

COLLECTED WORKS OF

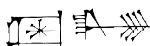
James Wilson



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ter founded, that even weak attempts to communicate entertainment and instruction are received with reflected social emotions.

What can be more productive of happiness than even those wants, which are the foundations of so many blessings—love and friendship, generosity and reliance, kindness and gratitude? The gratifications even of sense lose their relish, if not heightened by the “*spes mutui credula animi*”⁴—corresponding social emotions.

Our esteem of others, too, arising from the approbation of their conduct, is a most pleasing affection. The contemplation of a great and good character warms the heart, and invigorates the whole frame.

The wisest and most benign constitution of a rational and moral system is that, in which the degree of private affection, most useful to the individual, is, at the same time, consistent with the greatest interest of the system; and in which the degree of social affection, most useful to the system, is, at the same time, productive of the greatest happiness to the individual. Thus it is in the system of society. In that system, he who acts on such principles, and is governed by such affections, as sever him from the common good and publick interest, works, in reality, towards his own misery: while he, on the other hand, who operates for the good of the whole, as is by nature and by nature’s God appointed him, pursues, in truth, and at the same time, his own felicity.

Regulated by this standard, extensive, unerring, and sublime, self-love and social are the same.

To a state of society, then, we are invited from every quarter. It is natural; it is necessary; it is pleasing; it is profitable to us. The result of all is, that for a state of society we are designated by Him, who is all-wise and all-good.

Society may be distinguished into two kinds, natural and civil. This distinction has not been marked with the accuracy, which it well merits. Indeed some writers have given little or no attention to the latter kind; others have expressly denied it, and said, that there can be no civil society without civil government. But this is certainly not the case. A state of civil society must have existed, and such a state, in all our reasonings on this subject, must be supposed, before civil government could be regularly formed and established. Nay, ’tis for the security and improvement of such

4. Literally, “the trusting hope of mutual feeling,” but a clearer sense of the tone is “the naive hope that love will be requited.” The phrase is from Horace, *Odes*, 4.1.29.

a state, that the adventitious one of civil government has been instituted. To civil society, indeed, without including in its description the idea of civil government, the name of *state* may be assigned, by way of excellence. It is in this sense that Cicero seems to use it, in the following beautiful passage. "Nothing, which is exhibited on our globe, is more acceptable to that divinity, which governs the whole universe, than those communities and assemblages of men, which, lawfully associated,—*jure sociati*—are denominated states."^h

How often has the end been sacrificed to the means! Government was instituted for the happiness of society: how often has the happiness of society been offered as a victim to the idol of government! But this is not agreeable to the true order of things: it is not consistent with the orthodox political creed. Let government—let even the constitution be, as they ought to be, the handmaids; let them not be, for they ought not to be, the mistresses of the state.

A state may be described—a complete body of free persons, united together for their common benefit, to enjoy peaceably what is their own, and to do justice to others. It is an artificial person: it has an understanding and a will peculiar to itself: it has its affairs and its interests: it deliberates and resolves: it has its rules; it has its obligations; and it has its rights. It may acquire property, distinct from that of its members: it may incur debts, to be discharged out of the publick stock, not out of the private fortunes of individuals: it may be bound by contracts, and for damages arising *quasi ex contractu*.⁵

In order to constitute a state, it is indispensably necessary, that the wills and the power of all the members be united in such a manner, that they shall never act nor desire but one and the same thing, in whatever relates to the end, for which the society is established. It is from this union of wills and of strength, that the state or body politick results. The only rational and natural method, therefore, of constituting a civil society, is by the convention or consent of the members, who compose it. For by a civil society we properly understand, the voluntary union of persons in the same end, and in the same means requisite to obtain that end. This union is a benefit, not a sacrifice: civil is an addition to natural order.

h. Somn. Scip. c. 3.

5. As if from contract. An expression applied to obligations that are not contractual.

This union may rationally be supposed to be formed in the following manner: if a number of people, who had hitherto lived independent of each other, wished to form a civil society, it would be necessary to enter into an engagement to associate together in one body, and to regulate, with one common consent, whatever regards their preservation, their security, their improvement, their happiness.

In the social compact, each individual engages with the whole collectively, and the whole collectively engage with each individual. These engagements are obligatory, because they are mutual. The individuals who are not parties to them, are not members of the society.

Smaller societies may be formed within a state by a part of its members. These societies also are deemed to be moral persons; but not in a state of natural liberty: their actions are cognizable by the superiour power of the state, and are regulated by its laws. To these societies the name of corporations is generally appropriated, though somewhat improperly; for the term is strictly applicable to supreme as well as to inferiour bodies politick.

The foregoing account of the formation of civil society, which refers it to original engagements; and consequently resolves the duty of submission to the laws of the society, into the universal obligation of fidelity in the performance of promises, is warmly attacked by a sensible and ingenious writer.¹ He represents it, as founded on a supposition, false in fact; as insufficient, if it was true, for the purposes, for which it is produced; and as leading to dangerous consequences. He acknowledges, however, that, in the United States, transactions have happened, which bear the nearest resemblance to this political idea, of any, of which history has preserved the account or the memory. This subject has already received some; it will afterwards receive more attention and examination. At present, it is sufficient, and it is proper, to intimate to you the point of discussion; for it is a very important one in the science of government.

In civil society, previously to the institution of civil government, all men are equal. Of one blood all nations are made; from one source the whole human race has sprung.

