Morality and Utility

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CHAPTER V

Tasks and Methods

Tasks

Thus far, we have been concerned with matters of formulation, and with presumed challenges to the utilitarian view in general. In this and the following three chapters, we turn to what might be called internal matters, which are really the most vital ones: that is, to the utilitarian analysis and defense (insofar as defense is necessary), of the general principles and rules which form the corpus of "common sense morality." Of course, this is a program which can lead into indefinite complexity of detail. Inevitably, we must be rather general and sketchy in our considerations of these matters. But I do hope to consider all of the main questions which have been thought to raise special problems for utilitarian theory.

Before going into these vital questions, however, it is necessary to discuss certain general methodological questions internal to utilitarianism. The present chapter will deal with these. Since our discussions of the problems we shall consider mostly take the form of defending specific rules or principles on the basis of the Principle of Utility, we shall have to make clear what this involves. This might be thought to raise no problems, were it not for the rise to prominence in recent years, of "Rule" utilitarianism, which some have thought a viable method for avoiding the absurdities of classical utilitarianism. On this view, considerations of utility are fundamentally of a different level than considerations of conformity to rules or principles. According to a variant view (or perhaps a view fundamental to the whole approach, depending on one's understanding of it), the basic
consideration is not what would happen if I were to do this, but rather, what would happen if everyone were to do it. Something which may, or may not, be viewed as still another variant is what might be called the "logical" view. According to this view, certain rules are logically constitutive of the obligations which they are thought to specify, of which promising and game-like rules are the main examples. We shall study the first two views in the sections below, and take up the third in Chapter VI, because of its close connection with the subject of that chapter.

It is possible, even without recourse to the fundamental modifications which rule-utilitarianisms involve, to make mistakes of principle in applying utilitarianism. Some dangers of this kind will be outlined in the fourth section. To round out the general topics internal to utilitarian theory, I shall develop in the fifth section the general distinction between predicates of moral obligation and those of moral evaluation which, I believe, is vital to satisfactory application of the utilitarian principle. It is fair to say that the most serious objections to utilitarianism have to do with its account of justice and obligation. We have seen some reasons for this in Chapter III, above. In order to be able to understand and to deal with these objections, we must make a distinction of the kind in question.

In the succeeding three chapters, I have divided the main questions in the following manner. Chapter VI concerns what various authors, including Mill, call "duties of perfect obligation." This topic divides into two general departments, according to whether the duties in question are "natural" or "conventional." Utilitarians are concerned here with the justification of punishment, and the justification of the type of rules mentioned above as the third variant of rule-utilitarianism. Chapter VII is devoted wholly to the subject of distribution, which also has been thought by many philosophers to be the main sticking-point of utilitarianism. I append to this a brief discussion of the subject of "self and others," which seems to me to be the fundamental source of the troubles about distribution. Finally, in Chapter VIII, I shall take up the subject often described under the heading of "imperfect obligations," which in the view developed there will be argued to be duties "of society" in a sense
to be defined. These include, especially, the area of relief of suffering and the provision of conditions under which people can provide for their own advancement. The second portion is what I will suggest is the completely non-obligatory, “sheer benevolence.” In this area are those occasions on which we can do good to people who are not in a state of need, and to whom we have no obligations of any distinctive type. This will complete our general survey of morality, insofar as the adequacy of utilitarianism to account for it is seriously in question.

Having, as I hope, overcome the main obstacles on the score of adequacy, we will take up, in Chapter IX, the problem of whether, and if so how, we can “prove” that we ought to accept the principle of utility.

Rule-Utilitarianism

When a person is asked to believe that this morality derives its obligation from some general principle round which custom has not thrown the same halo, the assertion is to him a paradox; the supposed corollaries seem to have a more binding force than the original theorem; the superstructure seems to stand better without, than with, what is represented as its foundation.¹

In these observations, Mill has represented what is doubtless the chief motivating force behind the view now commonly known as “Rule Utilitarianism.” All sorts of anomolous consequences are thought to follow from the assumption that on each particular occasion on which we act, we are to be guided solely by the utility of any choice; and yet it is allowed that there is, after all, utility in the practice of telling the truth, keeping one’s promises, and refraining from murder, theft, and so forth; and so a compromise is arrived at, according to which we must distinguish between the supreme Principle of Utility, and the secondary principles (or “rules”; though accounts vary as to the precise significance of ‘principle’ versus ‘rule’), such as that of promise-keeping. It is held that the relation between these, and

¹ Mill, Utilitarianism, pp. 24-25.
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between the secondary rules and particular acts, is some such as the following:

(A) A particular action is justified as being right by showing that it is in accord with some moral rule. It is shown to be wrong by showing that it transgresses some moral rule.

(B) A moral rule is shown to be correct by showing that the recognition of that rule promotes the ultimate end.²

Without going too far into niceties of interpretation, it is worth observing that this formulation has some essential obscurities, obscurities which are, in fact, present in all accounts of this theory. For example, what is it for a “moral rule” to “exist?”³ How much does it take for there to be one “moral rule?” Both of these questions raise serious and perhaps unanswerable problems in the theory of this kind of rule-utilitarianism. Instead of pressing these, we shall go first to what seem to me the fundamental objections to any “Rule” utilitarianism of the sort broadly characterized by Urmson. In order to bring these to bear, let us turn to the recent account of Professor Brandt, whose thought-

² This is half of the account found in J. O. Urmson’s article, “The Interpretation of the Philosophy of J. S. Mill,” p. 35. Urmson believes that his account describes what Mill was actually advocating, and that the “act-utilitarian” account is a distortion. He adds two conditions to those mentioned in my text, one to the effect that “Moral rules can be justified only in regard to matters in which the general welfare is more than negligibly affected,” and another to the effect that “Where no moral rule is applicable, the question of the rightness or wrongness of particular acts does not arise, though the worth of the actions can be estimated in other ways.” Neither of these additions affects my discussion of the main points. As to the historical question, I once believed that Urmson was right about Mill’s views, but I now think that he is wrong, for substantially the reasons advanced by J. B. Schneewind (ed.) in the introduction to J. S. Mill, Ethical Writings (New York: Collier Paper Edition, The Macmillan Co., 1965), p. 34. Needless to say, I do not accept the criticisms of “act-utilitarianism” itself offered by either Urmson or Schneewind. The bibliography on “rule-utilitarianism” has by now become quite extensive.

³ This question is raised properly in B. J. Diggs’ “Rules and Utilitarianism,” American Philosophical Quarterly (January, 1964), pp. 32–44. This article also contains an extended and subtle analysis of various types of rules. (The criticisms which Diggs believes to be supported by the distinctions he makes do not seem to merit special discussion. They are being answered by implication both above and in the discussion of promises in Ch. VI.)
ful labors on behalf of “Rule” utilitarianism are recorded in a recent paper, “Toward a Credible Form of Utilitarianism.”

