Next, perhaps, to the "Innocent Man" problem reviewed in the preceding chapter, it is safe to say that the problem of distributive justice or fairness is the most influential of the popularly-regarded stumbling blocks to utilitarian theory. It is alleged that there is a conflict between the goals of maximizing happiness and of distributing it equally or, if this is different, equitably, where equitability involves proportioning to merit in some sense. It is held that there is a fundamental obligation to distribute things in accordance with one or both of these principles. Thus, for example, we find E. F. Carritt commenting as follows:

Most of them (utilitarians) really admitted this when they found it hard on their principle to allow for the admitted obligation to distribute happiness 'fairly,' that is, either equally or in proportion to desert. This led them to qualify their definition of duty as 'promoting the greatest amount of happiness' by adding 'of the greatest number,' and to emphasize this by the proviso 'everyone to count for one and no more.'

Latterly, we find Frankena maintaining this as the only really serious objection to utilitarianism (at least, a broadly construed utilitarianism). According to Frankena:

To my mind, there is a decisive objection even to rule-utilitarianism. . . . Suppose we have two rules, R₁ and R₂, which cannot both be made a part of our morality. Suppose further that in the case of each rule we know the results of everyone's always acting in appropriate situations on that rule . . . and that even when we compute, as best we can, the values of those results we find that the score is even—in

¹ Carritt, *Ethical and Political Thinking*, pp. 63–64.
both cases we obtain the same balance of good over evil in the long run for the universe as a whole. Then, the rule-utilitarian must say that \( R_1 \) and \( R_2 \) will serve equally well as principles of right and wrong and there is no basis for choosing between them. But it still may be that they distribute the amount of good realized in different ways: acting on \( R_1 \) may give all of the good to a relatively small group of people without any merit on their part (to let merit count at this point is already to give up utilitarianism), while acting on \( R_2 \) may spread the good more equally over a larger part of the population. In this case, it seems to me that we must and would say that \( R_1 \) is an unjust rule and that \( R_2 \) is morally preferable.\(^2\)

Mill, as we know, had delivered himself on this point as follows:

That principle is a mere form of words . . . unless one person’s happiness, supposed equal in degree . . . is counted for exactly as much as another’s. Those conditions being supplied, Bentham’s dictum, “everybody to count for one and nobody for more than one,” might be written under the principle of utility as an explanatory commentary.\(^3\)

But Frankena agrees with Carritt that this statement of the matter involves an alteration of the principle:

Mill might reply that we should understand the principle of utility as enjoining us to promote the greatest good of the greatest number, which is, in fact, how it is often formulated. If we understand it thus, the principle does tell us that we are to distribute a given quantity of good to more people rather than fewer, when we have a choice. The principle of utility thus becomes a double principle . . . it has become a combination of the principle of utility with a principle of justice, and to read it thus is to give up pure utilitarianism for the view that . . . there are at least two basic and independent principles of morality, that of beneficence or utility which tells us to maximize the total amount of good in the world . . . and that of justice.\(^4\)

\(^3\) Mill, *Utilitarianism*, p. 58.
\(^4\) Frankena, *Ethics*, pp. 34 and 35. I cannot forbear to ask what in the world it means to say that the standard formulation of the principle of utility by Bentham and Mill, in terms of the “greatest happiness of the greatest number,” represents an “abandonment” of “pure utilitarianism!” Isn’t this rather like criticizing Christ for deviating from “pure” Christianity?
Perhaps the great majority of ethical thinkers would accept these criticisms. They raise a number of difficult and important questions, and in my opinion, trade on a number of confusions. In view of the seriousness of the charge, and the weight it is so generally regarded as having, there is nothing to do but to go into all of the concepts involved, with some care. I believe that we shall see, in the course of this examination, that the picture Frankena and Carritt present is seriously misleading.

Since a general review is needed, I will try to take up the relevant topics in suitable order, leading to a sketch of a general theory at the end. The first subject, certainly, is that of distribution and in particular, what it is to “distribute happiness” (or “good,” in the relevant sense). Then we shall have to consider when and how one can (or does) have “obligations” to distribute happiness. Third, I will consider how fairness is based on utility, and will offer additional remarks on “fairness.” Finally, some considerations about the moral foundations of political economy will round out the subject, insofar as there is space to do so within the confines of this book.

Distribution and Happiness

Distribution. To “distribute” is, generally, to give or to bestow; in particular, to do so when there are at least several persons who are in some sense the relevant class of potential receivers. What might make a person a member of this relevant class is a question which we will pursue in the section below. Meanwhile, we may remind ourselves of the conditions under which one can distribute. In particular, what is being given or bestowed or distributed must be (1) transferable, and (2) divisible, where several recipients are involved; in order to be transferable, what is being transferred must be initially, in some sense, the giver’s; and in the end, must be in some sense the recipient’s. Now, moral philosophers talk about the distribution of various things which do not quite meet these conditions as these terms associated with distribution are normally used. They talk, for example, of distributing praise and blame, punishment and even rights, as well as more ordinary things such as legal
property. (And even ‘legal property’ takes in quite a bit.) Bestowing praise, however, doesn’t exactly involve transferring something of mine to various recipients who then have something which I had before and now no longer have. But there are analogies. For example, we talk of praising when praising was “not mine to give,” and certainly so of punishing. At any rate, we are brought quickly to the general subject of property, ownership or possession.

**Property.** In the most developed sense, to say of something that it belongs to Jones, is his property, is to say that he has certain rights as to its disposition and/or use. Rights to the disposition or use of something are, in the legal sense, matters of law, which are therefore subject to legislation and so alteration; while in the moral sense, if we may speak confidently of “the” moral sense here, to own, i.e., to have a right to something must be in some way a matter of its being a morally good thing that the person said to own the thing should be thought of as having the status to which a right to a thing consists. Again, as we move away from legal property and get into thoughts, ideas, praise, etc., we get only analogies to this. (All of this will be developed below.) At any rate, this takes us to rights of ownership.

