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# Politics and Economics

*AN ESSAY ON THE NATURE OF THE PRINCIPLES OF POLITICAL ECONOMY, TOGETHER WITH A SURVEY OF RECENT LEGISLATION*

BY

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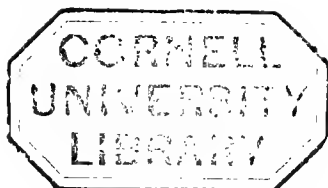
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Kommt, laßt uns unsern Kindern leben.

TO THE REGIUS PROFESSOR OF MODERN HISTORY  
IN THE UNIVERSITY OF CAMBRIDGE.

DEAR PROFESSOR SEELEY,

Your kindness has led me to hope that you may be interested in this attempt to discuss some present-day social problems in the light of experience gathered from the past. I am glad to be able to lay before you some result of the work you have so constantly encouraged.

Yours very sincerely,

WILLIAM CUNNINGHAM.

*November 1884.*





## P R E F A C E.

IT is noticeable that while the interest in social questions is daily becoming greater and greater, the science of Political Economy speaks with far less authority and receives less respectful attention than it did some years ago. And this is perhaps partly due to the condition of the study itself: the "theoretical" school have to some extent lost touch with the actual phenomena of the present day; and recent attempts to recast the old theories to embrace the new phenomena have not yet succeeded in taking a hold on the public mind. Its critics allege that the results attained by the "historical" school have not been for the most part definite enough to be of practical value; but I cannot feel that this method of working is necessarily barren. It does not help us to formulate dogmas from which guiding maxims can be authoritatively deduced, nor does it always lead

to the statement of a "tendency" which can be put forward as a working hypothesis in pursuing some investigation. But for all that, the historical method may be of the highest practical value, if it enables us to frame a scheme by which the arguments for and against some proposed plan may be conveniently exhibited, and fairly balanced. It may be wise too, in the present disorganised state of the study, to bear the progress of other sciences in mind, and postpone the investigation of causes as premature till the phenomena we wish to explain shall be more satisfactorily classified.

The following discussion of *Economic Principles* has been written in the conviction that the historical method of study proves fruitful in results of practical value, and results that can be definitely and positively stated. It embodies a good deal of the substance of lectures on the *Ethical Groundwork of Political Economy* which I delivered in 1881, as deputy to the late Knightbridge Professor; but they have been so entirely remodelled that another title than that originally given them, and under which they had

been announced for publication, now seems to be more suitable.

In attempting to survey *Recent Legislation* I have done my best to ignore party politics altogether, and to judge fairly of each measure by the same standard,—a standard which many men in both parties would accept. I have endeavoured to note the clearest and most forcible expressions of opinion by whomsoever they were uttered, and thus to set forth personal opinions, not the views of any party.

While these sheets have been passing through the press I have had the advantage of suggestions from Professor Sidgwick, Professor Nicholson, the Hon. J. W. Mansfield, and other friends. I gladly take this opportunity of again thanking them for the help and encouragement they have given me.

W. C.

TRIN: COLL: CAME.

Nov. 1884.



# CONTENTS.

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## BOOK I.

### ECONOMIC PRINCIPLES.

#### CHAP. I.—THEIR NATURE AND THE METHOD OF PROOF.

	PAGE
1. The argument, . . . . .	3
2. Economic Principles are practical, since concerned with conduct, and examine the means to an end in view, . . . . .	4
3. and as such they cannot be proved without an appeal to experience, . . . . .	6
4. The methods of the empirical sciences, and analogies in the pursuit of economic investigations. The disadvantages and compensations of a moral science, . . . . .	9
5. Political Economy is practical, and therefore its principles are relative to the institutions and to the current morality of a given society, . . . . .	12

#### CHAP. II.—ECONOMIC PRINCIPLES AS DETERMINED BY CHRISTIAN MORALITY.

6. The reign of Edward I. is the starting-point of a national economic life, which was moulded in accordance with ideas common to all Christendom, . . . . .	17
7. The political doctrines of S. Thomas Aquinas, . . . . .	20
8. The character and scope of royal power in its bearing on industrial and commercial life, . . . . .	21
9. The influence exercised by the divine law, . . . . .	24
10. its prohibitions, and teaching in regard to loans and bargains, . . . . .	26

	PAGE
11. The influence of Christian example and the duty of work, . . . . .	29
12. Industrial institutions of the middle ages, . . . . .	30
13. and their influence as supports not restrictions to industrial life, . . . . .	33

### CHAP. III.—ECONOMIC PRINCIPLES AS DIRECTED BY NATIONAL POLICY.

#### 1. MODERN CIVILISATION.

14. The Jacobean period, . . . . .	38
15. The rise of nationalities, and national rivalries, . . . . .	39
16. Decaying importance of the divine law, . . . . .	43
17. Constitutional changes and the functions of government, . . . . .	47

#### 2. ROYALISM.

18. Kingly duties and responsibilities, . . . . .	50
19. Royal initiative in commercial affairs and in supplying the home market with manufactured goods, . . . . .	53

#### 3. NATIONAL INTERESTS.

20. Locke's doctrine of popular consent and insistence on individual interest as limiting the extent of obedience, . . . . .	59
21. The Mercantile system as illustrated by the Methven treaty, . . . . .	63
22. The treatment of the colonies and their struggle for independence, . . . . .	65
23. The industrial revolution, and its effect on the systematic regulation of the conditions of labour, the quality of goods and the rates of wages, . . . . .	68

### CHAP. IV.—ECONOMIC PRINCIPLES—STRICTLY SO CALLED.

#### 1. LAISSER FAIRE.

24. Wealth as a mediate end, . . . . .	74
25. National wealth and the aggregate of the possessions of individuals—The importance of Production, . . . . .	76

	PAGE
26. <i>Laisser faire</i> , as a regulative principle, was harmonious with current political doctrines in regard to the individual and government, . . . . .	78
27. Practical applications of this principle, . . . . .	80
28. Measures which were inconsistent with the thorough-going adoption of the principle of <i>laisser faire</i> , . . . . .	83
29. The increase of Population and the new Poor Law, . . . . .	88

## 2. ENLIGHTENED SELF-INTEREST.

30. Thrift and Education, . . . . .	94
31. Owenism and Co-operation, . . . . .	95

## 3. CLASS INTEREST.

32. Trade-unions, . . . . .	97
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## 4. GENERAL INTEREST.

33. The interest of the consumer, . . . . .	104
34. The political aspects of the Anti-Corn Law agitation, . . . . .	106

## CHAP. V.—ECONOMIC PRINCIPLES FOR THE PRESENT DAY.

35. National life, and its maintenance—the function which wealth subserves, . . . . .	110
36. The elements required for sustaining and prolonging national life, . . . . .	114
37. Political Economy as the principles of “National Husbandry;” or as limiting the system of <i>Laisser faire</i> by taking account of the probable injury of posterity, . . . . .	118
38. State administration as compared with private monopoly, . . . . .	121
39. General considerations on the principles here laid down, . . . . .	123

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## BOOK II.

## RECENT LEGISLATION.

## CHAP. I.—GENERAL CANONS OF CRITICISM.

	PAGE
40. The amount of confidence to which forecasts of different kinds are entitled—Divisions of the Subject, . . . . .	129
41. The State and the Individual Citizen. Public Opinion. Ill-considered legislation, . . . . .	133
42. The scope of legislative influence. Enforcing right and forming opinion. Temporary conflict between the individual and the State, . . . . .	139
43. Current views of the due measure of State interference. <i>a.</i> Class legislation. <i>b.</i> Economic and Moral. <i>c.</i> Protecting and promoting. <i>d.</i> Not doing what a man can do himself. ( <i>a</i> ) Freedom of Contract. ( <i>β</i> ) Necessaries of life. ( <i>γ</i> ) Individual responsibility, . . . . .	144
44. The manner of interference. <i>a.</i> Compulsion, General and Special. <i>b.</i> Permission, Tentative and Enabling. Local Authorities. <i>c.</i> Encouragement. <i>d.</i> Experiment, . . . . .	155

## CHAP. II.—ENACTMENTS DIRECTLY ECONOMIC.

## I. NATIONAL VIGOUR.

45. The Husbandry of National Strength, . . . . .	159
46. The Factory Act 1874, . . . . .	160
47. The Factory and Workshop Act 1878, . . . . .	164
48. The Artisans Dwellings Act 1875, . . . . .	165
49. The Bill of 1868 and the Standing Order 1874, . . . . .	172
50. The Artisans Dwellings Acts 1879, and 1882, and Public Health Acts, . . . . .	174

## 2. NATIONAL ADMINISTRATION OF CAPITAL.

51. National undertakings and national direction, . . . . .	175
52. The Suez Canal Shares 1876, . . . . .	176



	PAGE
53. The Parcels Post 1882, . . . . .	177
54. The Seed Supply (Ireland) Act 1880, . . . . .	178
55. The Relief of Distress (Ireland) Act 1880, . . . . .	179
56. The Settled Land Acts 1874 and 1882, . . . . .	180
57. The Agricultural Holdings Acts 1875 and 1883, . . . . .	181
58. The Ground Game Act 1880, . . . . .	188
59. The Contagious Diseases (Animals) Act 1878, . . . . .	191
60. The Companies Act Amendment Acts 1877 and 1880, . . . . .	195
61. The Railway Commission 1874, . . . . .	195
62. Railways and the Board of Trade 1883, . . . . .	198
63. The Electric Lighting Act 1882, . . . . .	199
64. The Bankruptcy Act 1883, . . . . .	200

### 3. NATIONAL RESOURCES.

65. The prevention of waste, . . . . .	207
66. The Commons Act 1876, . . . . .	208
67. The Alkali Acts 1874 and 1881, . . . . .	216
68. The Pollution of Rivers Act 1876, . . . . .	219
69. The Destructive Insects Act 1877, . . . . .	221
70. The Wild Fowl Preservation Act 1876, . . . . .	221
71. The Seal Fishery Act 1875, . . . . .	222

## CHAP. III.—SOCIAL LEGISLATION,—AND ITS ECONOMIC BEARINGS.

### 1. MEASURES ENFORCED THROUGH THE ORDINARY COURTS.

72. Probable arguments. Risk and Status, . . . . .	224
73. The Employers Liability Act 1880, . . . . .	225
74. Payment of Wages in the Hosiery Trades 1874, . . . . .	229
75. The Merchant Seamen (Payment of Wages) Act 1880, . . . . .	230
76. The Friendly Societies Act 1875, . . . . .	231
77. The Conspiracy and Protection of Property Act 1875, . . . . .	233
78. The Employers and Workmen Act 1875, . . . . .	237

	PAGE
79. The Trades Union Act 1876, . . . . .	238
80. The Allotments Act 1882, . . . . .	240
81. The Bank Holiday Act 1875, . . . . .	242
82. The Bills of Sale Acts 1878 and 1882, . . . . .	244

2. MEASURES INVOLVING THE CREATION OF NEW  
ADMINISTRATIVE MACHINERY.

83. The Unseaworthy Ships Act 1875, and The Merchant Ship- ping Act 1876, . . . . .	245
84. Marine Insurance, . . . . .	252
85. The Land Law (Ireland) Act 1881. Its object, . . . . .	254
86. Tenant Right ; Free Sale, . . . . .	256
87. Fair Rents, . . . . .	260
88. Possible alternatives in 1881, . . . . .	265
89. Anticipations and Results, . . . . .	268
90. Peasant Proprietors, . . . . .	270

CHAP. IV.—RETROSPECT AND PROSPECT.

91. Hasty Legislation, . . . . .	271
92. Agitation and abstract moral principles, . . . . .	271
93. National Husbandry in the light of National Experience, . . . . .	273
94. Defective Administration, . . . . .	273
95. National Destiny, . . . . .	275

BOOK I.

ECONOMIC PRINCIPLES.



# ECONOMIC PRINCIPLES.

## CHAPTER I.

### THEIR NATURE AND THE METHOD OF PROOF.

1. It is hardly possible to discuss the bearing of economic principles on recent legislation without a preliminary inquiry as to the nature of these principles themselves, and the amount of certainty which we may claim for them. There has in recent years been an increasing impatience of the dogmas of political economists, and a growing disinclination to listen to the criticisms they have to urge, since the public at large are sceptical of the value of the economic principles on which this criticism depends. Nor can it be denied that economists may be partly to blame for the discredit into which their doctrines have fallen, for they have not always been careful to keep in view the precise character of the principles they had to enounce or the limits within which these are valid. The axioms of mathematics are universal in character: no two straight lines enclose a space; and they are necessary in the sense that the lucid statement of this fact carries conviction with it, and requires no further demonstration. But no economical principles have this character of being true for all times and places alike,—for the ages of custom as well as the era of com-

petition—they are neither universal nor necessary. They only become approximately true as statements of the facts of actual life under certain social conditions ; since they are to some extent at least contingent on circumstances of place and time, they cannot be taken as self-demonstrating but require to be proved : and as that proof has to be drawn from experience we are forced to travel over a long course before we reach a point from which we can establish our principles soundly and thus survey recent legislation to good purpose.

2. Economic principles are obviously concerned with human conduct : they are not merely brain-spun theories which are framed for the sake of acquiring a better understanding of the universe of which we form a part, but they are put forward by men who are interested in the attainment of an object, and desire to see how it may be best accomplished : and thus they are in the widest sense of the word practical : they may perhaps be difficult to put in practice, and we may find it hard to bring actual conduct into accord with them ; they may seem ill-adapted for our present circumstances, but for all that since they have reference to what people do, and not merely to what they know or think, the principles of Political Economy are always practical principles.

And to say they are practical principles is only to say that they have to do with stating the appropriate means to an end. Economists do not lay down what men ought to aim at, do not picture a highest ideal of human life, nor delineate in fullest detail the chief end of man, but they accept a certain end as one that men in general regard as worthy of their earnest effort, and try to exhibit the course which it is best worth while to pursue in order that

that end may be attained ; and thus they put forward a reasoned treatment of the fittest means of obtaining wealth.

It is unnecessary to discuss the precise meaning of this word at present. Some writers have used it in a very narrow sense, others in a wider one as synonymous with material welfare ; but even if we take it in its widest meaning we should be unable to regard it as including the whole circle of human ambitions and aspirations. Material welfare, whether national or personal, is not the noblest object of human struggling : for one thing we cannot put it forward thus exclusively and alone without limiting our contemplation of human life and duty to the present world, and dismissing all thought of a future existence : there have been times when the current of thought has run towards the other extreme, and men have so fixed their regard on a world to come as to underestimate the duty of subduing the world that now is. It is enough to protest however that all pursuit of the ideal elements in life, in science and art as truly as in religion, is excluded if welfare, even in its widest common sense signification, is taken as the sole ideal of human life.

We may thus see that even when we interpret it most widely, the end which Economy sets before itself cannot be considered as the sole or absolute end of human life : to many it may appear the most important of all the ends towards which human action is consciously directed, and no attempt need be made at present to estimate its relative importance ; it is sufficient, however, to record a warning against the onesidedness which would result if we were tempted to set welfare forward as the sole end of life, and therefore to regard a science which studies the means of attaining welfare as laying down principles which may govern all sides of human conduct. However

we define the end of human effort which Political Economy has in view, we must still regard it only as one end among several which human beings pursue.

And thus different nations may attach a different importance to this end, or the same nation may vary in its judgment of it at different times. A nation may sacrifice its wealth for religious objects as the Dutch did, or for political ones as we did in the Napoleonic wars, and future generations may approve or disapprove the decision thus made. A nation may aspire to artistic glory like Athens, or military renown like France, or commercial success like England: and while all will attach a great importance to wealth, they will yet regard it in very different ways, according to the direction in which their genius lies. We may therefore conclude that the genius of a nation at any time determines the precise importance which shall be attached to the end which economic science investigates.

In this way it becomes clear that the principles of economic science are not universal principles; they are practical principles which state the means to be pursued with reference to a given end. These means are likely to be different for different states of society, conditions of climate and soil; but even if this were not the case, economic science could not aspire to lay down universal principles for all peoples and all countries, because the end it has in view is not the sole end of human life, and it is an end to which different degrees of importance are attached by different peoples. The principles that hold good for one land cannot be of universal application.

3. Since economic principles are practical and are not universal, they do not carry conviction on the face of



them, but need to be proved: nor can we prove them without appealing to external experience. It is tempting indeed to try and arrive at truths on this subject by analysing the characteristics which Man displays in the pursuit of wealth, and by following out the consequences which thus arise: this would indeed be a royal road to knowledge if we could trust to it: but if we adopt it, we must assume that we know a typical and normal man so truly that our analysis of his characteristics will hold good for those of all other people. It is surely unnecessary to reiterate the facts that one-half of the globe is very different from the other, that the influences of climate and soil are reflected in differences of race, and that the history of each particular nation has moulded its institutions to a special shape and thus affects the characters of the men who grow up under them. We cannot take human nature as we know it here and now, and analyse it and thus deduce the principles of action which govern men generally in the pursuit of wealth.

If we are to obtain even a first approximation to truths on this subject which hold good of actual life, we are bound to prove that the character we assume is really fairly typical of the people and the period we are discussing, and thus we must appeal to external evidence before we can reach any well-grounded statement of the ways in which the men of any country and any time seek the attainment of wealth.

There may indeed be a convenience in assuming a certain extremely simple type of character—the case of a man who in all his conduct is guided by a mere eye to pecuniary gain: we may hold that this type is becoming increasingly common in all lands, and that most men in modern Europe, in so far as their purely business rela-

tions are concerned, approximate pretty closely to this type. We may thus be able to state, with great clearness, what happens in a society composed exclusively of men of this type, and therefore what tends to happen in any society in which this type predominates. But though this may be a sound method for simplifying social problems, and therefore a real help to scientific investigation, it cannot serve directly as a means of giving us a true account of the principles that are actually governing the course of affairs in any society. To do that we must still investigate actual life to show by an appeal to facts that the type of character we are taking for granted is universal, or to show to what extent it is absent, and therefore to what extent the conclusions we reach from mere analysis and deduction must be modified.

Even if we framed an ideal of what society ought to be, and deduced from it maxims for the conduct of affairs and pursuit of wealth, we should still need a certain amount of experience to prove that the measures proposed would really produce the anticipated results. We may work out the rights of man as man,—the right to live and the right to work : but are we sure that these two can be rendered consistent? Can we be sure that it is possible to secure by any organisation, that work shall always be found for every applicant and will prove so profitable as to enable him to live by it? or be sure that the right to live, if readily accorded, might not seriously impair the desire to exercise a right to work? Only by experience can we be sure that a society where these rights were recognised could hold together, and that the pursuit of wealth or welfare could continue in them. And thus it appears that we cannot deduce a system of Economy merely from our ideas of what is right and fair,

without an appeal to experience, any more than we can from an analysis of human character, unless we check our conclusions by a similar appeal.

4. Economic principles as practical and having reference to the means not the end of human life, as differing for different societies, and as incapable of proof without an appeal of some kind or other to actual human experience,<sup>1</sup> are *empirical* principles. Economists have no means of putting forth universal and necessary principles like the axioms of mathematics; the principles they enunciate are only true when they are based on, or at least modified and corrected by an appeal to, actual human experience. Economic principles are similar in logical character,—that is in the sort of proof they require to be established as true—to the principles of chemistry or physiology, and not to those of mathematics or pure physics; for they are drawn from experience and dependent on it for their truth.

The method by which empirical principles may be reached, however, is by no means the same for all sciences: it almost necessarily differs according to the kind of phenomena with which each separate science is concerned. In some it may be possible to proceed by experiment as in chemistry, in others we must rely on observation only, as on the whole in medicine; in some we can deduce the broad course of the changes from the action of some well-known cause and have but to note the modifying circumstances, as in astronomy; in others there may be the greatest complexity from the interaction of many different conditions, as in meteorology. And we might pursue economic studies on methods that were

<sup>1</sup> On the importance of experience as the basis of Economic Principles, see Mr. Newmarch's Manchester Address;—*Statistical Society's Journal*, December 1861.

more or less analogous to each of these : Professor Jevons has insisted on the value of experimental legislation, and by far the greater part of the industrial legislation of the country has been, at first at all events, of a tentative character : others lay great stress on the collection of statistics, and the history of prices as helps to reaching sound results : the deductive school have followed out the consequences wrought by the desire of wealth, and the action of individual competition, with more or less notice of the influence of custom and other forms of friction : while the so-called historical school seem to regard the interaction of causes as so complicated that they content themselves with chronicling the course of events, and seem to deny the possibility of arriving at principles at all. Without attempting to discuss with which physical study economic science has most in common so far as method goes, we may perhaps venture to point out that it differs very markedly from all of them. It is owing to the character of the phenomena they investigate that the methods of the physical sciences are so diverse : the phenomena of economic science are very broadly distinct from the phenomena which any set of physicists examine, and therefore we should expect that its best method would be very different from any of those that physicists adopt. It has to do with phenomena of conduct, not with phenomena of nature, and is a moral and not a physical science : and thus economists have certain advantages and certain disadvantages in establishing the principles of their science, such as none of the physicists possess. The economist is less able to experiment than the chemist ; he has to contend with the greatest difficulties in procuring accurate observations ; and the constant if gradual change in

societies themselves, contrasts strikingly with the regularity of physical sequence and renders accurate inductions almost impossible. But for all that he has compensations which more than make up for these disadvantages, for the phenomena he studies are *self-interpreting* to an extent that physical phenomena are not.

No single event in nature is intelligible when taken by itself: the reason of its occurring in the way it did has to be extorted from it, by comparison with similar events: we have to suggest the reason for it and then to test our suggestion and see if it was right. But all this is changed when human conduct comes into view: each piece of human action has a motive, and its author can generally explain why he took the course he did directly and without an elaborate comparison with other instances. He may make mistakes, he may act foolishly, but each single action is explicable directly. The phenomena may thus interpret themselves in a way that physical phenomena cannot do, since human beings can state and often record the reasons that actuated the conduct which the economist sets himself to study. Thus while the phenomena of nature only become intelligible when the student has reached the principle that explains them, each moral phenomenon may be explicable by itself: the principles of the economist summarise the evidence which each event supplies, but are not necessary to render the reasons of that event intelligible: the comparison of several cases may render each one still more clear, but a single instance can be explained without resorting to comparison, while an isolated physical event cannot.

In this way the investigation of empirical economic principles is not necessarily a process of suggesting, and testing the validity of an hypothesis: it is one of

summarising with care and accuracy the evidence which the phenomena themselves furnish as to the reasons for the course pursued. What were the objects of those who passed the corn laws, why did they do it? What were the reasons of those who worked for their repeal? Why does this man introduce a machine? Why does that man refuse to work for the old rate of wages? All these are matters about which direct evidence can be procured, and it is by testing the accuracy of the evidence, and stating its results clearly, that the economist may arrive at the principles which have guided or are guiding men in the pursuit of wealth.

5. While thus comparing the method of arriving at economic principles with those pursued in the physical sciences, we have been led to look at economic study as if its object were precisely parallel to that of physical science. The physicist studies in order to understand, knowledge is the end of his investigations. The knowledge he acquires may have technical applications and eventually subserve all sorts of human uses, but with this he is not directly concerned and it is not consciously before him in pursuing his work. But economic science is wholly practical, it has no *raison d'être* except as directing conduct towards a given end: it studies the means leading towards that end not merely for the sake of knowledge, but in the hope of guiding men so that they may pursue that end in the most appropriate way: it is not content to describe the principles that have actuated human conduct, but desires to look at these principles in the light of after events, and thus to put forward the means that are best adapted for attaining the end in view.

It is true indeed that humanity learns by experience, that the failures of one generation are not lost on after men, and that economists who content themselves with describing the principles actually governing conduct now, may probably state principles that are wiser than those in vogue a hundred years ago, but this is not a sufficient account of the true nature of economic study: for it neglects the broad distinction between economic and physical science. The object with which the study is pursued is different in the two cases: the physicist seeks knowledge, the economist desires to describe the means to an end, and to an end that is a different one in different countries and at different times. The genius of each nation determines the precise value which shall be attached to the pursuit of wealth in that nation, and thus defines the precise character of the end in view. Economic science states the principles which, according to human experience, guide conduct most surely towards the end as thus defined. The peculiar character of economic as distinguished from any other empirical science lies in the fact that it is essentially practical, that it investigates the means towards an end, but to an end that is differently conceived and defined, in fact that *is* different, in different civilisations.

An immense amount of undeserved discredit has fallen on Political Economy because this fact has not been sufficiently observed. The importance attached to wealth as a factor in national life a hundred and fifty years ago was quite different from that which is assigned to it now, and therefore the current doctrines as to the means to be adopted in pursuing wealth were quite different from those in vogue at present: and the doctrines of Political Economy have changed, not so much

because the older economists were mistaken, as because the nation has changed its mind in regard to the kinds of wealth it wished for, and the reasons for which it wished for them. We set new ends before ourselves as worthy our national effort, and therefore we have to select new means as the best for pursuing them.

All this will, I trust, become clearer in the pages that follow: it may give a point to the opinion thus alleged however to say that while there may certainly be an "Economic Science" which investigates the means of securing wealth at different times and places, such a science must be merely descriptive and classificatory; if we are to have a body of doctrine which lays down maxims in regard to the pursuit of wealth, this body of doctrine can only be a Political Economy, not a cosmopolitan Economic Science; for it must devote its attention to the particular needs and ambitions of a particular polity, and can only indicate the means to procure wealth-as-conceived and wealth-as-desired by that nation at that time, not wealth in general. In other words true economic principles such as give us light for criticising particular legislation, must be principles which are consonant with the particular needs and aims and ambitions of the nation in which this legislation is carried out.

There is still one other point which must be considered: human conduct has many sides: we cannot judge of it satisfactorily if we look at it in one aspect only, nor can guiding principles be laid down absolutely when we have only one of the ends of human life in view. The means recommended may be those best adapted for the particular object in view, but they may be measures which cannot be tolerated in that polity: the principles of Political Economy must therefore be relative



to the current morality of the society, the wealth of which is under discussion. It is easy to demonstrate that an income-tax would be less "expensive" than the salt-tax in India : but it is equally true that social conditions and conceptions render the one merely oppressive and the other intolerable. And hence it follows that true principles of Political Economy must be consonant with the current morality of the polity under consideration.