After explaining the usual “catastrophic objections” to which “act-utilitarianism” is (he thinks) prone, Brandt proceeds to point out a difference in the programs of various “rule-utilitarians.” We must distinguish between those who hold that the criterion of right and wrong is conformity to an ideal set of rules (i.e., a set obedience to which would ideally promote utility, whether or not the rules are presently in existence), and those who hold that the criterion of right and wrong is obedience to the rules, or some of the rules, which are presently observed or at least regarded by “conscientious persons” as worthy of observance. The first party can be disposed of quickly, for the ideal set of rules from the utilitarian point of view would contain just one basic rule: the principle of utility itself. There are serious difficulties with the other party’s view, too. Clearly, we don’t believe that all existing sets of moral rules are actually good ones from the point of view of utility. Utilitarian or no, we must allow for the possibility of improvements in our moral practices.

Brandt proposes to fix this up by appealing to rules, the recognition of which would have the best consequences. The set of rules in question would be limited to those “learnable” by “people of ordinary intelligence.” We must allow for the fact that people are not perfect; thus, we must restrict these rules to those practiceable by people of “ordinary conscientiousness.” In particular, we must allow exceptions in cases of societies which have already “fairly decided moral convictions.”

There is also need to teach some second-order rules which would resolve conflicts of first-order rules. Finally, it would perhaps be necessary to allow for the possibility of different

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5 It might be said that this would be true only in a population equipped with lightning moral calculators. The point is, however, that secondary rules would have no independent weight. (See the ensuing discussion.)
Brandt evidently regards all of these restrictions as restrictions in principle on ordinary act-utilitarianism. But why must we so regard them? Obviously, an act-utilitarian will agree that if an individual cannot learn to apply the principle of utility without compromise, then he should do the best he can by learning a "code" of rules of the sort Brandt describes. This will also, no doubt, result in making allowances for different societies, and perhaps even for previously held moral convictions in the way indicated in principle in Chapter IV above. In order to explain the difference from utilitarianism in principle, let us consider how the "Brandtian" set of rules would have to be applied. We will concentrate on a particular example from our own "society," the rule of stopping at red lights.

Most of us have experienced the aggravation of sitting and waiting for a red light to change, when there is obviously no traffic coming from right or left. Suppose an act-utilitarian were to come along and propose that the law ought to be modified so as to permit people to proceed through red lights when this is the case. How would a "rule-utilitarian" react? If he is somehow different "in principle" from the "act-utilitarian," then presumably he might say something of the following sort: because stopping at red lights is "in general" conducive to utility, for this reason, we should always stop at red lights. If he says this, however, how is he a utilitarian at all? The reason why stopping at red lights is useful "in general" (in view of the fact that "green" is designated as the "go" light), is that it prevents a lot of accidents—chaos, in fact. Well, it does so when there is traffic. But obviously, it does not do anything of the sort when there is no traffic. So, of the infinite number of possible rules on this subject, surely the one supported by the principle of utility is the one that says you should stop at red lights if there is traffic from right or left (or turning traffic from straight ahead). Why not use this rule?

It would surely be irrational to argue in the way I have made my "in principle" rule-utilitarian argue above. What he, Brandt,

9 Ibid., p. 130-38.
and any sensible person would of course say is that they doubt that the average person in the community would have sense enough to look carefully before going through the red light. And this might be true. But how do we know? Have there been tests? As a matter of fact, a few places have made some steps in the direction of greater liberality without serious consequences. In Ontario, one may turn right on a red light if the way is safe; in Kansas, one may proceed through the light after midnight. What will the genuine utilitarian say? He will surely say that we ought to run tests to see whether the most liberal rule will work; and if not, then whether the next most liberal rule will work, and so on. But he will do more than this. He might claim also that even if a lot of people in the community are too stupid to make the liberal rule work (which is very doubtful), the “rigid” rule should still be “selectively reinforced” (as many laws actually are, often with quite satisfactory results). If, for example, after stopping a driver who has just proceeded through a red light when the way was clear, a policeman were to inspect the man’s license, and upon seeing that the driver has had no black marks on his license for the past year or two, were to say, “O.K., you may proceed,” would any disastrous consequences ensue? It’s hard to see why they would. But the point is, we could try it and see. That is the trouble with Brandt’s modifications if they are modifications in principle. Their net effect is inevitably to ossify prevailing moral rules, to inhibit experimentation in the interests of the general happiness. This is, in substance, the criticism of such writers as Smart, who accuse the “rule-utilitarianisms” of “rule-worship.” These criticisms are justified.

It will be useful to summarize these reflections in a more abstract way. The position under consideration is that rules are justified by their utility, and acts only by their conformity to the rules in question. But what does it mean to say that a rule is justified by its utility? It can mean nothing but that actions of the type prescribed by the rule are useful. Now, if there is reason to suppose that every act, insofar as it falls under the rule, is useful ipso facto, then the rule will be justified well enough as a prima facie rule. As we shall see, the principal moral rules are precisely of this kind. What we want to know is, what
if less than all of the acts in question have this property? In that case, the rule-utilitarian is saddled with the argument that because say, 95 per cent of acts of type F are useful, therefore we ought always to perform acts of type F (even when it can be foreseen that they will not be useful). It is essential to see that the “Rule” utilitarian must, if he is to be distinguished from an act-utilitarian, say “therefore” and not merely “and,” in the statement of the argument. For this is precisely what makes him a rule-utilitarian. Rules, according to him, are justified by their utility, but acts are not. So there must be acts which are not useful which are justified by rules, in order to make his position logically distinguishable from “Act” utilitarianism. After all, it is the “Rule” utilitarians themselves who insist that it is distinguishable; how else could they put it forth as a solution to problems insoluble by act-utilitarianism? Yet it is justification of the rules via their utility which makes the position “utilitarian.” Thus, the “Rule” utilitarian, if his position is to be, as he says it is, a plausible means of escaping the supposed objections to act-utilitarianism, is absolutely committed to both of the above. From these two conditions, that there are non-useful acts which are justified by rules, and that these rules in turn are justified by their utilities, it follows logically that the rule-utilitarian is committed to saying, as a basic moral position, that if most acts of type F are useful, then we ought always to perform acts of Type F, for at least some replacements of the predicate ‘F.’ In my view, this of itself is a sufficient refutation of this position. How can it possibly be maintained that every member of a set of acts is justified whenever 90 per cent of them have some property? Obviously, it cannot. The would-be rule-utilitarian must find some other conditions which supplement this argument. But what could these other conditions possibly be? Either they are of the general kind mentioned by Brandt, which are shown above to be further utilitarian conditions quite acceptable to the act-utilitarian, or they are some other kind of irreducibly non-utilitarian conditions. And if they are the latter, then we ought to call a spade a spade, and the view what it is: a species of formalism.¹⁰

¹⁰ Subsequently, this point also was pressed by Professor Joseph Margolis.
In our forthcoming considerations of justice, promise-keeping, and so forth, I shall try to show that the objections thought to hold against act-utilitarianism are due to various confusions, and if these arguments are successful, then we can dispense with the only motive for holding an obscure and essentially incoherent theory. Meanwhile, however, the variant of rule-utilitarianism which makes essential appeal to the question of what might be called "hypothetical utilities" (that is "What would happen if everyone did so-and-so?") needs separate analysis.

"But What if Everyone Did That?"