**Rights.** Wanting a notion of rights of ownership (i.e., rights “to a thing”), we must move to rights in general, of which property rights are a subset. Following the general trend of social philosophers, it seems to me that the basic notion of a right applies to a person’s actions. Now, for A to have a right to do x is, surely, for it to be the case that other persons have a duty or obligation not to prevent A from doing x, i.e., not to interfere with his doing x, if A pleases. This means, of course, that they may neither force him to do it nor force him not to do it. (This is the “liberty” sense of ‘right.’ If I am obliged to do x, then I have a right to do x in half of this sense, namely, that it would be wrong for others to prevent me from doing x, but not in the other half, since it would then be right for them to require,
insist on, or force my doing of it. But we can neglect this.) There are other irrelevant complications here. For example, sometimes a person has a right "over" or "against" another specific person: if A "owes" B five dollars, then B has a right to five of A's dollars, transferred in a fairly specific way. Other persons then have (1) an obligation not to interfere with A's giving B the five dollars, or with B's receiving it, but also (2) an obligation to apply certain pressures to A if he doesn't come across, perhaps consisting in (3) an obligation to assist B in getting the five out of A, e.g., by giving information to the police if required; and in the sense in which law is involved, it will be the case that (4) there exists a specific group of law-enforcing agents whose special duty it is to apply force, if necessary, or otherwise take steps to ensure A's payment to B. All of these complications are not to the point here, since they are just variations on, and specifications of, the general theme that a right of A is an obligation on the part of others not to do various things (and sometimes to do various things), the general effect of which is to let A do as he pleases in respect of a certain act or activity or range of them.

Property rights, in particular, are thus a sub-class of rights in general, namely the rights to perform various actions involving the item which is said to be A's. Generally, these actions consist in "using" the item; again, there will be various things that the use of an item consists in, varying with the item, and sometimes the range of acts protected as rights will be limited to a certain stretch of those which it is logically possible to perform involving the item in question.

Now, the point of all this so far is that talk of distribution must in general proceed against a background of established institutions, either moral or legal, and generally a mixture of both. Lacking any specification of what "belongs" to whom, we are rather at sea, since it follows that we won't know what will constitute a "distribution" for the purposes at hand. And especially so when we talk of distributing "good" or happiness.

"Distributing Happiness." Clearly, what we can distribute, in the ordinary sense, are various items of use; likewise, we can
distribute various psychological effects, so to speak, though in a somewhat different sense. All of these may be distributed in the hope or on the assumption that they will make the recipients happier. In fact, this would normally be the case, since giving something to someone is to be distinguished from forcing it down his throat, for example, and thus we can assume that the recipients want the item in question. In turn, this normally implies that they like, enjoy, are pleased with, or otherwise have a pro-attitude toward the (use of the) thing in question. But to talk of distributing happiness is, clearly, necessarily elliptical for doing this sort of thing. Consequently, there is always the danger of oscillating back and forth between distributing certain material objects (say) equally, which of course might result in unequal satisfactions, versus distributing them in some “unequal” way which might, however, result in more nearly equal satisfactions. Added to this is the difficulty of being quite sure about any of these effects’ being produced by any given distribution. All of this will have to be taken into account.

“Obligations to Distribute Happiness Equally”

Obligations to Distribute. That I have an obligation to give something to Jones entails that Jones has a right to the thing in question, and if the emphasis is on ‘I,’ then it entails that he has the right “against” me in particular. At this point, a few reminders from our previous dealings with justice, and a few more from common sense, are in order. What common sense tells us, surely, is that we do not in general have an obligation to distribute things: What we own is ipso facto, what we have a right to use and hence, normally, to dispose of, as we see fit. Being what it is for us to have these rights, and obligations being what we have said in Chapter V, it quickly becomes evident both that we do not normally suppose that we have obligations, in general, to distribute anything, and that there is good utilitarian reason for this belief. A fortiori, we would have no obligations in general to distribute equally.
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To illustrate: if, for example, it is conceived that Jones, who is a millionaire, has justly acquired it, then certainly if he takes it into his head to give a hundred thousand dollars to some poor beggar he meets on the street one day, but not a single dime to the next one, is he doing somebody an injustice? Bear in mind that we are supposing that he has a right to his money, and that the beggars do not have a right to more than they have (viz., nothing). This may well be far from the case, and certainly considerations of distribution may determine this as well. But after all, the critics who have brought up this matter have not in general been communist radicals who believe that our present system of distribution is unjust, and if they did, they might have done well to make this clear at the start. Obviously there is no sense in discussing how a particular lot of goods ought to be distributed if the person doing the distributing had no right to it in the first place.

In fact, there is no sense in discussing the justice of distribution in a pure vacuum (as is usually done) at all. It is time to consider some reasonably genuine situations, of which I submit the above as a good example. And the lesson thus far is simply that in the absence of any special obligation, we have no general obligations to distribute anything at all, and thus no obligation to distribute it equally.

Obligations to Distribute Happiness. It is even less obvious that we have an obligation “to distribute happiness.” For one thing, this is not in general within our power, and the power to distribute it “equally” among all sorts of random persons, which presumably is what critics would want the utilitarian to do (?), is even less so. Making people happy is the kind of thing which, certainly, is good, and according to utilitarianism more obviously so than on any other view; but an obligation? Surely not. Obligations or duties are to avoid harming others, either in general ways or in specific ways made possible by institutional devices.

Far from it, judging by their usual tone!
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Thus, there are two strong reasons to deny that there is any general obligation or duty to distribute happiness: it is not within our power, and it is not the right sort of thing to be an obligation or duty.

Obligations to distribute equally. When we have no pre-existing obligations to give something to anyone, there can be no obligation to distribute equally, as we have seen. On the other hand, suppose that you do have an obligation to distribute something in a certain way. Suppose, for example, that you are a trustee for some philanthropy or for a will, and that the terms of the will call for you to distribute the money equally among a certain number of people. In that case, you should distribute equally; but by the same token, if the terms call for an unequal distribution, then you should distribute unequally. Again, the terms might simply say to distribute it among $n$ people, e.g., among "all my sons." In that case, it would surely be presumed that it was to be distributed equally among them, since the mode is unspecified.

Now why make this presumption? The reason is certainly not far to seek. If, for example, I have a lot of money which I want to distribute among a certain group of people who all have a certain reason for coming into my favor so that I take the trouble to include them in the will at all, and I then do not bother to say how much each should get, I am obviously implying that they should get the same amount. For why do I bother to mention them at all? Suppose my executor gives Harry $10, Tom $50, and Dick $50,000. How could he possibly suppose that this is what I meant, in the absence of special information? What would be the point of including Harry at all? It's simply irrational to proceed in this way without some special authorization.

