doubt is a Mortal Sin, hence a Catholic 'must resolve that no motives...shall move him to doubt, but that with his will and resolution he will uphold himself in a firm belief [of the Catholic religion]...though his reason and his understanding fail him'; p.293-4. Cf. Taylor Liberty p.495-6. According to Locke, every sect has its set of opinions, 'and that is called orthodoxy; and he that professes his assent to them, though with an implicit faith and without examining, is orthodox and in the way to salvation; but, if he examines and thereupon questions any one of them, he is presently suspected of heresy...'; Locke, in Bourne Vol.1 p.306. According to Kant, the custodians of orthodoxy 'instil into their flock a pious terror...even of all investigation - a terror so great that they do not trust themselves to allow a doubt concerning the doctrines forced upon them to arise, even in their thoughts'; Religion p.124n. 'The misconduct of the clergy in relation to evidence' reaches a high pitch; they make their followers purposely shut their eyes to evidence on the opposite side; 'They endeavour to frighten them with it. They represent it as dangerous, if not wicked, to look at it...the very thought of weighing [evidence on both sides]...is treated as morally evil'; James Mill
44.  (2-*38)


Civilisation p.196-7. 'The misconduct of the clergy in
relation to evidence' is a commonplace theme in liberal
criticism of conservative Christianity.

*38. Some who think this might disapprove of any human
reasoning on fundamental questions of faith. However,
they might hold that non-believers have a duty to
investigate the faith, and that believers ought to equip
themselves to help the unbelievers by studying
'apologetics' (which is not the study of whether the
faith is true, but of the reasons why it is true). There
is no inconsistency in holding that unbelievers have a
duty to investigate and believers a duty not to
investigate; these duties arise in different circumstances
(being already a believer, being an unbeliever) from the
basic duty to believe.

*39. What is then left of the duty to believe? Note that the
restriction applies in deliberating to decide whether
another person has a right to investigate. A person who
believes that there is a duty to believe certain things
may forbear to investigate himself, but if he is tolerant
he acknowledges that others have the right to investigate.
To count as tolerant it is not necessary to criticise
one's beliefs, but it is necessary to allow others to
criticise theirs.

*40. Let us extend the application of 'investigate' to cover
such methods. 'Data-gathering' should also be understood
in a broad sense.

41. 'And this is the dignity, as well as the duty, of a spiritual man, that he judges all things, and is not concluded by the former judgment of any.... The practice of forcing straitens men in the liberty they have as they are men and reasonable creatures, who are born with this privilege and prerogative, to be led forth always under the conduct of their own reason. Which liberty is much enlarged by being Christians'; anonymous author in Woodhouse p.258, 260. He goes on to quote P. Charron to the same effect.

42. On implicit faith and the duty of private judgment, see above, p.4-5 and note 8 of Chapter 1. For a use of this as an argument to a conclusion like my principle (4), see Locke in Bourne Vol.1 p.306-7.

43. Anglican apologists used this argument against Catholics: Chillingworth p.73-5; Taylor Liberty p.497-8; Stillingfleet Vol.6, p.644-54; Leslie p.5-7. To Catholics it would not have been self-evident that a simple peasant had a duty to check the credentials of his guides; see Leo XIII p.72. To establish this duty it would be necessary to appeal to one of the other arguments; e.g. to argue that people are less likely to be misled if they check their guides - which assumes a certain general capacity for discriminating correctly between good and bad guidance; cf. note 45 below.

44. 'Just as we are persuaded that the Australians would be
under an obligation to hear our missionaries, in virtue of the sole proposition the missionaries would make to them in general, that they came to disabuse them of their errors in religion, so we ought to believe that we are under the same obligation in regard to the fleet of which I speak [of missionaries from Australia]. Because the obligation of the peoples of Australia could not be founded on this, that our missionaries bring the truth, since I suppose they would be under the obligation in virtue of the general offer made to them, and before they had been made to know by any proof, small or great, the truth of what the missionaries wished to preach to them, and before they had entered into any doubt of the truth of their own beliefs (I mean a distinct and particular doubt, not the implicit, vague and general doubt... [Felt by anyone who knows he is liable to error]). If therefore the Australians would be obliged to hear our missionaries before any particular prima facie reason led them to doubt their old religion or to suspect the truth of the one offered, it is clear that their obligation would rest on a principle which applies universally to all men, viz. that it is necessary to take advantage of every occasion that offers to extend one's knowledge by examining reasons against one's beliefs or in favour of the opinion of others': Bayle Commentaire p. 377 B-C. 'We have here in England a society... in effect for the Propagation of Free-thinking... whose design supposes that it is all men's
duty to think freely about matters of religion. For how can the Society for Propagating the Gospel in Foreign Parts hope to have any effect on infidel nations, without first acquainting them that it is their duty to think freely...?'; Collins p.41.

45. 'If they will not think for themselves, it remains only for them to take the opinions they have imbibed from their Grandmothers, Mothers, or Priests, or owe to such like Accident, for granted. But taking that method, they can only be in the right by chance; whereas by thinking and examination, they have not only the mere accident of being in the right, but have the evidence of things to determine them to the side of truth: unless it be supposed that men are such absurd animals, that the most unreasonable opinion is as likely to be admitted for true as the most reasonable, when it is judged of by the reason and understanding of men... But then it will... follow, that they can be under no obligation to concern themselves about truth and falsehood in any opinions'; Collins p.32-3, cf. p.26.

46. 'I never saw any reason yet why truth might not be trusted to its own evidence'; Locke Conduct, p.381-2. Such statements are common in arguments for freedom of advocacy - see below, n.69.

47. 'God desires that we believe the conclusion as much as the premisses deserve, that the strength of our faith be equal or proportionable to the credibility of the motives
to it'; Chillingworth p.27. Cf. Hooker Vol.1 p.269; Taylor Liberty p.397B, 497B-C; Locke Understanding IV xix 1 (Vol.2 p.272); Stillingfleet Vol.4 p.109. 'If the surest and best means of arriving at Truth lies in free-thinking, then the whole duty of man with respect to opinions lies only in Free-Thinking'; Collins p.33.

*48. Note that even if (ii) is rejected, (i) & (iii) may be enough to establish the conclusion.

49. Something like this argument is found in Locke: 'He that by indifferency for all but truth, suffers not his assent to go faster than his evidence, nor beyond it; will learn to examine, and examine fairly instead of presuming, and nobody will be at a loss, or in danger for want of embracing those truths which are necessary in his station and circumstances. In any other way but this, all the world are born to orthodoxy;...men,...inherit local truths (for it is not the same everywhere), and are inured to assent without evidence.... [W]hat one of an hundred of the zealous bigots in all parties, ever examined the tenets he is so stiff in; or ever thought it his business or duty so to do? It is suspected of luke-warmness to suppose it necessary, and a tendency to apostacy to go about it.... Whether this be the way to truth and right assent, let the opinions that take place and prescribed in the several habitable parts of the earth, declare. I never saw any reason yet why truth might not be trusted to its own evidence: I am sure if that be not able to
support it, there is no fence against error.... Evidence therefore is that by which alone every man is (and should be) taught to regulate his assent, who is then, and then only, in the right way, when he follows it'; Locke _Conduct_ p.380-2.


51. Bayle _Commentaire_ p.393-394C, 450B; Locke _Second Letter_ p.98; _L'Encyclopédie_ art. _Tolérance_ p.392B; Lord Herbert of Cherbury in Jordan Vol.2 p.439. 'It seems to us quite clear that an inquirer who has no wish except to know the truth is more likely to arrive at the truth than an inquirer who knows that, if he decides one way, he shall be rewarded, and that, if he decides the other way, he shall be punished'; Macaulay _Gladstone_ p.455.

52. For example, in Utopia, otherwise a rather liberal place, a person who does not believe in immortality, providence, and rewards and punishments after death, is not allowed to argue his opinion before the common people, but 'apart, among the priests and men of gravity, they do not only suffer but also exhort him to dispute and argue, hoping that at the last that madness will give place to reason'; More p.127. The use of Latin by Catholic theologians reduced the effect on laymen of disagreements among theologians.
50.


54. 'Any society must, in order to function and survive, maintain within itself a certain unity.... Nevertheless a democracy may not seek to promote its broad interest in consensus by means of restrictions on expression'; Emerson p.929.

*55. Hart, Morality p.25 f, argues that some laws against practices regarded as immoral may not really be attempts 'to enforce morality as such'.

*56. This is to rule out the argument that, although the rule is not part of genuine morality, it is regarded as a moral rule by members of the community; and therefore, since a shared morality is necessary to the existence of a society, the rule should be enforced to preserve the society's existence. See Devlin p.13. Devlin's position is rejected by liberals. See Hart Morality p.23, p.48 f.

*57. Are the Rule-Utilitarian's rules specifically moral, by my definition? Suppose it is argued (1) that adoption of of a certain set of rules would maximise the happiness of mankind, and (2) that there is a moral duty to maximise the happiness of mankind; and suppose the second stage of the argument is essential to establish the rules as moral rules (rather than 'hypothetical imperatives'). Then the Rule-Utilitarian's rules would be specifically moral. But if the first stage of the argument is enough to make them moral rules, they are not specifically moral.
51. (2-*58)

*58. Notice 'by unauthorised private citizens'. A tolerant person will not try to silence an advocate of policies of racial discrimination by government on the ground that his campaign may lead to acts of racial discrimination by government; but he might object that it may lead to unauthorised acts by private citizens. See Meiklejohn p.76 ('Third...')

*59. This is in effect what lawyers call the 'bad tendency' test. Liberal lawyers favour a more stringent test; see Chafee p.27-8. It should be remembered that the principles of Toleration assert moral rights and duties - see above, Chapter 1 note 68. In deciding whether there is a legal right to speak the restriction may be more stringent. Then it may happen that a person has a legal right to speak when he has no moral right to do so. 'But even advocacy of violation [of existing law], however reprehensible morally, is not a justification for denying free speech where the advocacy falls short of incitement and there is nothing to indicate that the advocacy would be immediately acted on'; Brandeis, quoted Meiklejohn p.123 (my italics). The 'clear and present danger' doctrine is not one of the principles of toleration; it is rather one of the 'applications'.

60. Erskine, for example, held that it is, and ought to be, criminal merely to advocate illegal acts; see Erskine Vol.2 p.96-8. Modern liberals would, I think, regard this as a conservative position.
52.

*61. This restriction is less severe than that which is
incorporated into (4) (see above, p.63-64). Investigation
is more remote from harm to 'civil interests' than speech
is, and consequently should be freer. While the risk of
harmful effects may sometimes be a sufficient reason for
overriding the rights of speech, according to (4), the
risk that investigation may lead to a conclusion
'undesirable in itself or in its consequences' is never to
be weighed against the right of investigation. This
difference seems to me to correspond to liberal notions
of what toleration requires; cf. Justice Jackson in
Konvitz *Fundamental Liberties* p.223A,D.

*62. The following is an example of a principle defining
liberty of expression by listing the considerations which
justify restriction: 'Liberty of expression should be
left unrestricted except for the sake of protecting
liberty, ensuring fair trials and legal hearings,
preventing libel, defamation, fraud or incitement to
riotous behaviour'; McCloskey *Liberty* p.221. McCloskey
goes on to criticise the arguments commonly given for
liberty of expression by showing that they do not exclude
the possibility that sometimes other considerations
should be accepted as justifying restriction; *ibid* p.221D,
237. The principle as he states it does not put any check
upon restriction in cases which come under the 'except'
clause. I define liberty of expression differently. I
do not try to foresee and list all the things that can
legitimately compete with the rights of expression and advocacy, but specify those which are not to be allowed to compete; and I assert that the rights have some weight (I do not try to say how much) even against the considerations which are allowed to compete (see Chapter 1 note 81).

63. See Konvitz *Fundamental Liberties* p.105,131-3,137-9, 147-8,158; Emerson p.922-940. Wartime suppression of propaganda against the continuation of the war seems to me illiberal; it would violate clause (d) of my rule.

64. Meiklejohn (p.36-7, 57, 79 etc.) gives higher priority to speech concerned with public issues.


66. 'The right to freedom of expression...derives from the widely accepted premise of Western thought that the proper end of man is the realization of his character and potentialities as a human being.... Expression is an integral part of the development of ideas, of mental exploration and of the affirmation of self.... Hence suppression of belief, opinion and expression is an affront to the dignity of man, a negation of man's essential nature. What Milton said of licensing of the press is equally true of any form of restraint over expression; it is "the greatest displeasure and indignity to a free and knowing spirit that can be put upon him"'; Emerson p.879-80. For other examples see Carrillo de Albornoz p.39,40.

67. 'Truth, however, is to be sought after in a manner proper
to the dignity of the human person and his social nature. The inquiry is to be free, carried on with the aid of teaching or instruction, communication and dialogue. In the course of these, men explain to one another the truth they have discovered, or think they have discovered, in order thus to assist one another in the search for truth'; Second Vatican Council, p.680-1. Cf. Emerson, p.880.

68. 'The magistrate ought not to forbid the preaching or professing of any speculative opinions in any church, because they have no manner of relation to the civil rights of the subject.... The business of laws is not to provide for the truth of opinions...'; Locke First Letter p.40, cf. Essay Concerning Toleration p.176. Locke believes, however, that practical opinions may be the magistrate's business - First Letter p.45, Essay Concerning Toleration p.186.

69. King Utopus foresaw ' (so that the matter were handled with reason and sober modesty) that the truth of the own power would at the last issue out and come to light'; More p.126. 'Who ever knew truth put to the worse in a free and open encounter'; Milton Areopagitica p.347. 'And let it not be doubted but if the truth of God do enter the lists against error, it will be infinitely able to prevail of itself alone without...borrowing any weapons from the world'; Dell, in Woodhouse p.315. 'Truth certainly would do well enough, if she were once made to shift for herself'; Locke First Letter p.40. 'Now every species
of intolerance which enjoins suppression and silence, and every species of persecution which enforces such injunctions, is adverse to the progress of truth; forasmuch as it causes that to be fixed by one set of men, at one time, which is much better, and with much more probability of success, left to the independent and progressive inquiry of separate individuals. Truth results from discussion and from controversy...truth, if left to itself, will almost always obtain the ascendancy.

If different religions be professed in the same country, and the minds of men remain unfettered and unawed by intimidations of law, that religion which is founded in maxims of reason and credibility, will gradually gain the other to it.... If popery, for instance, and protestantism were permitted to dwell quietly together, papists might not become protestants (for the name is commonly the last thing that is changed), but they would...little by little incorporate into their creed many of the tenets of protestantism...'; Paley p.470-l. 'When various conclusions are, with their evidence, presented with equal care and with equal skill, there is a moral certainty, though some few may be misguided, that the greater number will judge aright, and that the greatest force of evidence, wherever it is, will produce the greatest impression'; James Mill Liberty of the Press p.22. See also the texts assembled by James Mill, ibid p.22-3.
70. J.S. Mill *Liberty* p.96-7.


72. Locke *First Letter* p.25. 'Government, as government, can bring nothing but the influence of hopes and fears to support its doctrines.... If it employs reasons, it does so, not in virtue of any powers which belong to it as a government. Thus, instead of a contest between argument and argument, we have a contest between argument and force. Instead of a contest in which truth, from the natural constitution of the human mind, has a decided advantage over falsehood, we have a contest in which truth can be victorious only by accident'; Macaulay *Southey's Colloquies* p.248. '...[T]he State power may be used equally for truth or error...but in discussion truth has an advantage. Arguments always tell for truth as such, and against error as such; if you let the human mind alone, it has a preference for good argument over bad.... But if you do not let it alone...you substitute a game of force, where all doctrines are equal, for a game of logic, where the truer have the better chance'; Bagehot p.222.

73. 'The magistrates of the world...being few of them in the right way; not one of ten, take which side you will, perhaps you will grant not one of an hundred, being of the true religion; it is likely...[that force] would do an hundred, or at least ten times as much harm as good'; Locke *Second Letter* p.77; cf. *First Letter* p.12-13.
See also Macaulay *Gladstone* p.454CD.

74. 'Now although we are in the right, yet experience has shown, that it is very useful even for those who are in the right, to act as if there remains the possibility of their being in the wrong. They are wise to leave the means of correction in existence, even for the very remote chance of that very improbable possibility'; J.S. Mill *Religious Persecutions* p.78-9.

75. 'It is best every man should be left in that liberty from which no man can justly take him unless he could secure him from error'; Taylor *Liberty* p.428 (my italics).

According to Mill, one who prevents discussion decides for others, and to do this is an assumption of infallibility; *Liberty* p.82,85,79.

76. Stephen *Liberty* p.76, and Monro p.243, both interpret Mill's argument in this way. What Mill says is as follows: 'Complete liberty of contradicting and disproving our opinion is the very condition which justifies us in assuming its truth for purposes of action; and on no other terms can a being with human faculties have any rational assurance of being right.' Reliance can be placed on human judgment 'only when the means of setting it right are kept constantly at hand'. 'If the lists are kept open, we may hope that if there be a better truth, it will be found when the human mind is capable of receiving it; and in the meantime we may rely on having attained such approach to truth as is possible
in our own day. This is the amount of certainty attainable by a fallible being, and this the sole way of attaining it'; J.S. Mill Liberty p.81-3.

77. James Mill Liberty of the Press p.28.

78. Bentham, James Mill, and J.S. Mill in his youth, believed that men in power would be as corrupt as they dared, because men prefer their own interests to the interests of others. Only the whole population (communicating through the press) could be trusted to form a judgment correct by the utilitarian standard. See James Mill Liberty of the Press p.18-30, J.S. Mill Liberty of the Press p.107-114, 120; Bentham Constitutional Code p.54C-58. See also Sheridan, quoted in Bullock and Shook p.4-5; the Levellers' petition section 23, in Woodhouse p.340.

79. It was a traditional theory that the authority of government is derived by delegation from the people. At the end of the eighteenth century conservatives held that the transfer is complete and irrevocable; Whigs held that the people retained a power of supervision. A classic statement of the conservative view was given by the Bishop of Rochester: the Treasonable Practices Bill (of 1795) was 'merely directed against those idle and seditious public meetings for the discussion of the laws where the people were not competent to decide upon them. In fact, he did not know what the mass of the people in any country had to do with the laws but to obey them, with the reserve of their undoubted right to petition
against any particular law as a grievance on a particular description of people'; Cobbett Vol.32 col.258; cf. J.S. Mill Representative Government p.279. For other accounts of the conservative position in its application to freedom of the press, see Wickwar p.119. The liberal position is the basis of argument (G). See Holdsworth Vol.10 p.673; Chafee p.18-19,22; Meiklejohn p.101-6,110, 115-8.

80. See above p.13; Konvitz Fundamental Liberties p.173 f; De Smith p.462-7. During the present century liberals have acquiesced in censorship in wartime.


83. That the jury should decide the general issue (not merely whether the person accused had written or published the alleged libel, and whether the words meant what the accusor claimed) was the main object of the campaign by Erskine & Fox; see Holdsworth Vol.10 p.673 f.

84. The New York Times case (1964) and several subsequent cases established that in the United States a public official (which is interpreted widely), or a public figure, defamed in his public character cannot recover damages unless he can prove that the defamatory statements are false, and that the person defaming him either knew them to be false, or had a high degree of
awareness of their probable falsity; see Lawhorne p.213 ff. This is, in effect, the doctrine of James Mill & Bentham. According to Mill, libel of a public functionary in his public character should not be punished unless there is 'not even an appearance' of his having done what he is accused of doing; Liberty of the Press p.26-7. Bentham: 'In the case of a public functionary, ... for defamation, no punishment unless the imputation be false and groundless; nor even then, unless the false assertion or insinuation be the result of wilful mendacity, accompanied with the consciousness of its falsity, or else with culpable rashness - namely, with that which is exemplified by the giving credence and currency to an injurious notion, adopted without any, or on palpably insufficient, grounds'; Liberty of the Press p.279cd. Some (e.g. the present Minister for the Media) would like to see the American law on the defamation of public officials imitated in Australia.

85. This is the main subject of Chafee's book.

*86. In British, Australian and American law, most crimes are harmful acts; but it may also be a crime to attempt, solicit, or conspire to commit, an act which is a crime. In the case of attempts, the law does not intervene until the attempt comes 'dangerously close to success.' (Chafee p.46-8, Konvitz Fundamental Liberties p.282-4.) This is rather vague, but it represents an attempt to draw a line up to which thought and talk and preparation
can go without being punishable; beyond that point a crime is committed, even if the harmful act is not actually performed. Non-legal decision making (rationally conducted) does not draw any line: the closer the danger approaches and the more probable it becomes the more it will be worthwhile to do something about it, but there is no point at which action suddenly becomes appropriate. But there are obvious reasons why legal action should hold off until the final stages. The influence of ordinary probability calculations is seen, however, in the fact that 'the line of proximity will vary somewhat according to the gravity of the evil apprehended; Holmes, quoted McKay p.1209n; cf G. Williams p.478A. The evil to be apprehended in the case of political crimes may seem greater, and the possibility that the criminal project will be voluntarily abandoned may seem less; hence the law intervenes at an earlier stage - not by altering the criteria for recognising solicitation or attempt, but by creating another class of crime, sedition.

87. See Chafee on 'bad tendency' and 'constructive intent', p.24,27. ('Constructive' intent: the malicious intent is to be inferred from the act, not specially proved - see Konvitz Fundamental Liberties p.281-2.)

88. In English law intent to cause violence was not formerly an ingredient of the offence (which was very broadly defined); according to De Smith it is now - p.469.
89. The point of this test is to preserve analogy with the legal doctrine of attempt (see note 86 above), by drawing a line, as late as possible, at which legal intervention becomes permissible; see Chafee p.82,391. On the clear and present danger doctrine see Konvitz Fundamental Liberties p.275 f, and Strong. McKay pointed out that this test is only one among several devices the American courts have adopted to give First Amendment freedoms a 'preferred position'.

*90. See the discussion of the Dennis case, in which Communist Party officials appealed against their conviction under the Smith Act, in Konvitz Fundamental Liberties p.307 f. Judge Hand (at the next level below the Supreme Court) reformulated the 'clear and present danger' test as follows: the question is 'whether the gravity of the evil, discounted by its improbability, justifies such invasion of free speech as is necessary to avoid the danger' (Konvitz Fundamental Liberties p.311); the Supreme Court seemed to adopt this way of thinking. This is an adoption of the procedure of non-legal decision making (cf. note 86 above), an abandonment of the attempt to draw a line. American jurists were left with the impression that the 'clear and present danger' doctrine had been scrapped. Whether courts, rather than legislators, should engage in the sort of calculation Judge Hand envisages, has become a matter of controversy; one way of avoiding it is 'judicial modesty' (the doctrine
that the courts should accept the legislature's judgment, except when it is patently without rational foundation); another is that the First Amendment is an 'absolute', leaving room for no balancing of probabilities and evils by either legislature or courts. See Chapter 1 note 84.