Many of our public obligations are of a type where the expectable disutilities of defaulting are very small, taken one by one, and yet, if everyone were to default, the damage would be very great. Reflection on such cases gives rise to the thesis that the fundamental reason for regarding some course of action as an obligation is not a direct consideration of the consequences of failure in each case, but rather of what would happen if everyone behaved in this way? The most influential and acute advocate of this view is Professor Singer, and since he has also written some very caustic things about utilitarianism, it is worthwhile for us to consider his view.

Singer says that all instances of the generalized argument form, which he calls the "Generalization Argument," namely that "If everyone were to do that, the consequences would be disastrous (or undesirable); therefore no one ought to do that" are valid. This is equivalent, I believe, to asserting the principle, "It is wrong to do anything which is such that if everyone did that kind of thing, the consequences would be undesirable." Singer believes that this principle follows from two other prin-

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11 Frankena, incidentally, makes this view not a variant, but the very essence of "Rule" utilitarianism; Ethics, p. 30. I take it, though, that the contention that acts of type F are justified if they usually have good results is different from the contention that acts of type F are justified if there would be good results if everyone did them.

12 See Generalization in Ethics.

13 Ibid., p. 4. (He qualified this statement with the restrictions noted below.)
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ciples, namely, that if the consequences of doing x are undesirable, then one ought not to do x, and that "what is right (or wrong) for one person must be right (or wrong) for any similar person in similar circumstances." ¹⁴ We must accept both of these latter principles, but the Generalization Argument's validity does not follow from them, as has been pointed out by F. E. Sparshott, among others. ¹⁵ The role of the second "principle" will be considered in my final Chapter, and the role of the first, the "principle of consequences," is of course dealt with throughout the present one. The question is, does the special consideration that if everyone were to do this, then the consequences would be disastrous, have any independent moral weight? It is of the greatest importance to distinguish carefully the sense in which this is a "special" consideration. Of course, wherever it is the case that if I were to do this, the consequences would be undesirable, regardless of whether anybody else does or did or would, the "principle of consequences" takes care of things by itself. This principle is obviously supportable by utilitarians, whereas Singer's is not, I think.

Singer claims that Mill unwittingly succumbed to the generalization view, for Mill says:

In the case of abstinences indeed—of things which people forbear to do from moral considerations, though the consequences in the particular case might be beneficial—it would be unworthy of an intelligent agent not to be consciously aware that the action is of a class which, if practiced generally, would be generally injurious, and that this is the ground of the obligation to abstain from it. ¹⁶

¹⁴ Ibid., p. 5, and pp. 63 ff.
¹⁵ Philosophical Review, January, 1963, pp. 97-99. This amazingly lucid review of Singer penetrates to the logical heart of the matter in several paragraphs. It is now possible to point to a thorough treatment of generalized utilitarianism in David Lyons' new book, Forms and Limits of Utilitarianism, which was published after my treatment above was written. (New York: Oxford University Press, 1965.) If any doubts remain about the inefficacy of Singer's view and its relatives after reading my necessarily brief account above, Mr. Lyons' book will certainly put them to rest. In his final chapter, Lyons produces some criticisms of utilitarianism of his own with which, needless to say, I am not in agreement. In any event, it is too late to go into his views, except to say that I think they are discussed by implication in my treatment of Justice in Ch. VI.
¹⁶ Utilitarianism, pp. 17-18.
Singer says that this is an “obvious appeal to the generalization argument,” but this is an overstatement. It is hardly obvious, especially since Mill says in the very next sentence:

The amount of regard for the public interest implied in this recognition, is no greater than is demanded by every system of morals, for they all enjoin to abstain from whatever is manifestly pernicious to society.

It is difficult to say what an author of the first passage means if he holds it on the basis of the second. The fact that if everyone were to do x the consequences would be disastrous usually has some significance, as we shall see; and thus an “intelligent agent” does need to keep an eye open for this kind of case. Whatever Mill may have thought, we shall find reason to reject the Singerian thesis.

Singer’s view is made difficult to assess (as all views are which make use of phrases such as “and all similar acts”) because of his ingenious covering arguments against what otherwise might appear to be decisive counter-examples. For example, consider the objection, often raised against Kantian ethics, that it would be disastrous if everyone were a postman, since we would all starve for lack of farmers to raise food. Singer points out that disastrous consequences would also ensue if no one were a postman. Whenever this is the case, Singer calls the argument “invertible,” and argues that invertible generalization arguments are invalid. They require one to restrict the reference class of performers of the type of act in question. The other restriction on the generalization argument is on those which involve “reiterability.” An argument is reiterable if it relies for its force on the fact that something is done on a particular occasion, place, time, or by some particular person. “If everyone ate at six, the restaurant would be jammed; therefore, no one ought to eat at six.” But the same is true of five, three, or any other hour, so

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17 Singer, *Generalization in Ethics*, p. 196.
18 Wrongly, I think, for Kant’s views have no particular connection with Singer’s, in point of fact.
19 Singer, *Generalization in Ethics*, pp. 72 ff.
the argument would show, if valid, that no one ought to eat at all. Thus, it is also invertible; so it is invalid.20

It is not as easy as Singer believes to apply these restrictions. We need not bother to try to interpret them precisely, for if Singer's view is to differ essentially from the utilitarian view, there must be some arguments which are both valid (neither invertible nor reiterable) and which give different results from the rule of consequences alone. I shall consider two cases which allegedly illustrate these properties.

One, which Singer apparently regards as valid,21 is this one about voting: if everyone refused to vote, the consequences would be disastrous; therefore, I should vote. Another concerns walking on the grass in public places. If everyone were to walk on the grass, it would die and there would be no grass; therefore, I ought not to walk on the grass. Singer regards most of the standard moral rules, such as that against lying, as founded on the generalization argument. I will show that this is not so, since they can be defended with just the required degree of rigor by the straight utilitarian principle.

We may begin by considering the two specific examples above. In the first place, the one about voting is suspect. It simply is not true, in general, that citizens in a democracy have an "obligation" to vote. In countries like Russia, where the government is trying to impress the world with how "democratic" it is, the citizens do indeed have an "obligation" to "vote," in the sense that the government jolly well sees to it that they go to the polls. Also, while they're about it, they see to it that they vote for the right people. In a real democracy, as opposed to a sham one, the reason for voting is so that people can get the kind of government they want, and the method is to offer a choice, by voting, for one among a slate of supposedly differing candidates. If a citizen doesn't care which candidate wins, there is no reason why he should vote. And, if the citizen doesn't know the difference between the candidates, there is a good deal to be said for suggesting that he stay home and let people who do know what they're doing determine the fate of their

20 Ibid., pp. 81 ff.
21 Ibid., pp. 74, 75.
country. If everyone were indifferent to the kind of government he has, then there would be no reason for having a democracy rather than some other kind of government, and it would also be impossible to have a democracy (or, any other kind probably). So what? 22