It might be thought that this account "presupposes" the very point at issue. But this is not true. The point at issue is, I take it, an evaluative one. But the preceding paragraph has no special concern with matters of value. Suppose that I say that I have a dozen fir trees in my back yard. You come and inspect, and discover that indeed, I have one fine tall stately one, and eleven
month-old seedlings. What would you think? Or that I have a "family" of nine, seven of whom turn out to be cats? The fact is, that in using unqualified group-terms, we imply that the members of the group are all reasonably similar in the respect implied by the term. It's a simple matter of communication. Terms connote similarities; if the dissimilarities are extreme or substantial, it will be misleading to cover them all by a term which has to be stretched considerably to take them all in.

Numerous authors have commented on the apparent triviality of axioms of justice. Sidgwick, for example, observes that:

Some have said that the only sense in which justice requires a law to be equal is that its execution must affect equally all the individuals belonging to any of the classes specified in the law. And no doubt this rule excludes a very real kind of injustice: it is of the highest importance that judges and administrators should never be persuaded by money or otherwise to show 'respect of persons.' So much equality, however, is involved in the very notion of a law, if it be couched in general terms; and it is plain that laws may be equally executed and yet unjust.6

The prominent element in Justice as ordinarily conceived is a kind of Equality: that is, Impartiality in the observance or enforcement of certain general rules allotting good or evil to individuals. But when we have clearly distinguished this element, we see that the definition of the virtue required for practical guidance is left obviously incomplete.7

This is certainly correct. 'Equal,' is a notion the application of which requires other notions. To say that x is "equal" to y is to say, short of the case in which x is absolutely identical with y, that there is some respect in which x is sufficiently similar to y, preferably in some quantitatively variable respect, to account them of the same sort. What the "sort" is depends on what the respect is, which depends on what you happen to be talking about; and similarly for equality in ethical contexts. If you have a rule, then you can talk about inequalities in its application.

6 Sidgwick, Methods of Ethics, p. 267.
7 Ibid., p. 293.
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But where does the rule come from? Clearly we would need some independent standard for this; and utility provides one such standard.

Utilitarian Theory of Distributive Justice

We are now in a position to begin to formulate the utilitarian view on these matters. In the first place, we have seen that there is no general obligation on the part of an individual to distribute anything nor to distribute it in any one way rather than any other. In the second place, if an individual, or a corporation, or any group, does have an obligation created by some contract or other arrangement, to distribute something, then they ought to distribute it in the way called for by the terms. If the terms specify that it is to be distributed "in the way the executors see fit," then the executors do not have an obligation to distribute equally, unless they see fit to do so.

Moral Preferability of Equal "Distribution of Happiness." All of this presupposes, as we have seen, some method for appraising proposed rules or secondary principles; and the question is whether, at this level, utilitarianism calls for equal distribution of happiness in any sense. To be more precise, our question is whether an equal distribution is better than an unequal one, other things being equal. Now, this is still a very abstract question, and as such, should be treated with grave suspicion. What do we mean exactly? The question of measurement, especially, becomes paramount. Still, we must begin in the abstract. We shall suppose, what is plainly false, that it makes perfectly good sense to speak of "units" of happiness, units which, moreover, I can in some way bestow or supply, i.e., distribute. What can we say, under these circumstances? I think that there is an abstract argument for preferring equal distribution, quite apart from considerations of "marginal utility," etc., although these will be considered shortly.

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To understand this, then, let us begin by recalling Frankena’s admission that

It is true that the principle of utility requires us, when we are determining what to do, to count the effects of each action or rule on everyone and to weight equal effects equally in the computation of the score for each action or rule no matter who is concerned.⁸

This, he claims, must be distinguished from Mill’s “confusion” in failing to see that nevertheless this is compatible with distributing the “same amount of good in different ways.” According to Frankena, in other words, the considerations of equality all come in in reckoning up the amounts, and not in distributing it once reckoned. But this is not so. Imagine that I have it within my power to distribute twenty-five “units of happiness” among five different people, one of whom is myself. Now, imagine my confronting the other four people and saying, with a perfectly straight face, “Utilitarianism asks us to maximize happiness without regard to whose happiness it is; but this is compatible with any kind of distribution. Therefore, I have decided to take all twenty-five myself!” This is ludicrous. Is this compatible with the supposition that I have, as a basic moral principle, the belief that “equal effects are to be weighed equally in the computation, no matter who is concerned?” The other four chaps aren’t going to believe it! And neither do we. A person who behaved in the above manner could not seriously be maintained to be a utilitarian. In believing that whose happiness it is is literally indifferent, he is ipso facto adopting the position that I am no more deserving of happiness than you: that is, that our desires have an equal claim to be satisfied. Having an equal claim to be satisfied is what it means to “count them equally.”

Now the fact that I put the above problem in terms of distributing to persons, one of whom is myself, is merely a graphic way of establishing the general point that difference of person is not to be “respected.” For if it would be absurd for me to claim that I was acting in accordance with the principle that whose satisfactions are in question is indifferent if I load the dis-

⁸ Frankena, Ethics, p. 34.
tribution in my own favor, it would be equally absurd to load it in anyone else's favor.

The net effect of this argument, I think, is to deny that we can first make the computation, accounting everyone equal, and then do the distributing, in just any old way whatever. Which brings us to the subject of measurement.

Measurement. When we reckon utilities, it is admitted, equal desires should count as equal in utility. But this is already to admit that it makes no sense to say that we can, after making our calculations, distribute in just any way we wish. For this means that if, for instance, you desire something as much as I do, and we cannot both have it, and we can split it so that each of us will get some of the satisfactions we want, then it is *prima facie* preferable to split it. This is what it is to say that your desire is no better or worse than mine, i.e., that whose desire it is is indifferent. Regarding people's satisfactions as of equal value means attaching the higher value to the situation in which they are satisfied equally, or as nearly so as possible.

Now, it can of course happen that various deviations from this model develop. The item in question might not be splittable (consider the case of Solomon, the two ladies and the one baby). Or, one might want more than the other, and enough be available to satisfy both. If there are twelve, and you want seven and I only want five, then "equal distribution" is not called for. But what if we both want more than there are, only you want it more than I? What does this mean?