94. Marcuse criticises a kind of tolerance that consists in holding an equal balance between different schools of thought, in particular between critics and defenders of the status quo. Since most people's minds are effectively closed against the ideas of the critics, to maintain an equal balance is in fact to repress change. See Marcuse p.92-9.

95. These two arguments are modelled respectively on arguments (C) and (A) for (7). For an example of the first, see J.S. Mill Liberty p.83A.
97. Frere p.37. 'Elizabeth's aim was outward conformity.... Those who conformed outwardly at least committed themselves to the view that the settlement was merely erroneous, and not sinful'; Russell p.149-50.
98. Locke and Bayle both regard forcing a person to declare assent to a religious belief whether he holds it or not
as the highest of the degrees of intolerance; see Locke
*Essay concerning Toleration* p.179, Bayle *Commentaire*
p.414D-415A.

99. On these two cases see Konvitz *Fundamental Liberties*
p.111-6.

100. See the Supreme Court's argument in the Barnette case,
Konvitz *First Amendment* p.227.

101. 'In this way they compel weak consciences to lie, to
deny, and to say what they do not believe in their
hearts.... All the lies and false confessions which such
weak consciences utter fall back upon him who compels
them'; Luther *Secular Authority* p.254. In Utopia the
person who does not believe in immortality, providence
and reward or punishment after death, is not punished;
'No, nor they constrain him not with threatenings to
disable his mind, and shew countenance contrary to his
thought. For deceit, and falsehood, and all manner of
lies, as next unto fraud, they do marvellously detest and
abhor'; More p.127. See Taylor *Liberty* p.523; Locke
*Essay Concerning Toleration* p.179, and *First Letter* p.40;
*L'Encyclopédie* art. *Tolérance* p.391C-D; *J.S. Mill
Religious Persecutions* p.72.

102. See above p.40, point (3).

103. 'If another is about to do what we think wrong while he
thinks it right, and we cannot alter his belief but can
bring other motives to bear on him that may overbalance
his sense of duty, it becomes necessary to decide whether
we ought thus to tempt him to realise what we believe to be objectively right against his own convictions. I think that the moral sense of mankind would pronounce against such temptation...unless the evil of the act prompted by a mistaken sense of duty appears to be very grave'; Sidgwick p.208. According to Bayle, it is bad enough to use physical force to make a man bend his knee to the sacrament, but worse to threaten him to make him bend it: in the former case he does not sin; Commentaire p.496AB, cf. p.406BC,412C. Whether the duty not to tempt is absolute is the question discussed in Maclagan's article.

104. '...it is my duty to do nothing which, according to human nature, might tempt him to do something for which his conscience might afterward torment him, i.e., it is my duty to give him no occasion for scandal. But there are no definite limits within which this care for the moral satisfaction of others must be kept; it therefore involves only a broad obligation'; Kant, Virtue p.52-3. Cf. Maclagan p.518.

105. Australian courts considered these things in deciding whether to grant conscientious objector status under the (now repealed) National Service Act; they seemed to regard them as conditions of sincerity, though in my view they have to do not with the sincerity but with the weight due to the claim. See Reaburn p.318-320, 329; G.D.S. Taylor p.462-3.
'It is held by some people that certain kinds of non-teleological obligation are so urgent that a person ought not under any conceivable circumstances to do an action which would infringe any of them.... Now it seems to me that the word "conscience", and phrases which contain it, are often used in such a way as to imply that a person cannot have a conscience unless he holds this opinion, and that his conscience is in operation only on occasions when his action or his refusal to act is based on his belief that one of these unconditional obligations is involved. I should consider it most undesirable that the word should be used in this narrow way'; Broad p.504. Perhaps it is not a narrowing of the meaning so much as a belief about when the claim of conscience deserves most weight. People will agree that a non-pacifist's conscience may condemn participation in a particular war - using 'conscience' in its usual extension - but refuse to allow exemption from military service except to absolute pacifists. Why it might be reasonable to suppose that in such matters only 'absolute' judgments of conscience will normally be confident or strongly held, is suggested by a passage in Broad p.503; cf. G.D.S. Taylor p.459.

*107. Unless this rule can be supported by non-moral and non-religious grounds, etc., as in (6)/(7)(c) - above p.76.

108. 'The private judgment of any person concerning a law
enacted in political matters [i.e. within the sphere of the magistrate's legitimate functions] does not take away the obligation of that law, nor deserve a dispensation'; Locke *First Letter* p.43. Cf. his *Essay Concerning Toleration* p.178D; *Two Tracts* p.167B, 226-7, 237B. Bayle seems to have two theories of the basis of the ruler's authority. In one his function seems to be to punish only morally evil acts, those at least which disturb public peace; the only morally evil acts are acts against conscience; from which it would follow that conscientious lawbreakers should not be punished, except that Bayle believes that no-one can believe in conscience that he does nothing wrong when he violates laws necessary to civil peace; see *Commentaire* p.384CD, 416D-417A, 468BC. The other theory, which I think he really meant to hold, is that it is the ruler's function to preserve civil peace, and he should punish those who break laws necessary to civil peace without concerning himself with their consciences; see *Commentaire* p.408D, 431A & D, 433C.

109. 'Any theory which claimed immunity for people to practise such rites [human sacrifice, flagellation-pilgrimages, suttee, thug murder] in the name of freedom of religious conscience would be nonsense. All serious moral discussion is in terms of the morally normal and adult responsible human being; but people who make demands like these are moral monsters. There can be
depravity through debased social custom as well as through personal fault.... With the human-sacrificer and the ritual-killer, however, argument is useless and legal restraint does not seem improper'; D'Arcy p.260-1.

110. Cf. Broad p.509. Above (p.98) I suggested that the claim may be given more weight if the judgment is confident, made after careful consideration etc.; the judgment of a 'moral monster' may meet such conditions.


   Note that acts done out of fear are voluntary - though if the threat is very severe the act may be excused.


118. These two principles, rather than 10 & 11, formulate what 'Liberty of Conscience' meant in the seventeenth century; see above, p.6-7.

119. Thomas Aquinas Summa 2-2 q 10 a 11, Vol.3 p.82.

120. See Lecler Vol.1 p.156-7, 246-7; Bainton Castellio p.86;
121. 'Whatsoever is permitted unto any of his subjects for their ordinary use neither can nor ought to be forbidden by him [the ruler] to any sect of people for their religious uses'; Locke First Letter p.34.

122. Earlier, Locke had held that in things which God's law leaves indifferent the magistrate may insist on conformity with the community's notions of what is appropriate in religious practice; Two Tracts p.146-7; cf. Calvin p.1208.

123. 'Public offence alone is forbidden them. They may stay in the land, and in the privacy of their rooms pray to as many gods as they like'; Luther, in Bainton Studies p.34. Bayle did not 'regard as essential the freedom of a religion to have public temples, to be able to hold processions in the streets. That is only for pomp, or ad melius esse. It is enough to have permission to assemble, to celebrate divine service, and to reason modestly in favour of one's faith and against the opposite doctrine, as befits the occasion'; Commentaire p.414B. According to Erskine, 'The English constitution, indeed, does not stop short in the toleration of religious opinions, but liberally extends it to practice. - It permits every man, EVEN PUBLICLY, to worship God according to his own conscience, though in marked dissent from the national establishment...'; Erskine Vol.2 p.191. The Universal Declaration of Human
Rights asserts a right to worship 'in public or private';
art. 18, Brownlie p.110.

124. Latourette p.82, 87-8.

125. See Bainton Studies p.42.


128. The restrictions attached to (6) & (7) are also to be attached to (13), to limit what can be weighed against the presumptive right. Governments which compelled participation in worship often had a secular purpose: universal attendance fostered a sense of likemindedness. This is ruled out as a reason counting against a presumptive right by (b) of the restriction; and in any case the right to refuse to participate in worship is absolute.

129. 'The other thing that has just claim to an unlimited toleration is the place, time and manner of worshipping my God, because this is a thing wholly between God and me, and of an eternal concernment above the reach of politics and government, which are but for my well-being in this world... for the magistrate is but umpire between man and man.... Religious worship - being that homage which I pay to that God I adore in a way I judge acceptable to him, and so being an action or commerce passing only between God and myself - hath in its own nature no reference at all to my governor or to my neighbour, and so necessarily produces no action which
disturbs the community'; Locke *Essay Concerning Toleration* p.176,177; cf. *First Letter* p.34,36,41.

130. 'In offering thus unto God Almighty such a worship as we esteem to be displeasing unto him, we add unto the number of our other sins, those also of hypocrisy, and contempt of his divine majesty'; Locke *First Letter* p.11, cf. p.29-30. If the exterior signs are without a corresponding interior state of soul, or with a contrary one, they are acts of hypocrisy, of bad faith, of infidelity, of revolt against conscience; Bayle *Commentaire* p.371D. Cf. anonymous author in Woodhouse p.259.

131. 'It is against the nature of religion to force religion; it must be accepted spontaneously, and not by force; the offerings demanded, indeed, must be made willingly. That is why, if you force us to sacrifice, you give, in fact, nothing to your gods'; Tertullian in Lecler Vol.1 p.35. 'Exterior signs in a man who feels nothing for God, I mean who has neither the judgments nor volitions suitable with respect to God, are no more an honour paid to God than the falling over of a statue blown by a chance gust of wind is homage rendered by this statue'; Bayle *Commentaire* p.371B. Cf. Locke *First Letter* p.28,30.

132. Weinstein: 'The two notions [public & private] are probably best seen as layers of onion skin, any given layer potentially counting as private in relation to one
or more outer layers...'; p.33-4.

133. For what it is worth, here is the definition of 'discrimination on the ground of religion or belief' in the U.N. Draft Convention on the Elimination of all forms of Religious Intolerance, 1967: 'Any distinction, exclusion, restriction, or preference based on religion or belief, that has the purpose or effect [N.B.] of nullifying or impairing the recognition, enjoyment or exercise, on equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life'; Brownlie p.192.

134. Opponents of the repeal of the Test & Corporation Acts denied that the Dissenters' grievance was reasonable, since no-one has a right to political power; no-one can justly complain when he is shut out from it. The same argument was used later by opponents of the movement to give political equality to Jews. Macaulay replied: 'We cannot but admire the ingenuity of this contrivance for shifting the burden of proof from those to whom it properly belongs, and who would, we suspect, find it rather cumbersome. Surely no Christian can deny that every human being has a right to be allowed every gratification which produces no harm to others, and to be spared every mortification which produces no good to others. Is it not a source of mortification to a class of men that they are excluded from political power? If
it be, they have, on Christian principles, a right to be freed from that mortification, unless it can be shown that their exclusion is necessary for the averting of some greater evil. The presumption is evidently in favour of toleration. It is for the persecutor to make out his case'; Macaulay Jews p.295-6. This comes close to my (14). The mere fact that some people are mortified by a certain arrangement, and would be gratified by another arrangement, is a reason for making the change, though not a conclusive one. See also Locke First Letter p.17D-18A.

135. For example: to release children from school for the purpose of attending religion classes on church premises, other children being kept in school, has been classed as 'establishment' by a minority of the court because the public schools are being used as a 'jail' to hold students unwilling to attend religion classes; see Konvitz First Amendment p.48-52. See p.30 for use of a similar argument by a majority of the court. For a school board to allow the Gideons to distribute the Bible to children whose parents requested it has been classed as establishment because children whose parents do not request a Bible for them may be made to seem different, and may be embarrassed; see Konvitz First Amendment p.74.

*136. In Utopia they deprive a man with certain opinions of all honours, exclude him from all offices in the commonwealth,
forbid him to argue for his opinion before the common people, and exhort him to dispute and argue with priests and men of gravity; but they do not punish him; More p.127. This will surely strike the modern reader as naïve: the heretic is 'punished' in the extended sense, though it may be true that he is not punished in the strict sense. Similarly, it may seem that Mill's claim that self-regarding faults should not be punished by public opinion or by law loses most of its practical significance when he admits that 'penalties' (his word) for such faults are not unjust when they are the natural and spontaneous consequences of the unfavourable judgment of others, and are not inflicted purposely for the sake of punishment; see Liberty p.134-5.

137. Cf. J.S. Mill Liberty Chapter 3. The Utopians prayed that if they were in error in religion God would let them have knowledge of it, but if not that God would enable them to bring other people into the same religion, 'unless there be anything that in this diversity of religions doth delight his [God's] unsearchable pleasure'; More p.137-8. Cf. Lovejoy p.293,311.

138. In English legislation establishing common schools, or authorising subsidies of existing schools, a 'conscience clause' was included, providing that children whose parents requested it should be exempted from religious instruction. (This is an application of Rule 5, or
perhaps of Rule 10, if the request was assumed to be made on conscientious grounds.) A 'time-table conscience clause' meant a clause providing for exemption, and also providing that the religion period must be at the beginning or end of the day; it was believed to be less embarrassing to children to come late or go home early than to leave for a while in the middle of the school period. See Hansard 3rd Series Vol.199 (1870) col.1925-6. A concern to minimise embarrassment moved the U.S. Supreme Court in the Gideons case (above, note 135).

139. Cf. the views of Marcuse, summarised in note 94, above.

'[I]f either of the two opinions has a better claim than the other, not merely to be tolerated, but to be encouraged and countenanced, it is the one which happens at the particular time and place to be in a minority. That is the opinion which, for the time being, represents the neglected interests, the side of human well-being which is in danger of obtaining less than its share'; J.S. Mill Liberty p.107.

140. This is perhaps not a very reasonable way of viewing it.

'If, ...at a town meeting, twenty like-minded citizens have become a "party", and if one of them has read to the meeting an argument which they have all approved, it would be ludicrously out of order for each of the others to insist on reading it again.... What is essential is not that everyone shall speak, but that
everthing worth saying shall be said. To this end, for example, it may be arranged that each of the known conflicting points of view shall have, and shall be limited to, an assigned share of the time available'; Meiklejohn p.26. The problem about sharing the time between the 'known conflicting points of view' is that newly developing schools of thought are excluded altogether; this is Wolff's criticism of 'pluralism', p.41 f.

*141. They are perhaps examples of the practice Barry draws attention to (p.255-6) of seeking an 'obvious' arrangement to resolve conflict.

*142. I suspect that the liberal doctrine of the 'function' of the State is the outcome of such a process, in which the State was 'specialised' to accommodate dissent.

143. According to Robinson (p.198 f.) tolerance requires (1) that a man's own good not be mentioned in any argument for interference; (2) that the State not interfere merely on the ground that the act would be morally wrong, or (3) on the ground that it would be contrary to the will of a god. In my opinion (1) is not an element in toleration, but in a wider doctrine of freedom; see above, p.1. The other two points are implied by (17). Robinson's three points are clearly asserted by Locke. (1) '[E]ven in things of this world over which the magistrate has an authority, he never does, and it would be an injustice if he should, any
further than it concerns the good of the public, enjoin men the care of their private civil concernments, or force them to a prosecution of their own private interests, but only protects them from being invaded and injured in them by others; which is a perfect toleration'; Locke *Essay Concerning Toleration* p.176. Cf. *First Letter* p.22D, 23D-24A. (2) 'Yet give me leave to say, however strange it may seem, that the law-maker hath nothing to do with moral virtues and vices, nor ought to enjoin the duties of the second table [which relate to acts affecting other men - murder, stealing etc.] any otherwise than barely as they are subservient to the good and preservation of mankind under government. For, could public societies well subsist, or men enjoy peace or safety, without the enforcing of those duties by the injunctions and penalties of laws, it is certain the law-maker ought... leave the practice of them entirely to the discretion and consciences of his people.... [T]he magistrate commands not the practice of virtues because they are virtuous and oblige the conscience, or are the duties of man to God and the way to his mercy and favour, but because they are the advantages of man with man...; for some of them which have not that influence on the state, and yet are vices...the magistrate never draws his sword against'; ibid. p.181-2, cf. *First Letter* p.36-7, 41-3. For (3) see *First Letter* p.10-13.
144. This is the theory classical in the Catholic Church—see Leo XIII p.164-5, Thomas Aquinas Political Writings p.75-9.

145. See above, note 19. Luther: 'Worldly government has laws which extend no farther than to life and property and what is external upon earth'; 'human ordinance... belongs only to...the external intercourse of men with each other'; Secular Authority p.251,256. Civil government 'regulates only outward behaviour'; Calvin p.847.

146. Medieval theorists held that the Church in some cases has autonomously the right to coerce. Seventeenth century Protestant theorists attributed a monopoly of coercive power to the magistrate, and held that the coercive function is the essence of his role; see Nobbs p.5B, 19A,66C,68B-D,98C,187D,188C,224B,256B-D. Spinoza argued that the State's power is not merely coercive; Treatise p.215. But most of his contemporaries disagreed. Locke held that anything the magistrate does by other than coercive means he does not do qua magistrate; First Letter p.11C-12A, 16B, 17B, 23C. Cf. Macaulay, note 72 above.

147. Cf. Calvin as reported in Bainton Castellio p.72; Luther in Lecler Vol.1 p.156,157,163; Melanchthon in Lecler Vol.1 p.246. Melanchthon's statement is worth quoting: 'The civil authority is the keeper of the whole law where outward discipline is concerned. Just as it
prohibits and punishes by force murder, theft, and similar offences against the second table of the Ten Commandments, so it must, all the more, prohibit and punish outward [N.B.] offences against the first table, that is, the worship of idols, blasphemous doctrine, perjury, and open profanation of divinely instituted ceremonies.'

148. A distinction was made between 'restrictive' and 'compulsive' power - respectively the power to prevent expression of heresy and to compel participation in orthodox religious activity; some held that the magistrate should have a restrictive but not a compulsive function - see Woodhouse p.152-3, 251,285, 388-9; Allen Sixteenth Century p.228-30.

149. The subject is 'free to believe or not to believe, to curse God in secret or not to curse him'; Luther in Lecler Vol.1 p.157. Only God is the searcher of hearts and consciences who can give every man what he deserves - Revelation 2:23; cf. Luther Secular Authority p.253.

150. 'When an impudent rascal blasphemes...the authority who allows such an act and does not punish it severely, shares before God in that sin'; Luther in Lecler Vol.1 p.156. 'We grant that the magistrate is not in a position to penetrate the hearts of men by edicts that they should embrace the doctrine of salvation obediently and submit themselves to God, but the calling of the magistrate does require that impure and petulant tongues
should not be allowed to lacerate the sacred Name of God and trample upon his worship.... A private man...would not be guiltless if he suffered his house to be polluted by sacrilege. How much more craven would it be in the magistrate...?': Calvin in Castellio p.271-2. 'Calvin exalted the feudal conception of sin to the keystone of his system.... If the honour of an earthly prince should be avenged, how much more that of the King of Kings?... Each must vindicate God in his own way.... The magistrate uses the sword.... In the defense of God's honor everyone must do his uttermost in accord with his station'; Bainton Castellio p.71-2.

*151. Hart recognises that his principle that the law should not enforce morality as such is itself a moral principle; Morality p.17-20.

152. Toulmin p.136,145,170; Warnock p.16,26,71; Baier p.xvii, xxiii, 149,150. It is sometimes supposed that Mill argued in On Liberty that law should not enforce private morality; rather he argued that society should not enforce, by legal or moral sanctions, anything except duties to others; he offers no principle other than utility to draw the line between law and morality - it is drawn case by case by the 'special expediencies of the case'. See Utilitarianism p.45, Liberty p.74,135, 138. Cf. Bentham, Introduction to the Principles p.285-6.

*153. It is not (as Mitchell thinks - p.98,100,104) presupposed by this theory that morality cannot be objective. There
may be a single correct morality; but it is not, qua
morality, to be enforced.

*154. If it does, philosophers who reject ethical naturalism will
say that the liberal has no morality properly so called.

155. See Locke Essay Concerning Toleration p.174-82; First

156. Religious worship 'is a thing wholly between God and me',
'an action or commerce passing only between God and
myself'; moral virtues and vices, when they do not affect
the public, are 'the private and superpolitical
concernment between God and a man's soul'; Locke, Essay
concerning Toleration p.176,177,182.

157. 'It would mean putting the servant above the master, and
the creature above the Creator, to ask a wretched
earthworm to protect the honour of the creator of the
whole universe'; Coornhert in Lecler Vol.2 p.290.

158. Locke First Letter p.11A-B, 12B, 28, etc.

*159. 'An action done in consequence of a false persuasion is as
good as if it had been done in consequence of a true
persuasion.... An action opposed to a false persuasion is
as bad as an action opposed to a true persuasion'; Bayle
Commentaire p.428A. This doctrine, or something like it,
has been discussed recently by Govier and Wilcox - see
bibliography. Govier rejects the doctrine that a person
ought to do what he thinks he ought to do, because no-one
who holds it can consistently hold any substantive moral
principle. In her view 'conscientiousness' is a virtue
- or another name for various virtues - only in a person whose moral principles are sound (Conscientiousness p.249-51); to be liberal and tolerant it is not necessary to refrain from passing unfavorable moral judgment on acts done out of mistaken principles, it is enough to refrain from attaching to them any physical penalty or social stigma (Tolerance p.110). Wilcox rejects the 'easy liberalism' of the doctrine that it is always right to do what you think is right (which he tends to confuse with the 'judge not' doctrine - see above, p.20), because punishment presupposes blame, and - as 'hard liberalism' recognises - blame and punishment are sometimes needed to enforce moral rules against people who do not feel bound by them (Wilcox p.104-6). Rule (18) as I formulate it is, I believe, immune to the criticisms of Govier. The assumption underlying Wilcox's criticism - that it is always wrong to penalise an act which is not morally blameworthy - is in my opinion mistaken. Under certain conditions - that one is justified in trying to prevent the act, that the penalties are announced beforehand, etc. - it may be just to penalise a person even while respecting the conscientiousness of his act. In seventeenth century authors it is a commonplace that the earthly court does not pass moral judgment, and this seems right.

*160. Not every non-blameworthy act is praiseworthy ('Does he thank the servant because he did what was commanded?
So you also, when you have done all that is commanded you, say "We are unworthy servants; we have only done what was our duty"; Luke 17:9-10.) It is difficult to formulate the conditions under which an act is praiseworthy; especially to know what to think when an act is done partly because it is morally good and partly for other reasons. The formulation I give in the text may be inadequate. What I intend is simply that an act done in error is praiseworthy if and only if it would have been had the error been truth.