Now very often, people stay home in elections because they are pretty sure that their man will be elected, or defeated, anyhow. If one can know for certain that one’s man will be elected or defeated regardless of how one votes, then the most obvious reason for voting, namely to help elect the man you want, doesn’t apply. In that case, the reason for voting reduces the considerations of the size of majority the winner gets. You might vote just to put on a good showing for your man and thus encourage him to run again; or, for example, pile up the majority for your man (if he’s winning) in order to increase his popular mandate. On the other hand, you might want your man to win, but just barely, so that he won’t get overconfident. In that case, you might have a reason for staying home. Considerations about what would happen if everybody did this, that, or the other, are irrelevant. But considerations about what the others are likely to do are definitely relevant. Moreover, just because other people may be reasoning the same way you do, the situation can be very unstable. If they all stay home because they’re sure he’s going to win, of course he will lose. That’s why it matters whether you have good reason to suppose your man will win. If your only reason is an intuitive hunch,

22 A popular argument invoked against various policies, especially governmental ones, follows this form: “The policy so-and-so would lead ultimately to X, which would be disastrous; therefore, it should be rejected.” (“X” is often replaced by “Socialism” in the United States; no doubt by “Capitalism” in Russia.) This argument is irrelevant unless “X” has been shown to be a bad thing. If nobody voted, then democracy would come to an end, of course. But in that event, presumably nobody would care, in which case the fact that democracy would come to an end is irrelevant. Incidentally, the argument is also irrelevant unless it can be shown that the tendency of the policy to lead to “X” is uncontrollable. In fact, it never is. Arguments from “tendency” are exactly parallel to this: Do you want to go to Philadelphia? It’s that way; but you mustn’t go that way, because if you keep going that way far enough, you’ll inevitably fall into the Atlantic and drown. (See “Some Dubious Utilities” below.)
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then you'd better vote. Game-theoretic considerations are sometimes needed here, but the "generalization argument," as such, is not.

We proceed to the "keeping off the grass" example. If everyone in town always cuts through this particular corner in the park, soon an ugly path will be worn there. So, should I walk across the corner at this particular time? One person's walking on the grass will make no difference at all, and neither will six. On the other hand, several dozen people walking on the grass all at once might do irreparable damage. What is the solution? To jump immediately to the conclusion that no one should cut the corner is simply irrational. It depends on many factors. The "Ideal" utilitarian solution is to let as many people cut the corner as is consistent with the good appearance of the grass and no more. (We are supposing that most of the townspeople care how the grass looks; the appearance of the grass is not intrinsically a moral value.) How shall we accomplish this?

Suppose, to begin with, that only a few people want to cut the corner. In that case, it is not necessary to do anything. There is no point in requiring them to refrain (although self-righteous, puritanical policemen would doubtless make them do so, if they had anything to say about it). But suppose everyone wants to? Then we have to consider ways and means. Questions of the distribution of utilities will enter in (and these again we will defer until Chapter VII). It is clear that we need some way of restricting the number of people who are allowed on the grass at any one time. The worst way to do it is flatly to require everyone to keep off. The sensible way is to consider how much trouble it would be to find a way of controlling the number. There are several possibilities. A rule posted, "Keep off if oc-

These examples are employed also by Lyons and indeed, have a long history. Lyons' account is by all means the best and most thorough, however. His concept of "threshold" (which is obviously at work behind the scenes in my discussion) efficiently marks off the difference between these cases and the income-tax case discussed further on. (Cf., *Forms and Limits*, pp. 63 ff.) Also, the distinction between ordinary and "contributory" causation formulated by Henry West in "Act and Rule Utilitarianism" (unpublished Ph.D. dissertation, Department of Philosophy, Harvard University, 1964), pp. 141 ff. His idea is that we "assign to each participating act causal responsibility for a fraction of those collective consequences, even if there is a surplus of constituent acts."
cupied by more than twelve persons," is one way to do it. This might work if no particular twelve persons always hogged it to the exclusion of others who wanted to use it, and everyone in the town tended to obey such signs. But if it's a great deal of work to enforce it, some other system should be considered. We must remember that in order to make these systems workable, someone has to think of them, someone has to enforce them, and these have to be taken account here. If someone in the community just happens to love solving this kind of problem, then well and good; if not, someone would have to be paid to do it, and this is expensive.

There are many cases in which the trouble is that a lot of people want to do a certain thing, but only a limited number can do it without undesirable consequences. The utilitarian principle does not give us any reason for singling out any particular subgroup to be given permission over any others, assuming that they all want to do it. The consideration that some might want to do it more than others would, of course, give a reason for preferring those; but who is to decide which ones do want it more than others? Critics of utilitarianism somehow seem to find it self-evident that this consideration of who would be more pleased is completely unascertainable. Of course, if it is unascertainable, then we just have to assume that all have an equally strong desire for it, and then we shall have to settle it by chance. But it is often ascertainable. An obvious way to ascertain it is to charge admission, making the admission high enough so that just the right number are admitted, with the profits to go to the general welfare. But this will not be a true measure of desire if they have greatly different resources. The techniques of game-theory are available in this kind of situation, and of course they are of an eminently utilitarian lineage. Many things will have to be taken into account, and if there is absolutely no way of ascertaining relevant differences, then one must resort to chance. They can draw lots, for example. (Critics here will want to know why we should give everyone equal

consideration, other things being equal. We shall take this up in Chapter VII, pausing only to note that the question, “Why should we treat people equally if there are no relevant differences between them?” is one which does not ordinarily reflect the good sense of anyone asking it.)

The truth is, then, that there are a host of ways in which problems of this sort might be dealt with, and there is no way to—and no need to—lay down any particular rule about them, other than the principle of utility. The way to handle it is the way that does the best job all around, taking into account all interests that bear on the case. In no case does the consideration that it would be disastrous if everyone did this show, by itself, that no one ought to do it. It only shows that not everyone ought to do it, and thus, that some way of deciding who should do it and who shouldn’t do it needs to be found. If not everyone wants to do it, we can ignore those who don’t, and then the work of finding a sensible method begins. But it does not end. That is what I object to about Singer’s view. What he recommends as a fundamental principle of reason is, in fact, irrational. If it would be disastrous if everyone did it, but not disastrous if a few did it, only a malevolent or unintelligent person could take this by itself as a reason for saying that no one should do it. And actually, Singer realizes this. He makes the important qualification that “If not everyone ought to act or be treated in a certain way, then no one ought to act or be treated in that way without a reason.” This phrase ‘without a reason’ is a weasel-phrase. To begin with, any statement of the form ‘if P, then q’ is true, if the proposition symbolized by ‘q’ is necessarily true. Surely, for any given way of treating a person, it could be argued that we ought not to treat him that way

25 Nicholas Rescher, in “Choice Without Preference” in Kant-Studien (Cologne: 1959-60) argues cogently that if the reasons supporting two alternatives are exactly balanced, then it follows that random selection should be employed: “Random selection is the only reasonable procedure for making choices in the face of symmetric preference” (p. 170). This principle is a self-evident part of the logical apparatus with which we apply the Principle of Utility, and is, in that sense, independent of utilitarian considerations. But so is the Principle of Non-Contradiction, whose “independence” of the Principle of Utility has never been alleged as a ground for criticism of the latter.