We are now in a position to see more clearly the process by which true economic principles may be reached : we must investigate the ways in which men have actually pursued and are pursuing wealth, so as to enable us to state the principles which must be adopted in order to secure such wealth as is desired in a given polity, while these principles must be consonant with the morality current in that society.

Thus it becomes clear that the science which investigates such principles is a science concerned primarily not with individuals but with society ; with wealth as desired by a society, or by individuals in a society, and pursued in accordance with the institutions and morals of that society. It does not lay down universal maxims for the world at large, nor does it concern itself with the private affairs of individual men. There have been times indeed when a nation has recognised that to give free play and effective stimulus to individual energy was the best means to promote social advance, and then individual effort has come to be of interest because it had received social sanction. But for industrial and commercial purposes the nation gives us a unit, which is clearly marked. The common speech and common intercourse which exist between different parts of the nation render it in modern times a simple market for labour and capital, which is

bounded from others by differences of language or difficulty of transport. But the real integrity of the national economy rests on deeper grounds than these : the relations of man to man (as vassal and serf, or as fellow citizens), and the relations of the individual to the government (as controlling and controlled) are embodied in the constitution of the country : through all parts of the same nation similar social ties hold good : the same sort of conditions of social status repeat themselves everywhere within these limits, and the industrial life of the nation is correlated to the social condition which its constitution exhibits and maintains.

Thus far we have endeavoured to sketch the true character of economic principles, and of the process by which we may be enabled to arrive at them. As we started by insisting that they could not be universal principles, so we may note in conclusion that they can have no absolute validity, but are only relative to the life of the particular polity with reference to which they are stated : that they must be approved or condemned relatively to the institutions and morality of a given polity. And the firm apprehension of this truth will enable us to draw much light from the investigation of our national experience ; we shall be inclined to question the wisdom of any proposal at the present time for copying some ancient economic method when no other reason can be alleged for doing so than that it worked well in its own day. If it worked well, relatively to very different social and political institutions, there must be a strong presumption that it would be unsuitable in the present condition of society. We may therefore address ourselves to a somewhat lengthy investigation of English economic experience, to an inquiry as to the different

methods which have obtained in our society under different political and social institutions, in the hope that from the results of this long national experience of success and of failure, we may be able to lay down principles which shall be true for us in the present day with our present conceptions of national wealth, our present political institutions, and our present ideas of morality. In attempting this task we may distinguish three periods, when the methods of pursuing wealth

- (1) were determined in accordance with Christian morality,
- (2) were directed in accordance with national policy, and
- (3) when free play was allowed to individuals to pursue the courses they preferred.

## CHAPTER II.

### ECONOMIC PRINCIPLES AS DETERMINED BY CHRISTIAN MORALITY.

6. It is obvious that in trying to detect the principles which have governed our English economic system, as growing under the influence of changing political institutions and current morality, we may find a convenient starting-point with the reign of Edward I. Before his time there is great difficulty in noting the political views, as distinct from personal ambition, which were present in men's minds ; but with the rise of a national parliament, corresponding in essential particulars with the parliament we know to-day, much of this difficulty is removed, while the Rolls of Parliament and the Statute Book give us an invaluable record of the practical measures by which recognised principles were brought to bear in each generation for the redress of contemporary evils. It is in the time of Edward too that we first find a true national economy : we have no longer a mere agglomeration of different centres of industry, each of which was armed with exclusive privileges against the rest, but we have the beginnings at all events of a national industrial and commercial life : where England was regarded as a single whole, and general regulations were made for the entire country, so that all parts of it might profit by the economic experience of the districts that were most advanced.

Great as Edward was in the eyes of his contemporaries, we can surely appreciate him more truly when we see how firmly he laid the foundations on which the work of all succeeding ages of our nation rests. It is to his reign that we look back for the reconstruction of a true political life, and in his reign that we see the beginnings of a national economic system.

Though, as we consider the endeavours and successes of this great king, we find ourselves in an atmosphere which is unmistakeably English, we must remember that at that time England had come into close connexion with the rest of Christendom, and that the ideas of justice and right which were current throughout Christendom were the guiding doctrines in England too. There are many elements which have contributed to make the constitutional history of England strikingly different from that of any other part of Christendom, but a difference in political doctrines as to the nature of laws and the powers and duties of rulers was not one of these. In no other land was the Teutonic settlement effected with such difficulty or such completeness: no other land felt the grasp of such a ruler as William of Falaise, or grew into strength under the guidance of such an administrator as Henry of Le Mans or such a legislator as Edward: but the moral and intellectual life of England was—at least in that century—not distinct from the moral and intellectual life of other Christian lands. The common language of learned men, and the constant intercourse between the students of different lands, who flocked to some celebrated teacher in a distant University, diffused the same opinions, and awakened similar controversies in all parts of Christendom. Nor can we hope to apprehend the nature of the national economy and the ways in which it

worked, unless we understand the character of the doctrines which moulded the developing political life.

7. The current political theory is found very tersely expressed in the *Summa* of S. Thomas of Aquin, and a brief examination of his teaching will help to set the aims of good governors, and the nature of their relations to the governed, during mediæval times, in the clearest light. The basis of his whole ethical system is found in the conception of an eternal law of right and wrong, which itself lies beyond our ken though we do know of various rules and codes in which it is partially expressed. We are accustomed to derive the standard of right and wrong from the dictates of conscience, or perhaps the code of Society, or by reflection on the observed consequences of our actions. But S. Thomas seeks for a firmer foundation than any of these—based not on the changing phenomena of time, or the opinions of human societies or the intuitions of individual men, but on the thoughts of the eternal God. It is no part of our purpose to criticise this ethical scheme, but it is necessary that we should understand it so far as to be able to trace its influence. And this we find in many directions, and unexpected quarters. But one point we may note in passing: those who accepted this transcendental standpoint were not inclined to occupy themselves with the discussion of questions we treat as ultimate. They were not called on to justify the existence of private property, but only to consider how it should be used and enjoyed: still less would they have been interested in tracing the history of its gradual recognition: for them it was sufficient that property, like marriage or civil government, was ordained by God. But though men were regarded as being

unable to grasp the *eternal* law of right and wrong as God does, they were not considered excusable in falling into crime. In the hearts of all a *natural* law was written by which their conduct might be tried: and since passion and temptation often led them astray to inflict injury and wrong on others, *human* law was instituted by means of which the dictates of natural law might be partially enforced through the fear of punishment at the hands of the magistracy. And even fuller light in regard to duty had been given to men; besides writing His law on the hearts of all, God had given a clearer revelation of His will: the regulations which had been formed by long experience for guiding men in leading a Christian life formed a code of *divine* law which set forth higher and purer conduct than natural law demanded or human law enforced.

8. We have thus three different kinds of mundane law—natural, human, and divine;—they are distinct, but are all in harmony with the eternal law in which all three have their source. He who was keenly alive to the dictates of natural law within him would not rebel against the enforcement of human law: while the civil magistrates and ecclesiastical authorities would strengthen each other's hands by each keeping careful watch over the spheres of conduct with which human and divine law were respectively concerned. The struggles which took place between these two divinely appointed guardians of morality do not concern us here: in some at any rate of the most violent conflicts there was no explicit difference in regard to the fundamental political principles which had been formulated by S. Thomas: there was room enough for bitter dispute about their application in detail. Despite occasional jarrings, and an implicit difference of opinion

as to which of the two powers was superior, there was a broad consensus of opinion as to the duties and powers of a Christian king. We may be right in thinking of the Norman and Early Plantagenet kings as possessed of power that was only actively opposed and subjected to temporary limits when their tyranny or caprice had passed all bounds: but we should be much mistaken if we hoped to find that current opinion gave any support to claims of absolute monarchy. The memory of ancient English right was not so distant that it had ceased to have a practical importance in our land: but throughout Christendom the tone of thought was dissimilar only because in most lands trouble arose from the weakness of kings who could not control their barons rather than from the might of monarchs who were tempted to abuse their powers. But on the nature of the limitations to royal power there could be no doubt: it was not for any virtue of his own that the king was set above his fellow-men, to be their ruler. His kingly power was a trust conferred on him by God through the hands of His priest, and was to be regarded as a trust, for the fit discharge of which a new measure of God's grace was needed and was given in coronation. Dominion was by common consent founded in grace: the full recognition of the worth of each and every human being for whom Christ died was incompatible with the admission of an inherent and personal right in any man to rule over his fellows.

The chief of all the duties of the king was the securing of peace within the realm: the glory of English kings had lain in their success in maintaining the King's Peace. In less favoured lands where no strong royal hand had been felt, the Peace of God had been enforced by ecclesiastical authorities; but in England there was a tradition of



good government when a girl laden with silver could pass through the land; and the administrative system of Henry of Anjou gave a great security for the good order of the country, and rendered it less dependent on the personal character of the reigning monarch. Without the preservation of peace and security industry and commerce cannot flourish, and thus the king was charged with the maintenance of the conditions in which material progress may take place.

The doing of justice by punishing crime or settling civil disputes was another royal function of the first importance for the satisfactory conduct of internal trade: but in the thirteenth century these functions were for the most part discharged at second-hand. Traders preferred to have their disputes settled off-hand, by principles with which they were familiar rather than take their suit to a distant court or to a sheriff who was not always disinterested. One town after another sought and secured the right of enforcing its own customs through its own officers: but it was by royal favour they were allowed to take on themselves a duty which trenched on the prerogatives of the crown.

In that day too we might look on the king as the real source of justice in another sense, for he was personally the fountain of legislation. Bills still require the royal assent before they become laws, but in those times they were little more than the expression of royal will as enlightened by royal councillors. So far as the early legislation affecting industry and commerce is concerned, it was chiefly based on the actual experience of industrial and commercial communities, and followed the lines laid down in the Customs of this or that burgh or the Customs of the Sea. But the nature of the evils against which

precautions were taken will become more clear when we have looked more closely at questions of private morality as they presented themselves in that day.

Lastly, the king was the head of the State through whom England had relations with foreign powers. His quarrels became national quarrels: the amount and nature of the intercourse which it should have with foreign countries was his concern: the whole foreign commerce of the country depended on the course which the king steered amid dynastic entanglements and personal jealousies, though it must be noted that the intimate connexion of our foreign policy and our commerce has on the whole rendered our kings careful not to take a line which would be prejudicial to our trade and shipping. In the time of Edward I. these interests were infinitesimally small compared with the mercantile affairs of the present day: but they were of vital importance notwithstanding. And the regulation to which trade was subject was of a very minute character: the terms on which foreigners might trade with this country were the subject of legislation, the places which Englishmen might frequent and the privileges they might claim were the subject of treaties with foreign powers, and these were all matters for royal care: while the king's success in ordering them wisely was rewarded by the increase of the dues he received from trade.

9. In the reign of Edward I. the principles of divine law, as elaborated in the rules of canon law, were regularly administered in England, but we should make a great mistake if we supposed that its influence was only felt in the ecclesiastical tribunals. The whole of English Society had come into being under Christian guidance,

and the laws of the old Saxon and Angle kingdoms show ample traces of a Christian spirit. Especially is this true of our industrial and commercial life from the earliest date at which we have definite knowledge of it. Labour was lightened by the rest on Sundays and Festivals, and the definite limits of the tasks required from English serfs may not improbably be ascribed to the same source.<sup>1</sup> Trade centred round monastic towns, and was carried on at the fairs which were fixed for special festivals. Pilgrims and merchants shared alike in the protection which kings obtained for their subjects by treaties with foreign powers. Religious and industrial life were closely interconnected, and there were countless points at which the principles of divine law must have been brought to bear on the transaction of business, altogether apart from any formal tribunal. Nor must we forget the opportunities which directors had for influencing the conduct of penitents. Both publicly and privately the principles of the divine law formed the opinions and guided the conduct of Englishmen, and thus came to colour all the institutions of society.

The decisions which are collected in the *Corpus Juris Canonici* must of course be one great source for reaching the principles of the divine law ; but besides these precepts we can derive some knowledge from the examples that were most prized as models of what Christian life ought to be. Much additional evidence might, if necessary, be drawn from homilies and sermons, but there is no need to extend our range of inquiry very far. There are, indeed, many topics treated of by the canonists, and practices recommended by ascetic writers, that have no direct bearing on our subject. Even though we hold that a truer religious

<sup>1</sup> Seebohm's *Village Community in England*, 307.

life brings about a nobler morality, and that better morality paves the way for material progress, the rules and habits which were designed for the cultivation of deeper devotion may be left out of account in our inquiry. It will suffice to dwell on the precepts of Christian moralists and the practice of Christian men, as they directly affected industrial concerns; and while the precepts point out the devious ways that ought to be shunned, the teaching of Christian example shows the course that should be pursued.

10. The mediæval prohibitions all rested on a desire to avoid transactions which were inconsistent with the Christian duty of loving one's neighbour. The usurer, who extorted private gain from the unfortunate, or from those who were devoting themselves to the service of their King or of the Church, seemed most clearly guilty of infringing this broad rule. If he became a partner in the risk of business transactions, he might fairly claim a share in the profits; if he sank his money in a landed estate, he might fairly claim a share in the annual rents, for a time at all events; if he lent money at personal inconvenience, he might well bargain to be recouped for his loss; but if he was amply secured against loss of every kind by bonds in his possession, the demand for an additional gain from his debtors could not be justified according to current morality—for it was a claim resting on the needs of the borrower, and out of all proportion to the service rendered by the creditor. Money debts were chiefly incurred in these days for the purpose of paying taxes, or of fitting out military expeditions. If the security given was ample, and if the creditor had had no other opportunity for profitable investment, he rendered

a kindness to the borrower, but not one that was capable of being assessed in terms of money, until the modern era of regular markets for capital.

A similar feeling to that which took exception to extortion in loans, was roused in regard to the driving of hard bargains. Not only was there a Christian doctrine of the terms on which loans should be made but a Christian doctrine of prices as well, resting not so much on the utility of the article, as on the attempt to bring about a fair rate of exchange, in which neither party got the better of the other. Recent writers contrast our era of competition prices with a bygone age when custom fixed the rates at which many articles were exchanged; but mediæval economists used to fix their attention on reasonable prices, which were alike fair for the seller to take and the buyer to pay. The mechanism by which that price was attained—whether competition or custom—was not a distinction of the first importance for them. In trying to look more closely at this conception, however, we shall do well to leave out of sight for the present the side of the consumer,—what was reasonable to pay—and look only at the side of the producer,—what was reasonable to ask.

In the case of merchants who undertook the risks of travelling by sea and land,—the almost overwhelming risks of early and mediæval commerce,—no one but themselves could estimate what the fair reward for their services in importing foreign goods really was. Only when they compared the rates charged last year, with those charged now, or the rates charged by one merchant with those of another, could the buyers estimate whether the prices were fair, or whether the merchant was making an exorbitant gain. The prices were really settled by

competition, but a competition that was so fitful and occasional, that the buyers had hardly a chance of holding out for better terms, and that the sellers were able to make prodigious gains. The strong terms, in which merchants had been condemned by S. Ambrose, was due to the fact that they were generally aware of the strength of their position and took advantage of the opportunities it offered. This evil was never so marked in England in all probability, and gradually corrected itself, moreover, as trade took definite channels, and great fairs rendered competition more fully operative. The benefit from the equalising of prices, which modern writers ascribe to the operations of middlemen, had not been observed in the middle ages.

With regard to such native products as were affected by the character of the seasons, etc., it was necessary that prices should vary from time to time. But it was very possible for greedy men to take advantage of these variations for their own private profit. They might buy with the intention of selling again at a dearer rate, and thus make a profit for themselves without conferring any benefit on consumers : and such speculative trading was opposed to the principles of the divine law.

In regard to all the prices of home manufactures, however, the case was different : the various elements which made up the expenses of production were known. We have the cost of materials, the necessary reward for the service which labour rendered, the skill and status of that labour being taken into account. All this was a matter of possible calculation, and the reasonable price was one that afforded a fair reward for the service rendered, as estimated by specialists with the approval of the authorities of each town.

Such were the main lines which were drawn by the prohibitions of the divine law : how they were worked out in the institutions of society we shall presently see. In the meantime we may turn our attention to the influence of Christian example.

11. Nothing is more striking in the history of the struggle of the Church with the decaying Roman civilisation than the high place which was accorded in the new society to Labour. Labour was no longer looked on as the drudgery of a slave ; it was ennobled by the memory of the bench at Nazareth and the example of the tent-maker of Tarsus : it was a true discipline for subduing oneself to an earnest God-fearing life, and a true means of serving God in the world. Athenian statesmen had learned to see the practical value of habits of work, but it was left for the Christian Church to set it forth as a religious duty.

One of the occasions which brought it into prominence in apostolic times was a difficulty in the application of Christian charity : men who were impoverished by disaster or had lost their means of livelihood by accepting the new faith, were cast on the common funds of the primitive Church :<sup>1</sup> and would have become a permanent burden on them if the apostolic maxim had not been enforced that those who would not work should not eat. If it was a Christian duty to support the poor, it was also necessary for the welfare of the Church to discourage idleness.

In other ages of the Church the same duty was preached for the sake of the personal discipline which

<sup>1</sup> Exactly the same difficulty occurs among Christian converts in India.

work afforded in leading a godly life. And in this aspect certain kinds of work were preferable to others, and agriculture seemed better in some respects than any other. Agriculture was necessary for the preservation of life, and tillage seemed specially compatible with a life of purity as it was the work which God had set man to do in Eden. Other crafts, which were concerned in making things to sell, were more likely to be tainted by the temptations which affected all mercantile pursuits: though in a little community, where each worked for the rest, and no bargaining was thought of, these dangers were not felt. And this thought of working for others was the motive that might render any kind of work more worthy. Eager pursuit of one's calling might be due to mere greed of gain; if labour was extended beyond what was necessary for securing self-discipline, it was only such diligence as aimed at the good of others directly or at securing the means for alms-giving that was the subject of commendation.

The practice of labour as a religious duty was exhibited by the founders of monasteries: these were places where men retired from a discordant world as much for the sake of pursuing honest labour, as for finding opportunity for meditation and prayer. The very success of the monasteries, in cultivating the lonely spots on which they were planted, led ultimately to the partial neglect of this side of their life; but it held its prominent place in the Rule, and each new reform of monastic institutions brought it into clearer light. In later days the work of study came to be regarded as a substitute for actual manual labour; but there was a keen controversy between De Rancé and Mabillon, as to whether mental work could be regarded as a satisfactory substitute for physical toil or not.



12. Such were the political and moral doctrines which were operative in the middle ages: a very little consideration will serve to show that they formed the framework on which the whole industrial or commercial life was formed. Partly through the operation of the royal power, partly through the decisions of ecclesiastical authorities, but more generally through the influence of a Christian public opinion which had been gradually created, the whole industrial organism took its shape, and the acknowledged economic principles were framed.

The exorbitant profits of the importers of foreign goods were due to a lack of effective competition, and the policy of English kings was in favour of bringing foreign merchants to our shores: the privileges they possessed were in some cases local, like those of the Hanse League in London, but others were general throughout the country. The naming of staple towns where English merchants might take their goods was another movement in a similar direction: the trade of the whole country prospered if it was fairly carried on, and by bringing it all into one channel it was possible to create a market where there should be a steady demand for English goods, because there was a constant supply of them there. The encouragement of regular and constant intercourse between different lands was the way to bring about a healthy trade in each other's commodities.

The whole idea of reasonable prices in other departments is most clearly seen in the assize of bread which was fixed by statute for the whole of England before the end of the thirteenth century. Corn was a commodity, the price of which necessarily varied with the seasons, and there was a sliding scale of prices of corn, and a

corresponding scale of the weight of each kind of loaf: the price of bread did not alter, but the weight of the loaf varied as corn got cheaper or dearer. Allowance was made for the trouble of the baker, and for the cost of the materials, such as fuel and salt, required in carrying on his work.

Again, when we pass from the general legislation of the country to consider the life in each town we see the same tone of thought. Very many of the craft guilds were started by the civic authorities in London at least, as a kind of machinery for securing good work at reasonable prices. The good men of the trade made up their minds as to what was fair between the workman and the public, and were armed with authority to see that this fair standard of work and of pay was adhered to. In the constitution and regulation of these guilds we find the Christian conception of work embodied as truly as in the monastic rule. The guilds too had their religious rites, when the brethren joined in common worship, and common remembrance of departed brethren: the guilds insisted that work should be done, not solely for the sake of private gain, but that members should work together for the honour of their trade: and each citizen took his place among his neighbours, not merely in accordance with his own wealth, but in accordance with the position he held as a member—and a more or less prominent member—of a great or of a humble craft. The rules by which each guild controlled its members, bear witness to their care for good work, and for steady and orderly life. In only one of the old guilds has anything survived of the spirit that made them a great power for good in city life long ago: but the brotherhoods of less skilled workers had undoubtedly much of that high

morality which has been embodied in Masonic symbols and lore.

13. We are so much in the habit of condemning all such regulations, and of criticising the exclusive privileges of certain trades and the narrow rules of craft guilds as restraints on industry and commerce, that there may be some difficulty in accepting the view which treats such ordinances as supports and helps to their full development. Yet this is but one example of the relativity of industrial institutions and economic principles; for in arguing that they were good and useful once, we are not claiming that they were good and useful for all time, nor asserting that they could be adapted so as to do good work in each succeeding century. But surely there is room for a protest against writers who notice that they were a grievance in the eighteenth century, and leap to the conclusion that they could never have been anything else. How can we account for their growth, or for their attaining a power which they subsequently abused, unless there was some useful function they performed?

If we contrast the honoured place which handicrafts held in mediæval as compared with Roman towns, we cannot fail to notice the far healthier condition of the industrial classes in the later civilisation, and the advantages to society at large from the provision made for the poor, and from the thoughtful supervision over workers that was exercised in the interests of the public. The system too was capable of considerable expansion: the division of employments went on as trade increased, and with the division of employments, there arose guilds of a more specialised character. It is not so very long since the surgeons and barbers were separated from their ill-

assorted fellowship. Long after the first outcries were raised against the practices of guilds by the Londoners, new craft guilds or companies were formed, because experience proved that whatever the disadvantages might be, an association of the sort gave the best guarantee for the training of workmen, who had the special skill needed in that branch of industry, and the best attainable security for the quality of the goods procured. More craft guilds were established in Preston during the seventeenth, than any other century, and the same remedy was applied to the abuses of the Kidderminster carpet trade in 1670 as had served for the London potters in 1316.

The fact is that in a state of civilisation where industrial success mainly depends on the skill—perhaps the hereditary skill—and diligence of the workman, the conditions which render it prosperous must necessarily be quite different from those that are beneficial to-day. We do not now find it necessary to import skilled workmen from Flanders, as Edward III. was forced to do when he wished to develop the manufacture of fine cloth: nor is the migration of skilled workmen to other lands a great political danger as it seemed last century. Machinery has done much to place all races of producers on a level, and the best machinery carries the day against even hereditary skill, like that of the Indian weavers. It is by the command of capital, by extending his business and producing on a large scale with the best machinery, that a manufacturer hopes to rival his competitors to-day. But while foreign commerce was very limited, and most of our manufactures were intended for the home market (as was the case in the fourteenth century), there was no possibility of sudden and indefinite expansion: the craftsman was glad to turn over his stock in trade, and

might at length prosper so as to employ another servant, but he would never see an opening where he could drive a new trade if only he had more capital to work with. He might at times be glad of an advance on account of partially completed work so as to buy materials or pay his servants, and even enter on a temporary partnership, but he would never think of borrowing so as to conduct his business on a larger scale. In such a state of society, the regulations which favoured the development and maintenance of skilled workmen in each branch of trade were a true support to industry, while the restrictions did not press on the development of business, since it was already limited by the circumstances of the time.

It is equally clear that the usury laws were no hardship to the craftsman: he would not have borrowed money whatever the terms might have been, because he could not really find a use for additional capital in his business. He was not a baron who had to fit out a small army for one of the king's campaigns, nor an abbot who wanted to perpetuate his name by rebuilding the chancel of his church; nor an unhappy bishop who had to transmit some clerical payments to Rome. Money was needed for these purposes, but not for developing our native industries.

More frequent communication with other countries was the great need of England in the fourteenth century if she was to become a great manufacturer, or even if she was to dispose of her raw produce to advantage; and the usury laws put comparatively little restriction on the employment of money in this direction. Loans or borrowing meant a partnership with a merchant in a particular undertaking: the lender really took the risk, and was for that time, and to that extent a merchant:

there was no usury in such a transaction: the lender went shares in a lawful calling and reaped a lawful gain from his ventures. Thus merchants were not prevented by the usury laws from making use of other people's capital, as well as their own; it was not necessary for the man who was not a merchant to let his money lie idle, he might still join in the ventures of others: or he might locate his money and secure a permanent or terminable annuity from rents.

Thus it is that these regulations may be regarded as a support rather than as a restraint to the development of our industrial life, when the circumstances of England in the thirteenth and fourteenth centuries are taken into account: but these circumstances altered. In the old days a merchant was the owner of a ship or two, who undertook special voyages, and counted up his profit on each separately: but when a carrying trade was developed and intercourse became more frequent, the merchant came to be a great dealer who made his shipments as occasion served. What he then required was the command of capital for general purposes, not a series of partnerships in separate undertakings. When trade began to take this new form, the usury laws came to be a real hindrance to the development of commerce. The accommodation to the merchant was similar in both cases:—whether you joined him in a venture which he could not have undertaken alone, and shared his profits whatever they might be, or whether you deposited money with him at a definite rate for him to use as best he could in the general conduct of his business: the latter kind of arrangement was the one the enterprising merchant preferred, but it fell under the definition of usury while the former transaction did not. But it was not till the beginning of the

sixteenth century that English trade had developed to such an extent that the usury laws put our merchants to inconvenience.

It is unnecessary to trace the changes which rendered craft guilds a restriction rather than a support to the growth of industry. Many of them were badly managed, their resources squandered in display, and the real business of maintaining a good tradition of work and skill neglected. But when the circumstances of society had so far changed that new markets could be opened up by fresh enterprise, above all when the greater division of labour and gradual introduction of machinery rendered capital the more important element in production, the period when they could exercise a beneficial influence had passed away for ever.