162. See Sidgwick p.394, Govier Tolerance, Cohen, Sturch.

163. 'As Dionysius says, "goodness is caused by the whole cause, badness by any defect". Hence for what the will chooses to be called evil, it is enough either that it be evil in its nature or that it be seen as evil; but that it should be good, it is necessary that it be good in both ways'; Thomas Aquinas Summa 1-2 q 19 a 6 ad 1; Vol.2 p.145-6. 'It is easier to destroy than to build. Goodness requires the concourse of many circumstances, evil the lack of any one'; Bonaventure lib. 2 d 40 a 1 q 1 ad 4; Vol.2 p.957D. Cf. Abelard Ethics p.55, J. Taylor Ductor Dubitantium Vol.9 p.132, Sanderson p.29. This traditional doctrine seems to me correct, but compatible with the thesis that a person is to be judged according to his lights.

164. For this distinction see Sidgwick p.207.
165. The impropriety here is analogous to the one discussed by Aristotle *Physics* 191 b 1-10.

166. This was Bayle's doctrine: *Commentaire* p.428D, 429B.

*167. There is, in my opinion, no higher-order duty to do one's duty, nor a duty to do what one believes to be one's duty. I regard the duty to be 'conscientious' as the duty (of imperfect obligation) to be disposed to take trouble in finding out and performing one's other duties. A person who persistently fails to live up to his moral code might - depending on the circumstances - thereby manifest a neglect of that duty, and be blamed for that, though not for failing to do certain (objectively) wrong acts which his moral code prescribes. But this matter need not be settled to define Toleration.

168. Cf. Rawls on the importance of 'finding our person and deeds appreciated and confirmed by others who are likewise esteemed and their association enjoyed'; *Theory* p.440.

169. See however D'Arcy p.113-126. D'Arcy argues from the premiss that 'the object of the will, and therefore the criterion of moral good or evil, is the good, not as it is in itself, but as it is presented by the intellect'; p.115. But this seems to me to be merely another way of stating the conclusion to be proved. Bayle asserts the same principle, and like D'Arcy refers to St. Thomas in support: *Commentaire* p.537C, 428 A-C. Sometimes Bayle argues that the conscientious act done in error is good
because if the error had not occurred, the agent's dispositions otherwise remaining the same, he would have done the right thing; see Commentaire p.528C, 533A. This does not prove that the mistaken act is good; the fact that the same disposition may under different circumstances give rise to acts some of which are objectively right and others objectively wrong might be taken as a reason for regarding the disposition as morally indifferent.


171. Bayle Commentaire p.427D-428C.

172. Bayle Commentaire p.508B f, 428A.

173. Law's summary of Bayle's position is meant as satire:

'If the favour of God equally follows every equal degree of sincerity, then it is impossible there should be any difference... between a sincere martyr and a sincere persecutor; and he that burns the Christian, if he be but in earnest, has the same title to a reward for it, as he that is burned for believing in Christ'; Law in Sykes p.147. Abelard, whose moral philosophy resembles Bayle's at many points, says that an intention is not to be called good because it seems good, but because it is as it seems; 'otherwise even the unbelievers themselves would have good works just like ourselves'; Abelard Ethics p.55.

174. 'If anyone sins, doing any of the things which the LORD
has commanded not to be done, though he does not know it, yet he is guilty and shall bear his iniquity'; Leviticus 5:17. Cf. the story of Oedipus; also Psalms 19:12, 1 Corinthians 4:4; the story of Sarah, Genesis 12:17, 20:9, 20:17.

175. 'And that servant who knew his master's will, but did not make ready or act according to his will, shall receive a severe beating. But he who did not know and did what deserved a beating, shall receive a light beating'; Luke 12:47-8. Cf. Numbers 15:28-31; 1 Timothy 1:13.

176. Aristotle Nicomachean Ethics III 1, 1110 b 15 f.

177. Augustine held that sin is imputed only if it is voluntary (De Libero Arbitrio I i 1, III i 3, III xvii 49; p.113, 172, 200); but original sin is in a sense voluntary (Retractations I xiii 4, p.219). Cf. Thomas Aquinas Summa I-II q 81 a 1, vol.2 p.552D. According to Thomas Aquinas, the tradition of faith is that no-one is punished without a preceding sin 'either in his person or at least in nature'; De Malo q 1 a 4, p.458D (my italics).

178. Augustine De Natura et Gratia xxii 24, p.536; De Libero Arbitrio III xviii 51 and 52, and III xix 54, p.201-3.

179. Augustine De Natura et Gratia iv 4-v 5; p.523-4.

180. Augustine De Natura et Gratia ii 2, viii 9, ix 10 (p.522,526); iv 4-v 5 (p.523-4). It remained common Christian doctrine that original sin, even without other sins, earned damnation (in some sense). See 2nd Council
of Lyons in Denzinger 464, p.216C; Westminster
Confession VI 6, and Augsburg Confession 2, in Schaff
p.616, 8.

Note the silent correction of a fallacy in Augustine's
reasoning, ibid. a 7 ad 3 (p.28D); cf. Leibniz New
Essays IV xviii, p.594-5. Some of the Reformers returned
to Augustine's position, others did not; McGiffert
p.65-9, 92-4.

182. Thomas Aquinas De Malo q 5 a 3 (p.549-50); Bonaventure
lib 2 d 32 a 3 q 1, lib 2 d 33 a 3 q 1 and 2 (Vol.2
p.794D, 821, 824-5).

183. Thomas Aquinas Summa 1-2 q 19 a 5, Vol.2 p.143-4;
Bonaventure lib 2 d 39 a 1 q 3, Vol.2 p.940D. The
Biblical authority quoted for this point was Romans
14:23.

184. Thomas Aquinas In Sententiarum lib 2 d 39 q 3 a 3 c and
ad 5 (Vol.1 p.742 C-D and 743A); De veritate q 17 a 4
ad 3 and ad 8, p.335; Bonaventure lib 2 d 39 a 1 q 3 c
and ad a (Vol.2 p.940D and 941B). Anglican moralists
took the same position: Ames p.13, Perkins in Merrill
p.42, Sanderson in Abrams p.45; J. Taylor Ductor Vol.9
p.137.

185. For points (4), (6), (7) and (8): Thomas Aquinas Summa
1-2 q 6 a 8, q 19 a 6, q 76 a 2-4 (Vol.2 p.63-4, 145-6,
520-4); Bonaventure lib 2 d 22 a 2 q 2 and 3 (Vol.2
p.541B, 544D-545B). On points (7) and (8), Bonaventure
seems to envisage the possibility of non-culpable error about moral principle which might excuse sin completely.

186. Thomas Aquinas *Summa* 1-2 q 76 a 4, Vol.2 p.524; De Malo q 3 a 8, p.509CD; Bonaventure *lib* 2 d 22 a 2 q 3, Vol.2 p.543C and 545A-B.

187. See above, note 185.

188. See above, note 185; also Thomas Aquinas *De Veritate* q 17 a 3 ad 4, p.333; q 17 a 4 ad 5, p.335; De Malo q 3 a 7, p.507B. Cf. Aristotle *Ethics* 1110 b 30 - 1111 a 3. Some seventeenth century Jesuits held that ignorance or temporary forgetfulness of moral principle excuses sin; for this, and a reassertion of the traditional position, see Pascal *Fourth Provinciale*, p.55-7, 63-70. Notice p.68: both parties agree that to be a sin the act must be voluntary; but according to one this means that it is not a sin unless it is willed qua sin, and according to the other there is a sin if an act willed (say) qua act of sexual intercourse with a certain woman is in fact (whether the agent adverts to this or not) objectively wrong. See also p.116C.

189. Thomas Aquinas *Summa* 2 - 2 q 2 a 5 ad 1, Vol.3 p.25. It is at this point that the influence of Augustine is noticeable. An infidel, who may have done his best to find out God's will, may be left in ignorance as a punishment for sin, even merely original sin; his infidelity is itself a sin, and leads to other sins, which his ignorance does not excuse.
190. It may be that a man commits a sin which he would not have committed if he had known better; if this ignorance is of moral principle or faith, the ignorance causes sin, and does not excuse it; Thomas Aquinas De Malo q 3 a 6, p.505C.

191. During the seventeenth century Arminians (Remonstrants) and Socinians explicitly criticised the Augustinian doctrine, and others silently modified it. According to Chillingworth God will not damm men who do their best to find the truth, p.15-16; cf. Taylor Liberty p.384; Locke Reasonableness p.132-3; Collins p.33-4, 38-9. According to Bayle, salvation cannot depend on the accident of where one was born (Commentaire p.543BC); God has imposed a task to which our powers are adequate, to search for truth and to act in accordance with what we believe to be true (ibid. p.437D, 438D); he does not expect Chinese or Australians to know the history of the Jews or of Jesus Christ (ibid. p.436BC).

*192. Suppose two equally careless hunters fire at targets they guess are deer; one guesses right, the other kills a man. Are they not equally to blame morally? According to the medieval theory the one who kills a man is guilty of two sins, negligence and homicide, though the homicide is less serious than it would have been but for the ignorance; Thomas Aquinas Summa 1-2 q 76 a 4 ad 2, Vol.2 p.523-4; Bonaventure lib 2 d 22 a 2 q 3 ad 5, Vol.2 p.545B. It does not seem reasonable that mere
luck, good or bad, should make a difference to the guilt. 'A man who errs, but who—this initial fault apart—faithfully observes God's laws, will not be punished except for his error'; Bayle Commentaire p.508B. Cf. J. Taylor Ductor Dubitantium Vol. 9 p.138 sec. 3.

193. On honour/contempt as the difference between acts which are and those which are not moral faults, see Abelard Ethics p.5-7, 45; Thomas Aquinas Summa 1-2 q 21 a 4, Vol.2 p.163B; 1-2 q 76 a 4, Vol.2 p.523D; Bonaventure lib 2 d22 a 2 q 3, Vol.2 p.543C; Bonaventure lib.2 d 42 a1 q 1, Vol.2 p.996D; Bayle Commentaire p.422D-423A, 424A, 425B; L'Encyclopédie art. Conscience p.903 BC.

194. Aristotle Nicomachean Ethics 1110a 1-3; Augustine De Libero Arbitrio I iii 8, p.116; Abelard Ethics p.15, 49. The Stoics held that the moral worth of a man's life depends only on his will, not on external circumstances; Zeller p.230.

195. Abelard Ethics p.45, 53; Bayle also held this, Commentaire p.428C, 424A.

196. They did not like Abelard's way of picturing a voluntary act as a complex of two acts, an act of will and an outward act; they held that there is one act. The statement that a man is judged by his intentions seemed to them to suggest that if a man has good intentions he need not carry them out, and that he might deserve
praise for doing a bad act for a good end (by 'intention' Abelard meant the decision to do the act, not what it is hoped will result from it); and they asserted that intentions are to be judged by whether the acts intended are good or bad. See Thomas Aquinas *Summa* 1-2 q 20 a 2-4, Vol.2 p.153-6; *De Malo* q 2 a 2-4, p.468-76; Bonaventure *lib* 2 d 40 a 1 q 1 and *lib* 2 d 40 a 2 q 1, Vol.2 p.956D-958A and 960D-961D.

197. Kant's moral theory is similar, respect for the moral law replacing respect for God. The value of the good will is undiminished if it lacks power to carry out its intentions; nothing else is of moral value. See *Foundations* p.9-10, 17.

198. Bayle *Commentaire* p.383D-386A.

199. Bayle *Commentaire* p.533B-C, 544B; 428C, 424A.

200. 'Establishment' is a word of unsettled meaning. In the late eighteenth century some people (e.g. Blackstone) would describe a religion as 'established' as soon as it got what Paley called 'complete toleration' (see above, Chapter 1 note 33); to get state aid, official designation as a State church, and repression of its rivals, were higher degrees of establishment. See Henriquez p.85, 141. Judges of the U.S. Supreme Court have given the clause forbidding establishment a broad meaning: 'The "establishment of religion" clause of the first amendment means at least this: Neither a State nor the Federal Government can set up a church. Neither
can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or remain away from church against his will or force him to profess a belief or disbelief in any religion [cf. Rules 12, 13, 9]. No person can be punished for entertaining or professing religious beliefs or disbeliefs [cf. Rule 1], for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practise religion. Neither a State nor the Federal Government can, openly or secretly, participate in the affairs of any religious organisations or groups or vice versa'; Justice Black, in Konvitz First Amendment p.11-12. In England there is an established church: I doubt whether British liberals would regard this as a practical grievance, since these days the Church of England derives no advantages from its connexion with the State. If a proposal were made to increase its endowment, or if an establishment were proposed in a country where at present none exists, liberals would surely oppose it. In the United States there are various small violations of the principle of separation of church and State which are perhaps also not regarded as a practical grievance - see Konvitz First Amendment p.83-5.
201. On plural establishment see Paley p.459, Konvitz *First Amendment* p.19B-D. The U.S. Supreme Court interprets the clause on establishment as prohibiting not only preference for one or some religions over others, but also support for all religions together - Konvitz *First Amendment* p.30C, 36C, and the passage quoted in the preceding note.

*202. Universities and the Armed Forces sometimes have chaplains; this might be interpreted (according to circumstances) as merely the provision of a service, as the Armed Forces employ entertainers, with no suggestion that people should avail themselves of the service.*

203. E.g. if school teachers help in the administration of a 'released time' programme of religious instruction, and if students who do not go for religious instruction are kept in school, Justices of the U.S. Supreme Court may take the scheme as State aid for religion, even if school buildings are not used. See Konvitz *First Amendment* p.30A, 36CD, 49A, 51B, 51D.

204. On the intentional- incidental distinction, see above p.39.

205. There has been disagreement in the U.S. Supreme Court on this matter. Some judges accept that the State may subsidise activities connected with religion if the 'purpose and primary effect' is secular, or if the principle on which beneficiaries are selected can be applied without considering their religious beliefs;
others hold that a measure is unconstitutional if it does in fact (intentionally or not) aid in any measure, directly or indirectly, any church. See Konvitz First Amendment p.12B-D, 16AB, 23D-26B, 60AB.

206. And perhaps: if it is in fact likely to be taken by most of the rival movements. If some of them refuse in principle to accept help, or if they are not organised to take advantage of it, then the scheme would probably be regarded as inequitable.

207. Konvitz First Amendment p.25AB, 33B, 49BC.

*208. One part of the State aid debate has gone like this:

(1) Members of Sect A have complained of the violation to their consciences in using public funds, to which they had to contribute, to subsidise Sect B, in their opinion a false religion. (2) Others have replied that the contributions of the A's are not being used to subsidise B, but the contributions of the B's, who also pay taxes; it would be unjust to deprive them of their share, and a violation of their consciences to use the common fund solely to subsidise A. (3) Still others have protested against the mode of thinking underlying (1) and (2): public money does not still belong to those who contribute; if a bridge is built out of public funds there is no injustice to those who will not use the bridge. (4) Further, it would be impractical to arrange that tax and subsidies do not transfer money from sect to sect. (5) It would also be pointless,
except as a means of compelling sect members to support activities they would not choose to support; their leaders will become lazy and corrupt if they no longer have to persuade their followers to contribute voluntarily (Cf. Jefferson, p. 312B; Madison p. 302D).

(6) In any case there are taxpayers who do not belong to any sect. For illustrations see above, Chapter 1 note 34; May Vol. 3 p. 271; Norman p. 135; Sir S. Lushington in Hansard Vol. 48 (1839) col. 572; Sir R. Inglis, Hansard Vol. 48 (1839) col. 607; Fogarty Vol. 1 p. 200, Vol. 2 p. 338-9; Austin p. 219-23; Jefferson in Konvitz Fundamental Liberties p. 25; Rutledge in Konvitz Fundamental Liberties p. 21D-22C, 27CD.

209. For the magistrate to 'employ Religion as an engine of civil policy ... [is] an unhallowed perversion of the means of salvation'; Madison p. 302.

210. In nineteenth century Australia, sectarian rivalry was such that as soon as one sect established a school in a town the others would often establish schools too, to save their children from seduction. Since many towns were small, the rival schools were often too small to have properly graded ('classified') classes or properly trained and paid teachers. Meanwhile other towns would have no schools at all. Given the scattering of population, the smallest sects could rarely find enough children in one place to maintain a school of their own; hence they were 'under-represented' in the school.
system, and the equal-tax-equal-subsidy system transferred money from them to the larger sects. These were reasons behind the campaign to end subsidies to church schools and concentrate on developing common schools. See Austin p.61-3, 78-9, 83-5, 117-8, 191; Fogarty Vol.1, p.119, 142. Now that the population is more concentrated these reasons are not so strong.

211. Suppose there is a duty to give one's children a good education. Must it be as good as possible, or good at least to a certain defined standard? Or is this a duty of imperfect obligation? One would suppose the latter. In that case the judgment that some arrangement (e.g. secular common schools combined with out-of-school religious teaching) is not good enough is not a judgment of conscience - not a judgment of actual duty, still less one of absolute duty; see above p.98. If the judgment is made by another person (e.g. a Bishop) and made a conscientious duty by a directive from him (there being a duty in conscience to obey his commands), then the conscientious conviction cannot be said to have been formed independently of other people (see above p.98).

212. 'No-one conscious of religious values can be unsympathetic toward the burden which our constitutional separation puts on parents who desire religious instruction mixed with secular for their children. They pay taxes for others' children's education, at the same time the
added cost of instruction for their own. Nor can one happily see benefits denied to children which others receive, because in conscience they or their parents for them desire a different kind of training others do not demand. But if those feelings should prevail, there would be an end to our historic constitutional policy.... Hardship in fact there is which no-one can blink. But, for assuring to those who undergo it, the greater, the most comprehensive freedom, it is one written by design and firm intent into our basic law'; Judge Rutledge, in Konvitz *First Amendment* p.26.

213. 'It is altogether impossible to reason from the opinions which a man professes, to his feelings and his actions'; Macaulay *Civil Disabilities of the Jews* p.305. 'To punish a man because he has committed a crime, or because he is believed, though unjustly, to have committed a crime, is not persecution. To punish a man, because we infer from the nature of some doctrine which he holds, or from the conduct of other persons who hold the same doctrines with him, that he will commit a crime, is persecution, and is in every case foolish and wicked.... To argue that, because a man is a Catholic, he must think it right to murder an heretical sovereign, and that because he thinks it right he will attempt to do it, and then, to found on this conclusion a law for punishing him as if he had done it, is plain persecution. If, indeed, all men reasoned in the same manner on the
same data, and always did what they thought it their duty to do, this mode of dispensing punishment might be extremely judicious. But as people who agree about premisses, often disagree about conclusions, and as no man in the world acts up to his own standard of right, there are two enormous gaps in the logic.... Man... is so inconsistent a creature that it is impossible to reason from his belief to his conduct, or from one part of his belief to another.... Why should we suppose that conscientious motives, feeble as they are constantly found to be in a good cause, should be omnipotent for evil?', Macaulay Hallam p.121-3; cf. Sir James Mackintosh p.260-1. Bayle argues that a society of atheists would be difficult to distinguish from a society of Christians; as Cicero said of the Epicureans, they live better than their words, while the others talk better than they live. Atheists are always painted in black colours because everyone falsely imagines that a man will always act on his principles. Man may be as reasonable a creature as you like, it is no less true that he hardly ever acts according to his principles when they conflict with passion, temperamental bias, habit, taste, etc. Hence nothing is more fallacious than to infer a man's morals from his general opinions about what his duties are. See Bayle Comete p.87-123; how he would reconcile this with Commentaire p.431AB I do not know. Bayle also argues that a person who holds certain principles may
not see all the bad consequences we see in them; Commentaire p.502D. Cf. J. Taylor: 'no man is to be charged with the odious consequences of his opinion... if he understands not such things to be consequent to his doctrine.... [I]f he disavows them, he would certainly rather quit his opinion than avow such errors or impieties which are pretended to be consequent to it.... [H]e...believes his first proposition because he believes it innocent of such errors'; Liberty p.594. As a contrast consider the following: 'As Dr Popper has well said, we have the right not to tolerate the intolerant.... We have the right to see that neither of these intolerant bodies [the Communist Party and the Papist Church] gets much influence in the government, or in any other powerful body.... We ought sometimes to see that individual members of these intolerant bodies are kept out of influential professions ... I do not say that you should never recommend a Papist for a post in the civil service; but I do say that you are to consider carefully that he is a member of a body which is always thoroughly intolerant...I do say that you are to disregard all accusations that you are intolerant, or that you are persecuting minorities, or that you are unjust to an innocent man, in considering his religion; for your intolerance is only being intolerant of intolerant bodies...'; Robinson p.215-8. (On intolerance toward the intolerant see above p.56).
214. 'No human government had a right to enquire into private opinions, to presume that it knew them, or to act on that presumption. Men were the best judges of the consequences of their own opinion, and how far they were likely to influence their actions; and it was most unnatural and tyrannical to say, "As you think, so must you act".... Men ought to be judged by their actions, and not by their thoughts.... So far was he of this opinion, that if any man should publish his political sentiments, and say in writing, that he disliked the constitution of this country, and give it as his judgment, that principles in direct contradiction to the constitution and government were the principles which ought to be asserted and maintained, such an author ought not, in his judgment, on that account, to be disabled from filling any office, civil or military; but if he carried his detestable opinions into practice, the law would then find a remedy, and punish him for his conduct, grounded on his opinions, as an example to deter others from acting in the same dangerous and absurd manner.... [Men's] actions ought to be waited for, and not guessed at, as the probable consequences of [their opinions]'; Fox Vol.4 p.2-3, cf. p.4. Pitt and Powys replied that Fox's principle went 'a great deal too far'; it was the government's duty to ward off danger to the constitution, and not to wait until dangerous acts had been committed; Cobbett Vol.28 cols.406-430. A
similar controversy took place in relation to Communism during the 1950's in the United States; see for example the controversy between Lowe, Lovejoy and Hook in the *Journal of Philosophy* for 1951 and 1952 (Vol.48 p.435f, Vol.49 p.85f), and also Hook's *Heresy, Yes - Conspiracy, No.* Lowe suggests that Hook and others have committed the fallacy of supposing that a common label represents an essential nature, and inferring that all who bear the label will think and act alike. Hook (in *J.P.*, and also in *Heresy* p.221-2, 28, 30) replies that this is not his reasoning, that there are other reasons for expecting that Communists will think and act alike, *viz.* that the Party supervises members and expels those who do not conform to its norms. (If this is true it might increase the weight due in this case to the considerations which according to (20) should be given little weight). Hook also argues against the use by 'ritualistic liberals', as he calls them, of the phrase 'guilt by association'. There is, and should be, no *legal* guilt by association, but there may be moral guilt, and fitness for a position of trust is sometimes determined by the person's associations (*Heresy* p.28,33,86-7,277); in any case the point of a security program is not to punish guilt but to prevent acts threatened, and to ensure that democratically adopted policies are carried out by government officials (*ibid.* p.31,32,74-5, 226-7); it is foolish to wait until the damage is done (*ibid* p.76-8).
See also Konvitz Fundamental Liberties p.229 f.