It is at this point that we are confronted with bogeymen. Critics, with their talk of "units of happiness" and "two million people half as happy as one million," suppose that we might have some method of measuring happiness in the abstract, as though we could attach some sort of meter to people to see how their hedonic states are doing. When they are criticizing utilitarians, they hide our actual methods of determining these matters in a convenient hallway, to be pulled out later under the guise of a rival theory. But happiness is not a quantity like water or sand, which might be found lying about in puddles or piles quite irrespective of what people want, demand, ask for, work for,
or worry about. The reason why utilitarianism has always been formulated—in its "pure" form—in terms of the "greatest happiness of the greatest number" is precisely that happiness is necessarily found in persons, and that we can detect its presence or absence in them, in those cases in which they are not identical with ourselves, only by observing them, talking with them, acting with them. We have no other methods of "measuring" happiness than these.

To help focus matters, consider the question put by Hare, as follows:

Are we, in any case, to treat each person as one, or each desire of a person as of equal weight to the same desire, of the same intensity, had by some other person? The two methods might lead to different results; for there might be two people, one of whom, A, had altogether very moderate desires, whereas the other, B, had many and very intense desires. As a result, it might be the case that, where there was a choice of giving something to A or giving it to B, the desire for this thing came right at the top of A's desires, as ranged in order of intensity, but only in the middle of B's order, and yet that, all the same, B wanted it more than A did. If a sense can be given to this description, we should, if we were treating each person as one, presumably give the thing to A; but if we were comparing desires one with another, simply on the basis of their intensity without regard to who has them, we should have to give the thing to B.9

In the first place, why should Hare associate the supposed concept of "treating each person as one" as opposed to treating "each desire as one," with the preferring of B's satisfaction to A's in this case? I submit that this is arbitrary. If B literally wanted it more than A, it would be to A's credit to yield it to B, supposing that A had some kind of claim on it. He would not be denying thereby that he, A, was as much of a "person" as B. It seems that Hare is unconsciously slipping back into the pernicious habit of some schools of metaphysics, in which words continued being used in a certain way when the logical conditions of their application no longer obtain. The metaphysician talks about "reality," "the One," or "the Absolute" without supplying the needed answers to the questions, "real what?"

9 Hare, Freedom and Reason, p. 120.
“One of what?” “thing that is non-relatively what?” Similarly, to talk about “equality of persons” is meaningless, as Sidgwick pointed out, in the absence of some rule or other whose application is in question. “Give each person one banana” supplies a meaning for equality of treatment. But “treat each person as one” does not; and therefore it no more implies the method which would prefer B to A than that which would prefer A to B in Hare’s example.

Hare also clouds the picture by talking exclusively in terms of obligation and duty, and never simply in terms of good and bad. But it will not do to say that people have a right, simply in the abstract, to happiness, unless perhaps from God. If we suppose that A had a right to the item in question and B did not, that of course would alter the picture. Then A would be cheated if it were given to B instead. But we are not supposed to be presupposing any particular structure of rights here. I submit that under these circumstances, and if we focus on this one case, without regard to past or future satisfactions of A versus B, that there is more value in giving the item to B, if the case is specified. The truth is, it is meaningless to say that a desire could be at the top of A’s list (if A is a human being at any rate), and still weaker than a desire in the middle of B’s list. Such would be the purport of our remarks on measurement in Chapter III.

But we are not to look at cases only from the perspective of the immediate moment. Suppose that A has yielded a share, so to speak, to B in the past. In that case, we might want to prefer A to B next time around, even if B’s desire is the more intense on that occasion as well. For we are to maximize everyone’s satisfaction, all around, and “maximization” has time as one of its dimensions. A has, in effect, put off a possible satisfaction in favor of B at one time, so that the second time around he will have, so to speak, a credit on his hedonic account. We can describe this either as constituting a factor in the weight of A’s future desire (so that we reckon his desire the second time as more intense than it was the first time), or else as a factor independent of intensity. In either case, the policy of not respecting persons when we satisfy desires would countenance giving A some preference to B if B has had preference in the past.
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Some further points of moderate importance should be considered before we conclude. These are marginal utility, envy, "merit," and trades.

**Marginal utility and envy.** It remains true that circumstances enable us sometimes to maximize utility at the expense of equality of distribution. If a desired thing is such that dividing it beyond a certain point will destroy its utility altogether, then one cannot maximize extent. In a very common range of cases, including by far the most important for considerations of distribution, namely money, the phenomenon of diminishing marginal utility is in evidence. All experience indicates that a unit increase in income does not produce, in general, a "unit increase" in well-being, happiness, or satisfaction. Generally speaking, it seems more likely that an increase of a certain percentage of one's present income is what will produce a "unit increase" in happiness. Thus utility will ordinarily be maximized by increasing the income of a large number of poor people by a small amount each, than a small number of rich people by a large amount each. That wealth is not at all correlated with satisfaction may be dismissed as romanticism; but that twenty dollars mean as much to J. Paul Getty as to a man on relief just isn't true. However, this is an empirical matter, and deviations can and do occur.

There is also the fact of envy to consider. It might be argued that a reason for distributing equally is that inequitable distribution will cause envy among the shorted parties. As every parent knows there is a sense in which this is perfectly true. But as a theoretical factor for moral purposes, it must be discounted. As usual, we must ask whether envious desires are legitimate or not.

10 It doesn't follow that the theft of his money is therefore of no account. Theft constitutes a harm, to be considered as long as what is stolen was rightly the purported owner's. But it may well be questioned whether a fortune the size of Getty's ought to be permitted to accumulate.

11 John Rawls, in "Justice as Fairness," reprinted by Peter Laslett and W. G. Runciman (eds.), *Philosophy, Politics, and Society* (2d Series; Oxford: Blackwell Publishing Co., Ltd., 1962). He appears to take it as axiomatic that considerations of marginal utility provide the only *prima facie* case for equality of distribution on utilitarian theory. Cf., pp. 149, 150. (Of course, I am denying this view.)
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If they are, it must be because there is some pre-existent reason for distributing equally; and if they are not, then they shouldn’t be taken into account, in principle.12

However, we mustn’t be too short with this argument. It could, certainly, just be a psychological fact about people, or at any rate about people in our culture (and clearly not true even of all of them) that they are pained at the knowledge that others are getting more than they.13 Whatever the source of such desires, most of us know that they are difficult to suppress when they exist. This, then, constitutes a supplementary consideration.