## CHAPTER III.

### ECONOMIC PRINCIPLES AS DIRECTED BY NATIONAL POLICY.

#### 1. *Modern Civilisation.*

14. WE must pass over a considerable period in our hasty survey before we come to a time when the acknowledged principles in commercial affairs were clearly distinct from those already delineated.

The decay of the mediæval industrial system was long and gradual, and the new political opinions and commercial habits were formed silently and without attracting much attention. The Reformation marked a breach with the past in many ways, and the religious changes were synchronous with an important social revolution in England: but it was only in the succeeding age that men could look back on the throes through which the nation had passed, and formulate new views of political duty, and justify new industrial habits. These had of course considerable importance while they were growing, and helping to sap the foundations of the old social order: but we do not care so much at present to follow their history, as to trace the influence they exercised on economic life when they were full grown. It is of less importance to notice how they helped to destroy old institutions than to figure to ourselves the new form into



which industrial life was moulded. All this we shall understand most clearly if we fix our attention on the period which succeeded the union of the crowns of England and Scotland. The consolidation of England and Wales was the work of a monarch who relinquished foreign conquest that he might give his undivided attention to the government of his realm: the union of the crowns of England and Scotland served indirectly to give questions of domestic policy a much greater importance than formerly, as well as to turn men's minds to the principles on which all rule rests, rather than to the traditions which had held good in one particular realm. Thus the reign of James the First, as a time of keen political discussion and great commercial advance, gives abundant materials for observing the characteristics of the economic doctrines which were consonant with the new political life.

15. There are three broad differences which sever mediæval from Jacobean England,—one purely political, one intellectual, and one of a social character. The rise of separate nationalities had completely broken the unity of Christendom; the whole conception of a divine law had fallen into the background; and the care of industry and commerce had become a matter for national, not merely for local regulation. At the first glance there seems to be some absurdity in talking of a break-up of the unity of Christendom, for the history of Europe in every century has been one of jealousies and wars. At long intervals and by careful manipulation one Pope or another succeeded in summoning several princes together who presented a fairly united front against the followers of the False Prophet; but these coalitions of ill-assorted

materials could not be held together : and at no other period can Christendom be regarded as having much semblance of unity. But there may be frequent discords within a family circle, and the fact that there were constant quarrels in Europe does not show that the divisions were deep : indeed many of the struggles of the middle ages were more like civil wars than struggles between nations, for they were contests between the ruler of one province and that of another. But at length some power came to the front through whom one set of provinces after another was consolidated into a single kingdom : and through this internal consolidation the differences between one country and another came to be more deeply marked. The Norman and Plantagenet wars in France show us a perfect kaleidoscope of duchies and kingdoms : no one could have then foreseen that the eventual consolidation would take shape without adopting the areas of race and language, and severing from us the Channel Islands, and without following the physical outlines and gratifying the ambition of France by securing the Rhine for her boundary. The consolidation of England occurred at a very early period, but centuries after the Heptarchy had been absorbed in Wessex, chronic disorder kept the French provinces asunder and Moors held the richest kingdom of Spain ; while it has been only in our own day that the great German people have been consolidated under the leadership of Prussia, and that we once more see a united Italy. The formation of nationalities has been going on slowly if not steadily for centuries ; but at the time of the Reformation it had proceeded so far that the broad lines of division in Western Europe were deeply drawn ; a trivial quarrel would not serve to make provinces recombine in new

forms ; they must first be torn from the nation of which they had become organic parts. As consolidation became more complete the provinces began to share in the same government, to live under similar laws and privileges, and to be subject to similar burdens and responsibilities ; and all this tended to give the subjects a sense of their citizenship in a great nation, instead of a mere attachment to the district where they were born, or the lord who claimed their allegiance.

The growth of such national feeling however necessarily brought about national rivalries,—rivalries which gave birth to internecine conflicts as the peoples came to range themselves on different sides on the great religious questions of the day. The desire of extinguishing heresy, or putting down superstition, served as an excuse for wars of aggression and roused instincts of self-defence which made themselves felt in cruel retaliations. But the discovery of the new world, by opening a new field for national expansion, gave greater scope than ever for national rivalries. Each nation sought to raise its own power to a higher pitch, that it might more easily hold its own against its rivals.

Hence arises one of the strongest contrasts between mediæval and Jacobean commercial policy. The end in view in mediæval times was the cultivation of fair dealing and industrial prosperity ; nor need there have been any broad difference in the methods by which these ends were pursued in different countries ; all could work together for the common good of all :<sup>1</sup> the usurer and the middleman was the bane of all lands, but free intercourse by which the products of one were supplied to the dwellers

<sup>1</sup> Jealousy of foreigners in mediæval times appears to have been frequently connected with differences about the morality of trade.

in the other was for the advantage of both. In their encouragement of intercourse with other countries we may say that the policy of Edward I. and Edward III. was, so far as circumstances permitted, a free-trade policy. But when national rivalries came to a head this was no longer possible: the end in view was no longer simple progress, but *progress relatively to that of other nations*. We do not say that our navy is more powerful than it was ten years ago, because it can be shown that we have more and better equipped ships, but only if it is proved that relatively to the navies of other countries our fleets are larger and better equipped than they then were. And as the close connexion between the general wealth of the country and its ability to hold its own in the arena of the world became more clear, this national rivalry affected men's view of commercial policy. Material advance and the growth of wealth were a chief source of power: but it was not the mere growth of English wealth that was desired, but a growth that was more rapid than that of our neighbours. Nor could friendly intercourse be readily carried on between political rivals: both might be gaining by trading with each other, both be better supplied with the comforts of life, but if France was gaining more than England, the French, who derived the greater profit, were adding to their resources more rapidly than we. The cessation of such trade might be an inconvenience to many English citizens, but to continue it was to ignore a grave political danger. If their wealth was increasing more rapidly than ours, there was a danger that they would soon "over-balance" us in power as well.

The whole doctrine of the balance of trade derived its importance from the political rivalries and opinions that underlay it. The balance of trade between two countries

appeared to serve as a criterion which showed which was gaining most rapidly; where the indications of this criterion were favourable, this or that particular trade was advantageous; where the indications were unfavourable it was held desirable that the terms of trading with the profiting country should be-rearranged, or if that could not be, that the trade should be suppressed. The Jacobean period is certainly not the beginning of national rivalries in European commerce, but it is the beginning of the long era when national rivalries became so powerful as to be the dominant consideration in commercial policy.

16. The importance of the principle of nationalities in modern politics has become a commonplace with historical writers, but the fact that the "divine law" ceased to exercise a powerful influence on politics has perhaps not received as much attention as it deserves. No one forgets that the canon law ceased to be enforced, or even to be studied in England, and that this great body of Christian opinion on moral subjects has been entirely tabooed: but protestants have been in the habit of regarding the "Pope's Laws" as excrescences on the pure revelation of God's will as found in the Bible, and to speak as if this divine law was more effective when appealed to in its simple form. As a matter of fact the reverse was the case; when private opinion came to deny the guidance of the Church in matters of conduct, the whole force of the Bible teaching on political questions was destroyed, since no certain account could be given of what the Bible teaching really was. The protestant trumpet gave an uncertain sound on all the political questions of the day, because the private judgment of different individuals gave

such diverse accounts of the nature of the divine law it revealed. What weight could be attached to Jewel and Sanders in their denunciations of usury, when Calvin had refused to condemn it unreservedly? What practical guidance could be obtained from a divine record when each party applied its blessings to themselves and its threatenings to their opponents? Cromwell's soldiers went into battle with the words of psalms on their lips, but ignored the strong scriptural arguments for reverencing the person of a king. Protestantism did not substitute the authority of the Bible for that of the Church; private judgment resisted the guidance of the Church, and thus deprived the Bible teaching of its effectiveness and practical importance.<sup>1</sup>

The Bible does indeed contain broad principles of conduct for our guidance, but these principles in the form in which they are expressed apply directly to other polities than ours,—to little tribal communities, to an eastern monarchy, to a little brotherhood of earnest men; the rules which were laid down for life in each of these societies could not be in all points identical or even consistent, still less could they serve as a written code for all time. We may fully recognise that a divine law was revealed for the Israelites in their wanderings, for the monarchy through the mouths of the prophets, and for the members of the early Church, but this divine law must be followed by us, as we say, not in the letter but in the spirit. Thus then the question of interpretation comes to be of the first importance; a mass of tradition had grown up by which the biblical principles of conduct had been worked out for the changed circumstances of mediæval Christendom: and the Bible thus harmoniously

<sup>1</sup> Compare Sanders's *Treatise of Usurie*.

and authoritatively interpreted had exercised an extraordinary influence. But when private judgments began to promulgate different and inconsistent interpretations, the effectiveness of the divine law as a controlling influence in public and social life was destroyed.

This may perhaps become clearer if we consider the part which Bible arguments have played in regard to social questions in our own day. Neither in connexion with the Anti-slavery movement, nor with the Temperance question, nor with the efforts of the Peace Society, nor in regard to such a subject as Disestablishment can it be said that the Bible argument is decisive on either side. The Bible is not a handy guide to political duty, nor a ready-made code for nineteenth century England, and those who try to treat it as such are apt to blind themselves to its true value as a record of the gradual manifestation of God among men.

In one other way we may note the diminished importance of the divine law in politics; no serious attempt has ever been made in England to frame a polity in accordance with this divine law as given in Scripture alone. The experiment was made in Scotland, and for a moment it seemed that the effort to force it on England might be crowned with success, but Cromwell and his Ironsides were too wary and too strong. The Bible was long a favourite armoury for offensive weapons with which to attack a given line of policy or an existing organisation, but those who had to construct and institute or frame any rules found little help in it; sects have indeed been found in abundance that pretended to reproduce the ecclesiastical system of the New Testament, but there has been no serious English attempt to rear a purely scriptural polity.

It may indeed be argued that so far as economic

institutions are concerned this is by no means unfortunate, and that the influence of the study of the Old Testament at least, has been distinctly prejudicial to English morality. For centuries the Church in England had striven to check extortionate dealing, and she had at least succeeded in forming a strong public opinion on the subject. For centuries she had striven to put down a slave-trade, and she had extinguished it so far as Englishmen were concerned. For centuries she had striven to lighten the lot of the labourer, and the difference between the Roman slaves and the English peasant and workman of the fifteenth century gives the measure of her success. But at the end of the next century, when Puritanism prevailed in fixing public interest on the Old Testament as containing an ideal for modern Christian life, the whole effort to distinguish extortionate from fair dealing may be said to have ceased ;<sup>1</sup> the slave-trade was revived by Englishmen on a scale and with attendant horrors such as had never been known before ; and the gradual degradation of the position of the labourers commenced with the reduction of their holidays. It is difficult to believe that this is a mere coincidence, unconnected with the discarding of the code of Christian morality contained in the Canon Law and with the current acceptance of the Hebrew treatment of Canaanites as a model for Christians.

But though the divine law thus ceased to be powerfully operative it would be an error to suppose that political speculation at once lost its religious tone and character.

<sup>1</sup> The statute of James I. unlike that of Elizabeth makes no distinction between interest and usury, but requires that all payments for borrowed money should be moderate ; it is thus quite distinct from the Canon Law restrictions which did not definitely limit payments for risk, or real inconvenience. It is of course against this modern type of law that the argument of Bentham is directed.



The view which S. Thomas had taken of natural law was still dominant. Natural law was truly given by God, and the duty of obeying it was therefore, in the last resort, the duty of obeying God. Thus though the special department of divine law could no longer be appealed to as a decisive authority, the whole structure of political society was still treated as having a religious basis, for it rested on natural law which was in its origin divine.

17. While these national rivalries and moral opinions were moulding our commercial and industrial life, a great revolution took place in the constitution of the realm. At the opening of the long period we have now to consider, the pretensions of the monarch to exercise an unchecked if not an irresponsible authority were put forward most strongly, and before its close the principles of the Revolution had been promulgated, and were adopted with mild enthusiasm by one of the great parties—while the other failed to controvert them. Though the general character of the commercial policy of the country remained scarcely altered, the whole of the constitution was destroyed by a military despotism, and then rebuilt in the old form, but on a more solid foundation: this recasting of the whole machinery of government had of course marked effects on the manner in which the one policy was carried out. We shall try to consider each of these views of government at the time when it was clearly formulated, and the influence which it exercised when thus consciously acted on. We can easily understand the claims of royalism, for they have been expounded by Sir Robert Filmer, and by that self-satisfied master of statecraft King James himself; while in the history of the earlier part of the seventeenth century we can trace the

influence of his political principles on economic affairs. On the other hand Locke's *Essay on Civil Government* may be regarded as an authoritative exposition of the principles which were accepted by the prime movers in the English Revolution and by the party which claimed to follow in their ways. But these new doctrines as to the nature of political authority and the sweeping constitutional changes of the seventeenth century made comparatively little difference in the view which was taken of the functions of government so far as trade was concerned or the course which an administration should pursue in regard to national industry.

The main lines of commercial and industrial legislation as laid down in the reign of Elizabeth were strikingly different from those of the preceding Tudor sovereigns. Henry VIII. and Edward had felt that they lived in a period of violent social movements, but their legislation was on the whole repressive; or at any rate they relied on the old machinery for the remedy of the new evils. They tried to stop the progress of enclosures by prohibiting alterations and by insisting on the rebuilding of cottages; they corrected abuses in the management of craftgilds and strengthened their hands. But Elizabeth's legislation recognises the need of change: she saw that some of the agricultural changes were beneficial and that within limits enclosing was of advantage: she did not try to force men back on the old system of cultivation, but devised a new method of estate management which should be adopted in cases of change. So too she framed a general code of industrial policy for the whole realm, and undertook as a duty of State, much of the regulation of apprentices, hours and wages, which had hitherto been seen to by gilds. Thus James I. in-

herited a system under which the direct regulation of the various industries of the country fell under the care of the crown.

The possibility of such constant interference in the concerns of merchants and craftsmen must strike us as an intolerable grievance, but the step which Elizabeth had taken really marked a great advance in the freeing of private enterprise. The exclusive privileges which the old guilds enjoyed and the repressive ordinances they framed were a burden to the public and to their members alike : while the fact that they had a practical monopoly of the best markets was a great disadvantage to those who wished to start in opposition. So by providing for good training, skilled work, and fair wages, all over the country, Elizabeth removed all pretence for continuing to enforce the exclusive privileges of the guilds, and gave more scope for private enterprise than it had ever possessed before. No one in that age would have asked that private enterprise should be unregulated, so that each man should pick up his trade as he best could, and sell any sort of wares for which he could get a price. We shall have ample opportunity of discussing this system of natural liberty below ; but the Elizabethan age at any rate was not ready for it, since there seemed to be a danger that usurers, and non-resident rent enhancers, and exchangers would in the pursuit of their private interest be the undoing of the realm. Henceforward regulation was only attempted in the clear interest of the realm, not as occasionally before in behalf of an incorporated trade. The Jacobean period was one of regulated private enterprise, and the main object of many of the regulations was that of stimulating private enterprise to farther exertions of a kind which worked for the general good.

## 2. *Royalism.*

18. The doctrine of royal authority and duty which was put forward in the early part of the seventeenth century bears an interesting relation to the mediæval doctrine which has already been discussed ; and the change which it underwent is curiously parallel to that which occurred in regard to the whole divine law. According to the older view the authority to rule over other men was given, along with grace to exercise that authority wisely, in the rite of coronation : but after the Reformation, no favour was felt in England for the doctrine that royal authority was conferred through any ecclesiastical hands whatever : the doctrine of the grace of coronation fell into abeyance and was set at nought in the case of the second Charles. But for all that, the kingly office was not at once deprived of its religious aspect : but the religious duty of obeying the king was rested on new grounds—not on the fact that he was exercising authority through the grace of God, but on the fact that he had been called, in the order of God's providence, to a supreme position in the land. He was still thought of as the minister of God, exercising a divinely appointed office, and disobedience to him was disobedience to God just as rebellion against God's prophets had been rebellion against God on the part of Israel of old. But the credentials of his authority as one of God's ministers were of a different style : his claim rested not on the grace conferred upon him, but on his calling and election.

There was no question as to the duty of the king : he was to devote himself to the care of his people in every way—as the shepherd of the sheep. He was to see to the securing of peace, to their advance in piety and to

their material prosperity—to their progress in wealth, peace, and godliness, as our collect still says. This was the task to which he was called by God, and which he had to fulfil as in the sight of God: his royal honour was at stake in the way in which he discharged this God-given trust. And if he failed in his duty, he would have dire disgrace and rigorous retribution for his meed at the hands of the God Who had called him to the high position in which he had proved a faithless administrator. For after all his function was simply that of an administrator: the principles of natural law, written by God in human hearts, were his guide; it was the king's duty to frame human laws, but these were never to be the expression of his personal caprice, but the exposition and enforcement of the Divine Will as set forth in natural law. The well-being of his people was the glory of a king, and the chief object of his ambition; the wise application of the principles of God's natural law was the means by which he could attain it: but he dared not be a tyrant and rule for his personal advance or legislate for his own personal pleasure. In every regal act he was the minister of God, and must only administer God's law, and rule as responsible to God for the trust committed to him.

It is obviously a misnomer to stigmatise such conceptions of kingly authority as being a claim to absolute or irresponsible power. The king like S. Paul magnifies his office, and admits his full and complete responsibility to God; but when this high ground is taken, it is clear that neither the king nor the apostle admits any responsibility to man. The king who holds this view of his position dare not venture to part with any portion of his powers: for he has no right to shirk a charge which God has committed to his hands. He must seek the counsel of

others in his difficulties, but he dare not submit to any checks on the freedom of his decisions, for he and none other has been called to do this difficult duty. The due discharge of the trust he has received may force him into a thorny path, where the sacrifice of his friends and the employment of pitiful devices may seem expedient for the preservation of peace and good order in the State: but he must not hesitate, for it is not by his personal traits, but by his faithfulness in administering God's law for the prosperity of his people that his worthiness as a king must be appraised.

Such an one may claim that he is the fount of legislation, that it is through his assent that laws are promulgated; he may claim that royal grants are the source of the subjects' property, for that all is held by charters secured from a king; he may maintain that all the subjects' liberties have had their origin in royal favour, as expedients which kings devised for the wellbeing of his subjects; all this he may assert, and yet be shocked and scandalised if he is accused of claiming an irresponsible authority.<sup>1</sup>

Yet it must be perfectly clear that this sense of responsibility to God would only be operative in the case of a king whose personal character was deeply religious: how far such a personal sentiment could be trusted to exercise a constant influence on the best of kings we need not discuss; for obviously there have been many kings whose conduct would not have been appreciably affected by such a distant restraint as this. For practical purposes it was difficult to distinguish an irresponsible tyrant from a king who was responsible to no human judgment: and herein lay the weakness of the Jacobean as compared with

<sup>1</sup> King James, *True laws of free Monarchies*, *passim*.

the mediæval doctrine ; for this had supplied a controlling influence which the new view ignored. A man called in the order of God's providence to the kingly office could continue to claim obedience as God's minister so long as he held that office : but the man who was anointed to exercise rule might fall from the grace of God, and be justly deposed from his kingly office. Those who believe that there is on earth a supreme authority through whom God's grace is dispensed, and who hold that, as a Wyklif said, dominion is founded in grace, can hardly fail to admit the papal claim to pronounce the deposition of a royal apostate. Under the mediæval system there was in the last resort a security for good government other than the personal religious convictions of the reigning king.

19. The main lines of the commercial policy of James have been already indicated. The basis of the whole was the desire for political power with which to maintain England's greatness, or even to assume a more exalted position as the arbiter of the destinies of Europe. But to take the field, to fit out a fleet, or even to conduct diplomatic negotiations with success, a long purse was needed ; and the king who would be ready for all emergencies must have the command of a large treasure. The possession of a treasure, as the one necessary condition for every kind of political success, was an object of the highest political importance ; and to secure a large treasure for the king became the prime consideration in guiding the material progress of the country. When a country was possessed of gold and silver mines, the supply was ready to hand ; and the problem was that of retaining these commodities in the national treasury rather than allowing them to circulate through the ordinary channels of com-

merce. But with countries which possessed no mines the case was different, they had to look about for the means of procuring treasure, and nothing could serve their purpose but the prosecution of profitable trade.

The development of commerce was the point at which the material advance of the country had its most direct influence on political power, and therefore our mercantile progress was the first and foremost care of the statesman. But commerce could not be carried on so successfully without friends to deal with, ships to carry the goods, and articles to deal in; so that all of these came indirectly to be points of importance in framing economic principles.

James would undoubtedly have been glad if a gold-producing region had fallen into his hands; but he and his successors were content with making the most of the plantations they had acquired. The colonies were valued as possessions which might supplement the business of the mother country, by supplying raw products of which she stood in need, or by the sale of which she could drive a profitable trade. The royal anti-tobacconist, much against his inclination, issued proclamations<sup>1</sup> protecting the American planters against English and Irish rivalry, and the same course was pursued by parliament under Charles II.<sup>2</sup> At a later date sugar bounties were freely bestowed on our West Indian planters, and while the interests of the colonies were always considered in strict connexion with and subordination to those of the mother country, they were still treated as generously as any branch of industry at home.

The encouragement of shipping and seamanship had

<sup>1</sup> In 1620, and 1624. See Macpherson's *Annals*.

<sup>2</sup> 22 and 23 Car. II. c. 26.



also a political importance of its own, as an Island nation relied for her defence on her wooden walls : the policy of favouring our ships had been partially pursued for many centuries,<sup>1</sup> before it culminated in the blow which the Council of State struck at our Dutch rivals by the Navigation Act. And much of the commercial legislation and tariff arrangements were fixed with the view of providing proper material for ship-building and naval stores for fitting out our mercantile marine. In the same way the bounties on fishing were favourably regarded as a means for drawing men into an employment which served as the best school for seamanship.

In a similar way the encouragement of industry was important, not only as a subsidiary to commerce, but on its own account as well. Both its main branches required attention : unless the rural economy of the country was satisfactory, there might be no sufficient means of maintaining a large and vigorous population, which even more than wealth was a bulwark of the realm. On the other hand, manufacturing was also to be encouraged, and if possible improved. If we could make for ourselves, out of our own unemployed resources, articles which we had hitherto had to buy from foreign lands there would be a saving to the country. A matron who could get the washing or the mending done at home without engaging additional servants or providing new accommodation would never think of giving it out, and the same principle seemed to hold good in the management of national resources. With our present means of communication we prefer in this nineteenth century to let the resources of labour and capital transplant themselves to the land where they can be most easily used : but this course

<sup>1</sup> 5 R. II. c. 3, 1 Hen. VII. c. 8, 4 Hen. VII. c. 10.

was not open to the seventeenth century administrators whether they would have approved of it or not : they had to set themselves to provide as far as possible for the employment of national labour and resources in the localities where they happened to be available.<sup>1</sup>

The details of the measures by which these different interests were promoted need not detain us : there was however one point of considerable interest. No new departure of any kind could be made to succeed, without royal support and patronage. To found a new colony many days' sail from the mother country, was a hazardous undertaking in which no one would engage unless privileges were secured him by the crown. To fit out vessels for distant voyages and try to open new lines of commerce involved risks which no one could attempt without public recognition and support. Hence we find a succession of proposals for the planting of colonies, and the granting of charters to African, Eastland, and above all to the East India Companies. What a feeble force private enterprise then was we may see from the accounts of the first beginnings of this great Company. There are many private firms to-day who own a tonnage that far exceeds that of this mighty company in the seventeenth century ; and yet it needed royal encouragement to call forth the efforts which were then devoted by London merchants to competing with the Dutchmen who had anticipated us, and to securing for England a share in the East India Trade.

The same thing was partially true of the management of industry : the increase of manufacturing was desirable,

<sup>1</sup> Compare Yarranton's *England's improvement by land and sea* for a careful investigation of the ways in which the resources of different parts of the country might be developed.

partly as providing us with new means of export, and of thus driving a profitable trade, and partly as a means of providing opportunities for employing persons who might otherwise have been idle vagrants. But to introduce a new industry, to cultivate the requisite skill, to compete successfully with foreign producers, was a herculean undertaking for which no private capital would suffice, and thus those who attempted to plant new trades, or to introduce improvements, relied on the support that was given them by royal letters-patent.

When these patents only concerned articles newly introduced, or of mere luxury, the granting of them created no grievance; but when they affected processes which were necessary for the production of articles of general demand—like soap, or when they affected the terms on which a staple trade was carried on—like the dyeing of cloth, the case was entirely altered, for the granting of a patent to certain producers, made them monopolists, and as obnoxious to the public weal as engrossers. (See p. 120, note.) In nine cases out of ten the benefit accruing from the introduction of the new industry or the improved process, was as nothing compared to the inconvenience which arose from the monopoly of the patentees, and the disorganisation of the trade of which a part was entirely in their hands. A brief experience of the results of royal wisdom in cultivating private enterprise was so unfavourable, that the Commons demanded in the interests of the English public that all such patents should be abolished.

The failure of the king and his advisers in attempting to control the industry of the country for the common good, had much to do with discrediting royal wisdom, and preparing for the rebellion against royal authority. But

it may be doubted whether any other influence would have sufficed for the planting of new trades. When the Huguenots were expelled from France, new trades planted themselves at Canterbury and Spitalfields, because the possessors of this special skill sought refuge on English ground. But as we look back on the attempts of King James and King Charles to stimulate industry afresh, we may perhaps feel that they failed not so much because they were unwise in design, as because the indirect effects were more far-reaching than they had apprehended. But whatever may have been the precise grounds for the decision, a final condemnation was pronounced on the royal efforts to stimulate industry so as to meet the requirements of the home market, when Charles revoked his grants by his proclamation from York in 1639. From that time forward we have had to rely on almost unprivileged private enterprise for catering for English consumers by the improvement of old manufactures, and introduction of new ones—and we have not relied in vain, for our subsequent experience has confirmed the condemnation of monopolies which was pronounced in the seventeenth century. Had the results of granting them been satisfactory to the kingdom at large the inconvenience of a few private citizens would have seemed to parliament itself a matter of no account at all: the real question was as to the amount of advantage accruing, and the amount of discomfort endured. In most cases the general inconvenience outweighed the good that might be anticipated from the new departure: or what was worse, a general inconvenience seemed likely to produce no benefit to the public at large, but only a profit to those who were engaged in the business. But the failure to guide the industry of the commerce discreetly was not

the least grave fault which was laid to the charge of the kings who claimed to rule by divine right. The interests involved were too complicated for their calculations; the indirect results of their policy were undesired, and the machinery by which the interests of industry was supposed to be promoted was often inefficient and corrupt. The scheme of policy which trusted to royal forethought and royal care for the direction of the industry of the country had been weighed in the balance and found wanting. The English Parliament expressed more vigorously the same conviction as was afterwards forced on the minds of the French manufacturers who politely entreated their patron *Laissez faire, laissez passer*. However benevolent the royal intentions might be, the practical difficulties in carrying them out were so great that the national interests, as far at least as the consumers of manufactured goods were concerned, prospered better when let alone.