215. According to Walpole, exclusion is a hardship, but not oppression or punishment; Cobbett Vol.9 col.1053-4. According to Pitt, Toleration does not require equal consideration for the 'interests of individuals claiming pecuniary rewards or lucrative employments'; 'the appointment to offices rested with the government, which no citizen could claim as a matter of right'; Cobbett Vol.28 col.406, 409. According to Peel it is not true that every subject has a right to office, with the onus of proof being on the would-be excluder; there was a clear distinction between toleration and power, between laws imposing penalties and laws excluding from civil office; Hansard, New Series Vol.4 (1821) col.991; cf. Konvitz Fundamental Liberties p.263-4. J.S. Mill also held that no-one can have a right to power over others, that such power is always a trust; cf. Representative Government p.299.

216. J.S. Mill also compromises. 'The public mind, in this country, is now so far advanced, that we may affirm, without hazard of being openly contradicted, even by those who would contradict us if they dared [see above Chapter 1 note 30], that to subject any person to temporal inconvenience in any shape, on the ground of his religious opinions, is, prima facie, injustice and oppression: that it cannot be justified on any such ground that his religion is bad or unacceptable in the
sight of God [cf. Rule 17]: not by anything but the certainty, or at least, a preponderant probability, that some great temporal calamity will befall the rest of the community, unless averted by imposing restraints, disabilities, or penalties, upon persons of some particular faith. It will also be allowed, that if there be a danger, and if security against the danger require the imposition of disabilities on account of religious opinions; at least no disability should exist which does not, in some way or another, conduce to the end in view; that end being, security'; J.S. Mill Catholics p.151. Another liberal - or at least, Whig - writer who compromised was Paley: It cannot be laid down as a universal truth that religion cannot be a cause justifying exclusion from public employments; disaffection may happen to be connected with religious distinctions; 'the State undoubtedly has a right to refuse its power and its confidence to those who seek its destruction'; the connexion of religious and politically dangerous opinion is temporary and accidental, and the inference from one to the other will often be fallacious, but the religious test may be the only means of security available - see Paley, p.472-7.

217. See note 213 above.

218. 'If we, who are so apt to be deceived and so insecure in our resolution of questions disputed, should persecute a disagreeing person, we are not sure we do not fight
against God... [B]ecause we can have no security (at least) in this case, we have all the guilt of a doubtful or an uncertain conscience'; J. Taylor, Liberty p.516. On doubtful conscience: 'It binds from action; for whatsoever is done with a doubtful conscience (that is, without faith, or fulness of persuasion that it is lawful to do it) is a sin. S. Paul gave us the rule, "whatsoever is not of faith is sin". *Quod dubitas ne feceris*, said Cicero.... He that does not know whether it be lawful or not, does that which he is not sure but it may be forbidden by God, or displeasing to him.... [N]ot to know it to be lawful is to enter upon it with a mind willing to admit the unlawful.... [A] good man will be sure not to sin...while the doubt remains, he can have no security, but by not doing it'; J. Taylor *Ductor Dubitantium* Vol.9, p.221-2. Kant uses a similar argument: 'It is a basic moral principle, which requires no proof, that one ought to hazard nothing that may be wrong (*quod dubitas, ne feceris*! Pliny).... [C]oncerning the act which I propose to perform ... I must be sure that it is not wrong; and this requirement is a postulate of conscience, to which is opposed *probabilism*, i.e. the principle that the mere opinion that an act may well be right warrants its being performed.... Take, for instance, an inquisitor.... [W]e can tell him to his face that in such a case he could never be quite certain that by so acting he was
not possibly doing wrong. Presumably he was firm in the belief that a supernaturally revealed divine will... permitted him, if it did not actually impose it as a duty, to extirpate presumptive disbelief together with the disbelievers. But was he really strongly enough assured of such a revealed doctrine, and of this interpretation of it, to venture, on this basis, to destroy a human being? That it is wrong to deprive a man of his life because of his religious faith is certain, unless ... a Divine Will, made known in extraordinary fashion, has ordered it otherwise. But that God has ever uttered this terrible injunction can be asserted only on the basis of historical documents and is never apodictically certain'; Kant Religion p.173-5.

219. 'To kill men; there is required a bright-shining and clear light'; 'when all is done, it is an over-valuing of one's conjectures, by them to cause a man to be burned alive'; Montaigne Vol.3 p.289,291. Montaigne is referring to trials for witchcraft.

220. Cf. Gamaliel's advice, Acts 5:38-9: 'If this undertaking is of men, it will fail; but if it is of God, you will not be able to overthrow them. You might even be found opposing God'. This was quoted or alluded to often by sixteenth and seventeenth century advocates of Toleration; cf. Bainton Castellio p.115.

222. Truths of faith are contingent propositions, and therefore lack the 'clarity' characteristic of metaphysical and geometrical truths; grace and faith are not introspectable qualities; hence a person cannot tell by the quality of his convictions whether they are really true; Bayle *Commentaire* p.437D-438A,437A,439A,548AB,546B. Jonathan Proast claimed that the true church, and it alone, had a right to use force on unbelievers; to Locke's point that every church believes itself to be true, he replied that those who really hold the truth know they do and know that the others are mistaken. To this Locke replied that true believers cannot have this knowledge, since faith is not knowledge, and can at most have a persuasion that they are right and others mistaken; but members of every church have this persuasion, and will all persecute by Proast's rule. Proast replied that the right to persecute belongs only to those who are persuaded on just and sufficient grounds, such clear and solid reasons as leave no doubt in an attentive and unbiased mind; only those whose faith is really true can have such a persuasion. Locke replied that everyone who believes - and stakes his own salvation on his belief - thinks his grounds just and sufficient. See Locke, *Third Letter* p.143-7, 150-1; *Fourth Letter* p.555-74.

223. For the argument presented in this paragraph see Bayle *Commentaire* Pt.1 Ch.10, p.391-2; 375D-376B; 425B-427C;
506B-D, 507C-508A; and the chapters following p. 508, summarised at 538A-D. Locke also uses a similar line of argument; First Letter p. 18-21, 35-6. Cf. Hoadly p. 210-36.


226. For example, the irritation of being prescribed to by others as fallible as himself; see J. Taylor, Liberty p. 428.

227. Some examples of other versions of the argument: 'The magistrate sets a highly dangerous precedent when he introduces the custom of suppressing any faith with the sword. He may indeed attack an erroneous faith, but his successors [same community, different time], having acquired the method, may turn against the true faith.... For this reason the safest course is for the civil government to adhere rigidly to its own domain and to suffer spiritual sins to receive a spiritual punishment; for it were four times or ten times better that an erroneous faith be tolerated than that the true faith be persecuted'; Brenz in Castellio p. 160. 'The putting power into the magistrate's hands to suppress error by the sword, gives him full opportunity to destroy and slay the true children of God, if at any time he shall mistake and judge them heretics. For what power men ignorantly allow a godly magistrate against true heretics, the same power will all magistrates arrogate
to themselves.... And thus the magistrate, who is a most fallible judge in these things, instead of tares may pluck up the wheat, and kill the faithful instead of heretics, at his own pleasure, till he have destroyed all the faithful in the land'; Dell in Woodhouse p.314-5. 'I ask, what power can be given to the magistrate for the suppression of an idolatrous church, which may not, in time and place, be made use of to the ruin of an orthodox one? For it must be remembered, that the civil power is the same everywhere, and the religion of every prince is orthodox to himself'; Locke First Letter p.35. 'Whoever persecutes a disagreeing person, arms all the world against himself and all pious people of his own persuasion, when the scales of authority return to his adversary, and attest his contradictory; and then what can he urge for mercy for himself or his party, that sheweth none to others? If he says that he is to be spared because he believes true, but the other was justly persecuted because he was in error, he is ridiculous. For he is as confidently believed to be a heretic as he believes his adversary such, and whether he be or no being the thing in question, of this he is not to be his own judge, but he that hath authority on his side will be sure to judge against him. So that what either side can indifferently make use of, it is good that neither would, because neither side can with reason sufficiently do it in prejudice of the other.
If a man will say that every man must take his adventure, and if it happens authority to be with him he will persecute his adversaries, and if it turns against him he will bear it as well as he can, and hope for a reward of martyrdom and innocent suffering; besides that this is so equal to be said of all sides, and besides that this is a way to make an eternal disunion of hearts and charities, and that it will make Christendom nothing but a shambles and a perpetual butchery; and as fast as men's wits grow wanton, or confident, or proud, or abused, so often will there be new executions and massacres; besides all this, it is most unreasonable and unjust, as being contrariant to those laws of justice and charity whereby we are bound with greater zeal to spare and preserve an innocent than to condemn a guilty person.... And therefore it is better, if it should so happen, that we should spare the innocent person and one that is actually deceived, than that upon the turn of the wheel the true believer should be destroyed'; J. Taylor Liberty p.517-8. Notice at the end of the passages from Taylor and Brenz the premiss that one's first duty is to minimise the objective sins committed by oneself or by others - see above p.148. For a version of the argument turning upon the undesirability of doing anything that may lead to the exclusion of Christian missionaries from non-Christian countries, see Bayle Commentaire Pt.1 ch.5.
p. 377. See also Madison p. 304CD.

228. In what follows, the numbers in brackets refer to the numbered rules, the page references to the places above at which a complete formulation of the rule will be found. In this summary I have not tried to give a completely accurate statement of the rule when this would have required many words.
1. '[W]e mean...to rule out the supposition that philosophy can be ranged alongside the existing sciences, as a special department of speculative knowledge.... [There is] no type of speculative knowledge about the world which it is, in principle, beyond the power of science to give.' '[T]he propositions of philosophy are not factual, but linguistic in character.... [P]hilosophy is a department of logic.... [I]t is concerned with the formal consequences of our definitions and not with questions of empirical fact. It follows that philosophy does not in any way compete with science'; Ayer p.48,57. '[I]t has come to be realised...that philosophical questions, if indeed there are any such questions, must be somehow distinguished...from questions of empirical fact.... Such questions do not arise through ignorance of fact.... [I]n all cases light is to be found, if it can be found, from a grasp of our concepts...the uses of words must be the main topic of inquiry'; Warnock English Philosophy p.162-3. Similarly it was held that the moral philosopher makes no moral judgments, but clarifies the concepts employed in making moral judgments.

2. 'If one seeks to present an unrefined but comparatively comprehensive, and in intention explanatory, picture of
the subject-matter of moral discourse and its grounds, one cannot shy away from those very general - and fortunately, I think, not elusive or very problematic - facts about people and the world from which, if from anywhere, explanation must be forthcoming'; Warnock Object p.ix. Warnock's later view was anticipated by Peirce, who held that 'philosophy deals with positive truth, indeed, yet contents itself with observations such as come within the range of every man's normal experience, and for the most part in every waking hour of his life'; Writings p.66.

3. Aristotle Posterior Analytics 72 b 5-25, 100 b 3-18; Metaphysics 1006 a 5-12, 1011 a 5-15.


6. I do not assert that it is psychologically or logically possible not to believe a proposition towards which one has the feeling of belief. I am agnostic on this, as on most, questions of logical possibility, and I believe that it is not psychologically possible to decide whether or not one will believe. When I say one ought to believe propositions toward which one has the feeling of belief, the 'ought' is addressed to those who believe they have a choice. Similarly I do not assert that it is logically or psychologically possible to see something as a necessary implication of one's beliefs and yet not believe it.
7. The 'critical commonsensism' of C.S. Peirce is the main source of my views on justification, see his Writings p.11, 228-9, 256, 297-9; R.M. Chisholm, Fallibilism and Belief, is a good account of Peirce's epistemology. More recently K.R. Popper has advocated a similar theory; see his Conjectures and Refutations, p.21-30, 228-9. R.M. Chisholm in perceiving presented an epistemology in which a proposition is acceptable provided its negative is not 'adequately evident' (p.9); this is more liberal than my own theory, since such a proposition might not excite any feeling of belief.

*8. It may seem presumptuous to reassure the reader that he may still count as rational even if he rejects my theory. The point is that I do not follow the course often taken by philosophers seeking to justify some intellectual policy - e.g. reliance on induction - of claiming that to follow the policy is part of 'what we mean' by being rational. It seems to me that 'rational' and 'irrational' as they are used by philosophers are strong in evaluative force and uncertain in descriptive meaning. I have suggested that a person should be described as 'rational' if and only if he classes as true the propositions that seem true and propositions that seem to follow from those that seem true, and acts consistently with his beliefs. I cannot claim that this suggestion is determined by common usage; but neither does it run counter to any clear usage. This suggestion is the epistemological
114. (3-9)

equivalent of 'judging a person according to his lights': if he affirms and acts on what strikes him as true, and is mistaken, he should be argued with; he is not to be held guilty of epistemological sin.


*10. In traditional theories the fundamental premisses have three characteristics: (a) they are self-evident (in my terminology, excite the feeling of belief); (b) they are self-evident to everyone, or at least to sound judges of the subject; (c) they cannot be inferred from other propositions which satisfy (a) and (b). Thus they are a sub-set of the propositions towards which one has a feeling of belief.

11. 'Science does not rest upon rock-bottom. The bold structure of its theories rises, as it were, above a swamp. It is like a building erected on piles. The piles are driven down from above into the swamp, but not down to any natural or "given" base; and when we cease our attempts to drive our piles into a deeper layer, it is not because we have reached firm ground. We simply stop when we are satisfied that they are firm enough to carry the structure, at least for the time being'; Popper Logic p.111, cf. p.47.

*12. Reconsideration of one's values and goals might also be on the agenda; if this led to a change in goals the plan would need revision.
115. (3-*13)

*13. From the economists’ point of view the time table is properly drawn up if it maximises attainment of one’s goals, whatever they are. From the ethical point of view one must have the right (or at least, permissible) goals, and weight them correctly.

14. That there is no duty to maximise was J.S. Mill’s opinion too; see Comte p.337-9, Later Letters Vol.2 p.762-3. There are rules of duty setting minimum standards; anything beyond that is supererogatory.

*15. Similarly there is nothing reprehensible in working with words or concepts which are not ‘absolutely’ clear and unambiguous (see Hare, A School for Philosophers p.46-7 - ‘nothing should be said whose meaning cannot be explained’); or in working on substantive questions without first settling questions of methodology; or in trying to construct a science without first establishing its possibility (see Kant Pure Reason B7). - This seems a convenient place to explain my rejection of the view of philosophy outlined above on p.158. A possible approach to defining an academic subject is to look for some characteristic of subject matter or method found in all examples of work in that discipline, and not in examples of work in other disciplines; or perhaps a set of characteristics, one or other of which is found in examples of work in that subject and not in work in other subjects. I reject this approach. It seems to me that academic disciplines are rather like the branches of an
industry: the organisation of work is the outcome of an historical process in which many different factors have been at work. It is almost as futile to look for the essence of philosophy as it is to look for the essence of BHP. The right approach is to begin by identifying the philosophers: members of university philosophy departments, people who write articles published in journals classed by philosophy departments as philosophy journals, people who write books reviewed in such journals, people who participate in conferences at which papers publishable in such journals are discussed, and so on. What do these people do when they are at work? - The things they do may or may not have some common characteristic not found in the things done at work by members of other academic corporations (cf. Kuhn p.176-80).

A question is philosophical if it is one of the questions customarily discussed by philosophers as part of their work, or if it is sufficiently closely connected with, or similar to, such questions to have a good chance of being accepted for discussion. (One of the traditional questions is whether there is a defining character peculiar and common to examples of philosophical work. I have no objection to this question. But I expect the answer to be negative, and I oppose attempts to exclude from philosophy material against which the only objection is that it conflicts with some hypothesis about what the
defining characteristic is). There is no reason why the one question should not belong simultaneously and by equal right to philosophy and some other subject (which would not be acceptable if subjects were defined by the character of their subject matter or method).

An argument is philosophical if it is relevant to a philosophical question. A philosopher is within his rights *qua* philosopher in introducing for discussion any proposition, if he wants to use it in an argument concerning a philosophical question. This holds whatever the character of the proposition. The truth of empirical propositions may thus become an issue in philosophical discussion. The usual objection to this is that philosophers are not experts in empirical matters, and consequently cannot be sure that their reasons for holding an empirical belief really are good and sufficient. But, if I am right, it is permissible to assert apparently true empirical propositions even without any argument, afterwards investigating the matter as long as one judges it worthwhile or obligatory. Since subjects are not defined by the character of their subject matter or method, there would be no objection grounded in the nature of philosophy if the philosophers' investigation of an empirical proposition were carried a long way. Usually, however, philosophers would do well to consult practitioners in some other subject, and in some cases to take their opinions on trust. At all events, the fact
that an argument employs empirical premisses is no reason why philosophers should regard it as falling outside their field, if it is relevant to the answering of a philosophical question.

Concepts and words are not especially the philosopher's business: physicists, sociologists etc. engage in conceptual clarification as part of their own job - they do not on those occasions switch from their own subject to philosophy; philosophers discuss words and concepts if and when this may contribute to the answering of a philosophical question.


17. This was denied by Strawson p.37 f. See Austin, 'Unfair to Facts'.

18. This objection is discussed by McCloskey _Meta-Ethics_ p.142-6.

19. On this point I disagree with McCloskey, with whose moral philosophy I am generally in agreement. 'Whilst not all moral judgments are such that we cannot ask for further reasons in their support, morality does involve some such judgments, that there are some things which must be done for their own sakes, and for which no further justification can be demanded'; McCloskey _Meta-Ethics_ p.168, my italics. In my opinion it is always legitimate to look for further reasons.

20. 'In order to justify S or R (our ultimate standard or rule) we must get outside that framework. Our whole
method of reasoning undergoes a fundamental change....
All we can do to justify anyone's adopting a value
system as a whole is to ask (invite) him to adopt it.
We then ask him, first, whether the consequences of his
doing so do not further certain ideals which, on
reflection, he really wants to see realised in the world,
and second, whether living in accordance with that system
is not part of a whole way of life which, on reflection,
he really wants to live' P. Taylor p.132. It seems to me
that these two questions can usefully be asked of any
moral principles (e.g. of the principles of Toleration),
not only of those which seem to be ultimate. The asking
of the questions has point because it seems true (to
some people anyway) that people will on reflection want
to live the kind of life that correct moral principles
prescribe. If on reflection one finds that one does not
want to live a puritanical life, this is an objection
against the corresponding set of moral principles; if
one finds one does want to be tolerant, then this is
pro tanto a reason in favour of the principles of
Toleration. But this is not a kind of reasoning on a
different level from all other kinds of reasoning in
ethics. And it does not close the discussion; it is
open to debate whether it is true that people will want
(in what sense?) to live the sort of life that correct
principles prescribe.


23. Cf. Frankena p.86-7. Most criticisms of Intuitionism are directed against this version of it.


25. "Intuitionism" is the name of a philosophical school which teaches that we have some faculty or capacity of intellectual intuition allowing us to "see" the truth; so that what we have seen to be true must indeed be true. It is thus a theory of some authoritative source of knowledge. Anti-intuitionists have usually denied the existence of this source of knowledge.... My view is that both parties are mistaken.... First, I assert that there exists something like an intellectual intuition which makes us feel, most convincingly, that we see the truth.... Secondly, I assert that this intellectual intuition, though in a way indispensable, often leads us astray ..."; Popper. *Open Society* Vol.2 p.390.

CHAPTER 4: FOOTNOTES

1. On factual discussion in Philosophy, see Chapter 3, note 15.

2. 'Critical rationalism implies a recognition of the claim to tolerance'. The critical rationalist recognizes that everyone is liable to make mistakes, that no-one should be his own judge or set up as an authority, that impartiality and objectivity require that the arguments of others be taken seriously and either refuted or accepted; hence he recognizes that others have a right to be heard and to defend their opinions, and that there is something like a moral obligation to support institutions which foster free thought and mutual criticism. See Open Society Vol.2 p.238-9.

3. Peters Education p.120-2, 170-2, 180-2; Griffiths p.180-1.

4. Exactly how does the use of the concepts of objectivity and truth presuppose the existence of a practice of public discussion (see Appendix note 10)? Why must the discussion be 'public' in the sense that any rational being can participate? On what assumptions about the conduct of rational beings are they excluded from a discussion if participants refuse, or merely fail, to acknowledge the principles in question? Peters and Griffiths provide some material towards answering these questions, but not nearly enough.
5. The only recent discussion known to me is that between arguments take into account other values besides McCloskey, Liberty, and Monro. McCloskey's/truth. In this chapter I discuss the question whether Toleration would advance the cause of truth. The social disturbances caused by free discussion, or the harmful acts done by individuals taken in by plausible propaganda, might provide a reason for not adopting Toleration even though it would further the cause of truth; or the pain, anger, etc. incidentally caused by repression might be enough to tip the balance in favour of Toleration even though occasional judicious acts of repression would further the cause of truth. But I am concerned with the narrower question whether Toleration would help or hinder the cause of truth.

8. Perhaps 'the sole way' - J.S. Mill, On Liberty, p.83C.
10. Viz. p.35-47, 61, 68. On Mill's and Austin's theory of authority, see Friedman.
11. J.S. Mill, Spirit, p.40-4. 'It is, therefore, one of the necessary conditions of humanity, that the majority must either have wrong opinions, or no fixed opinions, or must place the degree of reliance warranted by reason, in the authority of those who have made moral and social philosophy their peculiar study. It is right that every man should attempt to understand his interest and his
duty. It is right that he should follow his reason as far as his reason will carry him, and cultivate the faculty as highly as possible. But reason itself will teach most men that they must, in the last resort, fall back upon the authority of still more cultivated minds, as the ultimate sanction of the convictions of their reason itself', p.44.

25. 'In M. Comte's opinion, the peculiarly complicated nature of sociological studies, and the great amount of previous knowledge and intellectual discipline requisite for them, together with the serious consequences that may be produced by even temporary errors on such subjects,
render it necessary in the case of ethics and politics ... that whatever legal liberty may exist of questioning and discussing, the opinions of mankind should really be formed for them by an exceedingly small number of minds of the highest class, trained to the task by the most thorough and laborious mental preparation: and that the questioning of their conclusions by any one, not of an equivalent grade of intellect and instruction, should be accounted equally presumptuous, and more blameable, than the attempts occasionally made by scientists to refute the Newtonian astronomy'; Mill, Comte, p.302 (my italics). Moral, though not legal, sanctions, are to be used to impose and preserve the leadership of the wise. (The rules of Toleration attribute to everyone a right to inquire as he deems appropriate; see above, p.65-6. To blame him for the way he conducts his inquiries is 'obstruction' of the exercise of this right; see above p.39. The use of moral sanctions against presumptuous people who do not accept wise guidance is therefore contrary to the rules of Toleration.)