Merit. Critics have also complained of the inability of utilitarianism to account for the principle of distribution in accordance with “merit.” Here, too, confusion and muddle have obstructed progress. To begin with, the objection is usually voiced in such a way as to imply that there is some sort of general quality called “merit,” assessable independently of any considerations of special purposes or activities. Incidentally, this idea is the sort of thing you would expect to find circulated by a decadent and unscrupulous aristocracy with an eye to justifying its dominant position by ideological means; but the briefest inspection shows that such a notion is nonsense. There is no such thing as “general human merit.” There is moral merit, athletic merit, pianistic merit, ditch-digging merit, and what-have-you, and the reasons for “rewarding” each of these things are specifically different. To take an example, suppose that a group of people get together to form an athletic organization, for the purpose of holding contests to see who can run fastest, jump highest or farthest, or whatever. The rules for each such contest determine what “merit” is for the particular case. In a foot race,

12 Here again, I find the remarks of Richard Robinson useful. He properly emphasizes the dangers of confusing the sense of justice with simple envy. See An Atheist's Values, pp. 178–81.

13 Hospers, in Human Conduct, seems to regard the fact that the other parties might not know, or that even if they do know, the total quantity of good in an inequitable distribution might nevertheless be greater, as the fundamental points here. But the question of the legitimacy of envy when it occurs is clearly more fundamental still.
merit is proportional to speed; in a jumping contest, the height attained by the method specified; and so forth. To classify these abilities as "merits" is to say that these are the abilities which the participants and supporters of the activity are interested in, and which therefore they will be disposed to praise or otherwise reward. The proposition that "merit should be rewarded" is, in other words, simply analytic. Imagine holding a foot race, specifying that the prize will be so-and-so, urging each contestant to run his fastest—and then giving the prize to the man who came in third! (On grounds of his "general human merit," perhaps?) The person who came in first has, obviously, been duped. One might be inclined to call this "unfair," except that it is really too bizarre: it smacks of lunacy. One could, of course, hold a quite different kind of contest, the point of which was to cross a line precisely third. That would be a bore, perhaps, but not a contradiction.

Next, let us point out that people who are uninterested in athletics need not bother to come, and of course will not cheer the winners, nor participate in the other rewarding activities for these particular endeavors. All of this is obviously sanctioned by utilitarianism: The rewarders are doing what they want to, the contestants are doing what they want to, and those who stay home for lack of interest are doing what they want to. Where is the difficulty?

Trade. Another factor of importance in distribution theory is trade. Supposing that two people, no prior obligations assumed, should agree to exchange certain goods. In an unforced trade, it may be presumed that they do this for mutual advantage, and if the goods are "as advertised," and their desires do not change in the meantime (both of which can happen, but ordinarily does not), then the trade will be successful. This is as much as to say that their mutual utility will be increased. Consequently, we have a prima facie argument in favor of trade as an institution, so long as the above conditions are met.

It is clear that this concept is important in both economic and political theory. "Log-rolling," for example, is a type of
trade, in which the participants are agents for other people’s utilities. It has its dangers, but there is virtue in the practice if exercised with caution.\textsuperscript{14}

\textbf{Summary.} I shall now try to sum up the results of this rather complicated discussion. My main concern has been, in effect, to complain that what Frankena, Carritt, and other critics regard as two independent factors, i.e., “quantity” and “equality of distribution” of utility, are not independent in the way supposed. I have argued that this is a completely misleading picture of the theory. The move from consideration of my own happiness to consideration of the general happiness (my own satisfaction to the general satisfaction, my own good to the general good) is the essence of utilitarianism. This means that it involves making “extent” one of the measures of quantity which, of course, is Bentham’s view. According to him, “extent” is one of the factors to be taken into account in determining the “value of a lot of pleasure or pain.” To suppose that the “quantity” of pleasure or happiness is one thing, and, quite independently, its “extent” another is simply incoherent. We are not, of course, given directions as to what to do when we have to choose between satisfying more people less and less people more; indeed, we could not very well have done so, in view of the fact that no method for attaching numbers to the “quantities” is question is available or even, perhaps, possible. The only thing that is clear is that it isn’t clear precisely what to say here: but critics talk as if it were.

It might help to take an analogy, which will have at least some of the complexity of the present question. Suppose that we are arguing the question whether the Ferrari is faster than the Ford. The Ford, we find, will go faster in a straight line or around a banked oval than the Ferrari; but the Ferrari will come up with shorter lap times around a twisty road-racing circuit. Which is the “faster”? Well, it depends upon how the factors are to be weighted. But how do we decide this? It isn’t clear. What’s clear

\textsuperscript{14} Cf., the article, “Philosophical Problems in Majority Rule and the Logrolling Solution” by Hardy Lee Wieting, Jr., Ethics, 1965.
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is that if the Ford would beat the Ferrari under any conditions, than it's "faster," unqualifiedly. Again suppose that we want to know whether Minnesota is "lakier" than Florida. Florida, it turns out, has three times as many lakes as Minnesota, but Minnesota has more square miles of lake. On the other hand, Minnesota is half again as big as Florida, so that Florida has a higher ratio of area of lake to area of land. Then again, most of Florida's lakes are really swamps. What now? It isn't clear; it depends on what we're after.

Similarly with utility. What we want to do is to satisfy as many people as much as possible. Other things equal, the more people satisfied, the better; and other things equal, the more satisfaction for any given person, the better. But what is it to satisfy two people equally? A larger proportion of their desires satisfied, or the one most intense desire of one versus many of the less intense desires of the other? Lacking precise measures, we can only ask, guess, and experiment.

A distribution which satisfies everybody is best, and a distribution which everybody agrees to may be presumed to be best, assuming everyone is well informed, that envy is carefully discounted, that no one antecedently had an advantage to which he had no right, etc. My contention is that this result is what one arrives at on the basis of considerations of "pure" utilitarianism, and that it is, probably, identical with what would be recommended by Frankena and the others who have considered this question. If it is said that there is a "bias" toward equal distribution here, then we shall just have to reply that this is what utilitarianism is all about.

"Justice as Fairness." Before turning to the project of sketching the outlines of a theory of economic distribution, I want to consider the view of Professor Rawls, found in "Justice as Fairness" which has received considerable attention in recent years. He believes that the principles he advances are fundamentally different from, and incompatible with, those of utilitarianism; I shall try to show that this is not true.