26 Singer, Generalization in Ethics, p. 31.
without a reason. It depends on how much one builds into the word ‘reason,’ and what sort of reasons he has in mind. If, for example, one uses a randomizing procedure to determine who should be treated that way, is that a reason, or isn’t it? If it isn’t, then Singer’s principle is false, even with this qualification; for, as we have seen, there are some cases in which not everyone can engage in some activity without undesirable consequences, but quite a few people can, and the best way to decide who should be permitted to engage in it is by drawing lots. In the second place, it is clear that the word ‘reason’ has a moral flavor in this qualifying phrase, and wherever this happens, it is necessary to indicate what would constitute a suitable reason. This cannot be done by using Singer’s principle itself, which shows already that it cannot be the most fundamental moral principle. This was true anyway because of the use of the word ‘undesirable’ in it, which calls for principles specifying what, for moral purposes, is to be rated as desirable or undesirable. Utilitarianism supplies all of these lacuna and also supplies the Principle of Consequences itself.

The cases, I suspect, in which the consideration “What would happen if everyone did that?” seem strongest are of a rather different kind than the “keep off the grass” case. In the latter, there would be no undesirable consequences at all if I (and no one else) walked on the grass; the undesirability of the consequences depends entirely on having a considerable number do it. But let us take the example of paying one’s taxes. Suppose I owe the government just $25, and the total government budget is fifty billions of dollars. By comparison, my contribution isn’t even a drop in the bucket, and the government won’t miss it. Only if a great number of people—say fifty million or so—should fail to pay will it be noticed much. So why should I pay?

It is true, of course, that the other people who are paying the same amount have no more reason to pay than I do. So one might say that I would be unfair if I argued that I shouldn’t pay but that they should. In a sense this is true, and this again brings up the question of distribution, which I will take up in Chapter VII below. But ‘unfair’ isn’t necessary here. If their failure to pay would diminish utility precisely as much as mine, then they have exactly as much reason not to pay as I do, neither more
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nor less. The question is, do I have any reason to pay? Unlike the “grass” case, the answer here is Yes. How much reason? As much as I owe. If I argue that it's just a pittance and the public won't miss it, the government, of course, can point out equally well that it's just a pittance and I won't miss it. If I will miss it, on the other hand, so will the public. I could say, “But they won't miss it as much as I.” But how do I know that? Of course it is true that if the government doesn't find out about my cheating, then the public “won't miss it” in the sense that it won't find out that I haven't paid it. But it will miss it in the relevant sense, which is that it will have $25 less than it would if I had paid.

I can, of course—and should, on the principle of utility—question whether the government's policies are just, and if they are not, then what? Well, if the government’s policies are literally unjust, to the extent that it had no right to demand my money in the first place, then I have absolutely no (moral) reason to pay the taxes, and in fact a very good reason for refusing to do so. The question is, then, on what basis to argue that they are unjust? The answer, naturally, is the utilitarian basis. The question of how to apply utilitarianism to the justification of governmental policies is a very big one, and it will not be possible to go into it here. But I presume that the relevance of questioning the justice of policies one is paying to support, as a condition of paying for them, can hardly be questioned. Included in the objects of question, of course, might be the method of assessing the taxes, as well as the substantive policies they are used to support.

That this kind of case should have been supposed to constitute a special problem for utilitarians is due to the supposition that we are to be permitted to weigh the harm of a proposed line of action against the benefit we derive from the satisfaction of our desire to inflict it. Once it is seen (as we shall see in Chapter VI) that we cannot do this, the only remaining question is whether nonpayment of taxes really does harm anyone. It does, on two counts. In the first place, the particular public service which is a little bit curtailed because of the unavailability of one's particular little bit of taxes is harmed. This is admittedly small, but it is not nonexistent. To say that my $25 is very
trivial set beside the public's $100 billion is a red herring. For each of those hundred billion dollars is worth precisely $1 (i.e., the price of a lunch, a movie, a sack of flour for some needy person on welfare or of a titanium bolt that keeps some rocket from exploding, and so on). The same amount of money is worth exactly as much to the public as it is to me, neither more nor less. In the second place, by nonpayment I am harming the chap whose taxes are greater on account of it. This counts as a harm if I acknowledge the justice of the imposition of the tax in the first place. If I don't acknowledge it, then of course I must be able to show that it is unjust.

In short, we have a reason for not doing small harms to anyone, even where (as with taxes), the "anyone" is everyone. The reason is not that if everyone did it, the harm would be even greater, any more than that if one did a lot more of it, the harm would be greater. The reason is that one does precisely the amount that one does—in the present case, $25 worth. Given that it is justly exacted and justly used, one cannot complain that no one will be harmed, for someone will be harmed, as we have seen. The fact that they won't be harmed very much merely means that one's crime if one defaults isn't a very big crime. Of course, it's not a very big crime, unless you owe a very great deal. But a little crime is still a crime. And the fact that utilitarians refuse to call a spade anything but a spade, or to employ an inflated and mysterious defense when a small but sensible one is available instead, is to my mind not to be counted too serious a defect of character.

It is impossible, of course, to examine in detail each of the countless number of specific cases which a critic might use in support of Singer's thesis. But I trust that this is also unnecessary. Once it is seen that his thesis does not follow from the two true and important principles he thinks it follows from, and that it is not intuitively sound as it stands, a few examples will show in detail that the principle of consequences is by itself capable of doing whatever needs to be done. This should surely be enough to make it reasonable to suppose that the remaining cases will not derive any further benefit from Singer's principle.

In sum, there are two types of cases in which the Generalization Argument might seem to be of use. One is where literally
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no harm is done in the individual case, but a lot of harm might be done if everyone, or a lot of people, did the deed in question. In this type of case, what we ought to do is to permit as many people to do it as won’t cause harm, and no more, employing the best system we can think of for deciding who should be able to indulge and who should not, employing game-theoretic considerations where useful, and doing it by lot in the extreme case. Here, the prohibiting of everyone from doing it, far from exemplifying in its purest form the operation of practical reason, would be simply irrational. In the other type of case, where the amount of harm done is simply a function of the number of people who do it, the reason why I shouldn’t do it is because of the amount of harm my doing it would cause, including where applicable the amount of trouble I would cause the public in tracking me down, given that they have just reason for doing so. In neither case does the rule, “If it would be disastrous if everyone would do it, then I shouldn’t do it,” have anything as such to be said for it.\(^{27}\) I conclude that the Generalization Argument is a bad one, and should not play any independent part in a rational system of ethics.\(^{28}\)

Some Dubious Utilities

There is often a good deal of confusion as to just what we need to accomplish in the way of deduction of particular rules or principles from more general ones. A word of clarification is therefore in order.

A satisfactory deduction of rules and principles which are intuitively acceptable (in the sense outlined in Chapter I), must consist in showing that the kinds of acts mentioned in them are intrinsically right or wrong, good or bad, according to the wording of the intuitive principle, where ‘intrinsically’ is used

\(^{27}\) Incidentally, what if it would be disastrous if just about 47 per cent of us did it, but not if many more or less did it? Such things could conceivably happen, and it is not clear what the Generalization Argument would have to say on the subject.