When we say, that all men are equal; we mean not to apply this equality to their virtues, their talents, their dispositions, or their acquirements. In

i. 2. Paley 140.

all these respects, there is, and it is fit for the great purposes of society that there should be, great inequality among men. In the moral and political as well as in the natural world, diversity forms an important part of beauty; and as of beauty, so of utility likewise. That social happiness, which arises from the friendly intercourse of good offices, could not be enjoyed, unless men were so framed and so disposed, as mutually to afford and to stand in need of service and assistance. Hence the necessity not only of great variety, but even of great inequality in the talents of men, bodily as well as mental. Society supposes mutual dependence: mutual dependence supposes mutual wants: all the social exercises and enjoyments may be reduced to two heads—that of giving, and that of receiving: but these imply different aptitudes to give and to receive.

Many are the degrees, many are the varieties of human genius, human dispositions, and human characters. One man has a turn for mechanics; another, for architecture; one paints; a second makes poems: this excels in the arts of a military; the other, in those of civil life. To account for these varieties of taste and character, is not easy; is, perhaps, impossible. But though their efficient cause it may be difficult to explain; their final cause, that is, the intention of Providence in appointing them, we can see and admire. These varieties of taste and character induce different persons to choose different professions and employments in life: these varieties render mankind mutually beneficial to each other, and prevent too violent oppositions of interest in the same pursuit. Hence we enjoy a variety of conveniences; hence the numerous arts and sciences have been invented and improved; hence the sources of commerce and friendly intercourse between different nations have been opened; hence the circulation of truth has been quickened and promoted; hence the operations of social virtue have been multiplied and enlarged.

Heaven, forming each on other to depend,
 Bids each on other for assistance call,
 'Till one man's weakness grows the strength of all.
 Wants, frailties, passions closer still ally
 The common interest, or endear the tie:
 To these we owe true friendship, love sincere,
 Each home-felt joy, that life inherits here.^j

j. Pope. *Ess. Man. Ep.* 2. v. 249.

How insipidly uniform would human life and manners be, without the beautiful variety of colours, reflected upon them by different tastes, different tempers, and different characters!

But however great the variety and inequality of men may be with regard to virtue, talents, taste, and acquirements; there is still one aspect, in which all men in society, previous to civil government, are equal. With regard to all, there is an equality in rights and in obligations; there is that “*jus aequum*,” that equal law, in which the Romans placed true freedom. The natural rights and duties of man belong equally to all. Each forms a part of that great system, whose greatest interest and happiness are intended by all the laws of God and nature. These laws prohibit the wisest and the most powerful from inflicting misery on the meanest and most ignorant; and from depriving them of their rights or just acquisitions. By these laws, rights, natural or acquired, are confirmed, in the same manner, to all; to the weak and artless, their small acquisitions, as well as to the strong and artful, their large ones. If much labour employed entitles the active to great possessions, the indolent have a right, equally sacred, to the little possessions, which they occupy and improve.

As in civil society, previous to civil government, all men are equal; so, in the same state, all men are free. In such a state, no one can claim, in preference to another, superiour right: in the same state, no one can claim over another superiour authority.

Nature has implanted in man the desire of his own happiness; she has inspired him with many tender affections towards others, especially in the near relations of life; she has endowed him with intellectual and with active powers; she has furnished him with a natural impulse to exercise his powers for his own happiness, and the happiness of those, for whom he entertains such tender affections. If all this be true, the undeniable consequence is, that he has a right to exert those powers for the accomplishment of those purposes, in such a manner, and upon such objects, as his inclination and judgment shall direct; provided he does no injury to others; and provided some publick interests do not demand his labours. This right is natural liberty. Every man has a sense of this right. Every man has a sense of the impropriety of restraining or interrupting it. Those who judge wisely, will use this liberty virtuously and honourably: those, who are less wise, will employ it in meaner pursuits: others, again, may,

perhaps, indulge it in what may be justly censured as vicious and dishonourable. Yet, with regard even to these last, while they are not injurious to others; and while no human institution has placed them under the control of magistrates or laws, the sense of liberty is so strong, and its loss is so deeply resented, that, upon the whole, more unhappiness would result from depriving them of their liberty on account of their imprudence, than could be reasonably apprehended from the imprudent use of their liberty.

The right of natural liberty is suggested to us not only by the selfish parts of our constitution, but by our generous affections; and especially by our moral sense, which intimates to us, that in our voluntary actions consist our dignity and perfection.

The laws of nature are the measure and the rule; they ascertain the limits and the extent of natural liberty.

~~In society, when the sentiments of the members are not unanimous, the voice of the majority must be deemed the will of the whole. That the majority, by any vote, should bind not only themselves, but those also who dissent from that vote, seems, at first, to be inconsistent with the well known rules—that all men are naturally equal; and that all men are naturally free. From these rules, it may be alleged, that no one can be bound by the act of another, without his own consent. But it is to be remembered, that society is constituted for a certain purpose; and that each member of it consents that this purpose shall be carried on; and, consequently, that every thing necessary for carrying it on shall be done. Now a number of persons can jointly do business only in three ways—by the decision of the whole, by the decision of the majority, or by the decision of the minority. The first case is not here supposed, nor is there occasion to make a question concerning it. The only remaining question, then, which can be proposed, is, which is most reasonable and equitable—that the minority should bind the majority—or that the majority should bind the minority? The latter, certainly. It is most reasonable; because it is not so probable, that a greater number, as that a smaller number, concurring in judgment, should be mistaken. It is most equitable; because the greater number are presumed to have an interest in the society proportioned to that number. Besides; though, in the case supposed, the minority are bound without their immediate consent; they are bound by their consent originally given to the establishment of the society, for the purposes which it was intended~~