Most of his criticisms, to begin with, are couched in rather tendentious terms. Consider, for example, the following:
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(Utilitarianism) regards persons as so many separate directions in which benefits and burdens may be assigned; and the value of the satisfaction or dissatisfaction of desire is not thought to depend in any way on the moral relations in which individuals stand, or on the kinds of claims which they are willing, in pursuit of their interests, to press on each other.\footnote{Rawls, “Justice as Fairness” (see supra n. 11), p. 151.}

Both of these last assertions, which apparently are thought to be corollaries of the opening sentence, are surely unfair. It is self-contradictory to say that utilitarianism, which is a moral theory, tells us to neglect the “moral relations in which individuals stand.” A moral theory determines these relations, and if they exist, according to the theory, then of course the theory does not hold that they should be neglected. Nor could the utilitarian allow that the “kinds of claims which individuals are willing to press on each other” may be “neglected.” It is, as I have urged, impossible to measure utilitarian values irrespectively of what individuals are “willing to press on each other”; indeed, it is precisely in the context of conflicts of interest that moral problems arise at all. If in the light of all relevant information, a particular individual does not wish to “press a claim” for x, then one must assume that he is not interested in x, unless his ability to press a claim has been artificially restricted; but if he does, then that is precisely the kind of information on the basis of which we can assign a positive utility to giving him x. And if other individuals press the same claims, in the light of what is known about x, then they too must be considered.

To take an example of what Rawls considers to be an application of these general criticisms, consider his contentions about slavery:

But as an interpretation of the basis of the principles of justice, classical utilitarianism is mistaken. It permits one to argue, for example, that slavery is unjust on the grounds that the advantages to the slaveholder as slaveholder do not counterbalance the disadvantages to the slave and to society at large burdened by a comparatively inefficient system of labour. Now the conception of justice as fairness, when applied to the practice of slavery with its offices of slaveholder
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and slave, would not allow one to consider the advantages of the slaveholder in the first place.\(^{16}\)

But this confuses questions of distribution with the kind of questions discussed in Chapter VI. The principles of interpretation there developed are intended to show that the utilitarian cannot consider the “advantages to the slaveholder in the first place” either, since slavery, by definition, involves forcing people to work for one’s benefit against their will. Thus, the desire to be benefitted in that particular way is ruled out of court from the start. I suspect that this confusion lies behind much of the readiness both to criticize the supposed utilitarian theory of distribution, and to suppose that there is more of an obligation to distribute equitably than there is. Once we have seen this, the question resolves itself into that of assigning values to different distributions when the question of obligations has not yet arisen, i.e., when we are formulating the kinds of social practices, or the criteria for judging such practices, that we are to regard it as morally desirable to put into effect in a community. In the light of this, it seems to me that both of Rawl’s two “axioms” of justice are derivable from the position I have been developing throughout this book. The first is as follows:

First, each person participating in a practice, or affected by it, has an equal right to the most extensive liberty compatible with a like liberty for all.\(^{17}\)

Note that the word ‘equal’ can be deleted here without altering the meaning of the principle. According to our view, everyone should always have maximum possible liberty. Everyone has a right not to be harmed in any way, and any infringements on his liberty are harms (as was argued in Chapter VI, above.) It follows that no one may be required to do anything, including (therefore) participating in a “practice” as determined by legal arrangements, without his consent, unless the failure to consent is itself based on antiutilitarian grounds. But all “practice rules” are of this type, as we have seen in Chapter VI, since participants

\(^{16}\) Ibid., p. 152.  
\(^{17}\) Rawls, “Justice as Fairness,” p. 133.
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to them are bound by them only if they know the rules. It will be argued in Chapter VIII that in the case of other social institutions, their justification will require that each has a reason to participate, in the absence of which we would be justified in excluding him from the benefits of the practice altogether (by excluding him from society).

The second principle follows from the preceding:

Inequalities are arbitrary unless it is reasonable to expect that they will work out for everyone's advantage, and provided the positions and offices to which they attach, or from which they may be gained, are open to all. 18

Here 'inequalities' refers to inequalities of treatment. This means that the person elevated is, in some way, elevated at the expense of the others. Rawls plainly does not mean inequalities of just any kind, or as such, since many or most inequalities are plainly irrelevant to contexts of justice, at least of the social kind. ("Poetic" or "Cosmic" justice is another matter.) But if an inequality is created at the expense, prima facie, of those who are not elevated, then it must be compensated for by a corresponding gain of some other kind in order to be justified; 19 this much is evident from Chapter VI. The word 'arbitrary' is in order here, so long as it is understood in its evaluative sense; but plainly the evaluative sense is justified by the point just made.

Where the inequality created does not actually work to anyone's disadvantage, however, such a restriction is too strong.

18 Ibid.

19 My colleague, Lawrence Haworth, has suggested an important amendment here. He points out that some of the "offices" which will be assigned, e.g., in wartime, will work to the total disadvantage of their bearers (e.g., some soldiers will be killed). He goes on to say that "If one knew in advance that he would be the one disadvantaged by an inequality he would not be swayed by the consideration that a net advantage would be gained at his expense." Rawls' principle would condemn it, then, as it stands. However, Haworth points out that we can plausibly adjust the principle by observing that "in advance of the relevant information concerning who will benefit from and who will suffer from an inequality, each must regard a proposed inequality that would result in a net disadvantage ... as a gamble, and must decide whether accepting the inequality would be a good gamble for him by taking into account the chances of his losing." This is a well-taken point from "Utility, Equal Freedom, and Equal Shares," to appear in American Philosophical Quarterly.
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What should surely be said is merely that inequalities are arbitrary, so long as they don’t actually work out to anyone’s disadvantage.20 Finally, the provision that the offices created by the inequality be open to all is evident enough. If someone wants to apply for one of the offices in question, then to exclude him is to dissatisfy one of his wants. Thus, the only relevant reason for rejecting him is that someone else is better qualified; this is a relevant consideration because a public office exists to serve the public. To say that it wants a certain job done is to say that it wants it done as well as possible, and the ground for selection is therefore inherent in the position. But it follows equally that the interest of the public will best be served by the best applicant.

Thus, it seems to me that we may accept these important principles without thereby altering the utilitarian position.