### 3. *National Interests.*

20. The political doctrines of Locke were so directly affected by the struggles of the age in which he lived, and the form of constitution he approved was so very different from that which King James I. designed, that it seems strange to find that the principles with which he starts are so little removed from those of the royalists. He too takes his stand on natural law—a natural law of which he speaks in terms that are carefully borrowed from the first book of Hooker's *Ecclesiastical Polity*; he too regards the business of the governor as that of framing human laws in accordance with the divine prin-

ciples of morals. Thus far there is little breach with the older theorists; and Locke seems nervously anxious to prove the affinity of his teaching to that of an orthodox champion like Hooker. But Locke supplements their teaching by justifying the imposition of checks on the king's exercise of his powers, and by suggesting a clear criterion through which the wisdom of his government might be readily appraised.

He altogether denied that an English king could claim to be directly called by God to do his work: it was on the other hand through the consent of the people, whether explicit or merely implied, that the king's authority was really conferred. His power was intrusted to him, but for the exercise of that trust he was responsible, not merely to God, but to the people as well: at the coronation, the promises he made were not vows to God as to the manner of performing a duty, but rather an agreement with the people solemnised as in the presence of God. The people had thus intrusted him with authority, and agreed to be subject to him, and the people might call him to account if he abused that trust, and broke his side of the compact.

The notion of a social contract was destined to play a great part in the world: and the force of Locke's argument depends upon it. Still to say that royal power was derived in the last resort from the people was not to enunciate a principle that gave any security for a free constitution. Hobbes had put this quite clearly, but he had maintained that the authority had been granted to the king by the people, and that just because the people had granted it, they could never be justified in resuming that grant. To Locke, on the other hand, it seemed absurd to suppose that the people could ever have done such

a thing as freely to devise for all time a power of controlling their property and liberties. He regarded the form in which the king obtained authority as an agreement with the people, and as an agreement which the people were justified in compelling the king to respect. The full consequences of this doctrine in their bearing on the duty of passive obedience, and for that matter on the duty of any obedience at all, need not be followed out here: it is of far more importance that we should notice the test by which Locke proposed to judge of the good or evil of any particular rule—this was the happiness of the people. Although the royalists regarded the national wellbeing as the object to be pursued, they could not have admitted that non-success in attaining it was always due to the errors of those in authority. It might be brought about by the insubordination of the subjects, as much as by the unwisdom of the rulers. But Locke was certainly right in regarding it as a rough and ready test which showed that something was wrong somewhere; and as the ultimate decision on matters of government lay with the people, it was for the people to investigate the causes of failure, and to devise means, by a change of rulers if need be, of setting the matter right.

Locke's appeal to happiness was made, however, only as a negative test: he does not regard it as the end to be consciously pursued, nor is he concerned to show how the prospective happiness is to be estimated and measured, for he does not treat it as the groundwork of political right and wrong. That groundwork is given in the law of nature, it is this that the administrator has to keep in view in guiding the destinies of a realm: but Locke's religious faith led him to believe that unhappiness arises from the breach of that natural law, and that where misery

came on the people, there was at least a strong presumption that the rulers had exercised their powers unworthily.

The happiness of the citizens plays a still more important part in his scheme, for it is used to explain the nature of the bond which holds men together as a single people. It is, according to his view, because they each wish to remedy the inconveniences they find in the state of nature that men agree to form themselves into a civil society, in the hope of thus obtaining a better security for their persons and property. If the discomforts of civil society were very great, they might apparently prefer to withdraw themselves into comparative isolation again. Thus private interests are treated as the sole tie which holds a political society together: the bonds which arise from affinity of race, or the possession of common speech and common customs, are scarcely alluded to: the tie to one's native country seems to be inexplicable on Locke's principle, unless one is the fortunate possessor of real estate, which could not be enjoyed under an alien rule. This part of Locke's essay is perhaps the least satisfactory if we regard it as a philosophy, for there seem to be a considerable number of obvious facts which are inconsistent with it: all the phenomena of loyalty and patriotism are difficult to explain, and it is impossible to see under what circumstances a man would be justified in dying for his country. But the practical importance of his teaching was undoubtedly very great: so far as it took hold on men's minds, they would be apt to regard the relation of subjects to their rulers not as one of obedience to a God-appointed minister, and of respect to the source from which all their liberties emanated and by whom all their property was secured, but as a matter of expediency, and a relationship which had been formed because private con-



venience dictated it, and which might be broken without discredit, if private interest leaned in a new direction.

21. These private interests, though noticed by Locke in connexion with the formation of a state, did not assert themselves so as to affect the practical management of affairs for many years after his time; and the course of commercial policy was similar to what it had been in James's time, but with a difference. Private enterprise had grown to be more active and powerful, and the opening up of new colonies or a new line of commerce was less dependent on the royal initiative. There had been great improvements too in the mechanism of commerce: the foundation of the Bank of England marks the introduction of a credit system in finance, and an extraordinary new development of credit in ordinary trading. The Navigation Act had enabled us to secure an enormous carrying trade, and our shipping was in a most flourishing condition; our fisheries were more prosperous than they had ever been; and the religious persecutions of the Continent had led to the introduction, from France and Flanders, of workmen skilled in the silk, linen, and woollen trades. But all of this progress was regarded as a matter of congratulation, not because many individuals in the nation were richer, but because the whole realm was more powerful and better able to sustain her rivalry with France.

The keen eye of Sir William Temple<sup>1</sup> had seen as early as 1668 that Holland had passed the meridian of prosperity, and in the beginning of the eighteenth century the Dutch were no longer sufficiently powerful to waken strong national jealousy. But the rise of France under

<sup>1</sup> *Observations on the United Provinces* (2d ed.), 238.

the policy of Colbert had been unexampled, and the ambition of Louis XIV. knew no bounds. To lovers of liberty, hatred of the France of the ancient regime became a political duty in the same way that the hatred of Spain had been to their reforming forefathers. In every quarter of the globe France was our rival: her sugar colonies prospered while ours languished, her generals plotted to oust our merchants from India altogether, and her settlements in North America formed a ring which threatened the prosperity and would ultimately frustrate the extension of our own plantations. England and France were engaged in a deadly struggle, not so much for leadership in Europe, as for pre-eminence in the world.<sup>1</sup> The success of Englishmen in securing an Indian Empire, and driving the French from North America, may surely be in part ascribed to the practical sagacity with which her statesmen fostered national wealth, and thus laid secure foundations for national power. At any rate in the presence of this gigantic struggle it was impossible for the private interests of individual citizens to assert themselves: they, whether English consumers, or colonial producers, had to accommodate themselves to the policy which favoured the wealth of the whole community.

And this of course, not the absolute wealth, but the wealth *relatively to France*.<sup>2</sup> The trade returns showed that in dealing with France we consumed a greater value of her products and manufactures than she did of ours; and this was thought to mean that we gave a greater impulse and stimulus to her industry than she did to ours. With Portugal on the other hand the case was quite different, as the Portuguese consumed more of our goods than we

<sup>1</sup> Seeley's *Expansion of England*, p. 28.

<sup>2</sup> See above, p. 42.

did of theirs, and the things they sent us were articles we could not procure for ourselves. Trade with them did not prevent the employment of a single Englishman, though it gave a market for the produce of many; while the fashionable French commodities supplanted our own coarser wares in our own markets, and gave us no corresponding sale of other goods. The Methven treaty was intended to encourage intercourse with Portugal and to destroy trade with France: if our great political rival was to prosper, at least we would not have it on our conscience that we had contributed to her prosperity by purchasing her goods.

22. This economic system then was in its broad outlines similar to that which had been in vogue under James I.: but yet with a difference. The king was no longer the active centre of national life, from whose intervention and assistance all new developments proceeded. The crown was even ceasing to be a watchword which would kindle any widespread enthusiasm in the nation, and loyalty to the reigning monarch was at a very low ebb indeed. So far as it survived it was hardly regarded as a duty, but rested entirely on considerations of interest. Englishmen could hardly be expected to rally to their country's cause under the leadership of a Dutchman or a Hanoverian. The people were keen for supporting national interests, and in national interests the foreigner kings had often but little concern: their real homes were on the Continent, and their hearts were in struggles about which Englishmen scarcely cared—or only cared that France and French interests should not prevail. And therefore the initiative in all matters of commercial policy had passed away from the king: enterprising men no

longer waited impatiently for royal patronage, but made their way into Parliament and forced on the approval of their schemes there. The great trading undertakings to the South Seas or Hudson's Bay owed nothing to royal patronage and support; and in the same way the Darien scheme was a national Scotch adventure of which the king and his English advisers strongly disapproved. The newer colonies too were not started by individuals under the support of royal charters, but were the free settlement of a portion of the nation on a new region of the earth's surface.

The resources of the mother country had in some cases been largely drawn on to start the colonies. English capital and English credit were employed there, English labour was drafted to them, and it was alleged as justifying this application of English resources that the development of these new countries re-acted on the strength and power of the mother country. In many ways the interests of the colonists were hampered and a preference was given to producers at home, but then producers at home contributed largely to the taxes of the realm: money was easily collected from them, and the revenue thus collected was controlled by Parliament, so that there was a security for its being expended in the best way. In the case of colonial or Irish manufactures this was not the case: no substantial share of the national revenue under parliamentary control came directly from them. It would be difficult to show that Parliament favoured the English citizen at home, more than the English citizen abroad: much of the fourth book of Adam Smith might be quoted to show that the purse of the Englishman at home suffered for the sake of enlarging the colonial trade: and it is absurd to suppose that the responsible statesmen

were unaware of this fact.<sup>1</sup> But it was true that home manufactures supplied a more direct source of national wealth and revenue than colonial ones would have done, and the interest of the nation, not the selfishness of manufacturers, was the moving cause in building up the English protective system of the eighteenth century.

The American planters were not unwilling to have their interests subordinated to those of the mother country so long as the French threatened them in the flank and in the rear: all other classes of citizens were liable to the same interference with the free pursuit of their private gain, where the interests of the mother country were involved; and the economic problem of the statesman was to arrange the pressure of taxation and regulation so that the interest of the citizen should lead him in the course which the national interest indicated. But when the defeat of the French in Canada freed the planters from a fear of invasion from that side, the case was wholly changed. They no longer relied on England for protection and defence, for there was no neighbouring foe they feared; they had little to gain by maintaining their part in English civil society, and when the pressure from home began to be more galling, the care for their own interests led them to sever themselves from the empire. National consolidation had brought out strong national rivalries; but citizens who ceased to feel an interest in the rivalries of European nations, had no sufficient motive for bearing a share of the burden of sustaining these national quarrels. When the severance which destroyed for the time our colonial empire and broke up the commercial system in which it had taken such an important place, actually

<sup>1</sup> Especially as it was clearly expounded in generally read economic tracts like Child's *Discourse of Trade*.

occurred, the action of the colonists was defended on principles that had found classical expression in the philosophy of Locke. He had formulated a doctrine of society based on the conception of private interest and neglectful of loyalty or social duty, and the colonists merely followed his teaching.

Thus partly through the fortunes of war, partly through the progress of opinion, the political doctrine which demanded that the authorities should regulate the direction of private enterprise and capital fell into discredit with regard to foreign commerce, as it had done long before with regard to the supply of the home market. Inconveniences had been felt all along—many inconveniences from the Navigation Act, countless inconveniences from the laws for regulating the woollen manufacture, but these inconveniences had been borne with patience, for the sake of the national interest. But with the loss of the American plantations the national interest took a new form, and the whole system needed to be recast in the light of the results of the recent struggle: common sense began to question whether the inconveniences arising from the attempt to regulate trade were not so great that it was hardly worth while to rebuild the shattered system. It was thus by a long experience, and by the effects of one great blow, that the national mind was led to adopt the system of national liberty both for its home and foreign trade.

23. These political changes were only one of several conditions which contributed during the latter part of last century to overturn the economic principles then in vogue: perhaps the most important element however was the introduction of machinery into several departments of

textile industry : it will be sufficient to indicate very briefly the extraordinary results which have been due to the invention of the spinning-jenny and power-loom.

In the first place there has been an entire cessation of domestic manufactures : it is no longer possible for the peasant to carry on the work of his farm, and to occupy his leisure in weaving ; nor is it possible for his wife and children to make spinning a profitable occupation. Instead of supporting his family by manufacturing as well as by farming, he had to choose which of the two lines of life he would follow : manufacturing became concentrated in the towns, and the rural population ceased to have any regular occupation but tillage. From this it also followed that the textile trades were drawn to districts where machinery could be easily obtained and cheaply worked : hence the long celebrated manufactures of Suffolk and of Wiltshire declined while a new impetus was given to those of Yorkshire and of Lancashire.

This reacted curiously on the character of rural economy : peasants who were reduced to entire dependence on the soil for a livelihood, could not work their land on the old system with success : they needed to adopt some more profitable methods if they were to prosper at all, now that they were deprived of the opportunity of manufacturing. Hence the introduction of the system of large farms, the general movement in favour of enclosing open fields, and the endeavour to prosecute better methods of farming. The severance of industrial and agricultural occupations rendered a revolution in rural economy absolutely necessary : nor could this revolution be accomplished without much misery. The wages for agricultural labour did not rise, and could not be profitably raised to a figure which compensated for the loss of industrial employment,

and the low wages which still rule in the South of England generally for farm labourers, show that the effects of the change are traceable in our present circumstances.

Even more striking, however, was the revolution in manufacturing: while the staple industries of the country were on the whole domestic, but little capital was required to carry them on, and each man did his work with his own stock in trade in his own house. For success in manufacturing the prime condition was skill in labouring, and all such institutions as the craft guilds and such laws as the Statute of Apprentices passed in 1563, were designed to afford conditions which should favour the skill of Englishmen. Unless a man had served his time properly he could not be supposed to have acquired skill in any craft, and therefore he was not allowed to pursue one: if a man had a great many apprentices at one time he could not train any of them properly, and therefore there was a legal limitation to the number of apprentices he might have.

In some cases indeed regulations were made to secure the quality of goods directly: when this could not be accomplished by guild regulations, as in the case of weavers scattered in villages all round a town, inspectors had to be appointed who should see that the pieces of cloth were well made and of the full size. This was not only necessary for the reputation of English goods in foreign markets, but most advisable for the sake of home consumers. The regulations however were very difficult to enforce, and the merchants and employers who dealt with the village weavers found that the laws were constantly evaded: so that Parliament allowed them to combine<sup>1</sup> for the prosecution of such offences as embezzling materials

<sup>1</sup> 17 Geo. III. c. 11, 24 Geo. III. c. 3.



or making goods of defective quality and size. This is chiefly noticeable as showing that the old industrial system was beginning to work badly; even before the introduction of machinery gave it its death-blow, the statutes which had reference to keeping up the quality of goods were becoming inoperative.

But they let us see what the system had been, or at least what was the design of the system, and therefore what were the economic principles that underlay it. There was, however, another side of its working which is most interesting and important. Not only was there provision for the quality of goods, and for the skill of those who wrought at any particular craft, but an earnest attempt was made to secure that those who had acquired skill to do their work, should be paid for their work at such a rate, that they should be able to live by their work. This was the ground of the whole scheme in accordance with which the authorities met to assess the rate of wages in accordance with the plenty or scarcity of the times. To us it seems purely utopian and wholly impracticable, but we must remember that it was maintained with fair success for more than two centuries, and indeed until the conditions of industry which it assumed and in accordance with which it was framed were overthrown. But on the other hand we need not overestimate its advantages: for those who found a footing in the industrial system it answered on the whole, but that system did not expand so as to afford scope for all those who desired employment. There was a considerable population of tramps and vagrants who were not absorbed in the industry of the country, and these had but little chance of rising out of their miserable lot, while the laws of settlement were a serious grievance to many industrious and skilful men.

It is unnecessary to trace the misery which followed the gradual break-down of this system in its various parts,—the overstocking with apprentices in some trades, the miserable condition of the apprentices themselves, the horrible oppressions in many crafts; not that we would for a moment underrate them, but because we regard them as the incidents of a necessary transition, though not perhaps as necessary incidents of that transition. Parliament tried hard to break the severity of the change;<sup>1</sup> the guardians did their utmost to relieve the poor by allowances when they were no longer able to live on their wages. This endeavour was not successful and cannot have been wise, but it serves to show that our forefathers were neither wholly blind nor utterly callous to the misery around them. The introduction of machinery was an economic gain which they did not venture to prohibit, and which they would have done most foolishly to prevent: but when it was allowed at all, it necessarily overthrew the old industrial system. Not the skill of the labourer, but the enterprise and power of organisation of the capitalist had now come to be the prime condition of industrial success: the laws which provided for the training of the craftsman were useless; those which limited the employer in regard to the kind of labour he employed seemed to hamper him unnecessarily: and thus the whole code for apprentices and for the regulation of crafts was inconsistent with the new shape which our industrial life had assumed.

The revolution of industrial conditions too rendered the satisfactory assessment of wages an impossibility. This has been already shown with regard to rural wages:

<sup>1</sup> 40 Geo. III. c. 90. 43 Geo. III. c. 151 for the cotton trade. For the woollen trade 35 Geo. III. c. 124.

the old rate of payment for agricultural labour was inadequate, because the agricultural labourer was now solely dependent on his earnings from this source: and in the new manufacturing trades a similar difficulty was felt. Machinery had destroyed the value of the weaver's skill; his work was no better done than that of a mere child, and he could not claim a different rate of pay for doing a very similar task. And thus the effort to regulate the rate of return which a skilled labourer should procure for the exercise of his craft could be no longer maintained.<sup>1</sup>

This then was the result of our English experience at the beginning of the present century. We had discarded all the economic principles to which the royalists and nationalists—as we may call them—had pinned their faith. We had learned that it was unnecessary either in connexion with the home market or with foreign trade to direct the course of capital, and that it was impossible to continue to regulate the quality of goods, the rates of pay, or the conditions of labour, without impairing the rapidity of industrial development.

<sup>1</sup> Since this section was written Mr. Thorold Rogers has published in his *Six Centuries of Work and Wages* a very different interpretation of these labour laws. "From 1563 to 1824 a conspiracy, concocted by the law and carried out by parties interested in its success, was entered into to cheat the English workman of his wages" (ii. 398). The depressed condition of labour during the end of the sixteenth and first half of the seventeenth century can be amply accounted for by Mr. Tooke's maxim as to the effect of a rise of prices on wages, while the misery during the industrial revolution can be as easily explained, without the gratuitous supposition that parliament deliberately endeavoured to oppress wage-earners. The preambles of the Acts and the speeches in parliament can only be reconciled with this supposition by assuming that the leading statesmen for generations were barefaced hypocrites whom no one exposed; while it is incompatible with testimony as to liberal assessment of wages given by Arthur Young and with the passing of some of the measures noted in § 28 below.

## CHAPTER IV.

### ECONOMIC PRINCIPLES—STRICTLY SO CALLED.

#### 1. *Laisser faire.*

24. IN the last paragraphs we have seen how the course of events had refuted the economic principles which had been in vogue for about two centuries: the revolt of the colonies and the growth of the factory system rendered them practically impossible, rather than absurd: and in commencing a review of the present century we find ourselves surrounded by quite a new order of ideas.

Both royalists and nationalists had regarded power as the main object in view, and had given a favourable consideration to wealth in so far as, and in whatever way it might promote power; they had tried to guide the individual pursuit of gain into three directions in which it might support the national power: but the attempt to do so was becoming discredited, and a new school of thinkers arose which maintained that wealth should be pursued as a good independently of the effect it might have on the power of the country. This school would not have said perhaps that wealth is good in itself and should be pursued for its own sake, but they would have said that wealth gives us a command over any sort of good we desire and is a necessary condition for all kinds of welfare, and that if we can only secure wealth all other benefits are brought within our reach. They would thus

have argued that national wealth should be sought for in whatever ways it could be acquired most rapidly, and that so far as economic legislation was concerned it should be taken as the end in view, and not constantly treated as subordinate to other considerations. In countless ways there must be an enormous difference, according as we pursue power, and are merely interested in wealth so far as we see that it leads to power, or as we are aiming at wealth as an end, and regard it not indeed as an absolute end, but as a mediate end that subserves any one of innumerable benefits and that is a necessary condition for each of them. Those who take this view will treat the pursuit of wealth in a different spirit from others who look on it as a mere means to one particular end—national power, and legislate for it in this sole reference. In fact we may say that hitherto we have had to examine moral or political principles with regard to industrial affairs, and that we are now, for the first time, coming in contact with economic principles, strictly so called.

Provisionally adopting this view of wealth as a necessary condition of human wellbeing, and one on which human wellbeing will (in sound political conditions) certainly follow,—and this seems to be the view of such different men as Mr. Cobden<sup>1</sup> and Mr. Hyndman,<sup>2</sup> among others,—we are likely to conclude that the more rapidly wealth can be procured the better, and that any restrictions which hinder the rapid accumulation of wealth, tend to defer the acquiring of good of all kinds by the nation. Parliament was acting on this view when it refused to check the introduction of machinery, and swept away the remnants of the old industrial system.

<sup>1</sup> See Malet's *Preface to Cobden's Political Writings*, p. v.

<sup>2</sup> Hyndman. *Historical Basis of Socialism in England* (Preface).

25. But at this point we are once more forced to turn our attention to the meaning of the word "wealth:" we may perhaps think that the conception of national wealth which the national experience up to this date had furnished was imperfect, but it is necessary to accept it tentatively to see it in all its bearings, and thus to understand the principles which were operating in the early part of the century. The national wealth then—for of course it is with national wealth that legislation is concerned—appears to the hasty observer to consist of the aggregate of the possessions of all the citizens in the nation, together with such public buildings and works as belong to the government or other public bodies. There is nothing at all in the realm which has not been appropriated either to public or private uses, and the sum-total of these possessions seems to give the amount of national wealth: indeed the amount of public property is so comparatively small, and is so entirely devoted to administrative and other non-productive purposes, that so far as the growth and increase of national wealth is concerned, public property may be left out of sight, and we may fix our attention on the aggregate of private property as to all intents and purposes identical with the national wealth.<sup>1</sup>

Of this conception of national wealth it may be enough to say at present that it is exceedingly plausible, and to note how much it differs from the older view we have been hitherto examining in regard to the relation which it figures as existing between the individual and the State. While we have our attention fixed on national power, we cannot say plausibly that the power of the nation consists of the aggregate of the power of the citizens, because we feel that power must differ greatly according to

<sup>1</sup> For criticism of this view see below, § 35 *f*.

the effectiveness of the organisation : the aggregate power of the soldiers in an army and of a rabble of beggars may be the same, but one force is far more effective than the other. Nor can we pretend that all wealth contributes equally to the national power,—the whole of the old industrial and mercantile system rested on the obvious fact that some kinds of wealth, such as ships, were more available for our offensive and defensive warfare than others. But when we come to consider wealth as a mediate end, all this is changed, and it does become plausible to say that the wealth of the nation consists of all the wealth of the citizens, and that the increase of the wealth of the citizens is an increase of the wealth of the nation.

From this point of view too the question of the distribution of wealth falls into the background : if one citizen gains at the expense of another, there is a mere transference of wealth from one hand to another ; what one citizen loses another gains ; but what we want to note is the increase of the national wealth, by the production of more and more. Distribution it may be said is a very important matter for individuals ; it is so much the better for a man if he is well off, and so much the worse for him if he is poor : but so far as the nation is concerned, and its greatness or any other object for which wealth may be used, the production of more wealth seemed the more important consideration to economists at the beginning of the century ; or if they hoped for improvements in the condition of the worker, they looked to increased production to bring them about.

And on the broad principle that each man understands his own business better than any one else, it follows that the most rapid increase of wealth will arise from giving free play to each individual to follow his own bent. Let

him be so far as possible unhampered, he will find out the best way to increase his own fortune, and thus to enlarge the wealth of the nation. In delineating the close of the eighteenth century, we have found a period when a sort of discredit was thrown on State interference, as a practical failure ; but in the early part of this century the freedom for individuals to pursue their private interest was put forward as a social ideal. "*Laissez faire*" was no longer a mere protest against unwise interference, it became a regulative principle from which positive maxims can be deduced, and free competition was assumed as the normal condition of industry and commerce.

The economic writers of the royalist and nationalist schools had habitually taken for granted the existence of a conflict between the interests of private merchants and manufacturers and that of the State. It is therefore somewhat surprising to find the ready acceptance which was now given to the doctrine that the free play of individual interest was sure to coincide with the advantages of the community. We have tried to show how the new conception of national wealth rendered the reconciliation more easy : it appeared that in actual life the two were practically harmonious. But various political theories which were becoming popular at the time were so far consonant with the adoption of *laissez faire* as a positive principle, as to render parliament and the nation still more ready to accept it.

26. The whole strain of current literature was such as to idealise individual freedom and independence. Godwin inveighed against the love of our country as a specious illusion employed by impostors.<sup>1</sup> He held that govern-

<sup>1</sup> *Political Justice*, ii. 146.



ment was always an evil, though at present a necessary evil,<sup>1</sup> and looked forward to the dissolution of that "brute engine" as the ideal for human life;<sup>2</sup> and indeed he did not shrink from drawing the legitimate conclusion from his principles, "that everything that is usually understood by co-operation is, in some degree, an evil,"<sup>3</sup> and committed himself to the prediction that machinery would render association for common objects unnecessary, and that such degrading entertainments as orchestral concerts would disappear before the increasing assertion of individual independence by all men.