29. 'In order that this salutary [N.B.] ascendency over opinion should be exercised by the most eminent thinkers, it is not necessary that they should be associated and


32. J.S. Mill, *Comte*, p.337AB. ('"Unity" and "systematization" absolutely demanded that all other people should model themselves after M. Comte. It would never do to suppose that there could be more than one road to human happiness, or more than one ingredient in it.')


34. *On Liberty* is 'a kind of philosophic text-book of a single truth ... the importance, to man and society, of a large variety of types of character, and of giving full freedom to human nature to expand itself in innumerable and conflicting directions... The fears we expressed lest the inevitable growth of social equality and of the government of public opinion should impose on mankind an oppressive yoke of uniformity in opinion, might easily have appeared chimerical to those who looked more at present facts than at tendencies; for the gradual revolution that is taking place in society and institutions has thus far been decidedly favourable to the development of new opinions, and has procured for them a much more unprejudiced hearing than they previously met with. But this is a feature belonging to periods of transition, when old notions and feelings have been unsettled and no new doctrines have yet succeeded to their ascendancy. At such times people of
any mental activity, having given up many of their old beliefs, and not feeling quite sure that those they still retain can stand unmodified, listen eagerly to new opinions. But this state of affairs is necessarily transitory: some particular body of doctrine in time rallies the majority round it, organises social institutions and modes of action conformably to itself, education impresses this new creed upon the new generations without the mental processes that have led to it [cf. Comte, p. 356CD] and by degrees it acquires the very same power of compression, so long exercised by the creeds of which it had taken the place. Whether this noxious power will be exercised depends on whether mankind have by that time become aware that it cannot be exercised without stunting and dwarfing human nature. It is then that the teachings of the "Liberty" will have their greatest value. And it is to be feared that they will retain that value a long time.'


35. A half-truth is a truth which, when it is relevant to practical deliberation, needs to be balanced against other truths - see Chapter 1, note 76. Comte's doctrine of intellectual authority 'is one of a class of truths which, unless completed by other truths, are ... liable to perversion...'; J.S. Mill, *Comte*, p. 302D. 'M. Comte has got hold of half the truth.... It is, without doubt, the necessary condition of mankind to receive most
of their opinions on the authority of those who have specially studied the matters to which they relate. The wisest can act on no other rule, on subjects with which they are not themselves thoroughly conversant; and the mass of mankind have always done the like on all the great subjects of thought and conduct, acting with implicit confidence on opinions of which they did not know, and were often incapable of understanding, the grounds, but on which as long as their natural guides were unanimous they fully relied' \(\text{ibid, p.313}\). The other half of the truth is that to exercise this salutary influence the philosophers do not have to be associated and organized, and that they may become despots hostile to individuality; \(\text{ibid p.314, Autobiography, p.126-8}\).

36. In some subjects everyone must seek first-hand knowledge:

'Let each person be made to feel that in other things he may believe on trust - if he can find a trustworthy authority - but that in the line of his peculiar duty, and in the line of the duties common to all men, it is his business to know. Let the feelings of society cease to stigmatize independent thinking, and divide its censure between a lazy dereliction of the duty and privilege of thought, and the overweening self-conceit of a half-thinker who rushes to his conclusions without taking the trouble to understand the thoughts of other men'; \(\text{On Genius, p.101}\). Even in the subjects on which one
seeks knowledge presumptuous refusal to take heed of expert opinion is wrong; and presumably Mill would concede that most men will not have opportunity to carry first-hand inquiry even in these subjects very far. (In asserting a duty of all men to know in certain subjects Mill was conscious of following the Protestant tradition - see above p.4-5, and notes 7 and 8 to Chapter 1.)


38. See 'Appendix' to J.S. Mill, Dissertations, Vol.1, p.467-74. The doctrine of this essay is repeated in Representative Government, p.317BC.

39. 'It is sufficient if they be duly sensible of the value of superior wisdom. It is sufficient if they be aware, that the majority of political questions turn upon questions of which they, and all persons not trained for the purpose, must necessarily be very imperfect judges; and that their judgement must in general be exercised rather upon the characters and talents of the persons whom they appoint to decide these questions for them, than upon the questions themselves. They would then select as their representatives those whom the general voice of the instructed pointed out as the most instructed; and would retain them, so long as no symptom was manifested in their conduct, of being under the influence of interests or of feelings at variance with the public
welfare.... [w]henever the multitude are really alive to the necessity of superior intellect, they rarely fail to distinguish those who possess it'; J.S. Mill, *Dissertations*, Vol.1, p.470.


43. 'Individuals, and peoples, who are acutely sensible of the value of superior wisdom, are likely to recognize it, where it exists, by other signs than thinking exactly as they do, and even in spite of considerable differences of opinion'; J.S. Mill, *Representative Government*, p.319.

What other signs are there? Successful performance of public services is one; in estimating success it is well to 'lay great stress on the general opinion of disinterested persons conversant with the subject matter'; *ibid*, p.320. The best criteria, when the candidates have never held public office, are 'reputation for ability among those who personally know them, and the confidence placed and recommendations given by persons already looked up to'; *ibid*, p.321, my italics. When some wise men are identified their advice will help to identify others.

44. 'If by the social influence of A we are to understand (as is the most obvious interpretation) the power he
exercises over the convictions and inclinations of others through the affection with which he inspires them, or the high opinion they entertain of him, all this influence he will possess under equal and universal suffrage. Indeed, under no suffrage but that which is equal and universal can his political influence be exactly coextensive with his moral influence, measured by the number of persons who look up to his judgment, and are willing to accept him as their leader. If besides this influence, supposed to be ten times that of B, he has also ten votes of his own to B's one, then the effect is not, as Mr Lorimer professes, to recognize, but to double, A's superiority of importance. It is for the very opposite reason to Mr Lorimer's that the third writer to whom we have referred [viz. Mill himself] made the suggestion of giving a number of votes proportioned to degree of education. He proposed it, not because educated persons have already a greater influence, but because, though they ought to have that influence, yet without some such provision they possibly might not; J.S. Mill, Recent Writers on Reform, p. 71.

45. 'There is a character of mind which does not look up to any one; which thinks no other person's opinion much better than its own, or nearly so good as that of a hundred or a thousand persons like itself.... It cannot be denied that a complete democracy has a strong tendency to cast the sentiments of the electors in this
mould. Democracy is not favorable to the reverential spirit.'
For satire upon the presumptuous character of mind, see
The Spirit of the Age, p.38-40.

not believe that the educated class should be assured of
eqvoting the rest - they might then indulge in class
legislation; ibid. p.286C. Plurality of votes for
educated electors would have an educative value: 'The
national institutions should place all things that they
are concerned with before the mind of the citizen in the
light in which it is for his good [N.B.] that he should
regard them; and as it is for his good that he should
think that every one is entitled to some influence, but
the better and wiser to more than others, it is important
that this conviction should be professed by the State,
and embodied in the national institutions;' ibid. p.288.
'I hold it of ... importance that the institutions of the
country should stamp the opinions of persons of a more
educated class as entitled to greater weight than those
of the less educated: and I should still contend for
assigning plurality of votes to authenticated superiority
of education, were it only to give the tone to public
feeling, irrespective of any direct political
consequences;' ibid. p.320.

47. J.S. Mill, Representative Government, Ch.4, (p.218f,
especially p.224-5); On Liberty, p.73CD.

49. Mill does not say this explicitly, but it seems a fair inference from his remarks that 'liberty, as a principle, has no application' until men have become 'capable of being improved by free and equal discussion'; *On Liberty*, p.73.

50. His opinions about issues of contemporary English politics were comparatively democratic; his 'private judgment', rather than deference to majority opinion, led him to democratic conclusions. '[T]hough I ceased to consider representative democracy as an absolute principle, and regarded it as a question of time, place, and circumstance; though I now looked upon the choice of political institutions as a moral and educational question ... to be decided mainly by the consideration, what great improvement in life and culture stands next in order for the people concerned...; nevertheless, this change in the premisses of my political philosophy did not alter my practical political creed as to the requirements of my own time and country. I was as much as ever a radical and democrat, for Europe, and especially for England;' J.S. Mill, *Autobiography*, p.102-3.

51. In this respect there is an interesting contract between James and John Mill. James Mill: 'When various conclusions are formed among a number of men upon a subject on which it would be unsafe, and therefore improper, to give any minor portion of them a power of
determining for the rest, only one expedient remains. All the conclusions which have formed themselves in the minds of different individuals, should be openly adduced; and the power of comparison and choice should be granted to all. Where there is no motive to attach a man to error, it is natural to him to embrace the truth; especially if pains are taken to adapt the explanation to his capacity. Every man, possessed of reason, is accustomed to weigh evidence, and to be guided and determined by its preponderance. When various conclusions are, with their evidence, presented with equal care and with equal skill, there is a moral certainty, though some few may be misguided, that the greater number will judge aright, and that the greatest force of evidence, wherever it is, will produce the greatest impression.'

James Mill adds a page of extracts from other writers in which similar sentiments are expressed; e.g. 'About things on which the public thinks long, it commonly attains to think right' (Dr. Johnson). He continues: 'We have then arrived at the following important conclusions, - that there is no safety to the people in allowing anybody to choose opinions for them; that there are no marks by which it can be decided beforehand, what opinions are true and what are false; that there must, therefore, be equal freedom of declaring all opinions, both true and false; and that, when all opinions, true
and false, are equally declared, the assent of the greater number, when their interests are not opposed to them, may always be expected to be given to the true;' James Mill, *Liberty of the Press*, p.22-4. John Mill had less confidence in philosophers' ability to adapt their explanations to the capacity of the multitude. Some say 'it is well that the many should evoke all political questions to their own tribunal, and decide them according to their own judgement, because then philosophers will be compelled to enlighten the multitude, and render them capable of appreciating their more profound views.... The argument would be irresistible, if, in order to instruct the people, all that is requisite were to will it; if it were only the discovery of political truths which required study and wisdom, and the evidences of them when discovered could be made apparent at once to any person of common sense, as well educated as every individual in the community might and ought to be. But the fact is not so. Many of the truths of politics (in political economy, for instance) are the result of a concatenation of propositions, the very first steps of which no one who has not gone through a course of study is prepared to concede; there are others, to have a complete perception of which requires much meditation, and experience of human nature. How will philosophers bring these home to the perceptions of the multitude? Can they enable common sense to judge
of science, or inexperience of experience? Every one who has even crossed the threshold of political philosophy knows, that on many of its questions the false view is greatly the most plausible; and a large portion of its truths are, and must always remain, to all but those who have specially studied them, paradoxes.... The multitude will never believe those truths, until tendered to them from an authority in which they have ... unlimited confidence...'; J.S. Mill, Dissertations, Vol.1, p.473.

52. On Liberty, p.74; cf. Comte, p.304CD.

53. See Appendix Note 20.

*54. As we saw above, Comte and Mill expected agreement among the experts to win deference from the public.

55. Cf. Mill's suggestions on how the elector may choose a wise representative, in n.42 above.

56. Anglicans argued this way against Catholics - see the passages referred to above in note (43) to Chapter 2.

57. On the Public Opinion Tribunal, see Bentham Constitutional Code, p.41-2, 158-8.

58. See the passage from James Mill in note (51) above.

59. See note (44) above.

60. Another image also suggesting high standards of rationality is the New England Town Meeting; See Meikeljohn p.248.

61. 'It is a melancholy truth, that a suppression of the press could not more completely deprive the nation of its benefits, than is done by its abandoned prostitution to
falsehood. Nothing can now be believed which is seen in a newspaper. Truth itself becomes suspicious by being put into that polluted vehicle. The real extent of this state of misinformation is known only to those who are in situations to confront facts within their knowledge with the lies of the day;' Jefferson, p.581 (written 1807). The state of affairs Jefferson describes is not permanent, but it may recur at any time. 'It is to the great credit of the American press that it does still provide information on the basis of which one who is willing to put in the time and effort can arrive at some understanding of what is taking place in Vietnam. But we must recognise that, valuable as this is, it has little bearing on the state of American democracy, since the opportunity to do the research that is required to separate fact from propaganda is limited to a privileged few;' Noam Chomsky, American Power p.192-3. How much value can be put on the public opinions about the Watergate affair?

62. Mill was afraid that the trend towards 'civilisation' and equality would foster the authoritarian variant of populism. 'The Americans, according to M. De Tocqueville, ...carry into practice ... the habit of mind which has been so often inculcated as the one sufficient security against mental slavery - the rejection of authority, and the assertion of the right of private judgement.... From such habits and ways of thinking, the consequence
which would be apprehended by some would be a most licentious abuse of individual independence of thought. The fact is the reverse. It is impossible, as our author truly remarks, that mankind in general should form all their opinions for themselves: an authority from which they mostly derive them may be rejected in theory, but it always exists in fact ... [The Americans] being nearly equal in circumstances, and all nearly alike in intelligence and knowledge, the only authority which commands an involuntary deference is that of numbers.... [The right of private judgement, by being extended to the incompetent, ceases to be exercised [against the general consensus] even by the competent; and speculation becomes possible only within the limits traced, ... by [the infallibility] of "our free and enlightened citizens", or "our free and enlightened age" ]; J.S. Mill, De Tocqueville, p.41-2.

63. 'By far the greater part of the community is either absolutely unable, or able only with great difficulty, to escape from illusions and deceitful subtleties, especially such as flatter the passions '; Leo XIII, p.72. 'The greatest part of mankind, being not able to discern betwixt truth and falsehood, that depend upon long and many proofs, and remote consequences; nor having ability enough to discover the false grounds, and resist the captions and fallacious arguments of learned men versed in controversies... '; Locke Second Letter p.73. Cf. the
passage by J.S. Mill quoted note (51) above.

*64. Conflict may be needed to further the interests of truth, but of course other considerations may preponderate, if only because the fighter for truth cannot be very sure that his opinion is true. 'I will not enter into the question, how much truth is preferable to peace. Perhaps truth may be far better. But as we have scarcely ever the same certainty in the one that we have in the other, I would unless the truth were evident indeed, hold fast to peace... ';Burke, in Henriques p.124. Populist institutions might be accepted, even though they are as likely to further error as truth, for the sake of peace. The last chapter will discuss this possibility.

65. See the passage from Collins, quoted above in Chapter 2, note 45. The elitist will say that in a community whose culture happens to be sound, most men may do better by taking their opinions from their grandmothers than by following the way of thinking and examination.

66. Cf. Marcuse p.98-9. For Marcuse 'elitism' has pejorative connotations. To those who describe his own position as 'elitist' his reply is that the existing regime is elitist too, and that J.S. Mill favoured elite leadership; see p.121.

67. Mill discusses this possibility in On Liberty p.98-9. He objects first that under such an arrangement the experts will not develop 'large and liberal' minds; to which it may be answered, that largeness and liberality
admit of degrees, and it may on balance be best for the cause of truth to be content with a lower degree of these qualities in the experts in order to save others from gross errors. His second objection is that with respect to religion the arrangement is not possible for Protestants, who hold that the laity have a duty to study theological questions themselves. I am concerned with the question whether repression might further the cause of truth; if it might, then the obligation to be tolerant cannot be grounded on the fact that repression always damages the cause of truth; but there might still be moral objections against repression resting on other grounds, such as the one Mill mentions. His third objection is that in the present state of the world, to block communication of certain views to non-experts, while allowing them to be communicated to experts, is impracticable.

68. See above, Chapter 2, note 76.

*69. In the Appendix to Chapter 3 (p. 184) I say that disagreement is a reason for suspecting that one may be wrong, but that if there are reasons for thinking that the person disagreeing is unlikely to know about the matter the suspicion is less. Knowledge of historical events is impossible to those who have not witnessed them unless someone brings news. Christianity is an historical religion; the fact that other religious beliefs have been held in other times and places is not
in itself a reason for suspecting that Christianity is false.

*70. Some of the traditional arguments for freedom of discussion silently assume that what one party does other parties will do also; see Chapter 2 notes (44) and (73). It is true that what one party can rightly do another party similarly circumstanced can rightly do; it may be true that the fact that one party's creed is true and the other's false should not count as a relevant difference in circumstances (see above p.149); it is true that it is hypocrisy or self-deception to pretend to regard persecution directed against oneself as wrong if one believes (or believes propositions which imply) that it is right. But one party is not (in general) obliged to draw the other party's attention to all the things it can rightly do. It may not be wrong to do a certain act in the hope that it will not be noticed and imitated by others, or that they will not be able to imitate it. For example, the elitist who believes his opinions to be true may challenge and try to displace those he regards as pseudo-experts, without thereby committing himself to encouraging others to challenge and try to displace him; he may hope to be followed unquestioningly. Similarly those who resort to forcible repression, even if they acknowledge that others could rightly use it against them, may hope and have reason to expect that in fact others will not use it against them. There is perhaps
a certain lack of candour in this; but to be candid is at best a presumptive obligation, which may be overridden, especially in situations of conflict.

71. Another argument against forcible repression which also assures that truth will prevail in general discussion will be found in Chapter 2, note 72. The argument assumes that governments are blind to the quality of arguments, and apply force at random.

*72. 'The very principle of constitutional government requires it to be assumed that political power will be abused to promote the particular purposes of the holder; not because it always is so, but because such is the natural tendency of things, to guard against which is the especial use of free institutions;' J.S. Mill, Representative Government p.316. If this principle were seriously acted on, government and other forms of co-operation between human beings would be impossible. At some point someone has to be trusted, even for security arrangements to work. There is of course a happy medium: trust should not be given too readily. But if it is given too reluctantly, the security achieved may be bought at too high a price. It is necessary, then, to judge who may be trusted and to what extent, though such judgements may be mistaken.

*73. The experts need not be infallible for the imposition of their guidance to be beneficial to the cause of truth. A supposed obligation to further the cause of truth by
the most effective means would not justify Mill's and Taylor's belief that guidance cannot rightly be imposed unless it is infallible (see Chapter 2 note 75).

74. 'A nation ought not to place its entire stake upon the wisdom of one man, or one body of men.... It is the wisdom of a community ... to beware of being one-sided; the more chances it gives itself, the greater the probability that some will succeed '; J.S. Mill 

Dissertations Vol.1 p.33.

2. See Aristotle Nicomachean Ethics I i. Note that an end may be a thing or state of affairs (e.g. an artifact), or the end may itself be an activity (e.g. conversation, thinking). Notice also that it need not be the case that there is only one end which is ultimate, sought for its own sake. According to Aristotle a number of different kinds of activities are intrinsically valuable, some of them being more valuable than others.

3. Officials and other members of an organisation need to have a conception of their role, and find it easier to work with one that is clear and definite, and they find it pleasanter if it fits into an aesthetically satisfying scheme. How they see their roles shapes the institution.

4. Nature 'is not niggardly, like the smith who fashions the Delphian knife for many uses; she makes each thing for a single use, and every instrument is best made when intended for one and not for many uses '; Aristotle Politics I ii 1252 b 1-5.

5. See Locke First Letter p.10, 13, 16-17.

6. 'That commonwealths are instituted for these ends [viz. those Locke stipulates], no man will deny. But if there be any other ends besides these, attainable by the civil society and government, there is no reason to affirm, that these are the only ends, for which they are designed. Doubtless commonwealths are instituted for the attaining of all the benefits which political government can yield '; Proast in Locke Second Letter p.116. Locke objects that
it could be said as reasonably of any other society that it is instituted for obtaining all the benefits it can yield, so that all kinds of society will have the same end, so that Church, State, army, family, East India Company, will not be different sorts of society; ibid. p.117-8, and Third Letter p.216-8. But perhaps it cannot be said as reasonably of any other society; maybe there are some societies, such as the State, which are intended to have the general welfare as their purpose, and others which those who form them agree should be devoted to special purposes. In any case societies are not distinguished only by their ends; the family and the State differ in origin, size, duration, capacities, etc. even if they have the same end.

7. The passage quoted in note (5) continues: 'And therefore, if the spiritual and eternal interests of men may any way be procured or advanced by political government, the procuring and advancing those interests must in all reason be reckoned among the ends of civil societies, and so, consequently, fall within the compass of the magistrate's jurisdiction'. Cf. the puritan, Philip Nye: 'Whatsoever a company of people gathered together may judge tending to the public good, or the common weal, that they have liberty to do, so long as it is not sinful, and they may put this into the ministerial power, to attend to it. ..... Religion (the things of our God) it is that which is of greatest public good and public concernment .... Then may not a company conclude together and sit down in a commonwealth to do what may be done in a lawful way for the preserving of their religion as well as for the feeding of their bodies '; in
8. 'Nothing can in reason be reckoned amongst the ends of any society, but what may in reason be supposed to be designed by those who enter into it'; Locke Second Letter p.119.


11. Locke Third Letter p.212B.

12. Locke First Letter p.11.

13. Locke First Letter p.11.


15. Locke says that one man's unbelief does another no harm, at least none that he could not avert without the use of force; First Letter p.41D-42A, Third Letter p.212C. But doubt and unbelief are contagious. A person may by contagion lose his faith, and thus be harmed, and not regard it as harm, and therefore not try to avert it, by force or by other means; another person may see the danger and may be able to avert it only by force. If a person loses his faith, this may in some cases cause him to be less conscientious morally, and this may cause harm to other people; they might guard against this harm by silencing unbelief.

16. It may be objected that a 'cloistered virtue' is of no
value, that there is no religious value in faith that would have been lost had the believer been exposed to the influence of unbelievers. To modern liberals this might seem plausible (cf. Mill Sedgwick p.70), but to conservatives it would not (cf. Thomas Aquinas De Malo q2 a2 ad 9 (p.470D)). The point needs to be argued.


18. 'The civil power is the same in every place '; Locke First Letter p.19-20, cf. p.35.

19. This is one horn of a dilemma. Another horn is needed to provide for the possibility 'that commonwealths are constituted by God for ends which he has appointed, without the consent and contrivance of men'; Locke Third Letter p.212, cf. First Letter p.10D. If God has commissioned the magistrate to impose a religion, it must be either by some passage of Scripture, or by the general law of nature accessible to reason. Locke asserts that such a commission is not found in Scripture (Deuteronomy Ch.13 is disposed of by First Letter p.37-9). He repeats the fourth argument stated in my text (p.270) to show that the law of reason does not commission the magistrate to impose any religion; Third Letter p.213.