\(^{28}\) The use of certain notions of “generalization” will be taken up in Ch. IX.
in the sense elaborated in Chapter II, under Formulation of Moral Principles. Let us put this more precisely. A particular kind of act (if one is a utilitarian) will be said to be "intrinsically" of moral value V if, and only if, it follows logically from the principle of utility, conjoined with the description of acts of that kind and appropriate definitions of the terms of 'V,' that such acts have moral value V, other things being equal. By 'other things being equal' we mean, of course, that they are of value V insofar as they are of that kind, though whether a particular case of that kind is of value V "on balance" will depend on what else is true of that case. A complete system will enable one to determine, in all cases, whether or not the other factors which may be present are "equal" in the required sense, and if they are not, how they affect the case. Whether or not one can arrive at a satisfactory decision in each case will, of course, depend on whether one can get all the facts, and this one often cannot do. However this may be, the task of the theorist is to show what factors to look for, and to produce some reasonably sound method of weighing the different factors to reach an overall assessment. If we can show, for each major type of act which we are likely to run across, whether it is intrinsically good, bad, or indifferent, we shall have accomplished the first goal; and if we can arrange them in an order of precedence, then we shall have accomplished the second in a general way. Detailed work will, of course, always remain.

A type of defense of a common-sense principle which will not do, however, is one to which utilitarians have often resorted hitherto, namely, that of appealing to some vague apprehension of "upsetting the general confidence" in some practice. Professor Singer, in his chapter on "Moral Principles and the Principle of Utility," has put his finger on the defects of this kind of defense. There are two specific shortcomings of this sort of argument, and one which involves a matter of general principle. In the first place, as Singer says, to claim that every act of promise-breaking, for instance, has "led to bad consequences" of the required sort is "as a general proposition simply false. It suffices to point to cases of wrong acts that no one ever hears about."

29 Singer, *Generalization in Ethics*, Ch. VII.
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Appealing to general consequences, if they really are consequences in the sense explained in Chapter IV, is an empirical matter. One simply cannot assert with any confidence that there is really a general lowering of public confidence every time one breaks a promise, even when it is found out, let alone when it is not. The same goes for other examples besides promise-keeping. If this is the way such practices must be defended, on the utilitarian view, then of course they are indefensible. Fortunately, as I shall show, we can do better. The second shortcoming is that if such appeal to "secondary consequences" were acceptable at all, it would prove far too much. For, as Singer says:

If these "secondary effects" apply in any case, they apply in all, and if they show of any act that it is not really "useful," no matter how useful it may appear apart from them, then they would show this of every act. It would follow that every moral rule holds without exception, or that no rule ought ever to be broken, and this contradicts the view that rules "cannot be so framed as to require no exceptions." 31

This is a trifle overstated, since the utilitarian can still reply that in a particular case if a moral rule conflicts with another rule, then they cannot both be justified "without exception." The principle of utility can be used to decide which takes precedence. This, in fact, is what Mill does. 32 However, this reply would not touch the main point, for whenever there is no such conflict, the proffered justification would prove too much. This objection really boils down to the complaint that such appeal to "secondary consequences" is entirely too vague to be plausible, and would never have been appealed to in the first place, except as a dodge.

The third point, which is perfectly general, is that appeal to secondary consequences, such as the lowering of general confidence in a rule, is wrongheaded in principle. Why should we pay any attention to the rule in the first place? The argument that following the rule is "generally" useful is no argument at all. It would show simply that we ought to educate the public to see the difference between the cases in which following the

32 Mill, Utilitarianism, p. 24. "If utility is the ultimate source of moral obligations, utility may be invoked to decide between them."

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rule is useful and those in which it isn't, and not to be alarmed about cases in which the rule is broken in a useful manner.

It is fair to say that often the utilities supposedly associated with certain types of acts specified in moral rules are conjured up for the occasion by the would-be defender, as Singer charged. Appeal to the "general confidence" is a case in point. But whether or not the existence of the supposed utility in question is dubious, a question of principle needs to be raised about the status of the alleged utilities. Consider, for example, the general confidence in promises. Why should it be thought to be a bad thing, to have this confidence upset? If it is, then evidently this presupposes that the confidence in question is merited. But if it is merited, then this in turn presupposes, it would seem, that there is some other reason for keeping promises, apart from the supposed fact that breaking them would upset people's confidence.

In other words, confidence is something which is, in any given case, either justified or not justified, merited or not, legitimate or illegitimate. Only in those cases in which it is justified, merited, or legitimate should upsetting it count as a negative utility. Yet the moral criterion being proposed by utilitarians is supposed to be adequate for all purposes, and hence, for the purpose of determining whether the confidence in question is merited. The utility of the confidence is therefore what Bentham calls a "secondary" one, along with such things as "alarum," expectations, and so forth. The reach of such secondary utilities is quite broad. It includes, for example, the upsetting or satisfying of the moral opinions of others. But to include these among relevant utilities would be logically disastrous. Clearly we can get nowhere with a moral theory if among the effects to be taken into account we include consistency with contrary moral opinions. The purpose of a moral theory, presumably, is to say what those opinions ought to be; and if they are in disagreement with it, then the logical requirement on the upholder is simply to regard the contrary opinion as in error, or else give up (or alter) his own theory.

I conclude that we should take into account the fact that people would complain if a certain practice is engaged in, or a certain act performed, only in the sense that we should consider whether the complaint is justified. If it is not, then we should
not. It is no use saying, as Brandt does, that our moral rules ought to be consonant with the opinions of the “intelligent” and/or the “conscientious.” For in what does intelligence and conscientiousness consist, in the relevant sense? Surely these properties are tested, for the purpose in question, by seeing whether the persons alleged to have them live up to the principle of utility, if it is indeed true. If intelligent and conscientious people differ, then of course one is obliged to go into the merits of the theory—to write books on ethics, for example, offering arguments in support. But this is not an intra-theoretical consideration; it is, rather, a consideration of the type outlined in Chapter I, wherein we observed that a plausible ethical theory will inevitably have to square with a good many of our moral convictions held at the outset. It can hardly be a part of our theory that it be required to reckon such things as relevant utilities.

To summarize, the satisfaction of people’s moral opinions, or in general, of expectations, confidence, and other sentiments which presumably are under the control of the persons experiencing them, is not, as such, a utility. Whether such satisfactions are to be reckoned as utilities depends on whether they are, under the circumstances, justified. To find this out, one must apply some criteria for appraising them. From the point of view of utilitarianism, these criteria must, of course, be provided by the principle of utility itself, or at least by something consistent with it. But this means that the acts or practices toward which these sentiments and expectations are directed must themselves have some other utility (hence, some “primary” utility) than their effects on these very sentiments and expectations; either that, or there must be some special reason for regarding these as the “primary” utilities for the case in question. We shall see, in the following chapter, how vital this distinction and the attendant considerations will be.

_Distinguishing Moral Predicates_

According to Brandt, a complete ethical system has a lower limit of economy in that “the system must contain at least as
many distinct basic principles as there are different ethical concepts.” If this is correct, then if ‘is morally obligatory,’ for instance, cannot be defined in terms of ‘is morally good,’ then if our system is to be complete we shall have to have at least one distinct principle providing for the conditions of application of each predicate, and thus utilitarianism would be doomed.