There were numerous writers who maintained too that individual interest and that of the whole community did really coincide, and that in the complex mechanism of life there was a real harmony between them. Godwin himself opined that as all men were very much alike, the interest of one was the same as the interest of every one else: Paley held that when this world and the next were both taken into account, there was a perfect harmony between the interest of the individual and that of all other men, since Providence had harmonised them: while the Benthamites considered that the harmony could be enforced in this world by means of legislative action. Mandeville's attempt to prove that even private vices brought about public good, finds a constant echo from generation to generation, though it is not often explicitly maintained. The most popular of all the eighteenth century political writers seems to hold that the true interest of each individual and of all really coincide,<sup>4</sup> though men are not always aware of it; and thus from every side we find the same doctrine of the advantage of

<sup>1</sup> *Political Justice*, ii. 2.      <sup>2</sup> *Ibid.* ii. 212.      <sup>3</sup> *Ibid.* ii. 501, 504.

<sup>4</sup> Hume. *Inquiry concerning the principles of Morals*, iv.

perfect free play to the individual, and the same conception of government of every kind as a real evil, even though a necessary one, in existing society. Much as they might differ from one another, these two broad principles were common to all the recognised authorities on what they delighted to call political science: and thus the whole strain of thought was consonant with the adoption of *laissez faire* as a regulative principle in economics, while no important writer had taken a standpoint from which he could urge any effective criticism against it.

27. During the latter part of the eighteenth century the attempt to enforce the old laws had fallen into abeyance: but the second and third decade of the present century was the era when the principle of *laissez faire* took complete possession of the legislature. We find it explicitly asserted in the preambles of some of the statutes of George IV.,<sup>1</sup> and we may trace its influence in every department of commercial and industrial life.

a. The establishment of exclusive companies had at one time seemed the best way of prosecuting distant trades; the policy had not passed unquestioned at the first,<sup>2</sup> but it had prevailed. In 1813 the East India Trade was opened to all His Majesty's subjects, and twenty years later the last of that Company's trading privileges—that of trade with China—was abolished. Within that period several of the great companies ceased to possess exclusive rights. Those of the South Sea Company were surrendered in 1815, those of the Levant Company in 1825,

<sup>1</sup> 6 Geo. IV. c. 129. On the other hand that of 48 Geo. III. c. 110 on the Herring-fishery is quite in the old vein.

<sup>2</sup> S. R. Gardiner, *History of England*, 1603-1642, i. 188.

those of the African Company in 1821. Another important business which was opened to all comers in 1824 was Marine Assurance.

At the same time, Parliament appears to have been alive to the danger of running to an opposite extreme, for the close system was not abandoned in every case. Though our trade with many lands was established on such a footing that the competition of many merchants would not prove baneful, there was one trade which was an exception. Considerable inconvenience had been felt from the existence of competition in dealing with the North American Indians in furs, and the king was empowered<sup>1</sup> to make exclusive grants to the company carrying on this trade.

The abolition of the public coal yards in Dublin,<sup>2</sup> and the permission to engage in tobacco growing<sup>3</sup> in Ireland, are additional indications of the general desire to let capital flow in any direction that seemed desirable to its possessor; and the suspensions, ending in the repeal,<sup>4</sup> of the usury laws, may be mentioned in the same connexion. Experience had proved that they introduced a measure of friction, and that capital would more readily find its way into those employments where it would most rapidly facilitate the growth of wealth, if no such regulations were enforced.

*b.* During the same period the enactments which had been designed to maintain the quality of goods were for the most part repealed. This occurred with respect to the woollen trade in 1809, the Scotch linen trade in 1833, and the silk trade in 1834. The repeal of the Statute of Apprenticeship, which had been intended to secure the training of skilled workmen in every distinct

<sup>1</sup> 1 and 2 Geo. iv. c. 66.

<sup>2</sup> 1 and 2 Geo. iv. c. 18.

<sup>3</sup> 1 and 2 Will. iv. c. 13.

<sup>4</sup> 17 and 18 Victoria, c. 90.

trade, took place in 1814; and the system which had been declining for so long then received the *coup de grâce*. Various modes of dealing too which had been inadmissible in the old conditions of society were now permitted: engrossing ceased to be a punishable offence in 1844, and the manner of dealing in the necessaries of life was no longer a matter of constant public care, when the regulations were repealed which obstructed "a free and open trade in coals,"<sup>1</sup> and when the assize of bread was no longer set.<sup>2</sup>

c. These changes all tended in the direction of giving a greater fluidity to labour also, and measures for this purpose were specially introduced. In 1824 the relations of Masters and Servants were put on a new footing: the artificer obtained leave for a much greater freedom of action, for the Combination Laws were repealed,<sup>3</sup> as well as the numerous statutes which had been designed to prevent other countries, or our own colonies, from profiting by the skill of our artisans:<sup>4</sup> they might now exercise their crafts abroad, if they found it worth their while, and they must be content with such wages<sup>5</sup> as they could secure by bargaining, if they stayed at home.

It is no part of our task, to describe the status of the workmen at any given time, or to discuss how far any of these Acts were practically operative: for our purpose it must suffice to notice the sort of measures that were discussed and passed, since they furnish evidence of the nature of the principles which were guiding the minds of the legislature. From 1810 onwards we have a period

<sup>1</sup> 6 and 7 Will. IV. c. 109.

<sup>2</sup> The most recent Act on the subject which I have noted is 53 Geo. III. c. 116.

<sup>3</sup> 5 Geo. IV. c. 95.

<sup>4</sup> *E.g.* 5 Geo. I. c. 27, 23 Geo. II. c. 13.

<sup>5</sup> 53 Geo. III. c. 40.

of some twenty years during which *laissez faire* was completely dominant. Neither in regard to the direction in which capital was employed, nor to the skill of the workman, the quality of goods, nor the rates of pay did Parliament think it worth while to interfere with the action of individuals who were doing their best for their own personal gain; while it was strongly opposed to revising or modifying<sup>1</sup> any contracts which individuals might make with one another.

28. At the same time we find that even during this period, Parliament was by no means inclined to trust to the mere force of individual competition to render the whole industrial condition of the country satisfactory. They were aware that the employers of labour were the stronger party, and that they might be tempted to drive oppressive bargains with the artisan. We too often speak as if the legislature in the latter part of the eighteenth century was practically controlled by manufacturers, and legislated solely in their interest: and if we merely fix our attention on the practical results of their legislation, there is much to be said for this view. For Parliament refused to interfere with the course of trade on behalf of the workmen, while it continued to refuse them free scope for helping themselves, and punished them severely for any breaches of the peace into which they were driven by their terrible sufferings. But we must remember that the combination laws<sup>2</sup> were passed at a time when the fair rate of wages was fixed by the civil authorities: great efforts were made to see that these rates should be fixed fairly, and to remedy any grievances that arose in connexion with it, and so long as this

<sup>1</sup> 58 Geo. III. c. 83.

<sup>2</sup> 36 Geo. III. c. 111, 39 Geo. III. c. 81.

practice lasted, a combination to raise wages meant, not that men were trying to drive a better bargain with their employers, but that they were resisting a carefully framed civil ordinance, devised by men who were so far as possible arbitrators rather than interested parties. Thus no master was allowed to act as a justice for these purposes, and masters were forbidden to combine<sup>1</sup> to lower wages,<sup>2</sup> while an elaborate system of arbitration<sup>3</sup> was devised for the settlement of wages in the cotton manufacture, as abuses had occurred to the "great oppression of persons employed." The real cruelty arose from continuing to enforce these statutes after the judicial regulation of wages had ceased: from that date combination among workmen became a reasonable method of bargaining, not an unruly resistance to fair rates of pay, and it should have been recognised as such.

But terrible as this blunder was in the injustice it caused, we cannot assert that the Parliaments of the early part of this century were careless about human suffering. They conceived that the rapid development of manufacturing was for the national good, and refused to check it by enforcing the old laws, or by giving any impunity to those who destroyed<sup>4</sup> the machines or property of their employers.<sup>5</sup> They had failed in their efforts to render the transition easy,<sup>6</sup> and in the attempt to introduce new methods of regulating wages that might suit the times, but in trying to consider the principles that guided them

<sup>1</sup> They were allowed however to combine for the purpose of prosecuting employers for fraud, etc., 17 Geo. III. c. 11, 24 Geo. III. c. 3, 40 Geo. III. c. 77, 31 Geo. III. c. 57.

<sup>2</sup> 40 Geo. III. c. 106.

<sup>3</sup> 40 Geo. III. c. 90, 43 Geo. III. c. 151, 44 Geo. III. c. 87.

<sup>4</sup> 52 Geo. III. cc. 16, 17, 162, and compare 28 Geo. III. c. 55.

<sup>5</sup> Compare also 33 Geo. III. c. 67.

<sup>6</sup> *Supra*, p. 72.

we must remember that these efforts were made, and not neglect them altogether because they proved inoperative.

One great series of laws for the protection of workmen against their masters was continued even through this repealing era: the laws against truck<sup>1</sup> did not hamper the employer in prosecuting his trade, they could be enforced without any special reference to the dearness or scarcity of the times or the conditions of trade, and they were undoubtedly desirable as preventing a mode of bargaining which afforded opportunities for the oppression of the poor. The thorough-going convert to *laissez faire* might have argued that it was the workman's own business to settle the form in which his wages should be paid, and that it was absurd for the State to interfere between man and man as to the bargains which they made with one another. But both in 1817 and 1820, new measures<sup>2</sup> on this subject were passed, and additional protection was given to the artisan against the evils of truck.

There was a good deal of legislation too which shows that Parliament was anxious to secure favourable conditions for the worker. We have the Factory Act of 1802 which was passed in the interest of apprentices of both sexes: it regulated the hours of labour, and endeavoured to secure for the younger workers opportunities of education. This Act did not secure the results that were hoped, and amended<sup>3</sup> regulations were passed in 1819 and 1825. That these also proved insufficient we know, but we need not therefore conclude that Parliament failed from mere carelessness in the matter or from mere ready

<sup>1</sup> On this subject compare 1 Anne, c. 19, 12 Geo. I. c. 34, 29 Geo. II. c. 33, 10 Geo. III. c. 53.

<sup>2</sup> 57 Geo. III. cc. 115, 122, 1 Geo. IV. c. 93.

<sup>3</sup> 59 Geo. III. c. 66, 6 Geo. IV. c. 63, 1 and 2 Will. IV. c. 39, 3 and 4 Will. IV. c. 103.

compliance with the views of the capitalist class. Not till some years later,<sup>1</sup> however, was the same sort of protection extended to those working in collieries: the employment of women was forbidden, and the conditions under which boys might work were defined<sup>2</sup> in 1842.

There were several other classes to whom special protection was accorded. We cannot expect to find much legislation in favour of apprentices after 1814, but there were several statutes before that time which give us a terrible picture of child wretchedness. The pauper apprentices were the most friendless, and therefore they suffered most miserably: the last intervention in their behalf occurred in the year of the first Factory Act,<sup>3</sup> but they were terribly oppressed even in some of the smaller industries where no great revolution had been effected.<sup>4</sup> The cruelties to which little chimney sweepers were subjected had given rise to a special enactment as early as 1788; but no great abuse was ever destroyed at the first attempt, and a better measure was introduced<sup>5</sup> in the session in which the new Poor Law was passed.

Similarly provision was made for the humane treatment of Lascars and other Asiatic sailors while in this country,<sup>6</sup> and indeed the condition of all our sailors while afloat was a subject for legislative care: their food was defined,<sup>7</sup> and the dangers connected with deck cargoes<sup>8</sup> and the loss of life they caused attracted attention as early as 1840,—the year of that other departure from *laissez faire*, the first Vaccination Act. But of course the great

<sup>1</sup> The previous Acts in regard to Scotch colliers refer to the terms of service rather than conditions of work. 39 Geo. III. c. 56.

<sup>2</sup> 5 and 6 Vict. c. 99.

<sup>3</sup> 42 Geo. III. c. 46.

<sup>4</sup> 28 Geo. III. c. 48, 32 Geo. III. c. 58, 33 Geo. III. c. 55.

<sup>5</sup> 4 and 5 Will. IV. c. 35.

<sup>6</sup> 54 Geo. III. c. 134.

<sup>7</sup> 30 Geo. III. c. 33, 31 Geo. III. c. 39.

<sup>8</sup> 3 and 4 Vict. c. 36.



instance of humanitarian legislation is the series of enactments regulating, and then abolishing the slave trade, as "contrary to Humanity, Justice and sound Policy."<sup>1</sup> The history of the measures from the first efforts to secure breathing space for the miserable cargoes,<sup>2</sup> to the enactments which brought about the co-operation of other powers in the new English policy, does not concern us. It is enough to notice that despite the general principles at work Parliament prohibited merchants from continuing to engage in a trade that was proving very profitable.

I have thought it worth while to go into these matters in some detail, as they seem to show that while Parliament accepted the principle of *laissez faire*, they were by no means carried away with it, but applied it, not perhaps always with wisdom, but at least with discrimination. The objection to State interference as an evil, and the desire to leave all kinds of trade and industry unfettered led them to sweep away the whole of the old industrial system, to abolish the laws that influenced the direction of capital, that aimed at maintaining the skill of workmen and the quality of goods, and that sought to regulate the rates of wages. But for all that they were not without care for the wellbeing of the people: they refused to sanction certain kinds of contract or to allow particular branches of trade: they sought to secure improved conditions for the labour of factory hands, and they were mindful of the health and education of the children employed in these manufactures: they would not suffer the foreigner to be oppressed and they began to legislate for the protection of dumb animals.<sup>3</sup>

<sup>1</sup> 51 Geo. III. c. 23.

<sup>2</sup> The numbers were limited to three slaves for every five-tons burden by 28 Geo. III. c. 54.

<sup>3</sup> 3 Geo. IV. c. 71, 5 and 6 Will. IV. c. 59.

There is, however, a most striking contrast between this legislation and the Elizabethan code: that had tried to secure fair conditions of life for the good workmen who got employment, but those who either from their fault or misfortune fell outside its scope were badly off indeed. They might turn vagrants and be treated as criminals, or they might be forced to remain in a district from which trade had departed: a carefully organised industrial system gave no scope for change and little scope for growth, though it did aim at ensuring comfort for the well-to-do labourer whether in town or country. All this was changed before the present reign had begun: the well-to-do workman had to face the competition of the poverty-stricken and unskilled: he could not maintain himself in the old standard of comfort, and Parliament failed to give him efficient help in his conflict; but the very keenness of the struggle for existence brought to light the existence of misery that had been hitherto neglected, and of new oppressions that had arisen; and Parliament began to legislate not now for the maintenance of skill and comfort among the well-to-do workmen, but on behalf of the weak and oppressed wherever they were found, in our factory towns or between the decks of ships on the middle passage. It may be that charity begins at home, and that our sympathies have been drawn to distant lands when they might fairly have been claimed by sufferers at home: none the less is it true that the sympathy with suffering has been real, and that Parliament did not scruple to seek to remedy it by measures that interfered with the free play of individual interest.

29. Thus the principle of *laissez faire*, though heartily accepted, was applied with a measure of discrimination;

but ere long circumstances arose which threw a measure of doubt on the principle itself, and showed that it must at least be carefully stated if it was to be constantly acted on. It seemed that the self-regarding following of one's apparent interest in a Christian country where the poor were cared for, might induce a course of conduct that was most detrimental to society as a whole, and that self-interest could not be relied on unless it was enlightened. This came to be a commonplace of ordinary opinion at the time when the new Poor Law was passed.

Many circumstances had contributed to render some reform necessary: for one thing there were grave defects in administration which were due to the independence of action which each parish enjoyed. This had rendered it possible for the authorities in one parish to oust all the families who might conceivably become chargeable, and to put the labourers they employed to considerable inconvenience so long as they worked, while they themselves escaped all risk of having to bear the burden of relieving them in sickness or supporting them in old age. In all probability too there is a certain advantage in securing a uniformity of administration, though so long as parish charities are retained, this cannot be said to have been accomplished. The allowance system was an expedient originally devised by some Berkshire guardians; it might have been more carefully considered and its general bearings been better examined if it had been discussed by a central authority.

This allowance system was intended to meet the serious difficulty which arose when rural manufactures disappeared, and the old rates of agricultural wages no longer served to support life: the amount of allowance which a man required to receive depended on the number

of his children, and thus the payments varied in proportion to the size of his family. The great field which factories afforded for the employment of children acted similarly, and thus a premium was put both in towns and by the guardians of the poor on the possession of a large family, and not by any means on work as the means of securing the comforts of life. This really had most demoralising results, and numbers of men came to depend habitually on the parish for help, and seemed to lose all sense of the duty of working for a living. In fact, the patriotic parent was apt to accept the doctrine that a large population was the main strength of the realm, and to feel that in providing the children he had done his duty, and that a grateful country ought to provide for them.

These artificial premiums on the increase of population appeared to be acting with considerable force to those who specially watched the circumstances of country parishes, and saw how impossible it was to prevent the justices from ordering the relief of most utterly dissolute and undeserving persons. Besides, the circumstances of the country at the beginning of this century rendered the outlook very serious, as there seemed to be an increasing difficulty in procuring a food supply. A series of very bad seasons had reduced the farmers to great straits; the pressure of poor rates, and the burdens caused by the long war were almost overwhelming; they had no means of working the land properly, and the rate of return came to be of the most miserable description. It was obvious that additional means of subsistence could only be produced with difficulty, while the population was increasing most rapidly, and it appeared that our increasing population would soon outstrip all our means of supplying food.

We need not discuss to what extent this dread was a

mere scare, to what extent it is the statement of a general tendency in human nature, or to what extent it was a true account of the special phenomena of the time. It was accepted as a guiding principle in legislation, and the new Poor Law was the direct outcome of the Malthusian doctrine. Probably no one would now deny that the then existing methods of relief were most defective, and that the provision for living in idleness which it afforded was most disastrous: this, in conjunction with the increased employment of child-labour, had done more to undermine the spirit of honest industry among the adult population in the years that had elapsed since the allowance system first began, than the compulsory rating, established by Elizabeth, had accomplished in two centuries. But it may be doubted whether the new system has really met the evil rightly. It no longer attempts as true charity to relieve the helpless and sick poor, but treats poverty as a crime which is to receive a social stigma so that men may do their utmost to avoid it. The Elizabethan law had regarded the refusal to work and persistent vagrancy as criminal, but had drawn a firm line between the deserving and undeserving poor. This line was now obliterated: the deserving poor were to be scantily relieved, or forced into the workhouse lest the ranks of the undeserving poor should be swelled. The measure was not so much remedial as preventive, but in presenting a warning to the careless and thriftless there is danger of harshness in treating the unfortunate.

The Tudor laws against vagrants were harsh because they assumed that every man could get employment if he wished it, and that if he had no work to do, he must be inclined to shirk toil altogether: but this assumption was by no means well founded. The new Poor Law

assumed that every man could provide for the accidents of life and old age if he would, and that failure to do so showed a neglect of duty, which might be fairly visited with an uncomfortable old age : and this assumption also was mistaken, for we find around us an enormous mass of human beings whose strenuous exertions hardly enable them to keep body and soul together—and who certainly cannot lay by for a rainy day or for old age. Elizabeth endeavoured to provide a work test—to give work to all who would do it—and had this been possible, the punishment of vagrants would not have been an injustice. But the new Poor Law only provides a workhouse test : it has nothing to offer the able-bodied man who can get no work to do ; and it relieves, not those who have worked and are willing to work if they can, but those who are willing to put up with certain discomforts for the sake of food and shelter. It may thus fail to help the most deserving cases, and its moral effect is not always satisfactory ; though it is as a moral influence, and a preventive of pauperism that its advocates claim most for it.

For the allowance system had done away with the distinction between the deserving and undeserving poor : Dr. Webb, Master of Clare Hall and Vice Chancellor of Cambridge University, gave most curious evidence<sup>1</sup> as to the impossibility of refusing relief to the utterly undeserving, and of thus checking the inclination to rely on the rates. But the new Poor Law did not attempt to draw this distinction :<sup>2</sup> it teaches the reckless that in his declining days he may have the shelter of the House, and it shows

<sup>1</sup> *Extracts from the information received by His Majesty's Commissioners as to the Administration of the Poor Laws*, p. 125.

<sup>2</sup> The gist of the Charity organisation system lies in the attempt to discriminate the deserving and undeserving by means of careful inquiries as to past character : where it has failed to secure public confidence it has been because the test applied was too stringent, or owing to the niggardly relief given to the deserving.

him that the industrious but unfortunate man has nothing better to hope for. It does not stimulate to energy by the superior comfort it provides for the deserving; it only warns men to try to escape poverty, as best they may.

By thus confounding the deserving and undeserving and offering the same discomfort to all, the new Poor Law fails to satisfy the consciences of the rich and charitable. In the old times a man might feel clear that poverty was relieved, and trust it was wisely done: but now he cannot feel sure that the deserving poor have received sufficient relief, while he fears they have at least suffered rudeness. Therefore the rich and charitable, and the clergy as the almoners of the national Church, are inclined to supplement the relief granted by the guardians by gifts which are always spasmodic, and often ill-considered. We are constantly hearing of the demoralising effects of "unorganised charity," but we may remember that unorganised charity has arisen to a very great extent, because the charitable public have no confidence in the kindness or sufficiency of the relief which guardians grant to the deserving poor.

It is, however, no part of our purpose to discuss the wisdom of the new Poor Law, but only to notice it as a turning point when a new principle came into play in our industrial policy. We cannot trust to mere self-regard,—to the mere wish to gratify present inclinations and passions: the self-regard which coincides with the interest of the State cannot be an immediate and crude self-seeking, but only a self-interest that is fairly enlightened. *Laisser faire* could no longer be regarded as a sovereign remedy for the evils of English society; and national attention was directed to the task of showing men where their true interest lay.

## 2. *Enlightened Self-Interest.*

30. The period after the Reform Bill may be said to have been dominated by this view of enlightened self-interest as a force that works for the public benefit: it was the time of middle class rule which moves the indignation of socialists: but for all this the statute-book does not clearly reflect the dominant feeling. It might be desirable to constitute society so that the hard-headed and clear-sighted man might come to the front, but it was not obviously the business of the State to interfere in the task of spreading enlightenment. There were several important social movements which were working outside the political sphere, and the views current in Parliament on economic subjects can be best understood by seeing the attitude which public men took towards these movements, rather than by looking at the course of legislation itself.

There were of course exceptions; the new Poor Law was a vast scheme for the discouragement of unthriftiness, and this object had been before the minds of legislators for many years. As early as 1793 an Act had been passed for promoting Friendly Societies as means whereby "the happiness of individuals might be promoted and the public burthens diminished:"<sup>1</sup> but there is a much more inspiring homily on the blessings of thrift in the preamble to the last Act<sup>2</sup> on the subject in George III.'s reign. Two years previously the first Act for the establishment of Savings Banks had been passed,<sup>3</sup> and thus a beginning was made of the numerous schemes by which the best possible security is offered for any sums that the poor may save.

The spread of education has been also advocated as a

<sup>1</sup> 33 Geo. III. c. 54.

<sup>2</sup> 59 Geo. III. c. 128.

<sup>3</sup> 57 Geo. III. c. 130.



means of enlightening the poor and enabling them to see where their true interest lies. This opinion was held in its extremest form by Godwin, and undoubtedly it weighed with many of the supporters of the great voluntary societies which for so long carried on the education of English children. The earliest efforts of Parliament were confined to discussing the adequacy of private efforts for carrying on the education of the lower orders,<sup>1</sup> without proposing to take any active share unless in providing a portion of the first cost.<sup>2</sup> The great movement for the establishment of Mechanics' Institutes may be traced to a similar source, though they had done a great deal of good work before the public interest in elementary education was aroused.

31. Another movement on which the middle class parliaments always looked with a friendly eye, though without giving it direct encouragement, was the great scheme which was inaugurated by Robert Owen, and which still survives in the co-operative societies. This has created great enthusiasm among those who have become connected with it; it is often spoken of as a panacea for social evils of all kinds, and is held up as affording an ideal to be pursued with an almost religious devotion, so that there may be some question as to the fairness of regarding it as a system based on enlightened self-interest. But though many of those who have taken up the cause

<sup>1</sup> Report of the Select Committee of the House of Commons on the Education of the lower orders in 1818 (*Hansard*, xxxviii. 1209). Their view of the principle of action is clearly put. "Wherever the efforts of individuals can support the requisite number of schools it would be unnecessary and injurious to interpose any parliamentary assistance."

<sup>2</sup> The first grants for this purpose were secured by Lord Althorp in 1833.

<sup>3</sup> *3 Hansard*, xx. 732.

and worked at it have been genuine philanthropists who believed in it most thoroughly as the true means of benefiting their fellow-men, the appeal which it makes is addressed to enlightened self-interest, the secret of its success has lain in the manner in which it has brought this force into play, and the instances of its comparative failure may be adduced to confirm this account of the matter.<sup>1</sup> A passage from the introductory article in the *Co-operative Magazine* which disseminated Owen's views will render this clearer. "To induce men to adopt any system or mode of life, though even ever so novel and contrary to their previous habits and prejudices, we conceive that nothing more is necessary than, with giving them the means of making the adoption, to convince them that their happiness, both immediate and future, as well as that of all whom they hold dear, could be essentially promoted by it. That the system of community of property and general co-operation would most essentially promote the immediate and future happiness of all who adopt it, we trust as we already stated we shall be able fully to demonstrate."<sup>2</sup> It is of course true that if each really does his best for the good of all there will be a greater share of happiness for each individual than in a society where every one is striving directly for his own gain, but "enlightened self-interest can only be attained by the path of self-sacrifice,"<sup>3</sup> and co-operators have not always kept this truth before them. Owen's various experiments attracted an extraordinary amount of attention, and though in each case, at New Lanark, at Orbiston

<sup>1</sup> See the accounts of Messrs. Briggs' Collieries and of the Paris and Orleans Railway in Mr. Sedley Taylor's *Profit Sharing*. For the secret of success see his account of Leclaire, p. 24.