**Summary on Justice and Fairness.** There is a tendency to broaden the sense of the word ‘justice’ to take in essentially the whole of morality, and the present reflections and considerations show why this is so. The fundamental idea of justice is doubtless equality of treatment of various kinds, and the essence of the utilitarian position is that we are to regard others as equal to ourselves in point of the value of satisfying their interests. Justice, in the narrower sense, does not take in such things as benevolence, love, generosity, and the like, because as Rawls properly emphasizes, it is reserved for cases of conflict of interests, cases in which we must tread a narrow line because important interests are at stake, of which not all can be satisfied. This in no way conflicts with the general utilitarian scheme. On the contrary, I contend that the notion of justice makes sense only because of the principle that moral value is measured by the satisfaction of everyone’s interests. (To add ‘alike’ here is otiose, for as we have seen, it follows from the statement that the interests of everyone are to be satisfied, rather than some special few, that no one is to be preferred to anyone else.)

The sense that there is some fundamental difference between

20 This point is also made in Haworth’s paper, “Utility, Equal Freedom, and Equal Shares.”

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considerations of utility and considerations of justice is due, I think, to the previously noted tendency to speak of “equality of persons” without attaching any clear sense to it. When we inspect such expressions more closely, we see that the interpersonal “equality” in question is no more and no less than that postulated by the utilitarian position, once we realize what is involved in interpersonal utility-comparisons. Finally, we must not expect every practice presently recognized to come out just. Who supposes that this is the case? The question comes down to whether the principle of utility provides a plausible or adequate basis for the appraisal and revamping of the prevailing institutions.

Since economic institutions are, surely, the most prominent of those concerned with distribution, I propose to close with a sketch of a theory of economic justice. This sketch is admitted to be speculative; I propose it only by way of showing the way in which, it seems to me, utilitarian considerations should be brought to bear.

Economic Justice

The question of how money is to be distributed is the question of how exchangeable goods and services are to be distributed. Few questions in applied moral theory could be more important than this one, at least in our present stage of advancement; for exchangeable goods and services constitute, surely, the great bulk of everything of interest to people. The tendency to brush this aside as “materialistic” is misguided, both because it is made from a parochial point of view, and because even from such a point of view, the point remains valid. “Spiritual” values are as expensive in their realization as any other, and more so than most. Even saints must eat.

In a sense, money is an abstraction: it represents anything that can be exchanged (i.e., ownership of which [or use of which] can be transferred, and which is scarce enough so that effort must be invested to acquire it). We can therefore assume that everybody wants an indefinite amount of it. Thus the general
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condition under which questions of distribution involve ques-
tions of justice may be presumed to hold: namely, that there is
(at any given time) a limited amount of something that every-
one wants an unlimited amount of. (Exceptions to this are essen-
tially irrelevant here. A few will want to put themselves out of
the money economy altogether, but we may reasonably limit
the discussion to the rest, who constitute the vast majority.) Our
general principle is that everyone should have as many satisfac-
tions as possible. *Prima facie*, therefore, our initial position will
be that an even division is best.

However, money isn’t found in a “natural state,” just waiting
to be mined, so to speak (although one way to make money is,
sometimes, to mine something else). For all practical purposes,
the things we are concerned with here are at least partly the
creations of human effort. Thus, two extremely important con-
ditions, so important that they might be thought to nullify al-
together the force of our derived presumption of the initial des-
irability of equal distribution, must accordingly be taken into
account. These are that (1) the conditions—partly natural, partly
the product of previous applications of effort by either the agent
or other parties—under which effort is applied have a radical
effect on output; and (2) people engage in these efforts, in the
first instance, to satisfy their own wants (whatever wants they
have, which might, of course, include the desire to satisfy the
desires of certain other people).

Now, in regard to (1) above, let us remember that we are
ignoring any present arrangements and working from scratch.
Assume, then, that nobody presently “owns” anything. Bear in
mind also that ‘own’ is an evaluative concept, and that we can
alter any existing arrangement. Thus, the question is who should
own what. For the present purpose, the question is, how do we
apportion the natural resources of the world, which are of an
immensely varied kind, among the population, which in its turn
is immensely varied in ability and stature? This is a problem of
great difficulty in practice; it is hard enough to know what to
say in theory. But we can make a start. For one thing, if two
persons of equal ability work on land of very unequal fertility,
then one will end up with much more than the other. This is
unsatisfactory, for in view of our *prima facie* requirement of
equality, and in view of the fact that no prior claims of ownership exist to be taken account of, the man with the worse land will be effectively shortchanged. On the other hand, if persons of unequal ability work on the same type of land, then what? Is this also unfair? Well, not exactly. It is unfair from the "cosmic" point of view, no doubt. One might argue that everyone ought to have equal abilities. But the fact is, they do not. If our human arrangements enable both to produce as much as they possibly can, then no charge of unfairness could be levelled against them from the moral point of view. So, the initial result is that each person should be given resources from which he is able to produce as much as he possibly can (if he applies himself). If resources are not available to this extent, they should be scaled down proportionately, *prima facie*.

Thus, we have a scheme for maximally utilitarian initial conditions. But there is one qualification to be observed. If a person's abilities can be improved by effort of ours, then of course we shall have a reason to improve them. Under what conditions should we expend effort in this direction? Whenever there is a net gain in total utility, of course. But the ratio between expected output and required input will depend on the level of the ability in question. If, for example, a person is handicapped in some serious way, the utility of relieving him, if it can be done at all, is extremely high. It is reasonable to "charge" nothing at all for such services, as we are only helping him up to the point where he has a chance of getting along in the world at all. But for increasing the abilities of already able people, we shall want to "charge" a good bit more.

Two principles have been historically influential in the thought of theorists on distribution: "A man is entitled to the fruits of his own labor," and "From each according to his abilities, to each according to his needs." There is an element of truth in both, but each may be misused. Let us consider each in turn.