Brandt’s principle, however, is stated a bit too strongly. Surely there could be different ethical predicates which are nevertheless interdefinable in some way. When he says ‘different,’ he must mean ‘irreducible,’ and this is another matter. Ross has shown, I believe, that there is no hope of directly inferring ‘x is obligatory’ from ‘x is good,’ and in some sense, this certainly shows that these are “different” ethical predicates. But this, as it turns out, is not the end of the matter. Nowell-Smith has produced an account according to which ‘ought’ and ‘good’ have different uses, but nevertheless are such that the usability of ‘ought’ is logically contingent on that of ‘good.’ What Nowell-Smith calls “pro-words,” he says, “belong primarily to the language of ‘I shall,’” and ‘G-words’ (deontological ones) belong “to the language of ‘You ought,’” and decisions never follow logically from imperatives.” Nevertheless, he points out that although it would be possible to have a world in which people used pro-words and no G-words, it would not be possible to imagine one in which they used G-words but no pro-words. “The reason for this is that all these words, both pro- and deontological, belong to practical discourse; and they could not be used in the way that we in fact use them in a world in which people did not know what it is to choose; and this they could not know if they were indifferent to everything in the universe.”

What Nowell-Smith says is true, I think, but it does not quite solve our problem. We still do not know exactly how to interdefine them, and indeed, since Nowell-Smith denies that imperatives entail decisions (and could certainly deny the reverse entailment likewise), we seem to have to admit the logical distinctness required.

33 R. B. Brandt, Ethical Theory, p. 295.
34 W. D. Ross, The Right and The Good, Ch. 1
35 Nowell-Smith, Ethics, p. 223.
36 Ibid., pp. 224, 225.
The clue to the answer here lies in the considerations I have advanced in Chapter IV under the topic “Objective and Subjective.” The main point of using moral language is to get people to do what is right, and shun what is wrong. I tell someone that what he is doing, or is about to do, is wrong primarily in hopes of getting him to quit, or not to start.

Now, what of ‘right,’ and ‘ought,’ and ‘duty,’ (the so-called “deontological” words) versus ‘good,’ ‘desirable,’ etc. (the “teleological” group, which is perhaps ill-named—“evaluative” might be better)? Nowell-Smith’s contention that the former, as a group, are primarily for ‘advising, warning, commanding, exhorting, and admonishing,’ while the latter are concerned with ‘giving reasons for choice’ seems to me to suggest the relevant distinction. Obviously, that something is one’s duty, or is the right thing to do, gives us a reason for doing it, just as does the consideration that it would be desirable or would accomplish a good result. But it suggests something more, surely. What it suggests, I think, is that one can be held to account for nonperformance in a way, or to a degree, which is not suggested by the latter kind of reasons.

This analysis goes back at least to John Stuart Mill. In Mill’s treatment of the concept of justice, he says, “When we think that a person is bound in justice to do a thing, it is an ordinary form of language to say that he ought to be compelled to do it.”

Brandt, as we noticed above, indicates that there is a sense of ‘duty’ in which it “would imply that the person is properly subject to moral criticism or punishment if he fails.” There is a peculiar onerousness, amounting nearly to a kind of distaste, about moral considerations, especially those having to do with duty, justice, and obligation. We are “bound” by obligations; they interfere with the normal course of activity, and prevent us from doing just what we want to do. Moral considerations “intervene” and “impinge” on us, rather than occupying us in a perfectly natural and happy-go-lucky way.

Now, this trend of analysis seems to me a plausible one. The general distinction between saying that something is morally

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37 Mill, *Utilitarianism*, p. 44.
desirable, good, or praiseworthy (not meaning to imply that these three are precisely equivalent) and saying that it is morally obligatory, one's duty, or wrong not to do, is that the latter carry with them the suggestion that certain types of reinforcement are in order. There are two aspects to this. On the one hand, the words suggest that one could rightly be punished for nonconformance to a rule of right. On the other hand, the use of the words is itself a form of mild reinforcement. It is a bad thing to be morally censured; and the badness of it is part of the meaning of the words themselves. This is one reason why it is so strange for a person to say with a perfectly straight face that what he is doing is wrong, for his saying this not only implies that he does not approve of his own action, it also suggests that he is in a way already punishing himself for it. (This may be part of the reason why we think of criminals as abnormal.)

At the extreme end of the scale of deontological words are those having to do with strict justice. Justice and punishment are intimately related to each other: That it is just to prevent injustice by force if necessary is, I suggest (along with Mill) a strictly analytic proposition. At the other end of the scale, matters of right shade into matters of indifference, in one direction, and matters of good and bad, in the non-deontological sense, in the other.

Of course, we do not always feel that it is up to us to punish, or sometimes even to admonish or criticize, when we feel that someone has done something wrong. This can be accounted for by pointing out that there are second-level rules appropriate in some cases, rules about the appropriateness of criticism or punishment being applied by people with different relations to the person in question. Thus, for example, punishments for crimes should be inflicted by the community's agents, and not by private parties; children's discipline often should be left to their parents, and so forth. In every case, an implication that "negative reinforcement" of some kind is called for is present in the use of the deontological words. Surely this is why this group of words has a forbidding aspect lacking in such words as 'good,' 'desirable,' 'preferable,' and 'undesirable,' for example.

Another aspect of 'deontological' words which distinguishes
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them, though not sharply, from the “evaluative” words is that they imply or suggest a notion of rules. Mill’s account makes reference to this aspect as well:

There can, I think, be no doubt that the idée-mère, the primitive element, in the formation of the notion of justice, was conformity to law… the sentiment of justice became attached, not to all violations of law, but only to violations of such laws as ought to exist, including such as ought to exist, but do not.39

It is evident that the idea of rules of one kind or another, and of laws in the extreme case, are closely related to the ideas of justice and of moral right and wrong, and this is amply attested to by the attention given to them in current literature. We can profitably ask what connection there is between these two major aspects of the notions of justice, right, duty, and obligation. On the utilitarian view, as I pointed out in Chapter IV above, this connection is quite intelligible. If our purpose in using moral words is to get somebody to do something which he might not otherwise do, and if the use of the expressions we are considering involves the suggestion that reinforcement is in order, then our purpose cannot be accomplished unless the subject is able to predict with reasonable accuracy if he can expect to be punished or not, and on just what occasions. A rule establishes a general criterion by which he can make this prediction, and thus be enabled to take avoiding action if he is so inclined. But if the threat of punishment is random, then he has no way of predicting when it will come and when it will not, and hence, there is no way of guiding his action accordingly. Thus, our purpose of guiding his action will be defeated, and we shall have introduced fear, apprehension, and frustration, as well as the pain of the punishment (whatever it may be when it is inflicted), into a person’s life without adequate utilitarian reason. This is, obviously, the very reverse of utilitarian behavior on our part.

This is the only explanation of the relation of rules with justice that makes sense to me. The supposition that the rules of morality exist entirely for their own sakes must be classed as a

39 Mill, Utilitarianism, pp. 43, 44.
neurotic symptom, at best. And the idea that a morality might not involve an implicit suggestion of reinforcing procedures must be classed as fantasy. The institutions, and indeed the idea of morality, would not arise in a community of perfectly rational beings with no untoward passions, no inclinations to do anything wrong; they would have no purpose, and thus would make no sense.