<sup>2</sup> *Co-operative Magazine*, Jan. 1826, p. 8.

<sup>3</sup> Miss M. Hart's tract on Ralahine.

and at New Harmony the failure was due to incidental circumstances, and not to defects inherent in the system, we cannot but feel that there was a weakness in the system itself, when it succumbed so completely before these obstacles. The comparative failure in regard to co-operative production also seems to point to a defect in the scheme : the attractive force seems to be insufficient to hold the members together when they have to face a hard struggle, or are involved in losing speculations : self-interest may then prompt men to withdraw from a society of which the prosperity is threatened. Nor so far as common observations of the tone of recent congresses are correct does it appear that the spirit of modern co-operators is so unselfishly devoted to the good of mankind as that which inspired the founders of the movement : it is a frequent complaint that the present generation of members have too little thought for anything but "divi." The efforts at regenerating society through "education and mutual self-interest" which rendered Owen's factory village at New Lanark so remarkable, and attracted philanthropists from all parts of Europe to visit him, seem to possess but little interest for many of those who have profited most by the very partial working out of his scheme.

### 3. *Class Interest.*

32. The general tone of middle-class thought may be more clearly understood when we contrast the attitude which Parliament assumed towards another great social movement. Owen and the co-operators hardly came before the legislature at all ; in so far as he did so, he would have won the sympathy of the dominant spirits,

for his scheme drew forth individual energy and appealed to far-sighted self-interest. Very different was the position of the trade-unionists. Some of the earliest societies were descended from guilds that had worked for the maintenance of the Elizabethan industrial system, while the objects which they had most at heart seemed to be altogether beyond their reach unless Parliament would interfere on their behalf. They were thus in constant contact with the legislature, and they devoted themselves to the apparently hopeless task of demanding protecting laws from a body that seemed entirely committed to the principles of *laissez faire*.

The actual historical continuity between the craft guilds and the trade-unions has led some writers to neglect the entire difference of the spirit which called them into being. The craft guilds were started in the interest of the public and the craft alike, the trade-unions were formed for the sake of the body of workers alone: thus while the craft guilds were largely occupied in enforcing regulations which were intended to secure excellence of workmanship, this has received comparatively little attention from the modern unions; though of course it has not been so completely forgotten as their accusers would have us believe. Still the central thought which has dominated over the policy of the trade-unions has been that of maintaining the well-being of the workers in a trade. The interest of a class has been put forward as the thing worth striving for.

It is easy to stigmatise such a policy as selfish: but this accusation comes badly from those who advocate unlimited competition, and take "every man for himself" as the supreme maxim for social life. The pursuit of class interest may possibly be a narrow aim, but it is at least

far wider than that of the man who is content to scheme for his own personal enrichment : and in the pursuit of their class interest trade-unionists have shown an amount of self-sacrifice which can only be described as heroic. It may be selfish heroism perhaps ; but let him that is wholly unselfish first cast a stone at them. It is not for us to condemn, but only to trace the results of a movement of which this was the leading thought.

Care for the interest of the class demands first of all that there shall be regularity of employment for those who are engaged in a particular craft. Nothing injures the artisan so much as the fluctuations of trade which render him at one time flush of cash, and at another destitute of the means of getting bread : it is this that keeps him back, that despoils his home of comforts, and that may at the same time induce a recklessness in the use he makes of his money when he gets it. It is infinitely better for him to earn a pound a week regularly than to get two pounds a week for six months and be without employment for the other six, and thus the securing of regular work at a regular wage has been the centre of Union policy.

We are not discussing at present whether this is attainable along with continued success in the markets of the world, or estimating the wisdom of unionist endeavours ; we are only taking it as a legitimate object for associated endeavour, and tracing the directions in which it has influenced the demands of labourers.

Piece-work and overtime are two methods by which employers have endeavoured to increase their operations temporarily so as to meet a sudden demand : but the operatives believe that sudden expansions of trade will be followed by sudden contractions, and by opposing

piece-work and overtime they hope to introduce greater regularity into the conditions of employment. This has been interpreted into jealousy of the men who could work fastest and earn most by piece-work; but it is difficult to show that the Union policy has ever been directed against the man who earned much because he worked well, though it has been directed against men—whether good workmen or not—who worked on terms that favoured irregularity of employment for the class.<sup>1</sup>

It is also most prejudicial to any class to have the women constantly employed while the men are more or less idle: the man is the true bread-winner in civilised society, and neither home nor children can be satisfactorily cared for if the women are away all day—thus the opposition to women's labour may be connected with the same feeling. Further it is most degrading to work constantly in dangerous conditions: very risky employments engender reckless habits, and the Unions have sought to maintain the standard of the class by agitating for measures which shall protect the workman at his work. Much of the factory legislation—so far as it is sanitary—might be placed in this category; while efforts to restrain the degradation arising from the overwork of children are also clearly connected with the desire to keep up the standard of living in the class.<sup>2</sup>

Such in its main outlines have been the planks of the trade-union platform. It is clear that at every point it conflicts with the principles which have been adopted by

<sup>1</sup> Trade-unionists have also argued that piece-work is generally bad-work: this is almost the only point where a regard to the quality of work comes out strongly in their policy.

<sup>2</sup> On trade-union policy consult Brentano, *Zur Kritik der englischen Gewerkvereine*, cap. 2.

*laissez faire* legislators. It postponed the interest of the individual to the interest of the class to which he belongs, while it demanded legislative interference on behalf of that class ; and thus both from their internal constitution, and in their demands, trade-unions have found comparatively little sympathy from any parliamentary party. It was clear that the policy which the Unions pursued was often distinct from the line of conduct which the self-interest of any individual member would have led him to follow. Economists argued that for this very reason it was impossible for Unions to succeed in raising wages : each individual would find it his interest to accept work at a low rate, rather than to insist on obtaining a general rise by striking for it if need be. But as a matter of fact men did pursue this course ; and the Unions were able to put effective pressure on their employers. Such a result could only be accounted for by supposing that the Unions were tyrannical bodies which enforced a blind obedience from their miserable members : and hence the opponents of trade-unions have posed as the defenders of the liberty of the individual citizen, and have hinted that the leaders were unscrupulous agitators who succeeded in deluding their followers. Time has reversed this judgment also : but the accusation accounts for a great deal of the suspicion with which these associations were long viewed by the public.

For the bitterness with which they have been attacked by the employers there is no need to account : the scheme of industrial life for which the unionists worked was quite incompatible with the conditions in which the capitalist could best drive a large trade. He is anxious to enlarge his operations rapidly when prices are favourable and to regulate his production with reference to the

constant fluctuations of the market : it is thus that he can reap a substantial profit even after working for some months at a loss : but to do this he must be able to call up additional labour from the ranks of the unemployed, and it is thus an advantage to him that in the normal condition of trade there should be a greater or smaller number of work-people within reach who are suffering the misery of being out of work.<sup>1</sup> But even when trade is dull the head of a factory cannot afford to let his machinery stand idle ; he loses by every minute in which it is not working, and is thus tempted to lengthen the hours of labour so far as possible, by working early and late and by cutting down the intervals for meals. On the other hand as the main part of the work is done by the machinery, he is able to get women and children to look after it as well, and at a much lower rate of pay, than men would require ; and thus the line of policy which tends to the most rapid gain for the employer is at every point opposed to the policy which would bring about regular employment for the artisan. In so far as the trade-unions hoped to succeed, they could only do so by getting the legislature to interfere with the employers in that method of carrying on their business which had proved most profitable ; and thus they were brought into direct conflict with the principle of *laissez faire*.

It is unnecessary to recall forgotten animosities or to record the bitter language in which this animosity was expressed. The middle class who had acquired supreme influence in parliament, were becoming deeply interested in the repeal of the Corn Laws, but the accredited leaders of the working classes looked on the movement with suspicion ; as they feared that if corn was cheaper, wages would only

<sup>1</sup> On the industrial " Reserve Army " see Marx, *Kapital*, 657.



be beaten down to a correspondingly lower level, and that while the capitalists had less expense in hiring labour, the workman would not gain any increased comfort. As the Anti-Corn Law League was desirous of enlisting philanthropic influences for their campaign, this apathy on the part of the workmen was most irritating to men who were firmly convinced of their own benevolence. On the other hand the limitations of the working day which the Unionists so cordially desired touched the wealthy middle-class employers directly, as it seemed to them thoroughly unwise, from the possible danger of successful foreign competition.

The Factory Acts proved to be the field where the two conflicting schemes of industrial life came into most direct opposition and where the battle was really fought out. The ineffective measures which had been placed on the Statute Book from 1802 onwards showed the intentions of the legislature, but good intentions do not serve to render the path of progress smooth, and the real battle was fought from 1844 to 1852. The brunt of the public conflict was borne by philanthropists like Lords Shaftesbury and Michael Sadler, and by philanthropic employers like Fielden: but the pressure which the unionists brought to bear in the war—despite all the disadvantages for organisation under which they were placed even after the repeal of the Combination Laws in 1824—was undoubtedly a potent factor. The earlier Factory Acts were philanthropic in character, they attempted to define the conditions under which work should be done: but when the Ten Hours Bill became law the State was beginning to accept the trade-union policy of limiting the labours of individuals in the interest of the class to which they belonged. The conditions of

factory employment rendered it necessary that all should work for the same length of time : henceforward that length of time was to be decided after careful inquiries in the interests of the class, not by the arrangements which employers could make with individual workmen in turn. The most tough and wiry might have their power of earning curtailed by the limitation, but the class as a whole enjoyed better conditions of life.

In this partial acceptance of a new principle of action by the legislature, and this regard to the wellbeing of a class, we find the first of these measures of exceptional legislation of which we often hear. For the moment however we may note that the end in view in this piece of industrial legislation is not national wealth in the sense we have hitherto considered it : the factory acts appeared likely to limit the aggregate of individual possessions, and to give an equivalent in leisure which cannot be assessed in our estimates of pecuniary gain and loss. We thus find a recognition by the legislature of the fact that the object which the statesman must consider includes something more than the aggregate of individual wealth, and that the whole conception which lay at the basis of the *laissez faire* system was at least inadequate. How far it is possible to replace it by a more complete account of the nature of national wealth, and one that shall give a real justification for such Acts as the Ten Hours Bill we shall presently see.<sup>1</sup>

#### 4. *General Interest.*

33. There is one other great movement about which a few words must be said before we are fully in a position

<sup>1</sup> See below, § 35, 36.

to discuss Economic Principles for the present day. The great agitation against the Corn Laws which triumphed in 1847 was perfectly in harmony with the *laissez faire* principles which had been in vogue since the early part of the century, and it might seem that it was sufficient to take this agitation as another illustration of the same influences. But this would be an entire mistake. There was no novelty in the purely economic principles of the Anti-Corn Law League, but there was a new departure of another sort : the importance of the movement lies in its political<sup>1</sup> and not in its economic aspect. So far as its purely economic aspect is concerned the chief interest is in its being a return to the mediæval policy of care for the consumer. In the time of Edward III. the whole industrial regulation both by statute law and through the guilds was primarily concerned with securing good wares at fair prices for the consumer. In the later middle ages the English artisan demanded protection against the alien whose prosperity did not really enrich the country, and when the State began to concern itself with stimulating the industry of the country by planting new trades and forcing new markets abroad, it was supposed that if wealth were only produced the whole of the citizens would benefit by it. On the face of it too there is much to be said for benefiting the producers and letting the consumers take care of themselves, especially in a society where there is a large class of consumers who do not produce at all. But there are grave practical difficulties in carrying out this programme : producers can only be protected by elaborate regulations which are expensive to work and

<sup>1</sup> Another side of its political character,—as democratic—was well expounded by M. Leon Say in his address to the Cercle Saint Simon, 15th Jan. 1884.

hamper trade, while fraudulent producers may often reap an unmerited gain by underhand dealings:<sup>1</sup> the era of special regulation and special protection had passed away with the eighteenth century, from the impossibility of making it work satisfactorily. It was argued that every producer was also a consumer, that in whatever occupation a man was engaged he would benefit by all measures that benefited the consumer, and that the only means of attending to the interest of the whole nation was found in seeking to serve the good of the consumer. In regard to many articles of consumption this could hardly be contended, though it was becoming so generally accepted as to control the fiscal policy of Peel<sup>2</sup> and Mr. Gladstone; but with respect to a necessary of life which all consumed, there could be no hesitation in saying that the interests of the whole nation were bound up with the interest of the consumer.

34. But interesting as is this return to the older lines of economic legislation, there is much more importance in the political aspect of the agitation: it rested on a new view of the internal constitution of the realm, and of the relations it should establish with other countries: these deeper issues were fully apprehended by Disraeli on one side and Cobden on the other, and can be best understood by perusing the speeches in which they maintained their views.

For centuries the landed gentry of England had been the governing class: the towns, with the exception of London, possessed comparatively little wealth or weight in affairs of State, and till 1832 the representation of many

<sup>1</sup> On frauds occasioned by encouragements compare 6 Geo. I. c. 21.

<sup>2</sup> Compare the Budget Speech of 1842.

of the burghs was really controlled by territorial magnates. The great manufacturing towns of the north had no voice in the council of the realm, but in that year the injustice was remedied, and the urban constituencies came to take their due place in parliament. But this was not all; the growth of manufacturing industry had been enormous, and the fortunes of the kings of industry were coming to be as large as of the county magnates. Harrington's<sup>1</sup> doctrine of the relation between the balance of wealth and the balance of power was receiving a new illustration: and the manufacturers who overbalanced the landed gentry in wealth were beginning to overbalance them in power as well.

It is curious to look back to the time of Locke,<sup>2</sup> and see how he takes for granted that real property is that which gives a man an interest in the realm: it was the contention of Cobden that the possessor of thousands of pounds worth of machinery or other capital had also a stake in the country, and that all kinds of wealth should be equally considered. The nation consisted of possessors of many sorts, not only of landed proprietors; and there seemed to be an injustice in treating them differently from those whose possessions took another form. There is thus another side from which Cobden set himself to champion national as against class interests. At the same time we may notice that Cobden's doctrine of the precise similarity between landed and other possessions is difficult to maintain: the manufacturer may transport his mill to the other side of a tariff, but the landlord is bound to his country; and all sorts of minor differences

<sup>1</sup> "Such, (except it be in a city that has little or no Land and whose Revenue is in Trade) as is the proportion or balance of Dominion or Property in Land, such is the nature of the Empire."—*Oceana*. Preliminarys.

<sup>2</sup> *Civil Government*. § 120.

follow from this great distinction ; indeed the popularity which the agitation for the nationalisation of land has recently assumed arises from a general feeling of certain differences between these kinds of property. At least we may say that the good management of the land has an interest for the nation which does not attach to the good management of any other possessions.

Cobden also differed from the generality of previous politicians in his view of the means by which these national interests might be secured. Hitherto each nation had endeavoured to secure itself against the rivalry of others, and to maintain its relative power, but since wealth and not power had become the object of our industrial policy this was no longer necessary or even wise. If nations would co-operate in the pursuit of wealth there would be more of it for each, and it was as the apostle of national co-operation that Cobden came forward to insist on free-trade. Free trade meant the removal of all obstacles to national co-operation, and national co-operation would as he hoped remove the causes of war, and the need of naval and military expenditure.

While events have justified the predictions of the Leaguers as to the gain which would accrue to England from the abolition of protective duties, it may be doubted whether subsequent experience has altogether confirmed the wisdom of their principles. National co-operation in the pursuit of wealth can only be logically maintained from a cosmopolitan standpoint : if we want the world to be richer this is the way to do it. But no single government is mainly concerned in the enrichment of the world. Each has to think primarily of the wealth of its own citizens, whose voices assert themselves if aliens are

preferred, and from whose gains the taxes that support a government are derived. Cobden was no cosmopolitan : he believed that if the material wealth of the world were increased each nation would be better able to develop in accordance with its own genius :<sup>1</sup> but events have served to show that a nation which has the start in the race for wealth may discourage the full development of the resources of other lands, may *e.g.* by underselling the young industry succeed in forcing them to produce raw materials instead of manufacturing them. It is the sense of this possible disadvantage that has rendered our colonists and foreign countries unwilling to accept our policy of national co-operation in the pursuit of wealth : the partial success of the policy has left us economically dependent on foreign countries for food and raw materials and powerless to force a market for our wares.

<sup>1</sup> *Political Writings*, 189.

## CHAPTER V.

### ECONOMIC PRINCIPLES FOR THE PRESENT DAY.

35. THE period of prosperity which followed the success of the Free Traders was not one when the principles of our middle-class parliament were likely to be called in question. Just because it was a period of prosperity there was no pressing call to examine the lines on which our action was being directed: but the troubles that came upon us in the Cotton Famine, and more recently in the long succession of bad seasons and dire agricultural distress, have set men asking whether the course we are pursuing is altogether wise. Protectionists have once more made their voices heard, a Fair Trade League has been organised; and though they may have received little sympathy, the legislature has sanctioned measures which can only be justified to the minds of those who worked against the Corn Laws by pronouncing them exceptional. Mr. Forster's Edinburgh speech<sup>1</sup> was a statement of the old lines of *laissez faire* policy and a protest against the entire desertion of them which seems to be impending; but while making it he did not condemn all the recent enactments that were incompatible with the economic maxims which were accepted so generally in the earlier part of the century. If these exceptions are so many,

<sup>1</sup> 2d Nov. 1883.



and the reasons for excluding them from the general rule are valid, it seems to show that the principles themselves are at least badly stated, and that some modification is necessary before our confidence in their validity can be re-established. This certainly is a very general feeling at the present time,—a feeling which found an expression in the satisfaction that hailed Mr. Gladstone's speech when he pronounced a sentence relegating economic principles to Jupiter or Saturn.<sup>1</sup> In the confused state of public opinion there must be a great difficulty in gathering the economic principles which could be said to command general assent among thoughtful men at the present day, in the same way as the doctrines of *laissez faire* did half a century ago; but perhaps we may get some light on the subject if we can detect the real grounds of the current dissatisfaction with the older economic maxims.

Nor perhaps should we be far wrong in fixing our attention on the conception of national wealth which underlay all these accredited principles and considering how far it can be said to be adequate in the light of our present experience. Is the aggregate of individual possessions a complete account of the national wealth? does the increase of individual possessions<sup>2</sup> always mean an increase of the national wealth?

Now in a country where all useful things are subjects of private property this principle certainly appears open to doubt. The individual citizen lives for three score years and ten we may suppose: he will desire therefore to secure as much wealth to enjoy during that

<sup>1</sup> 3 *Hansard*, cclx. 895.

<sup>2</sup> We may neglect all such cases as those of mortgages where there is a mere transference from one individual to another.

period as he can, and he is not directly concerned in providing for the welfare of future generations. Of course he may desire to save up wealth for his children and found a family, and thus have a second or third generation in view in the management of his affairs; but on the other hand he may have no children, or he may say as many men now do, that he made his way in the world himself and that he expects his children to do the same. Thus we cannot take for granted that his management of his wealth will be conducted with reference to any longer period than the span of one life. If he is the possessor of landed property this will not be the case to the same extent,<sup>1</sup> but even with regard to the management of land in a new country it is true that the farmer in *e.g.* the Western States, only plants such trees and erects such buildings as will be useful during his own time. And thus it appears that the period with reference to which the ordinary individual frames his plans, is a much shorter one than the period of which the statesman must take account in any action with reference to economic matters in which he may engage. The life of the nation continues while one generation after another of individual citizens passes away; and the principles which the statesman adopts must have reference to this continued corporate life, not to any brief period of years.

It is surely unnecessary to prove that this difference of period must make a difference in the methods of administering wealth, and that a man who is thinking of his own life only will act differently from one who has a regard to future generations: the old story of Passion and

<sup>1</sup> This is one of the strongest reasons for identifying the landed interest with the national interest as Mr. Disraeli used to do; he argued on historical grounds.

Patience in the *Pilgrim's Progress* shows that it certainly makes a difference with regard to the individual life whether a man has a regard to many years or only to a few in the use he makes of his possessions. One or two cases may be adduced which go to show that the increase of individual wealth may take place at the expense of the community; that individuals may so manage their affairs now as to procure additional present wealth for themselves at the expense of future generations.

First of all we may take an instance in regard to the management of land: during the latter period of the Roman Republic, the richer citizens were able to buy up and enjoy very large estates: many of these had consisted of the lands of poorer men who had been compelled to part with their possessions through the exigencies of military service. These large estates were cultivated, and cultivated at a high rate of profit with slave and hired labour: but the gross return appears to have declined, and the amount of food which was procured for the inhabitants of Rome to have decreased under this system. The cultivation by free citizens had it appears been more thorough than by slaves on the *latifundia*, and thus the food supply of the people declined under a system which had been most profitable to a small number of wealthy individuals.<sup>1</sup>

Another instance may be taken from the management not of land, but of accumulated wealth or capital: instances of this are more easy to find because as has just been noticed the landed interest and the national interest are less likely to conflict than the national interest and that of other classes. We may take the familiar case of

<sup>1</sup> Ihering, *Geist des römischen Rechts*, ii. 243 f. Devas, *Groundwork of Economics*, 207.

Joseph's dealing with the Egyptians: having secured a large store of corn he was able to make advances on terms which permanently reduced the whole population to a servile condition, and to fix a 20 per cent. tax, for the benefit of the court, on the industrial classes in Egypt.<sup>1</sup> The operations of Jewish capitalists in the middle ages, or their dealings with the Austrian peasantry at present,<sup>2</sup> might be cited as showing how faithfully they have copied the example of the great Hebrew minister of finance.

With these instances before us, we can have no hesitation in pronouncing the doctrine which identifies the increase of national wealth with the increase of individual wealth as mistaken: it is too shortsighted to secure the confidence of the statesman: national wealth must be treated with constant reference to national life, and unless this is done there may be grave defects in husbanding the resources of the nation.

36. If then we hope to get a better answer to the question What is National Wealth, we must try to notice what is necessary for sustaining and perpetuating the national life. The maintenance of life, the maintenance of as noble a life as may be, is the function of wealth: only the miser seeks wealth for the mere satisfaction of possessing it, that is as an end-in-itself, for its own sake. Wealth whether sought by individuals or by nations is a mediate end, and the final end which it is meant to subserve is the maintenance of life; not merely the maintenance of existence, but the maintenance of a life that is undoubtedly worth living. What then are the

<sup>1</sup> Genesis xlvii. 13-26.

<sup>2</sup> Ratzinger, *Die Volkswirtschaft in ihren sittlichen Grundlagen*, 307.

elements which are necessary for sustaining and prolonging such National Life?

It is obvious that one of the most important requisites is a vigorous and skilful population. Adam Smith has taught us that industry is the true source of wealth, and we can see how great empires in the past have failed through the slight regard which has been paid to it. Athens<sup>1</sup> alone of the Greek states rose at all superior to the pride which contemned it in other cities, and Athens has her reward in the glory she has gained for all time. The same prejudice was at work in the Hebrew race,<sup>2</sup> and the glories of Solomon's empire were shortlived indeed: nor could all the skill of Roman administration avert the decay which was wrought by the depression both of rural and artisan labour under the empire.<sup>3</sup> The long continued success of the industrial towns in Phœnicia contrasts strangely with the vicissitudes of other Eastern cities, and indeed with the comparatively brief brilliance of the daughter settlements; and our colonial empire as well as the experience within our own land seem to confirm the truth that a vigorous industrial population is the true source of wealth.

Of course there are many traits which must be combined if the population is to have this character in a high degree. Labour of any sort involves toil, and for toil physical health is necessary; the more important kinds of work require skill, and technical training as well as mental development are both highly requisite; and if the work is to be well done, and the wares produced thoroughly good, there must be much honesty and high character among the workers, so that the goods shall be made to

<sup>1</sup> Grote, *Greece*, iii. 182.

<sup>2</sup> Ecclesiasticus xxviii. 25-34.

<sup>3</sup> Levasseur, *Histoire des classes ouvrières*, i. 79.

last and not merely to look well. Health, skill, and moral character are elements which are necessary in the population, if the national life is to be effectively sustained and prolonged.

There are, besides, all the requisites which may be included in the term national resources. The produce that can be secured from the soil, whether grains, plants, woods, or fibres; the metals and minerals that are found in the earth; and the fish that may be obtained from the rivers and off the coasts. But this is not all: situation may be an element of wealth, as it was to the Italian cities in the Middle Ages, and to ourselves since the discovery of the New World; or climate as it is to the fruit-growers of southern Europe, or to the cotton-spinners in Lancashire. A country may have physical resources that render it specially fitted for commerce, or for certain branches of manufacture, just as truly as it may be fitted for certain kinds of agricultural production: and the national life will not prosper as it might unless the most is made of all these resources.

At the same time it may be felt that if we introduce all these various traits, our conception of the national wealth will be too vague to enable us to reach any clear maxims as to the means of promoting it; some elements are more directly concerned and others less so in sustaining and prolonging the national life; and common usage does not permit of our including honesty as a kind of wealth. We may perhaps be able to draw a line between those things that are directly and those that are indirectly concerned in sustaining and prolonging the national life: mental and moral qualities may be most valuable, but it is only as they are brought to bear through physical agents that they subserve the maintenance of national

life, and therefore we are justified in leaving them on one side. We should then describe national wealth as *consisting of all physical objects which may be used for sustaining and prolonging the national life.*

This account of it is obviously wider than the definition which treats it as consisting of the aggregate of individual possessions, for it includes things which cannot be appropriated, and therefore cannot be the subjects of private possession. Such for example are situation and climate: these are real elements which must be taken into account in planning for the national prosperity, yet they do not come to be directly considered if we take individual wealth as our starting-point. In the same way the lives and muscles of the citizens are not the subject of appropriation in a free country, but none the less are they an element in national prosperity, and they may be fairly included as a kind of national wealth.<sup>1</sup>

Nor in excluding moral and intellectual qualities from the conception of national wealth would we for a moment underrate their importance as contributing to national prosperity: they are indeed the one absolute requisite without which mere physical strength and physical ability cannot be made available. The richest soil is almost useless to those who have no skill and no industry to till it, the most barren waste may become a garden if it be dealt with by enterprising and clever men; and thus it can never be too often reiterated, in opposition to the Philistine tendencies of our day, that physical qualities never command success, but are only of worth as

<sup>1</sup> Even if we adopt this classification we need not fall into the error of regarding labour as a commodity which is exchanged on the same principles as other commodities. The fact that the bodily strength of a human being is very distinct from many other forms of national wealth need not lead us to deny that it is wealth at all.

they are wielded by those who have the moral and intellectual power to use them. Yet highly important as these moral and intellectual qualities may be, it is nevertheless true that their action is indirect, and that we may frame a fairly clear conception of national wealth without including them.