That a person is, *prima facie*, entitled to the "fruits" of his own labor follows from consideration of (2) above, together with the principles advanced in Chapter VI. If, for example, a person is gathering wood, and the woodlot is "his," then if I commandeer a few pieces without leave, I am inflicting a harm. Any such action would be contrary to the interest of the laborer.
in question, just because what he’s doing is interfered with. The fact that what’s he’s doing is increasing his wealth is beside the point, so long as the resource allotment from which he derives it is just, in the sense already outlined. But what if it isn’t? And what, in particular, if he is laboring with public resources? After all, initially all resources are “public.” They are allotted in a particular way only on the assumption that that allotment will maximally promote the general utility. (We could as well have envisaged “free rental” of a sort, up to a certain point, rather than an initial distribution on what we, in capitalistic countries, call “ownership” terms.) The question is, how do we decide what proportion of his output is due to his own abilities, and what is due to the fortunate disposition of his resources? There’s the rub. Any dolt willing to move his limbs will succeed hugely in the Garden of Eden; even the ablest will be hard pressed just to survive in the Sahara. To suppose that we can see, by some occult process of divination, how much is really the fruit of “his labor,” and how much is due to luck, is to resort to mysticism.

The slogan, “From each according to his abilities, to each according to his needs,” has two serious defects and one serious merit. It has merit insofar as it is, as we have maintained, the satisfaction of needs, among other things, of which utility consists. But the first defect is that ‘needs’ is too narrow a term. The satisfaction of any want or desire or interest is prima facie desirable. The second, and chief shortcoming is the suggestion that we would be right in requisitioning the output of an individual whose abilities were great but whose needs were small for the benefit of everyone else, without regard to that individual’s wishes. Of course, we can (as the Chinese Communists do) indoctrinate him with the belief that he ought to devote his energies to society at no special reward to himself. But what if he isn’t convinced? And what if the amount of effort expended in indoctrination is not compensated for by increased output anyhow? Besides, on our principles, “brainwashing” is prima facie immoral from the start, so the whole idea is pretty dubious.

What we need, then, is a principle for determining the share of an individual’s output that should go to the rest of society at large, versus the share that should stay in the hands of the
individual. Both of these quantities, obviously, should be as large as possible, *prima facie*. How to adjust it? The answer is implicit in the foregoing, I believe. What we must do is to think of the rest of society as a body, sitting across the bargaining table from each individual, so to speak. Society \(^{21}\) regards the individual's share as an inducement to produce more. It wants to make the public's total as large as possible; this will not necessarily be done by making its share as large as possible. It depends on the effect of raising the public share on the individual's output.

Moreover, all bargaining is essentially competitive. If the public wants soap, there is nothing to do but offer the smallest price that will get it what it wants. (This might be accomplished by government ownership of industry, of course; the present construction is neutral on this question, the answer to which will surely vary with conditions.) What the price may be depends entirely on who happens to be interested in making soap at the time.

When society becomes thoroughly industrialized, the extent to which an individual's income is dependent on everyone else becomes so large as to make the maxim, "A man is entitled to the fruits of his own labor" virtually meaningless. What is one's "own" labor if your ability to use it requires (1) twenty years of education paid for almost entirely by other people, (2) the use of fabulously complex machinery which was designed and manufactured by others, (3) the existence of elaborate organizations for planning, marketing, communication, etc., (4) the cooperation of colleagues, (5) the cooperation of skilled and unskilled workers at the production end, and (6) as significant as any of the above, the existence of a market of consumers who at any time could, in principle, stage a boycott or shift to another product? In these circumstances, there is no reasonable way to determine "merit," except by bargaining in competition with others who are ready to perform the same line of work.

\(^{21}\) Note that 'Society' here does not refer to government. It simply refers to the people other than the individual concerned. Naturally, government will be the bargaining agent in some transactions, and the model here described is intended to be applicable to the range of problems involving government.
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(Again, it should be born in mind that these conditions are substantially the same in socialist societies.) The notion that goods have some kind of “general intrinsic value” apart from what people are willing to pay is as mythical as the notion of “general human merit” denounced above. Price ought to be measured by utility, but utility has to be measured by willingness to exchange, i.e., to pay.

In sum: the principal ends to bear in mind are the extension of opportunity as widely as possible, and the attainment of the best conditions of purchase possible by society at large with respect to any individual’s output. A simple mechanism for achieving substantially this end might, for example, be to employ a (basically) free market with a graduated income tax, an exemption from the tax which increases with the increase of prosperity generally, subsidies in the form of education, health insurance, and provision of minimum living standards for those whose present abilities do not enable them to get “up to the line” under their own power, and sets of controls over any power centers capable of exerting monopolistic influence on the whole system. The graduation of the tax should be as steep as possible, regulated by observing the effects on personal income in the lower echelons. If reducing the steepness of the curve (which makes the rich richer) increases the incomes of the rest of the economy, then it should be reduced; but if increasing it increases the lower incomes, then it should be raised. This system keeps an eye on all of the relevant utilities, the ultimate goal being the raising of everyone’s income as much as possible.

The general conclusion from this section, then, is that it is a mistake to oppose equitable distribution, where it is a relevant goal, to “maximum happiness.” Once one rids oneself of the misguided analogy of “quantities of happiness” to quantities of liquids, gases, and other bulk substances, and instead considers the way in which such “quantities” are actually measured, it becomes evident that considerations of equal distribution are central to the whole conception of utilitarianism. In turn, an analysis of the various proposals about how we ought to distribute goods reveals that utilitarianism can account for what is plausible in each. On the basis of these considerations, I have
suggested a general theory of economic distribution which attempts to take into account all of the relevant factors, and a simple system which (if it works) might plausibly be thought to maximize all of them at roughly our present state of economic development.

The chief moral is that maximizing the general happiness is not a simple matter. It is not directly analogous either to maximizing the Gross National Product, or to maximizing the average net income, though both of these are obviously plausible goals; nor does it directly imply either of these as taking precedence over the others.

This is partly because happiness is not due solely to size of monetary income; and mainly because there is no simple set of monetary measures that necessarily apportions what there is to the different claimants. Utilitarianism acknowledges, *prima facie*, the claims of everyone generally (and argues for an equal distribution of income to the needy or disabled who could be assisted by an unequal share, and of those whose output is greater insofar as this is due to superior productiveness. Adjustment of these different claims is no easy matter, and there is no reason to believe that any given system, even if clearly the best at the time, will continue to be for long. Philosophers have apparently supposed that the goal of "maximizing utility," since it sounds simple, must imply some simplistic theory of distribution. But reflection shows that this is a mistake. Simplicity of basic theory, when conjoined with the complexity of the human situation, leads to complicated results.