We may now briefly summarize the range of words that have a use in morality. At one extreme, we have expressions such as “It would be best to do this, and not quite so good to do that”; “This is the most desirable policy, that one has its points, but isn’t quite as satisfactory”; “This one is admirable, laudable, noble, and magnificent; that one is all right, sensible, satisfactory, within the line of duty.” Here the “pro” words are highly commendatory, and imply praise and the desirability of reward, while the second members of each set, while they suggest a lower rating, do not admonish or criticize, but merely withhold reward or praise. Roughly, the positive words positively reinforce, while the negative ones do not negatively reinforce but only signify the absence of positive rewards.

At the other extreme, saying “This is a depraved, wicked, evil act, while that is justifiable, permissible, and within one’s rights,” are such that the negatives imply the appropriateness of the strongest kind of negatively re-inforcing action. They indicate that the business is serious indeed. The second class of statements indicates that a serious question has been raised, but that the subject has passed the tests and is not to be negatively reinforced. They do not imply praise in any particular degree, however. In fact, one might well say that a person was within his rights, but add that he was being rather ill-tempered, mean, rigid, or perhaps ill-advised in sticking to them. He should have to go several notches better to deserve praise. On the other hand, what he’s done cannot be assessed as really wrong.

Statements of the form, “It is right to do so-and-so,” or “It is just to do so-and-so,” are rather ambiguous. Most often, I

40 A person might, of course, regard conformity to some rule as worthwhile in itself. But this is his own business, and is not relevant for morality.
would say that to call some act “right” is not positively to praise it, but to clear the air: it implies that a question has been raised about the morality of the act, and that the party is not guilty. But it often suggests a certain praiseworthiness, because often it indicates that the subject has resisted temptations of some degree of force. If he didn’t, then it would have been rather pointless to raise the question of the morality of his actions. The same goes for ‘just’: Once the question about an act is raised, then we are forced to say that it is either just or unjust; but very often, to raise the question would be out of place. If, for example, on a quite ordinary day, in my own kitchen, I am drinking a glass of water and somebody says, “Is that just?,” my first inclination would not be to defend myself but to ask him, “What’s going on?,” with the implication that if there isn’t some rather special circumstance of which I’m not aware, he must be kidding, or some kind of a crank. We are tempted to say that such actions are neither just nor unjust, in any serious sense; but they are certainly within one’s rights. 41

Various writers have insisted that most acts are neither just nor unjust, taking a position analogous to that of Strawson on the truth-values of statements containing non-referring referring terms. Thus Stanley Cavell says, “A case can also be made out that it was failure to recognize such action which produced some of the notorious paradoxes of classical Utilitarianism: what neither the Utilitarians nor their critics seem to have seen clearly and constantly is that about unquestionable (normal, natural) action no question is (can be) raised; in particular, not the question whether the action ought or ought not to have been done. The point is a logical one: to raise a question about an action is to put the action in question.” See “Must We Mean What We Say?” in *Ordinary Language*, ed. V. C. Chappell (Englewood Cliffs, N. J.: Prentice-Hall, Inc., 1946). How does this differ from saying to the doctor, “But normal people do not have cancer, and I am a normal person, so I can’t have cancer?” The question is: Are any acts immune, logically immune, from raising a question? It is moot that raising a question *ipso facto* makes it an unusual case. ‘Just’ and ‘unjust’ are further cases in point. Frankena says that “I want to agree that beneficence is right and failure to be beneficent wrong under the conditions specified; however, I want to deny that they are, respectively, just or unjust, properly speaking.” (In *Ethics*, p. 36). But why not? Perhaps we can come to agreement by allowing that in one sense, a just action is required by a consideration of justice, but in another sense, a just action is simply one that isn’t unjust (neither required, nor its avoidance required, by a consideration of justice). We are not to the bottom of the analysis of “presupposition.” This is Strawson’s term in “On Referring” (Mind, 1950). I am hopeful that further research will uncover nothing gravely unsatisfactory about this account.
I shall take up more particular questions about justice, rights, and duties, as they arise. Meanwhile, my purpose has been merely to lay down the general framework within which the utilitarian view of these matters can be defended sensibly. Broadly, the difference between the performative functions of evaluation and obligation (with judgments of justice or injustice being the extreme case), is that between reward or praise and the withholding of reward or praise on the one hand, and punishment or blame, and exoneration from punishment or blame, on the other. If this is correct, then the charge of fanaticism and moral extremism laid against utilitarianism is unjustified. What follows immediately from estimates of utility is a license for judgments of evaluation, not of obligation. The question whether we are to judge an act wrong, and not merely undesirable, is another issue. Broadly, the way in which one decides it is by deciding, not just whether the act in question is, not conducive to utility, or productive of the opposite of utility, but also whether it would be conducive to utility to punish, blame, reprove, or admonish the agent. Of course, punishment, blame, reproof, etc., are intrinsically contrary to utility, since the imposition of strictures and punishments logically consists in the production of effects which are negatively valued by the subject. So, we must balance the badness of his act against the intrinsic undesirability of reinforcing action, and see whether the net results are desirable or not from the utilitarian standpoint.42

Notice that the question has to be whether the imposition of penalties is morally desirable and not whether it is “just,” if this program is to succeed. For the Principle of Utility as it stands only affords judgments of evaluation, and not judgments about justice. The utilitarian must show that the latter are reducible to the former, and therefore must show that a judgment of value must underlie any properly made judgment of obligation.

42 The point has been recognized by several writers (e.g., R. B. Brandt in “Toward a Credible Utilitarianism,” in Castañeda-Nakhnikian, Morality and the Language of Conduct, pp. 118, 119; also, W. D. Falk, Ibid., p. 56; William Frankena, Ethics, p. 58, in connection with free will and responsibility). No one has made enough of it, in my opinion.
At this point, some critics may be inclined to object. "You stand convicted out of your own mouth, for this is an impossible task," they will say. We shall see. Let us be clear about what I am maintaining. Briefly, I claim that where no one cares, nothing can be unjust. It is impossible to be unjust to a person who is absolutely indifferent to any mode of treatment. Judgments of justice and injustice must be justified by reference to people's interests in order to have any point and (therefore) any meaning. If this is thought to be self-evidently absurd by anyone, I can only urge the arguments in the remainder of this book.

Those who doubt the possibility of making judgments of obligation depend on judgements of value may perhaps be confusing two senses of 'justify.' Justice and justification are not the same thing at all. When we say that a person's action may be just or unjust, we are in a quite different line of work from what we are in when we say that a statement is justified, or even that an action is justified in non-moral contexts. 'Justification' has what we might call a "logical" sense when we speak of justifying a judgment to the effect that a certain action is wrong or unjust. 'Just' or 'unjust,' on the other hand, have a moral sense when said of actions. Justifying an action is one thing; justifying the statement that it is justified is another. There is no absurdity at all in supposing that the justification of judgments about the justice of actions consists in producing certain relevant evaluations.