37. We have thus discussed the nature of the subject which our Political Economy must have in view—the factors which are directly concerned in sustaining and prolonging the national life. This is the end-in-view, and the principles which it lays down must be practical principles for our guidance in pursuing this end. Perhaps the broad characteristics of these maxims may become most clear if we indicate briefly the differences that mark them from the principles of *laissez faire*.

*α.* From that point of view the great question was as to the production of wealth, it was only thus that a care for future generations could be brought into play at all: the individual gained by increasing wealth, and thus the interests of the individual *quâ* producer, and of the State were at one. But when we extend our view over a longer period and direct our present action with reference to the national life, and the future of our country so far as we can forecast it, we no longer feel our interest centred on the mere increase of wealth, but on the administering of the national resources,—on what we may call National Husbandry (*Wirtschaft*). The rapid increase of wealth may be taking place at the cost of the future and to the detriment of posterity; and while the increase of the comforts and enjoyments of life in the present is a good thing, it is not a good thing that this should be obtained by imposing an intolerable burden on



those who come after us. We cannot then be satisfied with economic principles which are almost wholly concerned with the greatest production of useful things in the present, but we require principles that shall help us to husband the strength and resources of the nation to the best of our wisdom. That this conception of the scope of Political Economy is widely different from that current among us may be gathered from the fact that we have no word which can be used to denote it without explanation. Political Economy would perhaps have conveyed this meaning at one time, but it certainly does not do so now, and Husbandry is habitually used in a narrower sense.

*b.* This broad distinction may not however make so much difference in the practical maxims adopted as we might at first suppose. The difficulties of forecasting the future and of foreseeing the precise effects of any measure are so great, that each particular interference with the present pursuit of gain in the interest of the future demands very clear justification. We need hardly set ourselves to promote the material wellbeing of posterity, but we should keep our eyes open to any course of conduct in the present that will affect it prejudicially. Exhaustion of the national vigour or waste of the national resources is an injury to the national life ; and the statesman ought to endeavour to prevent either one or the other. We may thus take regard to the rising generation and to future generations as a sort of negative principle which comes into operation to limit the perfectly free play of the pursuit of individual gain : to put it in other words, regard to posterity gives us a rationale of "exceptional legislation ;" and if it is not the sole justification for departing from *laissez faire*, it is at least sufficiently wide and cogent for our purpose.

For the experience of the seventeenth and eighteenth centuries may still be considered conclusive as to the evil of constant State interference in economic affairs. Englishmen learned in the seventeenth century that State-agency proved unsuccessful in stimulating enterprise, and in developing the resources of the country rapidly : it was not by royal initiative, but by private enterprise that new manufactures were successfully introduced or that such great schemes as the Bedford Level were really carried through. And with that experience before us we should be unwise indeed if we began to look once more to the State for enterprising undertakings in the future. Englishmen learned during the eighteenth century too that the effort to regulate industry and trade was in itself an evil ; that rules of any sort hampered its free development ; that encouragements to trade offered opportunities for fraud, that measures which were designed for one special object had far-reaching and unexpected results in other directions,<sup>1</sup> and that the whole attempt to regulate industry was likely to impede its growth. With that experience in our memory, it would be idle to deny that State interference is always an evil ; but at the same time we have come during the present century to see that there may be worse evils than this, and that it may be the duty of the wise statesman to interfere with the free play

<sup>1</sup> A most striking case of this from an earlier period of our history deserves mention as it forms a capital illustration and seems to be but little known. The English were unable to dye the cloth they wove, but sent it to Holland for this purpose. With the view of implanting a home dyeing industry King James gave a patent to Cockayne and prohibited the export of undyed cloths. Cockayne worked so slowly and badly that he could not dye the cloths as fast as they were woven, or as the merchants would have exported them, so that both weavers and merchants clamoured against him ; the Dutch then retaliated by prohibiting the importation of English dyed cloth. Thus the whole of our chief trade was thrown out of gearing. Macpherson, *Annals*, ii. 250.

of individual self-interest—even at a measure of loss to the existing public—because this is a lesser evil than another that looms before us. We can tentatively summarise the general character of the maxims of our National Husbandry by saying that we shall do well to adopt the principles of *laissez faire* subject to at least such limitations as a regard to the probable injury of posterity would impose.<sup>1</sup>

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38. There is indeed one other direction in which the experience of the present century has led us to reject the example of the first exponents of *laissez faire*. The constant improvement of machinery has steadily told in favour of those men who had large capitals and were always able to introduce the latest improvements, and thus by producing at less expense could undersell the smaller dealers. In every department of trade giant establishments are securing a pre-eminence which sometimes becomes a practical monopoly. We have thus discovered a tendency for monopolies to arise under the system of free competition in a way that did not occur to economists who had no experience of the fact. Not only in manufacturing is this the case; in retail dealing—with the extraordinary attention to details it requires—stores and monster establishments for universal providing make their way, while the smaller dealer complains that “though he keeps a shop, the shop does not keep him.” And inasmuch as monopoly is often a danger to the public, it may be politically advisable for the State to undertake certain kinds of trading, such as railway conveyance or electric communication or some of the other necessities of modern life, rather than allow them

<sup>1</sup> For a fuller statement however see below, § 41.

to fall into the hands of private monopolists. The possibility of a successful dealer ousting all his rivals and thus destroying competition by means of competition, though mentioned by Mill,<sup>1</sup> has only attracted the notice of the public within recent years: but it can hardly be said that the action of the State in taking over a department of business under such circumstances is inconsistent with *laissez faire* principles: in the particular cases in point the competition which *laissez faire* assumes has ceased to operate, and thus they lie as much beyond its view as the economy of a village where customary prices still rule. We may also note that the fact that such cases do arise shows us from another side the incompleteness of the *laissez faire* Political Economy as a system which can afford us guiding principles in regard to the commercial and industrial affairs of the present day.

To justify the State in undertaking such affairs we are not compelled to forecast the future and to examine probable results in the long-run, as we are when discussing the intervention of the State to prevent a possible injury to posterity; in this new case we have merely to consider the present,—the actual manner in which the business is conducted, as well as the rate at which it is growing, and the probability that the State can carry it on satisfactorily in the interests of the public. The whole of the post-office department, as letter-carrying, and telegraphic, and telephonic, and issuing postal orders, and carrying on savings banks, and conveying parcels, is a case of the public management of a number of commercial undertakings; and they are probably better managed than if each was the subject of private monopoly.<sup>2</sup> Thus then

<sup>1</sup> *Pol. Ec.*, v. ii. § 11.

<sup>2</sup> As Electric Telegraphs in the United States.

to fall back on the old division, while a preceding section has shown us principles for the management of the national power of *labour*, and the physical resources in *land*, we now get an indication as to the national administration of *capital*.

On the whole too it may be said that the presumption against the success of State management is not so strong as was formerly the case. Nothing is more curious than to read the passage in which Adam Smith<sup>1</sup> criticises the public management of industrial enterprises, and to see how much of the business which he regarded as necessarily private is now in the hands of public companies. The unwillingness of private individuals to submit the whole of their wealth to the risks of business, or the occasional necessity of dividing family property, has induced one great firm after another to become a limited company; and when a business has assumed this form, there is less difficulty, on the face of it, in transferring the ownership and administration to public hands, than there may be when the success of the concern obviously depends on the energy of those who are personally interested in success because of the amount of wealth which they feel they have at stake. The motive power which animates a great company is somewhat akin to that which rules in a well-managed public department. If then experience shows that where competition fails, it may be advisable for the State to undertake a certain business rather than allow it to become the subject of private monopoly, there is less presumption against its success in conducting the business than there would have been fifty years ago.

<sup>1</sup> None but Banking,—Insurance,—Canals—and Water Supply—Joint Stock Companies are regarded as practicable. *Wealth of Nations*, v. chap. 1, pt. 3, article 1.

39. The remaining portion of this essay will be occupied with drawing out more special applications of the broad practical principles of National Husbandry which have been thus laid down, and which may be distinguished from the Political Economy of the earlier part of this century by describing it as a system of *laissez faire* limited at least by concern for the possible injury of posterity : we shall also see how far these maxims are consonant with our political institutions and laws, and with current morality as reflected in public discussions, and thus give a rationale of the general course of recent legislation, and gain a firm standpoint for criticising its details. It may not be out of place however to introduce a few general considerations which seem to tell in favour of the position here adopted.

There have been during the present century three great practical movements which have originated outside the sphere of political life, and one of which has been uninfluenced by legislative activity—Co-operation—Trades-Unionism, and Cobdenism.<sup>1</sup> Each of these has proved a valuable influence, though none of them can be considered completely successful in propounding a scheme for the solution of all social problems, for each has been to some extent partial and one-sided. The nature of each and the character of the animating principle of each has been already discussed ; but it may be argued that the conception of National Husbandry which has just been delineated comprises what is best in the spirit of each. Co-operation, by organising individual thrift, has endeavoured to train men to be far-seeing and manage their affairs with reference to the future rather than the immediate present ; and

<sup>1</sup> I use this term rather than Free Trade, because the principles of Cobden, unlike some of his followers, were national not cosmopolitan.

National Husbandry would introduce a similar far-seeing intelligence into the management of the national resources. Trade-unionism has shown us that the advance to a higher level can be best attained by sacrificing the individual weal from a regard to the good of a large whole; and National Husbandry may insist on the sacrifice of a gainful pursuit for the sake of wider interests. The movement which Cobden led refused to accept any single class as of paramount importance, but insisted that the nation as a whole was the body in whose interest laws should be made or repealed; and it is with respect to the nation, in the present and in the future, that the principles of Political Economy as here delineated are concerned. We may argue then that the action of a State which was guided by this conception of National Husbandry would follow the lines on which these great social movements have attained their best successes.

It is true too that the *laissez faire* Political Economy has suffered from the suspicion which English statesmen feel of abstract principles: it has taken the form of an abstract science, arguing with regard to an hypothetical state of society, and there has been a real difficulty in applying its maxims to the actual problems of life. Nor as we have seen above is this suspicion of abstract political principles destitute of logical justification, for as accurate induction is almost impossible in considering economic phenomena,<sup>1</sup> abstract economic principles as commonly put forward very often rest on most insufficient grounds, and occupy a region that has been aptly termed "Metapolitics." But just as Kant remedied the extravagancies of dogmatic Metaphysics by insisting on an appeal to the nature of human experience and criticising

<sup>1</sup> See above, § 4.

the principles that transcended it, so may we protest against the transcendent principles of Metapolitical Economy. We must make use of the corrective power of imagination to give us a concrete image by which to test the conclusions to which our abstract principles lead us. In putting forward the necessity of considering posterity we are relying on help of this kind ; for we place before ourselves the life of posterity, so far as we can figure it, in all its many sides. To dare anything in the cause of justice may be a duty, but as a principle it is a moral abstraction, inapplicable to every-day life. To amass the physical means of well-being is expedient, but it is an abstract counsel of prudence which is inapplicable to the great crises of life. But our hopes for posterity combine these two sides in one concrete image, and we figure our nation in the future not only as well provided but as noble also.

And if we keep this ideal before us in criticising recent legislation, we may waive all questions as to the metaphysical bases of duty : we may be content with expedients that lead to such an end as this. Whether we hold that the Will of God, or that the happiness of Man supplies the final end of human conduct, we may yet discover in such regard to posterity a firm platform on which to rest *axiomata media* that shall serve us in seeking to judge of the right or wrong of any piece of legislation. We shall not greatly err if we apply this touchstone, and ask in regard to each measure, whether it tends to ennoble or degrade, to enrich or impoverish the generations of Englishmen that shall yet arise when we are gone and forgotten.



BOOK II.

RECENT LEGISLATION.



# RECENT LEGISLATION.

## CHAPTER I.

### GENERAL CANONS OF CRITICISM.

40. THE attempt to apply the economic principles which have been laid down in the preceding sections to the criticism of recent legislation is beset with very great difficulty : for it is by the probable results of each enactment and its bearing on the wealth of the nation in the long-run that we must judge of it : to succeed in the task one would need to possess the most accurate technical acquaintance with all the phenomena of industry and commerce as well as the clearest insight with regard to their inter-relations. But since we can pretend to no such omniscience, it becomes all the more necessary to note with care those directions in which we may feel more confidence in the conclusions we draw, and those in which the matter is open to graver doubts : and this must depend to a very large extent on the comparative simplicity or the complication of the phenomena we are discussing.

We may have a simple physical sequence—that the general introduction of better machinery will enable us to produce a greater quantity of some ware at less expense : this is almost a truism as we should hardly call it better

machinery, and it certainly would not be generally introduced, unless this were the case: but the question as to the rate at which this additional quantity can be sold, the effect on existing markets and on opening new ones, the influence on wages and the labour market, are all questions of much greater difficulty on which it is impossible to speak with the same confidence.

If we go further a-field, and take the case of a great physical improvement in some other country,—the opening up of the Canadian North West, the development of gold mining in South Africa and so forth,—new elements of complication arise. Something will depend on the political relations between ourselves and the distant country—a variable element, and something on the facilities of communication—a changing one.

Still more difficult must it be when the anticipated results depend on some mental or moral element: *e.g.* the spread of general education as strengthening the general intelligence of the rising generation and thus fitting them for acquiring more technical skill. There can be no doubt that the institution of School Boards and compulsory education was greatly due to an expectation of some such benefit accruing. The recent outcry against overwork and cramming however leaves the question unsettled whether in some cases at any rate the result has been a deterioration in physical strength and energy, together with a doubtful gain in real intelligence. It would have been impossible to anticipate such results from the introduction of compulsory education. Where the economic results depend on calculations as to some effects on human beings they must be very doubtful indeed.

Still more is this the case with regard to the effect of the system, not in the education of human powers, but

in conveying information. The ordinary middle class politician believes that information as to the law of supply and demand, if more diffused, would make the working men feel that to interfere with the present order of society is futile. Mr. Hyndman calculates<sup>1</sup> that the diffusion of knowledge on similar subjects will goad the masses of the people to a social revolution. The same sort of difference cropped up long ago, when Brougham maintained that only education would remove the causes of crime, while Cobbett held that it actually increased this evil.<sup>2</sup>

This is indeed so far admitted that if we go one step farther we enter a region in which allusion is never made to results of this sort. Common opinion holds that religion is a support to morality, and that morality is greatly needed for our industrial success. Many people argue too that disestablishment and disendowment would be detrimental to religion in England; of course there are many others who hold that such a change would really stimulate religious life, but we may take the former view for the sake of argument. It is clearly impossible to calculate how disestablishment would affect national religion, and how less extended national religion would affect morality, and how much the results of lowered morality would make themselves felt in the industrial sphere. We may believe that such a change would occur, but the steps are far too many for us to estimate the real influence on the economic side of the national life.

From all this it follows that we must attach little weight to economic arguments in favour of or against any laws from their probable effect on human character, not because we underrate the immense importance of the

<sup>1</sup> *Historical Basis of Socialism*, 373, 443.

<sup>2</sup> *Hansard*, xxiv. 131.

consideration, but because we feel that the greatest uncertainty must attach to opinions of this kind, and that the knowledge we possess is far too limited to allow us to lay much stress on the probabilities of the sort. This is indeed the mere reiteration of a point noticed above, that some of the most important elements in the maintenance of national life act indirectly upon it. In thus discounting arguments as to the economic result of moral and intellectual changes we need not underrate these sides of national life : we may assuredly hold that for the nation as for the individual "the life is more than meat : " that the quickening of a noble and worthy human life among us is an infinitely more glorious thing than the management of national resources so as to have much store for many days : the age of Pericles has taught the world this lesson for all time. But we are not called to weigh the question what sacrifice of national strength may be needed that the nation may continue to exist at all, or what sacrifice of national wealth may be wise in the hope that the national life may be nobler. These are questions for the responsible rulers of the realm, and not for discussion here : we are concerned with the national wealth so far as we can forecast the influences that affect it, and we must doubt of our own wisdom in making such forecasts when they depend on possible changes in human faculties or human dispositions : we do not ignore the importance of such considerations, but we do doubt of our ability to take them rightly into account, and therefore we cannot rely on our estimate of their influence.

The foregoing considerations, by showing us, not indeed what is really most important, but what will best repay our attention, may assist us in dividing the subject conveniently : for in the wide view of the nature of national

wealth that has been put forward, no law can be said to be without some bearing on the national wealth : in those cases however where the bearing is indirect, and the law in its primary purpose is concerned with some intellectual, moral, or social change, we shall only discuss it very partially, not with reference to the ultimate economic results that may accrue from it ultimately, but with reference to the economic side of its actual working. The result on our industry of the skill of " an educated generation " remains to be seen, but the conditions under which education is being carried on lie before us for discussion now.

We may thus divide the subject into two parts :  
I. Laws which are directly economic in character ; and our treatment of these may be sub-divided according as recent legislation has been primarily concerned with the vigour of the labouring population, the administration of capital or the management of such resources as land.  
II. Laws, the primary object of which is social or moral, and of which the ultimate bearing on national wealth is indirect : these we may criticise with reference to the actual working, as we cannot feel much confidence in any estimate of the probable economic results of the social change at which they are aimed. As in our complicated society there may sometimes be difficulty in saying under which heading a law may most fitly be classed, we may be guided in our arrangement by noting the avowed purposes of the promoters of the measure.

41. We have thus far seen the objects which should be kept in view in the economic policy of the State ; the remainder of this essay will be concerned in discussing how far these objects are being attained by measures

passed within the last ten years. The consideration of these particular Acts may however be greatly simplified by introducing a few general remarks on a question which recurs in regard to very many of them. Supposing the object in view to be a good one, how far is the State justified in interfering with private liberty in the attempt to secure it? The interference of the State may sap individual energies, or check the flow of private charity, or diminish the sense of individual responsibility. It may fail in attaining the object in view, or it may obtain that object but at the expense of weakening the character of the ordinary citizen. On such grounds as these State interference with individual liberty was strongly deprecated, both in connexion with the Factory Act of 1874, the Agricultural Holdings Act, the Unseaworthy Ships Act, and the Bank Holiday Act of 1875. We may consider below the precise form in which the difficulty was raised in each of these cases, but it will simplify matters greatly to put forward a brief statement now on the problem in its general form.

For the sake of clearness we have thus far adopted the ordinary *laissez faire* view, and put forward certain grounds of justification for occasional exceptions; but though this treatment suffices for bringing out the cases where exceptions may be made, it fails to give us any canon for the precise difficulty before us. To what extent may we interfere with individual liberty in this particular case? To say the case is exceptional gives us no real help; we want to know how we are to act here, not to be told merely that the case is an unusual one. And to discriminate rightly in this matter we must go back to the very root of the matter and trace the relations of the State with individual citizens.



There was a phrase which Cobden frequently used<sup>1</sup>—the genius of the nation—which may be a help to us here. To what the differences of national genius may be due we cannot say, though in part at all events they are brought out by such physical influences as climate, soil, and situation: but however we may explain it there are differences between the genius of one country and of another, or between the genius of a nation in a former and in the present age; and according to these differences there will be differences in the formed constitution of the nations or nation, we shall have different types of State. The State is after all only the embodiment of the national spirit, it reflects the general tone of feeling and thought among the people; such as they are and such as their habitual dispositions are, such will be the State. Are they capricious and flighty? is this the character of their genius? Then the State will be unstable and restless too. Are they slow to move and averse to sudden change? so too will the State be, and the efforts of reformers must be patiently conducted if they are to be successful. The State is the embodiment of what is common to the different persons in the nation, it expresses the spirit in which each shares. There will be of course some individuals who share less strongly than others in the national spirit, but all do so to some extent; and the State exists for the people—present and future, and has its authority and power from the people,—present and past. We cannot represent the State as an abstract entity that is antagonistic to the individual citizens. The State is concerned with the general interest<sup>2</sup>

<sup>1</sup> *Political Writings*, 57.

<sup>2</sup> Compare the whole treatment of this subject by Rousseau, *Contrat Social*, i. 6, 7.

—with what is common to all ; it cannot conflict with the citizens generally though it may conflict with the interest of private persons in so far as their private interests are inconsistent with that of the State.

From this it follows that we cannot lay down a definite line restricting the functions of the State and marking all else as of merely private and individual concern. The influence of the State permeates all our relations, even those of the most personal kind. The State ensures the existence of the Family by marriage laws, and enforces certain duties towards children in educating them, or from children in supporting indigent parents. In no civilised State are such things unregulated, and it seems impossible to think of any matters of which we can say that they are so strictly individual that the State has nothing to do with them.

In fact if we look more closely at the subject in the light of history we shall see that if the individual has any right to do as he likes without regarding the State, he has that right because it has been secured and confirmed to him by the State. Has he personal freedom ? It is his because of the struggles that gave us Magna Carta and the Habeas Corpus Act. Has he freedom of speech ? that too has been secured to him by his forefathers' struggles, and so of the rights of property : the special rights of any particular landowner in the present day have a history ; and their genesis, and the ways in which they have been secured and defined by the State can be told. In the same way the conditions on which personal property are held, the payments for the enjoyment of it which are due to the State, in some cases even the ways and times at which it may be used are defined by the State, or by the customs of common law which are anterior

to the formation of the State as we know it. But in any case, individual and private rights have their root in a social authority; the individual possesses his rights, not because of any divine and eternal claim to them, but because they have been given to him and confirmed to him by the State.

Nor is it only his civil rights that are conferred on the individual by the State: no man can escape from the influence of his surroundings. The history of the nation in which he lives, the institutions under which he is born do an immense deal to mould his character. We are always talking about the influence of education, but nowhere can it be so clearly seen as in the influence of political institutions in forming character and opinion. This is constantly noted in the present day by those who demand the extension of the franchise—as an instrument of education, or by others who tell how the active participation in political life in the colonies affects the mental habits of the British labourer who settles there.

Thus then we may frame some conception of the manner in which individual life and conduct are permeated and penetrated by State enactments: the individual is what he is, and has what he has chiefly because the State has conferred on him the privileges he possesses. There is no law of justice to which he can appeal against the State, he has no standing at all but as a member of it. The rights of man as man give no actual vantage for urging a claim, but the rights of an Englishman born are clear and defined against encroachment—because he is not merely a man, but a man born to the freedom for which his forefathers struggled.

There are however many other influences which mould the individual life as well as these; there are examples

set by other nations,<sup>1</sup>—thoughts and aspirations kindled by students and preachers. The national genius is not dead but living; it is not merely embodied in the constitution and laws of the country, it is breathing in the hearts and work of the present generation of citizens; and thus it is that the convictions of the public come to mould and alter the forms in which our national life is cast: not only does the State form the individual citizens, but the citizens reform the condition of the State so that it may be in accordance with the living opinion of the nation. This influence of the citizens on the State is not by any means confined to countries with free institutions or a representative government, though in a constitutional monarchy like ours, the influence is so direct and explicit that no argument is needed to render the point clearer. Public opinion is in this land the ultimate court of appeal; when public opinion is fairly aroused on any point, changes in the law are sure to follow. Public opinion may be shortsighted in detecting an object which is important for the general interest: public opinion may be unwise<sup>2</sup> in the manner of pursuing an object, and for those who feel the pressing danger of error in these directions it may be the greatest of all duties to try and enlighten and direct the public mind: but public opinion is the supreme authority which makes itself felt, and to its decisions the individual citizen must conform.

Where public opinion is mistaken there will undoubtedly be grave mischief; not the least of those mischiefs may be the attempts to force individuals to take a line which they really believe to be wrong: but there is no hope of a remedy except through a change in public

<sup>1</sup> Cobden, *Political Writings*, 144.

<sup>2</sup> Compare Rousseau, *Contrat Social*, ii. 6.

opinion itself. As the nation experiences the evil of measures which the nation has passed, it learns greater wisdom for the future. The English public at the time of the Restoration associated puritan opinions with disloyalty to a monarchical constitution, and passed the Clarendon code : on many loyal citizens grave injustice was inflicted, but a change could not be made nor the laws repealed till public opinion had realised the fact that loyalty to the constitution was compatible with a great variety of religious opinion.

The possibility of error on the part of public opinion, and of grave injustice ensuing, does not alter the fact that at each moment public opinion is the supreme authority in matters of legislation. Where the voice of wise leaders does not receive attention, there must be grave injustice to individuals till accumulated experience shall change the public mind by causing the minority to grow into a majority.

Here then we have one case where legislation may press heavily on individuals, because the legislation is itself bad ; we may see too that the only possible safeguard against such error lies not in any doctrine as to the limits of State interference, but in trying to secure that the public mind shall be fully informed and wisely directed before legislation takes place. The moral is a warning from the character of the authority on which legislation rests against hasty legislation, and the danger of popular sentiment eclipsing popular judgment.

42. The foregoing statements seem to force us to the conclusion that the whole discussion as to State interference with the individual has often taken a wrong form : we cannot lay down any rules as to what kind of things

should be done by the State, and what kind of things should be left to individuals. The policeman who apprehends a criminal is not a mere piece of State mechanism but does his work with more or less individual peremptoriness and more or less individual judgment. Nor are benevolence and kindness a mere matter of individual sentiment in a country where there has been compulsory relief for the destitute for so long, and where prosecutions for cruelty to animals so frequently occur. No hard and fast line can be drawn between the sphere of State control and that of individual judgment: in a very large number of actions both factors are at work. What then is the sphere for the action of the State? How are we to define its scope?