20. Locke Two Tracts p.123A, 125AB, 126AB, 230C-231B.

21. 'There are two sorts of contests amongst men: the one managed by law, the other by force '; Locke First Letter p.44-5; cf. Two Treatises II xix, p.454 f.
22. 'A community needs to be able to settle only those questions which actually do arise... Where there is more than one procedure, a superior procedure to adjudicate between them is required only if the different procedures do in fact give incompatible decisions, not if merely they formally could'; Lucas p.31-2, my italics.

23. The question whether the Church has independent coercive power is paralleled in modern times by the question whether Trade Unions should strike without at least tacit permission from the State. A strike is a coercive act, inflicting what Locke would class as civil penalties (touching not life but property). Some XIXth Century liberals were prepared to approve unions and strikes, provided nothing but peaceful persuasion was used to get workers to participate, and to get other workers not to take their jobs; under these conditions the striker was simply exercising the free labourer's right not to work if the terms do not satisfy him. But in fact unions are coercive organisations; strong moral pressure, intimidation, and even plain force, are occasionally used to ensure participation and keep out strike breakers, and such means cannot be renounced if unions are to work. Usually the coercive nature of unions can be overlooked, but when it cannot, opinion divides: some accuse the unions of lawlessness, and demand government action to control them before society collapses back into the State of Nature, others say that the 'right to strike' ought to be respected by governments. To acknowledge a 'human right' to strike would be, as it were, to include in the social
contract a clause conceding independent coercive power, under rather vague conditions (e.g. that unions be internally democratic), to an institution other than the State.


27. Aristotle Ethics IX ix 1169 b 28 f.


29. 'It is clear then that a state is not a mere society having a common place established for the prevention of mutual crime and for the sake of exchange .... [It is] a community of families and aggregations of families in well-being, for the sake of a perfect and self-sufficing life'; Aristotle Politics III 9, 1280 b 30 - 35, my italics. Compare: '[The State] is not a partnership in things subservient only to the gross animal existence of a temporary and perishable nature. It is a partnership in all science; a partnership in all art; a partnership in every virtue, and in all perfection '; Burke, p.106.

30. Aristotle Ethics I vii 1098 a 17.

31. My sources for this 'scholastic' idea are Thomas Aquinas, especially Political Writings p.75-79; Bellarmino, Vol.1 p.762-3, 790-3, and Vol.2 p.462; and the article by Macksey
in the *Catholic Encyclopaedia*. Macksey seems influenced by Locke in his view of the State's function; the medieval distinction between *temporalia* and *spiritualia* may sound like Locke's distinction, but Thomas Aquinas's explanation of it suggests a different understanding: 'If it were possible to attain this object [sc. enjoyment of God] by natural human virtue, it would, in consequence, be the duty of kings to guide men to this end. For we suppose this man to be called king, to whom the highest direction in human affairs is committed .... But the enjoyment of God is an aim which cannot be attained by human virtue alone, but only through divine grace .... Only a divine rule, then, and not human government, can lead us to that end '; Thomas Aquinas *Political Writings* p.75 (I have corrected the translation of the second sentence). The *spiritualia* which are the concern of the Church - e.g. the sacraments - are external acts, juridically cognisable, having effects (even it was believed bodily effects, in some cases) in this life. What distinguishes them from *temporalia* is that they are means of grace.


33. Various XVIIth Century writers asserted that a person must always retain the right to withdraw from the Church, and that the severest 'penalty' at the disposal of ecclesiastics was excommunication, understood as a mere declaration that the person was no longer a member. See Nobbs p.97CD, 98D; Hobbes p.537; Locke *First Letter* p.13D, 17BC. (Marsilius of Padua may be the remote source.) The medieval Church claimed more power than this.
33a. Toleration is not mentioned in Locke's *Two Treatises*, but some indirect light might be thrown on the subject by what he says there about the Contract. In outline the doctrine of the Second Treatise is as follows (see Locke's statement, p. 367-8): (1) In the State of Nature every individual has the right and the duty to enforce the Law of Nature, even against violations which do him no direct harm (p. 313D-314A). (2) This kind of enforcement is defective, because (a) people put different interpretations on the L of N as it applies to particular cases, especially those in which their own interests are involved, and (b) the force brought to bear on violations is often insufficient; consequently there is insecurity (p. 396, 404). (3) To remedy these defects, men may contract with one another to entrust the interpretation and enforcement of the L of N to representatives of the whole community. They agree to waive their right of private judgment in interpreting the L of N, and to put their force at the State's disposal for enforcing its interpretation of the L of N (p. 368AB). (4) The State's laws are interpretations or applications of the L of N, or rules ordered to ends prescribed by the L of N ('the public good', consisting in the preservation of life, liberty, possessions - 'property' for short: man is bound by the L of N to seek to preserve his 'property'); except insofar as the laws derive from the L of N, attempts to enforce them are unjust violence, and may be resisted (p. 403, 428-9, 446, 413). (5) Only by becoming party
to the contract (by 'consenting') does a person acquire any duty to accept and help enforce the State's interpretations of the L of N - i.e. become subject to a political power (p.374, 394, 401): but whether he consents or not, the State, or in the S of N other individuals, have the right (in my own terminology, the liberty) of attempting to enforce upon him the L of N as they interpret it (p.313). (6) The contractors give up their right to exercise private judgment in interpreting the L of N; but they retain it in deciding whether public officials are faithful to their trust, and if not whether to resist them (Chapter XIX). (7) Every man able to understand the laws has a right to be at liberty; i.e. to do as he chooses within the limits set by the L of N, by laws of a State whose authority he has consented to, and by any other voluntary engagements he has made (p.324, 348-9, 352, 318A). (8) In the S of N and in Political Society a man may make other contracts besides that which incorporates him into a state; but he cannot by compact put himself under the arbitrary power of another, since this would be contrary to one of his duties under the L of N, self-preservation (p.318A, 325, 320 etc.).

Let us concede to Locke, at least for argument's sake, that the interpretation and enforcement of the L of N is the State's main function. The question is whether it is the State's sole function to enforce rules which protect this-worldly interests, or whether it may also enforce other rules, such as 'specifically' religious and moral
rules. This question resolves into two other questions: (1) whether the State's function of enforcing the L of N includes the enforcement of specifically religious and moral rules (which might be part of the L of N); (2) whether the State can, in reason, be given by contract other functions besides enforcement of the L of N (e.g. enforcement of the rules of revealed religion).

**Question (1).** According to Locke, self-preservation is the fundamental rule of the L of N; this might be taken to mean that self-preservation is the point of all the rules. He also says that the L of N is solely for the 'public good' or the 'general good' (p. 348A); this might be taken to mean that it is for the this-worldly good of men in their dealings with one another. He often refers to the L of N as the measure God has given the actions of men for their 'mutual security', 'peace and safety', 'peace and preservation', or the like. Further, he holds that the sole end in establishing the State to enforce the L of N is the preservation of the lives, liberty, possessions - this-worldly interests - of its members (p.399, 428-9).

But these things do not show decisively that Locke had abandoned the traditional conception of the L of N, according to which it does include specifically religious and moral rules:

(a). Thomas Aquinas also held that self-preservation is the first rule of the L of N (Summa 1-2 q94 a2, vol.2 p.635C); he also held that the L of N requires the worship
of God (Summa 2-2 q85 al, vol. 3 p. 563; cf. Locke Essays on the Law of Nature p. 195). Self-preservation need not be fundamental in the sense that it gives point to all the rules. Similarly Thomas Aquinas held that laws, including the L of N, are for the common good (Summa 1-2 q90 a2, vol. 2 p. 612); this does not imply that law is only the good of this-worldly society - the highest common good of men is the enjoyment of God in the next life.

(b). To say that God has given the L of N to men for their mutual security, peace, preservation etc., is not to say that this is its only purpose, or that it contains no specifically religious or moral rules.

(c). If the L of N contains specifically religious rules, it could still be said that the sole end of establishing the State is security for this-worldly interests, even though the State is to enforce the specifically religious rules along with the others. In the S of N, private interpretation and enforcement of specifically religious rules would cause insecurity because men differ in their interpretations; a man would fear that others would accuse him of violating some such rule, and punish him for it - which would injure his life, liberty, property etc., even though the rule itself had no relation to this-worldly interests. Even if putting an end to such insecurity is their sole purpose in establishing the State, it will have to be entrusted with the interpretation of specifically
religious rules, if such rules are in the L of N.

(d). Note that the rule of self-preservation, as Locke presents it (p.311), is itself a 'specifically' religious rule. We ought to preserve our lives not because death is a natural evil, but because God sent us into the world on his business, and since he is our sovereign master we should not wilfully quit our station.

(e). Note that in p.397CD, he distinguishes two powers, one to do what is necessary to preserve oneself and others, the other to punish crimes against the L of N. This distinction would be pointless if the L of N were solely concerned with preservation of this-worldly interests.

If Locke did believe that the L of N contains only rules protecting this-worldly interests he did not say so unambiguously. And if he had, we would not have been obliged to take his word for it. What reasons are there for holding that the L of N is limited in this way? He might perhaps have held that men in the S of N are not authorised to enforce all rules of the L of N, but only those relating to this-worldly security; but again we would want to know why this is to be held.

Question 2. Even if the enforcement of specifically religious and moral rules is not part of the State's function in enforcing the L of N, might it not be an additional function entrusted to the State by a secondary contract? Against this suggestion it might be said that the State is established to preserve liberty which a man
has a duty as well as a right to preserve (see point (4) of the outline at the beginning of this note); to give the State the function of enforcing religious rules would be to surrender some of one's natural liberty. However Locke does not hold - and is right not to hold - that a man ought not surrender any more of his natural liberty than is required to establish a State for enforcing the L of N; compacts for other purposes may be legitimate and binding (see point (8) of the outline). It is only compacts which put it out of his power to do what the L of N prescribes which are illegitimate. Locke's theory gives no grounds for not making a secondary contract of the sort suggested, provided the rules to be enforced are not in some way contrary to the Law of Nature.

In short, there is nothing in Two Treatises to show that Locke rejected the traditional view that the L of N contains rules of specifically religious and moral duty, or to show why he did if he did. And there is nothing to show why he thought additional functions could not in reason be entrusted to the State, though apparently he did think this.
34. Leo XIII, p.79D, 166. Thomas Aquinas does not seem to refer to the Church as a perfect society. However no medieval Catholic doubted that the Church could make laws (had 'jurisdiction'), and according to Thomas coactive power is essential to law; Political Writings p.137D, 147B.

35. This 'idea', together with other elements, is to be found in Luther, Melanchthon, Calvin, and others. See above p. 120-1 and notes (145)-(150). See the various Dutch Calvinist writers reported in Nobbs, p.18C-21D, 47C-48B, 55C-58C, 88C-90C (Grotius), 110, 119-23, 255-259B. Hobbes held a theory of the same general type.


37. The clarity of the 'idea' is muddied a little by the attribution to the magistrate of a legislative function; God wills that men obey laws the magistrates makes, so indirectly these laws are willed by God. Perhaps the magistrate's legislation might be supposed to subserve his work in enforcing God's laws: to enforce these laws he needs to raise armies and navies, levy and collect taxes etc., and to enable these burdens to be borne a flourishing commerce is needed, and so on.

38. What if the ministers understand God's will one way, the magistrate another? The ministers cannot use force. If the magistrate uses force to impose his understanding, he ought not be resisted; however those who believe that what he commands is contrary to God's will must not actively obey. On these points all who subscribed to the Protestant idea agreed. There was disagreement, however, about
whether God had willed that in those ecclesiastical matters left undetermined in Scripture, the decisions necessary were to be made by the ministers, or by the magistrate. If such decisions are to be enforced, then it must be by the magistrate, since no one else has coercive power; if the magistrate is bound to enforce the ministers' decisions whether he agrees or not he seems in these matters to be the ministers' instrument; if he must be satisfied that the decisions are correct before he enforces them, it seems that the ministers are merely his advisors. The argument about these matters is a major theme of Nobbs's book (see p.267-8), and also of Locke's Two Tracts.

39. 'If the determining of religion, and differences therein, belong to the magistrate, quatenus a magistrate: then to all magistrates, or to the magistracy of every country, then to the great Turk, and pagan kings and governors .... Christianity being altogether accidental and extrinsical to a magistrate, adds nothing of power over others in religion to him more than to another man....' The Ancient Bounds in Woodhouse p.254-5. Cf. Nobbs p.186-7.

40. Nobbs p.33B, 86BC (Grotius).

41. The Ancient Bounds in Woodhouse p.250C-251. However the idea that 'custom is second nature' enables the author to give the magistrate in a Christian country the task of repressing denials of the Trinity.

42. Some hoped that the magistrate would not try to regulate the affairs of sects he does not belong to because he will not be interested, or will not wish to countenance them;
Episcopius (a leading Remonstrant theologian) restricted the magistrate's jurisdiction (in all matters or only in religion?) to public places, so that the magistrate would have no right to regulate the private worship of dissenting sects; see Nobbs p.97.

43. It is true that it is mere chance if the magistrate happens to be an expert in anything but winning and retaining power. But if in a particular case he is an expert in something else, why is the fact that this is a lucky accident a reason why he should not act on his expert knowledge?

44. Cf. Macaulay and Bagehot, above Chapter 2 Note 72. What is the magistrate's 'private capacity'? A policeman acts in his private capacity if he does not wear his uniform, does not say or otherwise indicate that he is a policeman acting 'in the name of the law', and does not use the equipment or funds of the police force. But not all roles can be laid aside as the policeman's can. How would Louis XIV have acted in his private capacity? To prohibit him from acting in a certain way qua 'magistrate' would be to prohibit his acting that way at all.

45. Voetius, Apollonius and Triglandius — leading Dutch Calvinist theologians of the 1640's — held Locke's later view of the magistrate's function, viz. that he is concerned with this-worldly interests; see Nobbs p.190C-191B.
46. At the end of the century Pope Leo XIII was still asserting Gladstone's thesis (which may not have been original to Gladstone) without new arguments, without answering Macaulay's criticisms. See Leo XIII p.70-1, 164.

47. 'Though it is desirable that every institution should have a main end, and should be so formed as to be in the highest degree efficient for that main end; yet if, without any sacrifice of its efficiency for that end, it can pursue any other good end, it ought to do so .... The encouragement of the fine arts, for example, is by no means the main end of government; and it would be absurd, in constituting a government, to bestow a thought on the question, whether it would be a government likely to train Raphaels and Domenichinos. But it by no means follows that it is improper for a government to form a national gallery of pictures. The same may be said of patronage bestowed on learned men, of the publication of archives, of the collecting of libraries, menageries, plants, fossils, antiques, of journeys and voyages for purposes of geographical discovery or astronomical observation. It is not for these ends that government is constituted. But it may well happen that a government may well have at its command resources which will enable it, without any injury to its main end, to pursue these collateral ends far more effectually than any individual or any voluntary association could do. If so, government ought to pursue these collateral ends'; Macaulay Gladstone p.493-4. Macaulay apparently does not regard the omission of a beneficial act as equivalent to an injury; money spent on pictures could always be spent to further the purposes of
government. Apparently he does not believe that the government is bound by any understanding about the purposes for which revenue is raised.

48. Macaulay Gladstone p.496D, 497D.

49. The religion patronised by the ruler need not be his own, or that of the majority; it ought to be the religion or religions from which he believes his people, taking account of their present beliefs, will learn most good with the smallest admixture of evil; Macaulay Gladstone p.499.

50. 'For the protection of the persons and property of men being the primary end of government, and religious instruction only a secondary [incidental] end, to secure the people from heresy by making their lives, their limbs, or their estates insecure, would be to sacrifice the primary end to the secondary end '; Macaulay Gladstone p.497. This argument proves (at most) that a government should not persecute; unless it is assumed that the government has a monopoly of the legitimate use of force, it does not follow that noone (no church or private individual) should persecute.


53.'[W]e think that government should be organised solely with a view to its main end; and that no part of its efficiency for that end should be sacrificed in order to promote any other end however excellent.' '[T]he most absurd and
pernicious consequences would follow, if Government should pursue, as its primary end, that which can never be more than its secondary end, though intrinsically more important than its primary end.' '...government would sacrifice its primary end to an end intrinsically indeed of the highest importance, but still only a secondary end of government, as government.' Macaulay Gladstone p.493, 496, 497; my italics.


55. The following might have been written to contradict Macaulay: 'The main end of human society is that God should be honoured as he should be. Now the magistrate is set as guard and governor of this society .... And though it be his duty, so far as in him lies, to take order that no discord arise among his subjects, yet, since the chief and ultimate end of human society is not that men should live together in peace, but that, living in peace, they should serve God, it is the function of the Magistrate to risk even this outward peace (if no otherwise it may be done) in order to secure and maintain in his land the true service of God in its purity '; Beza in Allen Sixteenth Century p.96. According to Beza, the main end is God's glory, and civil peace a secondary end to be pursued without prejudice to God's glory.

56. There is a reason why the State in particular should have a variety of important goals, viz. to symbolise their importance, and the community's concern for them. The State might have been regarded as people regard the police
force and the army, but in fact in most communities it is regarded as symbolic of the community it governs. Besides security and prosperity, States have aimed at improving the lot of the poor, realising God's kingdom on earth, spreading civilisation and knowledge, developing a distinctive national literature and art, and so on. If the State ceases to concern itself with anything but security and prosperity, some citizens will also narrow their interests, and others who continue to value other goals may be alienated from a community which seems indifferent to them - and alienation may have detrimental effects even on security and economic activity. See Mill's remarks on the importance of attachment to 'the things which belonged to them [the people] as a nation, and which made them feel their unity as such'; Coleridge p.135-7, cf. Bentham p.99-100.

57. Mill's belief that social sanctions should not be used except to prevent people from harming one another is not based on a theory of functions, so it does not belong to this chapter. He points out various ways in which the enforcement of rules may do harm: people differ, so general rules are often ill-adapted to particular cases; social control obstructs possibly useful 'experiments of living'; it inhibits spontaneity and activity of character; and so on. He claims that the harm will outweigh the benefit except when sanctions are used to enforce rules of other-regarding duty. It seems to me that all his arguments show is that any application of sanctions, whatever the purpose, may do more harm than good. There
may be cases in which the use of force or moral pressure for some purpose other than protecting people from one another does more good than harm. He gives no reason why one should not be free to decide particular cases as they arise; i.e. he establishes no binding general principle, but at best a 'rule of thumb'.

58. See above p. 123.

59. It may be remembered that in formulating the rules of Toleration I tried to leave open the question what considerations can legitimately be weighed against the presumptive rights and duties asserted by the rules. See above p. 65.
FOOTNOTES: CHAPTER 6.

*1. Of course they may have accompanied their challenge by explicitly asserting a right of free speech, and then it would be inconsistent later on to deny the existence of such a right. But apart from what they may have said about their challenge, merely by making one they did not assert a right.

2. 'If he says that he is to be spared because he believes true, but the other was justly persecuted because he was in error, he is ridiculous'; J. Taylor Liberty p.517. Cf. Locke Second Letter p.65.

3. 'For right is a moral power which ... it is absurd to suppose that nature has accorded indifferently to truth and falsehood'; 'they ... end at last by making no apparent distinction between truth and error .... [T]he Church ... is forced utterly to reprobate and condemn tolerance of such an abandoned and criminal character'; Leo XIII p.72, 78.

*4. Investigation over a period of time may lead me to conclude (perhaps mistakenly) that what earlier looked like genuine expertise was not - or that opinions which earlier seemed true were actually false. But it is only in retrospect that the distinction can be drawn: at a given moment I cannot distinguish between what is and what only seems.

5. The reciprocity argument is a 'deliberative' argument (see Appendix, p.176). It consists in an assemblage of considerations in favour of a certain conclusion, which is
not, however, entailed by them. Since the exact statement of these considerations depends on the particular circumstances (e.g. it depends on how many other sects there are, on their relative strength, on their moral code, etc.), there is not a single reciprocity argument; there is a genus of arguments, of which the version of the argument relevant to the particular circumstances prevailing is a species. In this chapter I keep to the generic level.

*6. I do not distinguish obligations and duties; see Chapter 1, note 69.

*7. This may not be what everyone means by contract. Lawyers use the word differently. I will use the word in accordance with my own definition.

*8. It seems to me that a promise relates to the future: I promise when the act promised is not to be performed immediately.

*9. If one party is genuinely unable to perform, it seems to me he should not automatically lose the benefits of the contract, since it may have constrained his action in various ways even if he does not succeed in performing what he promised. But his failure may give the other party a right to be compensated, or to be released, or to substitute some other performance for the one he promised. At any rate, the existence of the contract depends on an exchange of promises, not on performance.
10. Usually when one deliberates about a presumptive duty, it is to decide whether it is to be carried out on a particular occasion; but in this case it is to decide whether to promise not to carry it out on any occasion in future. The obligation created by the promise is supposed to be 'conclusive against' the presumptive duty (see above p.47); since the promise is relevant whenever the reason of presumptive duty is, the latter is never to be taken into account again - in effect, it ceases to be even a presumptive duty.

11. See Chapter 1 note 4 on les dévots.

12. Compare the passage from J. Taylor quoted Chapter 2 note 227. Taylor seems to assume some principle like this: If A knowingly does what occasions an unjust act on B's part, then A shares the guilt for this injustice. He also seems to assume that, while heretics deserve punishment (at least, at God's hand), to punish the orthodox for their belief is to punish the innocent, i.e. it is an unjust act. Therefore the orthodox do wrong if, by persecuting heretics, they occasion persecution of the orthodox.

13. The achievement of Toleration seems to have been delayed by Protestant suspicions that Catholics could not be trusted to keep promises. John Hus was burnt at the Council of Constance despite the emperor's promise to him of safe-conduct; theologians at the Council argued that Hus had forfeited such safe-conducts and privileges by
attacking the orthodox faith, and that no promise is to be observed to the prejudice of the Catholic faith; see M. Creighton History of the Papacy Vol. 2 p. 31-3. Protestants accused Catholics of holding that faith is not to be kept with heretics; see Lecler Vol. 1 p. 290-1, 302; Vol. 2 p. 237, 242. This tenet, or the related one that a promise prejudicial to God's cause is not to be kept, was also held by some Protestants; see Lecler Vol. 2 p. 241; Woodhouse p. 10-12, 24-34; Acton p. 119 n 83.

14. 'As the ends of such a partnership [viz. that which constitutes a State] cannot be obtained in many generations, it becomes a partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born'; Burke p. 106.

15. See Locke, Two Treatises p. 390 (Sec. 116, 15-20); Bentham Anarchical Fallacies p. 494A, 501C, etc; Paine, p. 63-4; Jefferson p. 488-493.

16. '[L]et us provide in our Constitution for its revision at stated periods .... Each generation is as independent of the one preceding, as that was of all which had gone before. It has then, like them, a right to choose for itself the form of government it believes most promotive of its own happiness; ... and it is for the peace and good of mankind, that a solemn opportunity of doing this every nineteen or twenty years, should be provided by the Constitution'; Jefferson p. 675.

17. On vested rights see Lewis in Barry p. 102. 'Prescription' is a similar notion. A general presumption against change
may perpetuate imperfections, but this may be preferable to the increase in conflict and insecurity which would occur if everyone felt entitled to try to institute the perfect arrangement, without respect for tradition; see Hume *Treatise* p.254-5.

18. According to Rule 20 (above, p.143), in deciding whether to take precautions against an individual, little weight is to be given to presumptions from his membership of a sect. But this does not rule out precautions against an individual when there is good evidence that he holds some of the dangerous tenets of his sect, and may act on them.

19. However precautions might cause serious inconvenience: for example, missionaries of a dangerous sect might in an extreme case be compelled to return to their own country. This would not be persecution, but merely a precaution, if it was not done with punitive intent.

20. It might be argued that we should adopt the rule, because the effect of our doing so on the behaviour of others will be beneficial, even though they will not themselves adopt the rule. In some circumstances this would be a good argument. It is not a 'reciprocity' argument, since the adoption of the rule is not reciprocated; it is one of the wider class of arguments to which the reciprocity argument also belongs, viz. arguments for the adoption of a rule from the good consequences of doing so.

21. See J.S. Mill *Utilitarianism* p.25, 26; *Bentham* p.97C. We
need not adopt Mill's account of what conscience is. For the role it has in my argument, it does not matter what the nature of the sanction of conscience is, provided: a) it is a real cause influencing behaviour, and not simply an hypostasization of the fact that the person's behaviour usually does not conflict with the rule; b) it has other observable manifestations, difficult to counterfeit, easy to recognise, besides action in conformity with the rule; and c) it is not (or not much) affected by the person's calculations of the advantages of violating the rule, or by the presence or absence of observers. It need not be such a powerful cause as to be capable of determining behaviour in all circumstances. A sees in B the signs (whatever they are) of conscientious commitment to rule R, and infers the existence of a cause strong enough in at least some types of cases to induce B to obey R even in secret, even in the face of temptation; thus A has security (in some measure) for B's conforming to the rule.

*22. One way to develop an independent sense of conscientious commitment to the rule is to promise to obey it, and then to live in accordance with the promise; eventually the dependence of the rule on the promise may drop out of sight, especially if the good consequences of the rule are obvious. So Hume thought that civil allegiance probably began by being based on promise, but later became an independent obligation; see Treatise p. 242D.

*23. Note that, even if there is no promise, the adoption of
the rule must be publicised if the consequences are to follow for the sake of which the rule is adopted. The argument is not merely that the rule should be adopted, but that it should be made known to others that it has been adopted, in the hope that they will reciprocate. 'When this common sense of interest [in the rules of justice] is mutually expressed, and is known to both, it produces a suitable resolution and behaviour. And this may properly enough be called a convention or agreement betwixt us, though without the interposition of a promise'; Hume Treatise p.195, my italics.

*24. An Act-Consequentialist would survey as best he could the situations in which the rule applies, to decide whether in all such cases it would be best to obey the rule. Almost certainly he would decide that in some cases this would not be best. Nevertheless he might decide to adopt the rule, since the consequences of the (publicised) adoption of the rule might be good enough to overbalance the loss in some cases resulting from obedience to the rule. Of course, the results would be better still if he adopted the rule and then violated it in cases where this would produce good results; but it may not be psychologically possible for him to do this - if it is, and if other people know it is, then his adoption of the rule will not have the hoped-for results. He might pretend that it is not psychologically possible; but if others believe that he finds it possible to counterfeit the signs of conscientious
commitment to a rule, again the adoption of the rule will not have the hoped-for effect. If other people are not easy to deceive in these matters, the only way of achieving the good consequences of being believed to have adopted the rule may be genuinely to adopt it. From an Act-Consequentialist point of view, then, it may be beneficial that there should exist a causal factor of the sort described above in note 21, which I call 'conscience'; oneself to just as it may be beneficial to subject/agencies of external coercion able to compel people to act reliably in certain ways.

A consequentialist whose conscience sanctions certain rules is, presumably, a Rule-Consequentialist. This kind of Rule-Consequentialism does not 'collapse into' Act-Consequentialism - at least, not in the sense that the acts done in obedience to the rule can be shown to have better consequences in each case than any alternative act; yet it is established by an Act-Consequentialist (or, simply, Consequentialist) line of argument - the consequences (allowing for losses from some acts done in obedience to the rule) of the act or acts of publicly adopting the rule are better than the consequences of not doing so. What tips the scale in favour of adopting the rule is the effect of being believed to have adopted it on the actions of other people - they do (omit) acts with good (bad) consequences which they otherwise would not have done (omitted). (This is not to be confused with the common Act-Utilitarian treatment of the effects of actions on
confidence: the argument is not that we should do the acts the rule requires - when others are watching - because of the effect this will have on confidence; but that, because of the effect on confidence of adopting the rule, we should adopt the rule; this will result in our doing acts the rule requires even when those acts are not watched and do not themselves affect confidence. The effects on confidence of adopting the rule are not all mediated by acts done in obedience to the rule (since conscientious commitment has other manifestations besides acts done in obedience to the rule - see note 21 above); and some of the acts done in obedience to the rule do not affect confidence.) See J.S. Mill Utilitarianism p.33D, 38AB; Logic p.621CD; Later Letters Vol.2 p.762-3.


26. The desirability of reducing sectarian conflict is the only philosophical argument I can find in U.S. Supreme Court opinions against allowing government to seek secular ends by aiding religious activities (for an example, see Konvitz First Amendment p.25).

27. Locke was pleased by his own first Letter 'because it is equal to all mankind ... and will, I think, hold every-where; which I take to be a good mark of truth .... What is true and good in England, will be true and good at Rome too, in China, or in Geneva'; Locke Second Letter p.95.
28. In fact Catholics were eventually severely persecuted in Japan, because the government came to realise that if they became numerous and strong they might persecute; see New Catholic Encyclopaedia art. Japan, and Bayle's Dictionnaire art. Japon, note E; compare Bayle Commentaire Part 1 Chapter 5 (p.376f).

29. Bayle's version of the argument is addressed, as it were, to God, who has foreknowledge of everything: if Jesus was divine, he must have foreseen the mutual slaughter resulting from his alleged command to 'compel them to enter'; see above, p.149. The rules of Toleration in Bayle's version are not adopted by men after experience has shown their value; they are willed as moral rules by God from all eternity, because they will be needed in various phases of history which God foresees.

30. Footnote deleted.


32. 'They do not know, of course, what their religious or moral convictions are, or what is the particular content of their moral or religious obligations as they interpret them .... Further, the parties do not know how their religious or moral view fares in their society, whether, for example, it is in the majority or the minority'; Rawls p.206.
33. 'Indeed, they do not know that they think of themselves as having such obligations. The possibility that they do suffice for the argument, although I shall make the stronger assumption.' '[T]he parties must assume that they may have moral, religious, or philosophical interests which they cannot put in jeopardy unless there is no alternative. One might say that they regard themselves as having moral or religious obligations which they must keep themselves free to honour.' 'They cannot take chances with their liberty by permitting the dominant religious or moral doctrine to persecute .... [T]o gamble in this way would show that one did not take one's religious or moral convictions seriously ....' 'Moreover, the initial agreement on the principle of equal liberty is final. An individual recognising religious and moral obligations regards them as binding absolutely in the sense that he cannot qualify his fulfillment of them for the sake of greater means of promoting his other interests '; Rawls p.206, 207.

34. Rawls p.152f.

35. Rawls p.207.

36. Rawls p.213. By restricting reasoning in favour of limiting Liberty of Conscience to 'generally recognised ways of reasoning' Rawls seems to intend something like what I get by the more elaborate restrictions attached to some of the rules (e.g. above, p.76f).
37. Rawls p.212. Rawls says that 'This limitation itself is readily derivable from the contract point of view'. He means, I think, that it can readily be shown that contractors would agree that there should be a State empowered to interfere with their conscientious actions when they threaten order and security. But what the rest of the paragraph seems intended to show is that they would not agree to give the State any more extensive power of interference. But how can it be shown that contractors who believe they may have absolute obligations which they must keep themselves free to honour should agree to acquiesce in even the least interference?

38. 'It may be said against the principle of equal liberty that religious sects, say, cannot acknowledge any principle at all for limiting their claims on one another....the duty to religious and divine law being absolute .... Certainly men have often acted as if they held this doctrine. It is unnecessary, however, to argue against it. It suffices that if any principle can be agreed to, it must be that of equal liberty'; Rawls p.208.


40. It might not be a decisive objection. If Rawls's scheme was otherwise successful in articulating the person's sense of justice, he might revise his belief that persecution is not unjust. This is what Rawls means by 'going back and forth' between the model and one's intuitive judgments. See my own remarks, above p.46.
(I reject the charge of subjectivism made in Hare's angry and unreasonably contemptuous review of Rawls's book; see Hare Rawls p.145-7. The theory of justice is checked against our moral intuitions, i.e. against what we believe to be correct judgments of particular cases; 'our' refers to those who are co-operating in working out the theory. The point of this checking is not to construct an anthropological account of what a certain group of people believe about particular cases, but to construct a theory which the constructors believe to be true. Its truth is not guaranteed by consistency with what they believe in particular cases; but the only way of testing the truth of beliefs is to check them against other beliefs. Note that the checking goes both ways, particular judgments sometimes being rectified by the theory; Hare seems to miss this point - ibid. p.146 line 1, 147 line 10.).

41. For 'golden rule' arguments the difference between actual and hypothetical cases is irrelevant. (Hare Freedom p.93, 108-9). Even if a persecuting sect never will be persecuted, the argument still applies with undiminished force. They should be asked whether they now acknowledge that it would be right that they should be persecuted if they were in the position of those they persecute; if they answer No, then - by virtue of the meaning of the moral language - they cannot without self-contradiction deny that the persecution they now inflict is wrong. But, as Hare sees, there is no argument that can compel them to
say No. An intolerant person might say, sincerely, 'If I ever am one of those, then let me be persecuted' (as the Calvinist says - and it is the high-point of Calvinist piety to say so sincerely - 'If I am not one of the elect, then, for God's glory's sake, let me burn eternally in Hell').

Hare distinguishes 'utilitarian' and 'non-utilitarian' ideals; the former are concerned to harmonise people's interests (thus Justice might be a utilitarian ideal), the latter pay no regard to people's interests (fiat iustitia, ruat caelum). He points out that when non-utilitarian ideals are introduced into moral argument, they render ineffective the appeal to universalised self-interest which is the foundation of the golden-rule argument; see ibid p.104-5. In fact, to render it ineffective it is not necessary that the ideal have no use in furthering people's interests; it is enough that it not be completely explicable as a means of harmonising interests. There are many ideals which have some concern with human interests, but are - or may be - valued at least partly without reference to such interests: Justice, Truth, God's Glory, the Kingdom of God on Earth, the Just Society, the Moral Society, etc.

Hare begins the chapter on 'Toleration and Fanaticism' by remarking that it would be a scandal if no argument could show a person who holds a non-utilitarian ideal that he ought not subordinate to it other people's interests, including their interest in pursuing their own ideals.
He calls such people 'fanatics', and their ideals 'perverted' (p.114); he pictures them trampling ruthlessly on other people; his standard example of a fanatic is the Nazi; he claims that the real fanatics would have no power if it were not for the support they get from thoughtless, unimaginative, confused people. All this expresses his disapproval, but it does nothing to show that it is wrong to hold a non-utilitarian ideal. In fact Hare admits that he knows of no argument that will show this (p.184).

Hare believes that genuine fanatics are rare. The last part of his chapter on Toleration describes how the liberal can reveal to most of those who provide the numbers in fanatical sects that they are not themselves genuine fanatics. The example of the Nazi makes it seem that a real fanatic will inflict great suffering; in fact, many fanatical acts contrary to the rules of Toleration will not cause great suffering. I doubt whether Hare's persuasive methods will convince many traditional Christians, social conservatives, radicals — all 'fanatics' in Hare's terms — that they do not really hold the ideals which lead them to reject the rules of Toleration. But even if they could, the scandal remains that there seems to be no argument that will make it reasonable for a person who does not need the protection of the principles of Toleration to adopt them, if he holds ideals which require intolerant acts.
The Feeling of Belief

Beginning students of geometry have probably not previously had occasion to wonder whether halves of equals are equals. But when the proposition is put to them they accept it as true, not because of any argument, but because when they consider it it strikes them as true. Non-axiomatic propositions can strike one as true too. The feeling of belief is the feeling that a person has when he considers a proposition and it strikes him as true, apart from any argument. I believe everyone has experienced it; I cannot define or describe it.⁷

In the case of moral propositions stating duties the feeling of belief is, or perhaps is accompanied by, a feeling of obligation. Whether 'I ought to do x' strikes me as true depends on whether on consideration I feel I ought to do x. I doubt whether a person could be struck by the truth of such a proposition without feeling some sense of obligation, even if he then ignores it and omits the duty.

A proposition affirmed in a perceptual judgment ('This table before me now is blue') is an object of the feeling of belief when the judgment is being made; afterwards the corresponding judgment of memory may be too. Propositions in explanatory theories, generalisations, statements of logic and mathematics, may also excite the feeling of belief. Some of these may originally have been arrived at by inference from evidence, but the inference and the evidence may have been
forgotten. Conceivably some of them might be instinctive beliefs. Sometimes testimony elicits belief; it may not be that the testimony is believed for the reason that experience has shown that such testimony is usually true, it may simply strike one as the truth; or the proposition that such testimony is usually true might strike one as true, although one cannot refer to any experience to support it.  

Argument may produce a feeling of belief towards its conclusion. It is possible that the feeling may also be caused by mystical intuition, inspirations of the Holy Spirit.... My epistemology does not rest on any theory about the origins of the feeling of belief. What I assert is that, however belief originates, a proposition may without irrationality be asserted for the time being while it excites a feeling of belief, or seems to follow necessarily from other propositions which do. 

I accept the thesis which many philosophers have asserted, that the feeling of belief is not directly voluntary (see above, chapter 2 note 16). The way evidence is dealt with is probably not the only way of influencing it indirectly; to act as if a proposition is true, to pray for faith, and perhaps other methods, are available to one who wishes to strengthen or weaken some feeling of belief or obligation. 

It would seem that a person cannot 'suspend judgment' just be deciding to do so. But there may be rituals (including perhaps thinking of reasons why suspension
of judgment would be a good thing) for inducing in oneself a judicial frame of mind in which feelings of belief are wholly or partly repressed.

Similarly it would seem that a person cannot adopt a set of moral principles at will, since a feeling of obligation to at least some members of the set would seem essential to adopting them, and this feeling cannot be had just by deciding to have it. But by living as if one subscribed to these principles it might be possible to produce eventually a sense of obligation to them.

Whether a person ought to practise these techniques in respect of a given proposition depends upon what we decide are a person's duties in the matter of belief and inquiry. Suppose a person prays for faith, and thereby produces a feeling of belief towards some proposition, which he then classes as true. He may have made a mistake, but he is not in any case guilty of irrationality; and his behaviour may be quite unobjectionable in every respect, if it is true that he ought to have faith in this proposition. Whether this is true is the question on which the evaluation of his conduct depends. See above, Chapter 2 note 32.

**Argument**

A person may believe a proposition because it excites in him a feeling of belief, or because it follows necessarily from propositions which do excite that feeling. If the premisses of a valid deductive argument are all
believed, then the conclusion must be too, whether or not the argument causes a feeling of belief to attach to the conclusion. Such an argument is 'cogent' or 'compelling'.

Only deductive argument can compel belief in a proposition that does not excite any feeling of belief. Other kinds of arguments may cause their conclusion to feel true, and then it is classed as true not because of the cogency of the argument but because it now strikes one as true. Even when non-deductive argument does not produce belief, it may be appropriate to act as if one believes the conclusion, if one believes that non-deductive arguments give practically reliable results.

The non-deductive kinds of argument seem to include induction, *3 'abduction' (to use Peirce's term), *4 and what I will call deliberative argument. The last category is easily overlooked. Suppose one argues: 'I ought to work toward end X; to do Y (or to adopt rule R) is a possible way (a good way, the best way) to further X; therefore I ought to do Y (or adopt R)'. This is not an inductive or abductive argument, so it is apt to be classed as deductive. But if it is deductive it is invalid, and an invalid deductive argument is valueless, it provides no support for its conclusion at all. It might be tightened up: 'I ought to do such-and-such a determinate amount to further X; if and only if I do Y (adopt R) will I have done this amount; therefore I ought to do Y (adopt R)'. This would be valid, but it would be quite a different argument, with premisses not so likely to be believed. It seems to me
necessary to recognise that the first version of the argument is supposed to be completed by deliberation; it puts forward an inconclusive consideration in favour of doing Y (adopting R), which ought to be weighed deliberatively against other considerations, and then the conclusion may begin to strike one as true - or it may not. A number of the arguments for Toleration presented in Chapter 2 were of this kind, e.g. the argument that to adopt certain of the rules of Toleration will further the cause of truth. This kind of argument is not compelling, but it is by no means valueless. It works, when it does work, by influencing the course of deliberation so that some proposition comes to seem true.

The Feeling of Belief and Science

The individualism of my theory (see above page 167), and the talk of 'feelings of belief', will probably seem suspect to philosophers who value the objectivity and co-operative character of science. In this and the next sub-section I will try to fend off objections they might make.

According to Popper epistemology should take no notice of feelings of belief. The basic propositions by which theories are tested are not justified by the fact that anyone believes them; they are accepted by convention among the investigators. Science consists of propositions existing not in the world of physical objects, but not merely in the minds of those who believe them either, they have an objective existence whether anyone believes them or not - in a
'third world'. Investigators work together in constructing and reconstructing artifacts in this third world. Whether the individual investigator has a feeling of belief towards the propositions of science is as irrelevant as the attitude of masons building a cathedral to the building stones. Some of the details of Popper's theory— the 'third world', for example—are controversial, but I think many philosophers would sympathise with his attempt to make scientific work independent of the scientists' feelings of belief.

I would accept the suggestion that scientists work together on an artifact which exists (somehow) and has its value whatever the individual scientist's personal beliefs. Opponents of a theory may suggest improvements to it; a fundamentalist Christian might make a contribution to evolutionary theory. But I would not agree if it is suggested that such work on the artifact is the whole of science, that scientists are not engaged in science when they discuss whether they should believe this or that proposition included in the artifact. As I, and I think others, use the terms, science includes both the non-committal exploration of possible theories, and discussion of which of them if any is to be regarded as true; in the latter phase of scientific work the feeling of belief has a role. What this role is can be seen by considering the uses of the artifact. Its two main acknowledged uses are: as a means of knowledge, and as a source of practical guidance.
To be knowledge a proposition must (at least) be believed, classed as true. Hence the artifact is not a means of knowledge unless it contains or implies some propositions which some people believe. The 'feeling of belief' criterion for admitting belief is not the only possible one, but it seems to me that it must be the fundamental one. The only ways I can think of that might lead a person to adopt another criterion are these: it may strike him intuitively as true that he ought to adopt it; or this may be deducible from premisses which strike him as true; or it may be accepted because following it gives results which seem right intuitively - it admits and excludes what on careful consideration it seems right to admit and exclude. Obviously, to adopt a criterion on such grounds leaves the feeling of belief as the basic criterion; the other criterion will not survive if it turns out to give results too much at variance with intuition. This is not to say that adoption of another criterion must be pointless. It may be that in some circumstances the feeling of belief might be difficult to discern or unreliable (i.e. apt to approve propositions which will in more ordinary circumstances not seem true), and then it might be better in such circumstances to use some other criterion. To try to formulate other criteria is a way of articulating, reflecting on, and perhaps refining, the workings of intuition. In science, which is a co-operative activity, if some individuals differ in their intuitions, co-operation may be possible only if some of them decide to
disregard their intuitions. The feeling of belief may, therefore, not be the working criterion for deciding what to include in the scientific artifact; nor, in some circumstances, for deciding in one's own thinking what to regard as true. But science is a means of knowledge only if someone, in his own thinking, classifies some of its propositions as true, and directly or indirectly this classification is guided by the feeling of belief.

A science might provide practical guidance even though no-one believed any of its propositions. If it is believed that practical decisions should take account not only of what one believes is (or will be) fact, but also of possibilities, then it may be practically useful to work out theories, or sets of alternative theories, which are not classed as truths, but merely as possibilities. It may also be believed that one ought in some cases to act as if certain propositions not classed as true are true. But notice that propositions not believed are relevant to practice only because of other propositions (not necessarily part of the science) which are believed - the propositions that one ought to act as if a certain proposition were true, or that in deciding one ought to take account in some way of mere possibilities.

It would seem then that even though the feeling of belief need not be consulted in work on the artifact, the work would not contribute either to knowledge or to practice unless at some stage (not necessarily within the science) someone
believes some propositions because they strike him as true. In some department of epistemology, therefore, though not necessarily in the philosophy of science, it is appropriate to take notice of the feeling of belief.

**Individualism and Intersubjectivity**

R.M. Chisholm admits as 'adequately evident' a restricted list of kinds of propositions, including what one thinks one perceives through the senses, and what one thinks one remembers perceiving. This is less restricted than the older empiricist list, because Chisholm assumes that he already knows what sort of thing is evident, and wants his rules to admit all and only propositions that he already knows to be evident, some of which the older empiricism would exclude. What if the mystic demands that the rules be amended to admit his intuitions, which he knows to be evident? Chisholm seems to admit the *prima facie* reasonableness of the demand, but rejects it, though (as I read him) not claiming to have strong reasons for doing so.\(^9\) I suspect that the rules are imposed on the mystic on the assumption that the majority of plain men cannot be wrong. But they can. In my system the mystic is allowed to stick to his guns, though he ought to take disagreement with the plain man as a reason for suspecting that he may be mistaken; the plain man should also suspect that the mystic may be right. There is disagreement, and both sides cannot be right; but there is no reason why one side must defer to the opinion of the other.
It is commonly said that in science an observation does not count as evidence unless it is public, intersubjective, repeatable by anyone who takes the trouble to perform certain operations performable by anyone; hence the mystic's intuitions cannot count as evidence. \(^{10}\) If this is a rule governing work on the scientists' artifact I have no objection to it. This work is a co-operative activity; to try to insist on building in materials that other workers cannot handle would destroy co-operation. In a community where most people were born blind, sighted scientists would have to leave aside their visual observations - unless they worked together on an artifact of their own, which might be regarded as mystical and unintelligible by the rest of the community. But in deciding what to class as true a person cannot be obliged to disregard what seems to him to be true simply because it does not seem so to others. It does not seem true to me that no-one can have any reliable source of evidence not commonly possessed by other members of the community. If there is disagreement everybody cannot be right, but no-one's opinions can be disregarded simply because he is in a minority. Each ought to hold what seems true, realising that disagreement is a reason for suspecting that he may be mistaken. \(^{11}\) The disagreement should be resolved (if possible) by investigation, and not by disallowing someone's opinions a priori as a violation of the rules of epistemology.
Suspecting Falsity

In my scheme a person is allowed to assert and act on all the propositions that strike him as true, and all the propositions which these entail. This may sound reckless, but I also say that one ought to try to make an estimate of the chance that what strikes one as true might actually be false, and that one ought to act cautiously if the chance seems high. In the next three sub-sections I will elaborate these points.

There seem to be five kinds of reasons for suspecting that one of one's beliefs might actually be false.

(a) Conflict. There may be conflict among one's beliefs; i.e. it may be possible to derive objections to one belief from others. (Objections using premisses which one does not believe have no force, except perhaps as expressions of disagreement by another person - see (b) below.)

If the objection is a valid deductive argument from believed premisses to the contradictory of the belief objected to, one or more of the person's beliefs must be false, but the argument does not show which. He may find on consideration that one of the beliefs no longer strikes him as true (or that the premisses from which one of these beliefs, not itself exciting the feeling of belief, was derived no longer all strike him as true), and then the conflict is resolved.

If - assuming that it is possible - all the beliefs involved in the conflict still seem true, and if the arguments used to derive the contradiction still seem valid, then according to point (a) of the definition of rationality
(above p.162) he must continue to class the conflicting propositions and all their implications as true; but then he must class as true every proposition whatever, including the contradictories of every one of his beliefs, and it will be impossible for any action he performs to be inconsistent with his beliefs. To avoid these consequences let us say that a set of beliefs which entail a contradiction*12 are 'degenerate' beliefs, and that in the present chapter 'belief' means 'non-degenerate belief'. Let us say also that there is no irrationality in having the feeling of belief towards degenerate beliefs, or in saying 'they seem true, though they can't be'. However, they are not beliefs in the relevant sense, and they are not to be classed as true.

But often conflict is milder than this. The objection may take the form of an inductive argument, or of considerations to be weighted deliberatively. In such cases there is no formal inconsistency among his beliefs, and they can all continue to be classed as true. But conflict, even mild conflict, is one ground for suspecting falsity.

(b) **Disagreement.** Another reason is the expression of doubt or disbelief by another person. If he gives reasons, and they use premisses which one believes, then there is also conflict among one's beliefs. But even if he gives no reason, mere disagreement is a ground for suspicion. Where there are reasons for thinking that he is especially likely to know about such matters (or to be ignorant), the suspicion is greater (or less). But even if I know nothing about him, the
mere fact that he disagrees should diminish my confidence at least a little.

(c) Lack of Testing. Even when there are no known conflicts or disagreements, if little or no search for conflict or disagreement has been made, confidence should be less than it would have been if an extended search had been made. How much less depends on how likely it seems that conflict and disagreement would be obvious without special search.

(d) Experience of Fallibility. If a thorough search has been made and revealed no conflict or disagreement, there may still be reason for suspicion. I should acknowledge some degree of likelihood of falsity if in the past propositions of the same kind that had seemed free from objection after a similar search have turned out eventually to be false, or if other people apparently no more fallible than myself have sometimes disagreed with one another over propositions of this type. (To decide which propositions and searches are relevantly similar, and which people are as likely to be fallible as myself, requires experience and reflection).

'Fallibilism', to which I subscribe, is the thesis that absolutely every proposition is to some extent - sometimes slight - subject to suspicion on this ground. Most people will agree that they have found themselves to be mistaken, or can imagine cases in which they would make a mistake, or have seen good judges disagree, with respect to propositions of every distinguishable type, including purported perceptions and assertions of logical truth. *13
(e) The Possibility of Scepticism. Finally, sceptics suggest that human beings may make mistakes that they can never detect or correct (see above, p.168-9). This suggestion can neither be proved nor disproved. Attempts are sometimes made to show that scepticism is generated by demands for justification which are improper or even senseless: we do not know what the person who makes the demand is after, and have no criteria of what would count as a successful justification; or it is claimed that the suggestion that the belief the sceptic questions might be unjustified or irrational is nonsense because being rational means, in part, accepting or acting on that belief. Notwithstanding such arguments, it seems to me perfectly intelligible to suggest that various things which seem true might be false although their falsehood could never be detected. The fact that I cannot imagine how such suggestions might be verified or disproved does not make them unintelligible. The mere unsubstantiated possibility that the sceptic's hypothesis might be the truth is a reason for suspecting that any of one's beliefs may be false. Since this reason for suspicion applies to every belief equally, it can make no difference to how one acts; but this does not imply that it is meaningless or false.

**Belief and Action**

I distinguish 'acting on p', 'acting as if p were true', and 'acting consistently with p'. A person 'acts on' p if he classes it as true, regards it as relevant to a
particular practical decision, and decides to do, and does, something which he would not have decided to do if he had not regarded \( p \) as true and relevant. He cannot be said to act on \( p \) unless he believes it.\(^\text{15}\)

If he does not believe \( p \), he may nevertheless act as if \( p \) were true - i.e. act as he would if he believed it and acted on it. If he has reasons for doing this (he may do it without realising he does, and may have no reasons), he will be 'acting on' some set of propositions according to which it is well to act as if \( p \) were true.

A person can fail to act 'consistently with' \( p \) only if \( p \) asserts an actual duty, or in conjunction with other propositions he regards as true implies a proposition asserting such an obligation. Suppose \( p \) is: 'To do \( X \) (in this situation) is the best means of furthering end \( Y \)'. Even if \( Y \) is one of his goals, even if it is something he believes should be furthered, not doing \( X \) would not be inconsistent with \( p \) unless he also believes that he ought in every situation (or in this situation) do what is best as a means towards \( Y \). Most people believe they have various particular obligations - not to lie, not to steal, etc. - but not that they have an obligation to do all they can to further their goals; they act consistently with their beliefs (and rationally) provided they meet their particular obligations, no matter what else they do or fail to do.

It should be noticed that to be 'rational', in my jargon, it is not necessary to do always what is 'reasonable'
(Cf. Chapter 1 note 73). I say that an act is a 'reasonable' thing to do when there are reasons for doing it, and I do not wish to say how stringent the reasons are. But the act is 'rational' as long as it is not done in the face of reasons stringent enough to create an actual duty. Some acts will be rational, without there being any reason for doing them. (Perhaps we could count wanting to do something as a reason for doing it; and similarly we could count 'doing as one pleases', 'not taking too much trouble' and the like as goals; and then we could say that one should have a reason for everything one does, and that one should act so as to maximise achievement of one's goals; but these assertions would have become vacuous.)

Caution in Action

I suggested above (p.164) that caution in action might involve: following a more conservative decision rule, postponing action while one investigates, or keeping open possibilities of doing later what one would want to do if one's beliefs turn out to have been mistaken.

The decision rule most familiar in philosophy (e.g. in discussions of utilitarianism) is that one should make the decision whose expected value (the average of the values of the possible outcomes each multiplied by the probability of its occurrence) is highest. But it may happen that one has no beliefs about the probability of the different outcomes, or one's estimate of the likelihood of falsity in the various
probability statements and other propositions involved may be high. Further, it might be the case that one of the possible outcomes, though its probability is small, might be a disaster; to multiply its value by its probability might not seem to give enough weight to the importance of avoiding it. Accordingly other decision rules have been suggested. Of these the 'maximin' rule - choose the course of action whose worst possible outcome is least undesirable - is the most cautious: top priority is given to the avoidance of disaster. Other less cautious rules have also been suggested. It seems to me that the less confidence a person has in the beliefs he must use to make a certain decision, the more reasonable it is to use a conservative decision rule; the less prudent it is to risk disaster for the sake of gains which may be much less likely or valuable than they seem.

Another possibility is to postpone the decision until the relevant beliefs have been checked. Circumstances may change while this is done: information may become obsolete, and beliefs about the new situation may be unreliable, the course of action contemplated might have to be modified because circumstances have changed, and the modified plan may be more costly. These possibilities are all relevant to deciding whether it would be wise to postpone decision.

The third possibility is to act to open up or keep open a line of retreat in case the decision turns out to have been mistaken; i.e. to provide for collecting information after the course of action has been embarked upon so that a
disastrous outcome will be discovered before it occurs, and to make sure that remedial action will be possible at reasonable cost. If such a line of retreat already exists, one may incur an opportunity cost in keeping it open. If the beliefs on which a decision is made are suspected of being actually false, the greater the suspicion the more it is sensible to pay to provide a line of retreat. On the other hand, the less it costs to provide a line of retreat, the less reason there is to postpone decision or to employ a cautious decision rule.

A person who does not accept any obligation to maximise the achievement of his purposes might, without irrationality, sometimes fail to do what on the above account is most 'reasonable': the 'reason' is constituted by the fact that following a certain rule will give best results, and he may without irrationality fail to act on that reason, except when he acknowledges some special obligation to act as effectively as possible.

Onus of Proof, Suspension of Judgment

I have no objection to the way these notions are used in the law. They may also have a use in other subjects - for example, in moral philosophy - where legal models are appropriate. But it is necessary to be cautious in taking them over in other fields, since the reasons for following certain rules in trials at law might not apply in other reasonings. I do not believe that the notions of onus of proof and suspension of judgment have any important role to play in
epistemology.

Outside the law, talk of onus of proof and discharging the onus of proof should usually be translated, it seems to me, into talk about suspicion of falsity and duty to inquire. If a belief may be false and if it is one's duty now to check it, it might be said that one bears an onus of proof; if the suspicion of falsity is removed, or it is for other reasons right to discontinue the inquiry, the onus of proof is discharged - for the time being. This use of the 'onus' language is perhaps a bit unnatural. It might be better to drop it altogether.

In a trial at law, the onus rests on one side or the other but not on both; and the two sides are represented by different lawyers who do not help one another. In other reasonings, however, the duty of inquiry might lie on both the asserter and the doubter. Just as B's doubt or denial is a reason for A to suspect his belief may be false, so A's believing is a reason for B to suspect that the belief might be true; the question whether it is true or false might be one they both have the duty to investigate now. And there is no reason why B should confine his investigative efforts to criticising A's arguments. Both investigators should co-operate in assembling arguments on both sides of the question. It may be that A has a duty to investigate when B does not, but B chooses to do so anyway; then of course what B does is a matter of free choice. But still his efforts will be of more use if he works on both sides of the question. The 'What do
you mean? Can you prove it? Convince me if you can!'

attitude prevents the full realisation of the potential advantages of co-operation in the search for truth. The adversary system may be appropriate in the law courts, but not in philosophy.

Suspense of judgment is only partly and indirectly achievable, if it means repression of feelings of belief. In the law it means that the judge and jury continue to listen attentively and with readiness to be influenced to the end of the evidence and argument, even if it seems obvious at an earlier point what the decision ought to be. 'Readiness to be influenced' is not incompatible with having an opinion. Neither does it require indifference to the outcome - *17 which is just as well, since indifference cannot be produced at will. A person's hope that some belief will be confirmed by investigation may lead to self-deception, or it may not - it may make him especially anxious to find out whether it really is true. To remind oneself of the dangers of self-deception, and of the possibility that one's present opinions may be wrong, seems to help to produce a disposition of readiness to be influenced by argument. Possibly it may temporarily weaken the feelings of belief in opinions already held, which may be advantageous, but is not essential, to the conduct of inquiry.

The Justification of this Theory of Justification

The alternative is the theory that no proposition can rationally be classed as true without good reasons that measure
up to some general and impersonal standard of sufficiency (see Vol.1, p.179). A person who adopts this alternative intends to build carefully only on secure foundations, in the hope that once a proposition is accepted as true it will never conflict with other truths and never have to be rejected again as false. Since the body of justified assertions grows slowly and remains small - unless the foundations are broadened at the expense of security - a gap opens between theory and practice; in everyday life the cautious theoretician acts on many propositions which are not part of his justified system, and the proposition asserting that this is all right is not part of the system either. 'Common sense' is not rejected altogether, it is not regarded as genuine knowledge (a word given a narrow sense by exponents of such theories), but it is still in some fashion believed and acted on.

The choice between such a theory and the one I advocate can be seen perhaps as a choice between a cautious 'maximin' policy for the pursuit of knowledge, and a more optimistic 'Bayesian' one. The cautious policy gives first priority to avoiding the formal assertion as true of any proposition which is actually false. One who follows the more optimistic policy assigns 'subjective probabilities' - more exactly, assigns truth values, at the prompting of his feelings of belief, to various propositions, including probability statements and estimates of the likelihood that
other propositions are actually false - and then goes on with action and inquiry, hoping that mistakes will be corrected eventually. The advantage sought by the less cautious policy is not merely to have the pleasure of asserting the truth of a larger number of propositions, but to get groups devoted to thinking to concern themselves with a wide range of questions important to everyday life. The cautious theory leads either to complacency about the fundamental truths (if they are supposed to be self-evident to every person of normal intelligence and goodwill), or to preoccupation with securing the foundations (e.g. against the arguments of sceptics), and with the connexion of a relatively small range of propositions with the foundations. In either case many other questions are neglected. Those questions could be discussed hypothetically, but in fact people prefer to concentrate on questions they think they can answer categorically.

The more cautious policy would be reasonable if the assertion of a false proposition were a major disaster. To act on a false proposition might be disastrous, but adherents of the cautious theory act as if many unjustified propositions were true; the optimistic theory allows for caution in acting on a belief suspected of falsity (see Append.p.188f). The question is whether the formal assertion as true of a proposition actually false is in itself and apart from practical consequences a major disaster? The answer to this question, I believe, is no. In any case the disaster might not be irretrievable, since there may be opportunities later
for revising one's beliefs.*22  (As I suggested earlier, if retreat will be easy there is less reason for caution; see Append. p.190). It does not seem that the assertion, possibly temporary, of a falsehood would be a major disaster, practical consequences apart.

An argument that the more cautious decision rule is not appropriate, and that the advantages likely to result from the adoption of the more tolerant theory of justification are worth the risk, would not be a sufficient justification of this theory by the standard of the rigorous theory: the premisses of this argument are not fundamental truths, and probably cannot be justified by argument from fundamental truths. I hold the theory because it strikes me as correct. I hope that if I can explain it clearly it will strike others as correct also.
NOTES TO APPENDIX

1. For Hume's attempt to describe the feeling see Understanding V ii, p.61-3.

2. These remarks are in opposition to Hume, Understanding X i, p.119-20.

*3. In admitting inductive argument I disagree with Popper, with whose epistemology I am generally in sympathy. Hume's argument, which Popper accepts (Logic p.28-30), that induction cannot be justified deductively, and that it would be question-begging to justify it inductively, does not compel abandonment of inductive argument - except on the assumption, which Popper would rightly reject, that nothing ought to be asserted, done, etc. without justifying reasons. The same kind of argument can be advanced against deduction; it would be question-begging to justify it deductively, it cannot be justified inductively.

4. Abduction is the inference whereby we suppose (tentatively) that something is true because it seems a natural way of explaining something that is a fact, even though other explanations are possible. See Peirce Writings p.151-3.


*6. Popper Logic p.44,46,106,110; cf. Lakatos p.106-8. I agree with Popper that the assertion of a basic
proposition is not justified by the fact that anyone feels belief in it, if 'justified' is interpreted in the first sense (above Vol.1 p.166); that this strikes me as true is not evidence that it is true. But I claim that it is justification in the second sense. In this sense a person is justified in asserting (provisionally) something for which he can produce no evidence, if it strikes him as true. The feeling of belief is not a premiss in a supporting argument, but a warrant for asserting the proposition without argument.


8. In fact it seems that there is at present no complete decision procedure for deciding what to admit to and exclude from the scientists' artifact which makes no use of intuition; cf. my remarks about morality in chapter 1, above p.46.

9. Chisholm *Perceiving* p.100–12.

*10. Popper *Open Society* Vol.2 p.218–20; Peirce *Writings* p.18. Peirce defines 'the truth' as what the whole community would eventually agree upon if investigation were carried on indefinitely; see *Writings* p.38–9, 247–8. Similarly some contemporary philosophers interpret the claim to objectivity as a claim that everyone else would agree if they looked into the question thoroughly (cf. Frankena p.96). As definitions of objectivity and truth these are unacceptable. It is conceivable that a
statement might be true even though many people were incapable of ever seeing its truth, that a statement might be false even though the whole community always believed it to be true. Whether a statement is true or objectively correct has nothing to do with whether anyone does, or would, agree with it.

*11. Locke's objections to enthusiasm (*Understanding IV xix, Vol.2 p.271f; cf. Peirce *Writings* p.57) tell against the claim that revelations give infallible certainty; they would be just as telling against the claim that the evidence of the senses is infallible. A person who believes his perceptions or intuitions are infallible is in my opinion not irrational, but mistaken. The reasons for holding him to be mistaken are given in points (d) and (e) in the next subsection (Suspecting Falsity). Locke's objections to revelations parallel Descartes' doubts about sensation - cf. point (e), 'Possibility of Scepticism'.

*12. More exactly, the set includes all and only: (a) beliefs necessary to the derivation of the contradiction; (b) propositions which do not excite the feeling of belief, but are deductively inferrable from other beliefs, when one or more of the premisses necessary for the inference is included under (a).

*13. Peirce held fallibilism, yet held that one may feel no doubt about some beliefs (*Papers* 5.498). This seems to be a fact. He also held that no-one should, or can
genuinely, inquire unless he feels some doubt (Writing p.299), and that the inquiry must cease when the answer to the question is established from premisses which are not actually doubted ('If the premisses are not doubted at all, they cannot be more satisfactory than they are'; Writing p.11). However it seems to me that any premiss (or other belief), if it might possibly be false, is a proper object of justificatory effort. If there is no conflict or disagreement, but only suspicion on general grounds (i.e. grounds (c)-(e)), the question might get low priority, and not actually be investigated; but if it is important that a belief be true (e.g. because a lot is being staked on it in practice), it might get high priority even though there are no particular reasons for doubt. Perhaps Peirce would agree with this; see his remarks on planning to attain doubt in Papers 5.451.

*14. Suspicion on ground (e) can make no difference to the order of priorities in inquiry, since it tells equally against all beliefs, and investigation ex hypothesi cannot remove it. It can make no difference to other practical decisions, because the error cannot show up in the consequences of any practical decision. Suspicion on ground (d) can make a difference to the order of priorities in inquiry, since some types of propositions seem more subject to error than others, and this is pro tanto a reason for giving them higher priority. It can also make a difference to action, not only because
the premisses of some actions may be more suspect than those of others, but also because the suspicion that any belief might be mistaken (fallibilism) is a reason for adopting a general attitude of caution in action.

15. For a different analysis see Chisholm 'What it is to Act upon a Proposition'.

16. See Baumol p.574f.

*17. '[H]e must not be in love with any opinion, or wish it to be true, till he knows it to be so, and then he will not need to wish it'; 'To be indifferent which of two opinions is true, is the right temper of the mind that preserves it from being imposed on...'; '[H]e that begins to have any doubt of any of his tenets, which he received without examination, ought, as much as he can, to put himself wholly into this state of ignorance in reference to that question; and throwing wholly by all his former notions, and the opinions of others, examine, with a perfect indifferency, the question in its source; without any inclination to either side...'; Locke Conduct p.346, 348,383. If someone has built his life on certain beliefs he cannot help hoping that they are true. If he knows he hopes this, and knows something about the processes of self-deception, he can conduct an objective investigation even while he continues to hope that the beliefs under investigation are true: he can be careful not to turn his mind away from objections to his belief, he can make sure he reads books and talks to people he knows or
expects will oppose his belief, and so on.

18. According to Spinoza, 'doubt always proceeds from want of due order in investigation'; Improvement p.31.

19. Thus Descartes, in order that he should not remain irresolute in his actions while reason obliged him to be so in his judgments, decided to live according to a moderate version of the opinions prevailing in his community; he decided to be firm and resolute in action, to act as if dubious opinions - even opinions no more probable than their competitors - were certain; Discourse p.95-6.

*20. The usual doctrine (it goes back to Plato, Meno 98, Theaetetus 201) is that knowledge is justified true belief; i.e. that A knows p if and only if (1) he believes p, (2) p is actually true, and (3) he can support his belief in p with good reasons. 'I have a feeling of belief towards p' would not count as a good reason. See Hudson p.100-5 for an argument against Ethical Intuitionism based on this account of knowledge. My own account would be along the following lines: a person ('A') cannot claim to know p unless (1) he classifies p as true, (2) he estimates as slight the chance that p is actually false, and (3) he has made a search for reasons for suspecting that p is actually false; another person cannot concede A's claim unless (4) he believes that A does classify p as true, does estimate as slight the chance that p is false, and has searched for reasons for
suspecting its falsity, (5) he himself classes \( p \) as true, and (6) he himself estimates as slight the chance that \( p \) is actually false. Neither A nor those who concede his claim need have any arguments for \( p \). How slight the chance of falsity has to be, and how intensive a search for grounds of suspicion must be made, are matters over which people differ, as they differ on how good a performance has to be to be 'excellent'; some people are readier than others to make and concede claims to knowledge.

21. Cf. James p.18, 26-7. James perhaps gives the impression that one can believe at will; I do not agree with this.
22. I do not claim that the eventual elimination of error is inevitable - see above p.168-9.
NOTE The capitalised name (or names of joint authors, or title) at the beginning of each entry is the name that has appeared in the notes; it is also the name to look for in the library catalogue, unless another name in the entry is capitalised, and then that is the name to look for. For authors or editors of books I have given the first given name in full, but no middle name or initials.

If the entry does not give full title, place and date, then (a) if there is a second capitalised name, see the entry under that name elsewhere in the bibliography (e.g. for details for the entry under ABRAMS see under LOCKE); (b) if there is no other capitalised name the details are given in another entry under the same author (e.g. the details for 'Works' in the first item under ARISTOTLE are given in the entry five items later).


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