We are often told that the business of the State is to protect person and property, and those who announce this view seem to think they have found a formula which defines the range of State action pretty closely. But some may find fault with the definition because it is too wide. There are so many cases of the destruction of life and property in which the State cannot intervene. It cannot ensure against the losses which arise from bad seasons: and many seem inclined to question whether it is the duty of the State to incur very heavy burdens for the sake of saving life in Indian famines. With these facts before us it is idle to contend that the prime function of the State is to defend person and property from physical agents: the State is expected to intervene to protect life and property from human agents and to control human conduct, but not always or generally to prevent and relieve misery which has accrued from physical conditions, unless these physical conditions are more or less under human control. The instances of

public votes for purely benevolent purposes are so few that this course may be regarded as exceptional, and cannot be viewed as one of the ordinary functions of State.

We have thus got a first approximation to an account of the sphere of State action: the State is concerned with human conduct, its action is distinctly moral in character, it may be said that the business of the legislator is always that of enforcing morality in the widest sense of the term. Nor in saying this need we be forgetful of the old saying that "we cannot make men moral by Act of Parliament;" for though this is partially true, it is only true in part. The mere compliance with an authoritative rule grudgingly given is but a poor sort of morality, and men will always be ready to evade laws in the wisdom of which they do not acquiesce; but for all that the State can exercise a great influence in maintaining and improving morality. For few men have strength of character to live up to the maxims they accept: like S. Paul they find not how to perform that which is good: "the good that I would I do not: but the evil which I would not that I do." The legislature may give support to the half-formed intention to do what is right, by imposing a fear of public punishment, as an additional motive to well-doing. And besides this, the educative influence of the State in forming opinions as to what is right is enormous: since the law has asserted that it is the duty of all parents not only to support but to educate their children, the wrong of parental neglect in any individual case has become more striking: and thus both by keeping men up to the mark in their own practice, and by laying down a rule as to a minimum of duty in certain cases, the State exercises an immense influence on individual morality.

This instance of education may indeed serve to illus-

trate this conception of the function of the State as that of enforcing public opinion about moral conduct. Voluntary effort had done much to familiarise the English public with the idea that education is a boon which should be given as widely as possible, and thus to create an opinion that it was a benefit which every parent ought to secure for his children. When public opinion had reached this stage—and not before—it was possible for the legislature to step in, and compel parents to secure the education of their children. In so doing it exercises a twofold moral influence, it constrains those who see the benefits of education to overcome any hindrances from domestic calls that may stand in the way, while it also helps to form a more universal consensus of opinion as to duty in this respect, by indicating a minimum of education which should be given to all.

At this point we find another possibility of conflict between the State and the individual citizen: we have already considered the case where public opinion is mistaken and legislation is hasty or ill-advised, but there is plenty of room for conflict where public opinion is right and the laws that enforce it well devised. Some men are sure to disagree with the common view on the subject: they think that too much education unfits for the duties of life, and gives people a distaste for necessary manual drudgery. Partly from the force of habit perhaps, they object to a project for forcing on the education of the people generally. But supposing public opinion to be right and the objectors to be wrong, this conflict between individuals and the State will only be temporary. The success of the scheme promoted by the State will silence some objectors; the rising generation will be accustomed to the new order from the first, and those



whose habits are opposed to it will gradually die out. Such conflict as this between the individual and the State is unfortunate perhaps, but it is scarcely a reason for regretting the State action. It is a necessary incident of progress, the friction which may always be expected to occur and which it is desirable to reduce in every possible way, but it is only a temporary trouble which will leave no permanent bad results, but will be entirely removed in the course of a generation.<sup>1</sup> The chief safeguard that can be recommended must be little more than a reiteration of the suggestion above,—we must try to make sure that public opinion is really public opinion, that it is strong and growing, not merely noisy, before we take it as the basis of legislation, and enforce its dictates by statute: a mistake in this matter will lead to the enactment of laws which cannot be properly enforced, and which discredit the whole influence of government by exhibiting a public failure to carry out its views. It may be questioned whether this has not been the case with regard to the Vaccination Acts in some parts of Yorkshire, such as Keighley, and of Lancashire. The consensus of medical opinion has not so affected the popular feeling in these districts as to lead it to support the Government of the country in this matter. Here it may of course be taken for granted that the Government is right and the objectors mistaken, and that therefore the conflict is only temporary, none the less should it be considered unfortunate that the difference should have arisen.

<sup>1</sup> Among the objectors to the present Education Acts there are probably some who dislike any scheme: these are a diminishing number: there are others who complain of details of the existing scheme, which seem badly devised and can be amended by experience.

From our point of view then no limits can be assigned to the sphere of action of the State: its business is to enforce morality as recognised by public opinion: while growing public opinion asserts that it is immoral not to send your children to school, and there is little if any hardship in the law that gives it effect. The case for State aid to schools, or for free schools, rests on the advantage expected by the State from "educated generations;" but compelling parents to pay, or make a sacrifice for their children's education, is an instance of forcing the Englishman to do his duty. We cannot except education from State action on the ground that it is a matter of private concern only. "No man liveth to himself alone;" and the *State is concerned in seeing that every man performs that minimum of duty which public opinion demands of every citizen.*

43. The bearings of this doctrine of the sphere of State action may become clearer if we contrast it with some current views which have been frequently urged in recent parliamentary discussions in regard to the due measure of State interference. It is not always easy to see quite clearly on which of several reasons a speaker's objection to State intervention is based, and it may sometimes be due to two or more: still it seems possible to analyse four distinct grounds which may be taken in the matter.

*a.* We may have objection taken to class legislation on the ground that laws should be passed in the interest of the whole, and not with regard to particular or private interest. This is the position which Rousseau<sup>1</sup> lays down, and it is here that he finds the chief safeguard against infractions of liberty. But after all the distinction seems

<sup>1</sup> *Contrat Social*, ii. 4.

illusory ; individual welfare is a benefit to the State indirectly : where individuals are prosperous, the State is likely to be peaceful and the subjects to be contented and happy. And so with other private interests : their success is distinctly beneficial to the State indirectly—if in no other way, then as a source for easily levied taxation. The benefit of the State accrues through the benefit of individuals : it seems impossible to draw the line thus and say that because some measure is a matter of local concern or private concern, it is not one of general interest.

But from our point of view, we are not concerned to weigh interests at all, or discuss how far any statute favours private individuals and to what extent it favours the general interest : we have not laid stress on public opinion as calculating out the amount of the general interest, but on public opinion as deciding on what is right in the conduct of citizens. Objection was taken to the Factory Act of 1874<sup>1</sup> on the ground that it was an instance of class legislation. But if public opinion holds that the employers in a certain industry overwork their hands, there is a strong case for enforcing a restriction to such hours as public opinion deems fair. Nor need we discuss whether other persons are more oppressed or not : if the public believes that this class is oppressed, and that from the conditions of labour it is possible to draw an enactment which shall remedy the oppression, the existence of greater hardship in some other department is no real argument against it. In the same way if public opinion holds that unregulated vivisection gives opportunities for cruelty, the existence of worse cruelty in other directions cannot afford any sufficient ground for refusing to

<sup>1</sup> Colonel Mure (3 *Hansard*, ccxix. 1455) seemed to think no class but paupers entitled to special legislation.

remedy a grievance to which the public mind is fully alive, though it offers an excellent opportunity for awakening the public conscience to misery it has hitherto neglected.

In fact a great deal of legislation must be particular in character; and much perfectly general legislation has a particular bearing: laws affecting the entailed land of the community touch a comparatively small number of persons though they are undoubtedly of general concern: we cannot make any practical use of this distinction or discriminate to any purpose by means of it. It is simplest to assert clearly that all the conduct of citizens is either directly or indirectly of public concern, and to refuse to exclude any of it as necessarily lying beyond the scope of State control. We may claim that the State is justified in interfering in any locality, and in behalf of any section of the community however small, when public opinion determines that a stop should be put to conduct of a particular kind.

b. Another attempted demarcation of the limits of State action was urged with very great force by the Duke of Argyll in his speech on the Agricultural Holdings Act. He argued as "the double result of our experience as a nation and as a Parliament—that restrictive legislation for the attainment of purely economic ends is not only needless but injurious; and that it is the very power and efficiency of the motives which work for these results which compel us frequently to interfere for moral ends."<sup>1</sup> But in considering and criticising the *laissez faire* policy we have been led to repudiate the narrow view of the national wealth which treated it as consisting only of the aggregate of individual possessions. We have found ourselves forced to take a wider view of national wealth, so that the vigour

<sup>1</sup> 3 *Hansard*, cccxiii. 949.

of the population has a place as a directly economic question : from our standpoint the distinction which was thus drawn cannot be maintained.

Nor can this demarcation be considered clear : no action can be regarded as merely economic and as possessing no moral character. If I buy a coat there are many moral questions involved ; and the attendant circumstances in any actual instance will render an apparently indifferent action right or wrong : it is right to be suitably attired, and wrong to be extravagant : it is right to pay your bills punctually and wrong to run into debt : buying a coat may in itself be either right or wrong, but in each particular case it must be one or the other, it cannot be destitute of all moral quality. Just as we cannot distinguish matters that are of general interest from those that are merely private, because all the affairs of citizens are indirectly of general concern, so we cannot distinguish the moral from the merely economic, because all economic conduct has moral aspects.

Indeed the Duke of Argyll's own statement contains an implicit admission which renders the distinction worthless : the motives working for economic ends have results that render interference necessary on behalf of morality : it is only by separating the immediate from the ulterior effects of the same action that the apparent distinction emerges. Private gain results to the employer who lengthens the hours of labour—his action is so far economic ; a degraded population springs up in consequence of his continuance in this course, and hence the conduct is immoral. There is no real difference between the two ; in one case we consider his conduct from his personal standpoint with regard to its bearing on his own pecuniary position ; in the other case we view the same

conduct with regard to its bearing on the community and posterity, and this aspect is one which the statesman must keep before him. Surely our modern politicians may share the hopes of Caxton who longed "that merchandyse may have his cours in suche wise that every manne eschewe synne and encrease in vertuous occupacions."<sup>1</sup>

c. There is a similar difficulty in accepting the position of those who urge that the business of the State is not to promote the wellbeing of individuals, but to give them facilities for protecting themselves. Whatever boons are given, individuals must take advantage of them before they receive the benefit. A system of free education would still require the attendance and attention of the pupils. On the other hand the man in the Western States who depends on his own pistol for security, reckons that the legal tribunals will accept his plea that he "did it in self-defence." He uses his pistol readily because the society in which he lives justifies such taking the law into his own hands. When an effective police is introduced the individual becomes less careful to provide for his own security—his wellbeing is promoted: on the other hand the State official is there to be appealed to without risk of fatal consequences in case of error. The government is more highly organised and there is more machinery which a man can set in motion for his own ends; but at the same time his interest is promoted because there are fewer cares which he must take on himself personally. To define the hours of factory labour is to give these labourers a most effective and easily worked machinery by which to protect themselves from overwork, by complaints to the inspector: it is also to

<sup>1</sup> *Game and Play of Chess*: edited by Axon. Introduction, xxxvi.

promote the welfare of a class by giving them better conditions of work, and less need to contend for them. And so with every possible piece of State interference: some modicum of individual action must always be required, and thus we cannot succeed in drawing a line between two different kinds of legislation, when each separate enactment is capable of interpretation in either sense.

*d.* The last attempt to set a limit to the scope of State action is perhaps the commonest contention of all: it has the advantage of commanding general assent as it is a truism, and of being incapable of refutation as it is devoid of meaning till further expanded. "The State should not do for people what they can do better for themselves." Obviously so, but what can they do better for themselves? If we simply rely on actual experience of different cases, and say we know that individuals can do this better than the State, or that the State can do this better than individuals, well and good. But if we try to discriminate different classes, and argue that in all cases of a certain kind the State is presuming to undertake what had better be left to individuals, we are forced to scrutinise with care the distinctions thus made.

(*a.*) The most common cry is as to the danger of interfering with freedom of contract. Each man it is said knows his own business best, and therefore we must not interfere with him in driving his own bargains: all agreements as to his work and conditions of work, or the terms which he makes with employers or others are best left to the individual.

This line of argument has turned up in dozens of cases in recent years: a frequent objection to trade-unions was that they interfered between man and man, and

dictated to the labourer the terms on which he should agree to work. The same line has been taken with regard to the Factory Acts, to the Bank Holiday Acts, and so on: all were cases where the freedom of contract between employer and employed was to some extent infringed. The same question was raised by the Duke of Argyll in the speech on the Agricultural Holdings Act already quoted, when he protested against the "attempt to secure to the occupiers of land certain pecuniary terms in their contracts for the hire of farms."<sup>1</sup> But in all these cases public opinion has decided against the objectors, generally on the ground that in many cases the alleged freedom of contract was illusory and did not really exist. It was urged that there was no real freedom of contract between an individual artisan and a great employer,—no real freedom of contract between children and the capitalists for whom they worked, or even between English—not to mention Irish—farmers and their landlords. We may see presently how far this contention is justified when we come to discuss these special cases, in the meantime it may suffice to note that the common opinion of Englishmen at present does not endorse the view that the State should never interfere in private contracts as men can always manage them better themselves.

(β.) Others tell us that people can provide for their own wants best, and that the State should not attempt to secure them the necessaries of life. This was a fundamental principle laid down by Mr. Cross in introducing the Artisans Dwelling Bill:<sup>2</sup> but of course it must be taken with limitations, for the necessaries of life are exactly what the State does secure to the destitute poor;

<sup>1</sup> 3 *Hansard*, ccxxiii. 949.

<sup>2</sup> *Ib.* ccxxii. 100.



and however much some may be tempted to protest against it no politician would seriously propose to upset a system which has held good since the time of Elizabeth, and the foundations of which were laid so soon as England became Christian. The contention must be that each man can secure for himself any comforts beyond the mere necessities of life to better purpose than the State can procure them for him. This of course means *continue* to procure them: it is undoubted that the State could meet his immediate necessities, but it is held that it cannot continue to do so for any length of time, and that if a man's wants and those of his children are to be regularly and permanently supplied he had better form the habit of depending on his own efforts.

This conclusion depends on the assumption that reliance on the State always saps the vigour and enterprise of individuals: for on the supposition—perhaps a wild one—that the individuals would work as hard and zealously when the State supplied their physical necessities as they do when dependent on themselves for the means of life, the State might continue to support them constantly without serious loss. Without urging this view, we may notice that there is no certainty that State-support must necessarily sap individual vigour. If sufficient food and warmth comprise the whole of any man's ambition it may act in this way; but if he desires anything else,—leisure or amusement or self-improvement of any kind, he will still have a reason for doing his best, even if the compulsion of physical necessity be removed. Supposing the attractions of culture were more generally perceived by the fact that possibilities for such enjoyment were brought within the reach of the mass of the people, there might be an attractive stimulus to vigorous labour

which would be far stronger than the compulsion of poverty: indeed it has always been held by moralists that an attraction which stimulates a man's aspirations and ambitions acts far more powerfully than a necessity which compels him to work for bare life: besides, extreme poverty may render a man reckless and hopeless rather than diligent. Indeed there are many cases where the want of sufficient food and warmth renders men physically incapable of getting through as much work as they would otherwise do, and in such an instance there is some difficulty in contending that a State-supply of sufficient food would render the man a less efficient worker permanently, and that the weakened moral effort—owing to reliance on the State—would not be counterbalanced by increased physical vigour.

If these points appear to be fanciful, we must remember that they cannot be waived in serious discussion in the present day, and that they are urged by men who hold to them firmly. If we are to lay down as an axiom that the State shall not supply the people with necessaries of life but should teach them to rely on themselves, we must show that the forces which compel to work are more powerful than those which attract and stimulate to work, and that the energy of those who rely on State-help is necessarily sapped. With the case of free-schools in America before us this is a hard matter; but at any rate we may note that the principle assumes a certain effect on human character as necessarily following from a given course of action; and we may remember that this is a kind of argument in which as we have seen above (p. 130) a very great amount of uncertainty is involved. We may therefore urge that the principle that the State should not supply individuals with the necessaries of life must

—in England—be taken subject to limitations, and that even thus the maxim depends on certain changes in human character which render it of somewhat doubtful validity.

We need not however go to the opposite extreme and urge that the State should try to make everybody comfortable all round in the firm faith that all would be more vigorous and diligent,—as some of the supporters of the Irish Land Bill seemed inclined to maintain; this, to put it mildly, is at least as uncertain as the proposition we are discussing. But we may urge, that general objection to the State-supply of necessaries is not so absolutely conclusive as to justify us in at once condemning a measure which involves something of the sort: we cannot prejudge the matter by this principle, but must take the case on its merits: it is because we value individual effort and desire to see it stimulated to the highest degree that we refuse to accept a doctrine which seems to imply that it can only be stimulated by having a burden cast upon it. May it not sometimes be called forth in greater vigour when it is met half-way by the State?

(γ.) The remaining suggestion is that the State should avoid infringing the moral responsibility of individuals: that individual judgment must have free play, and individual responsibility for the results of one's conduct. This was the line taken by the opponents of the Plimsoll legislation; they held that the shipowner was the person who could really see to the condition of his ship effectively, that the intervention of an inspector might only mean a divided responsibility, and thus introduce new dangers instead of curing old ones. Sir Charles Adderley stated the line taken in the Bill of the Government as

distinguished from that of Mr. Plimsoll by saying they desired to define the responsibility of shipowners, while Mr. Plimsoll's bill made State officials responsible.<sup>1</sup> Mr. Goschen in his Edinburgh address<sup>2</sup> has put forward a similar opinion in a general form, and complained of the substitution of a general for an individual conscience as one of the great evils of a departure from a judicious policy of *laissez faire*. But before we allow ourselves to be carried away by what is doubtless an effective argument we must ask how far is this valued individual responsibility a real one. To take the case of the shipowners we must notice that not only is the pressure of responsibility removed by the terms on which insurance can be effected, but as Mr. Chamberlain pointed out in his conference with the shipowners at Newcastle,<sup>3</sup> there are innumerable ways in which the State relieves the owner of a part of the pressure of his cares, by providing pilots, and through the terms in which his responsibilities are defined by statute. It must be a question in any given case whether individual responsibility—in this trade—is really effective or whether it is already so divided and weakened as to afford no sufficient security for the good conduct of business. And it would appear that in those cases of regulating mines and merchant shipping and so forth in which this argument has been used most strongly, public opinion has rightly or wrongly come to the conclusion that individual responsibility has proved an insufficient safeguard.

We need not underrate the importance of any of the considerations thus urged by those who have proposed one or other canon for the limitation of State action: it is a pity to define the kind of bargains men may make with one another as there is a danger of compelling them

<sup>1</sup> 3 *Hansard*, ccxxvi. 140.

<sup>2</sup> 2d Nov. 1883.

<sup>3</sup> 16th Jan. 1884.

to forego an arrangement which would have been satisfactory to each: there is a danger of undermining self-dependence by supplying support to the poor, as was done by the allowance system; there may be a danger of unduly lessening individual attention to safeguards: but none of these dangers is so decided or so incapable of being outweighed by other advantages as to justify us in refusing to entertain a proposal because it appears likely to bring one or other of these consequences in its train. We must discard such general maxims and claim our right to discuss each case on its merits.

44. Thus far we have seen the character of State interference, it is *moral*; and we have found that no hard and fast rule can be laid down as to the *measure* of interference that is wise; but a few words must be added in regard to the *manner* in which it is attempted.

*a.* Of course the simplest case of all is *compulsory* legislation which inflicts punishments on all individuals who do not take a certain course of conduct: the Education Act gives a capital instance of this, together with the institution of visitors to be the compelling force. The history of the Factory Acts shows that in legislation of this kind there may be great difficulty in setting the law in force. We might thus divide compulsory legislation into classes according as the ordinary tribunals served for the enforcement of the law, or as the State had to take more special action.

*b.* In recent years however we have had a great deal of *permissive* legislation, and in many cases it has been strongly objected to as of no practical value. The

Agricultural Holdings Bill was a case in point : such laws it is said give no real protection to those who need it, and do no good ; while they formulate a scheme of relations between individuals, when these had far better frame their own scheme for themselves. This criticism seems to neglect the indirect educative influence which a statute may have in forming public opinion. It is much to have it put on record that certain modes of dealing are desirable, even though little comes of it at first : it enables the government to measure how far compulsion is necessary or how far the voluntary arrangement of landlords and tenants can be trusted ; and it also gives opportunities of judging whether the precise requirements of the legislature are those it is best worth while to render compulsory on all. Permissive legislation of this kind may be considered as *tentative* legislation, and as useful in cases where the public judgment is not so fully informed as to justify compulsion.

There are also cases of permissive legislation when the State transfers the responsibility of directly exercising compulsory powers. Mr. Cross's Artisans Dwelling Act was of this character, as it enabled corporations—at their discretion—to exercise somewhat stringent powers in cases that seemed to them to call for their action on sanitary or other grounds. Of course the central government cannot pretend to sufficient knowledge to exercise such control directly : by enabling local authorities to act in the matter much may be accomplished.

c. We have had other Acts that were intended to *encourage* individuals to take a definite line of action : all the old grants of bounties on any article of production or export may be regarded in this light. Nor have such

encouragements entirely ceased since the legislature has given over directing the application of capital. Mr. Gladstone's Friendly Societies Bill of 1866 was specially designed to encourage saving, by giving a better security than private societies could offer. The Education grants together with the elaborate system of inspection through which they are administered may be taken as another case in point: they undoubtedly called forth a large amount of private energy in connexion with education, and have also enabled Government to assume a practical control of all the voluntary schools in the country. Where such a system can be effectively worked the State may be able to call an enormous machinery into operation, and exercise a vast influence on its working at a comparatively small public cost.

*d.* There is still one other manner of interfering which demands our attention: and this is the case of *experimental* legislation: where trial is made for a short time, or in a limited area, with the view of acquiring more information for more general legislation. A very great part of the industrial and social enactments of the sixteenth, seventeenth, and eighteenth centuries was of this character. The celebrated Statute of 43 Elizabeth, with reference to the Poor, was only a temporary enactment at first, and very many of the laws protecting certain industries, or regulating the methods on which they should be conducted were of a similar type. Bounties were arranged for a time or restrictions were imposed with the view of seeing how they worked. So long as interference with the course of trade was a normal occurrence, comparatively little evil would result from the intervention: but circumstances are entirely altered now. The slight changes in the

incidence of taxation levied for revenue purposes are recognised as an evil, and it would be hardly possible to enforce temporary or local regulations without distorting the course of trade and thus rendering the whole experiment untrustworthy. Nor is the least difficulty that which must arise after the experiment has been made and its results have been noted, for then we may still be at a loss as to the true interpretation of these results.

Legislation must of course be based on empirical knowledge, but this knowledge may be most truly derived from observation of occurrences, the issues are too great and important for us to handle them in experiment.<sup>1</sup> The better method of attempting to acquire experience is by tentative legislation which permits and enables individuals to pursue a certain course if they are inclined. We shall thus see the plan tried fairly—because willingly: we shall know how it acts under the most favourable circumstances, and we shall know what defects demand a remedy; and this without dislocating the ordinary course of business or introducing a new element of uncertainty into the conduct of trade.

<sup>1</sup> See however the argument in favour of direct experiment in legislation by the late Professor Jevons, *Contemporary Review*, Jan. 1880.



## CHAPTER II.

### LAWS DIRECTLY ECONOMIC.

#### 1. *National Vigour.*

45. THE different parts of our economic organism are so inter-connected, and their functions are so closely allied, that any classification is likely to appear arbitrary. Since however some grouping is necessary, the attempt must be made; and a few words may be introduced here with the view of rendering the scheme which has been adopted at least intelligible.

The older English economists were agreed in regarding a vigorous population as the most important condition for the material progress of the nation; and it was not till the Malthusian doctrines had taken a firm hold on the public imagination, that attention was diverted from a care for the condition of the people to calculations as to the increase of their numbers. There are plenty of indications, however, in medical discussions of the alleged deterioration of the race, and in the constant complaints as to the stamina of our recruits, that the question of the effectiveness of our population for industrial or military pursuits is once more attracting the attention it deserves. This is a wide subject and it will be convenient to consider under this heading, only those measures which were directed against mischiefs that were clearly sapping the

strength of a larger or smaller portion of the population: those enactments which dealt with risks to life or limb are more properly regarded, not in connexion with the effective force of the nation, but in their bearing on the social status, and standard of living of those who are exposed to such dangers. The treatment of them is therefore postponed to the next chapter, as they have more bearing on the social condition of some class of citizens, than on the ability of the population to carry on industrial undertakings, and the effectiveness of national labour.

In criticising the principles of these measures it is most interesting to follow closely the discussions which actually took place on the subject while they were passing through Parliament, and occasionally to notice the modifications which they underwent before they became law. It is curious to notice too the names of the members who have contributed from time to time to the effective discussion of economic questions and to see how far the principles advocated above have already been implicitly accepted by the leading politicians of both political parties.

46. The last great battle on the subject of Factory Legislation, and discussion of the justifiability of such restrictions occurred in connexion with Mr. Cross's Bill of 1874.<sup>1</sup> This measure reduced the hours of labour to 56 hours in the week; but, as Mr. Cross contended in introducing the bill, it only carried out the principles which had been admitted in all previous legislation, for it was based on sanitary and educational grounds. "He believed that the women who worked in these factories—and any

<sup>1</sup> 37 and 38 Vict. c. 44.

one who looked at the records of what took place in former years would come to the same conclusion—had materially suffered in health by going on year after year and generation after generation working in the factories, and that in the long-run, if it had not been for the Factory Acts the women and children of this generation would have materially deteriorated.”<sup>1</sup> The fact may certainly be admitted, indeed the chief difficulty seems to be to prove that even with the protection afforded by the Acts the Factory population is not deteriorating.<sup>2</sup> But it is somewhat curious to notice the hesitation with which Mr. Cross speaks of the economic character of the Acts. From our point of view a measure which maintains the vigour of the English population is, on the face of it, in accordance with the true principles of National Husbandry : but Mr. Cross could only say on behalf of his bill that it “ would infringe no principles of political economy further than they had already been infringed by the operation of the Factory Acts which had received the assent of the Legislature.” The attitude which was thus adopted by the advocates of the measure, was curiously reflected in the position of such of its opponents as endeavoured to take a stand on the principles of political economy. The chief ground of complaint was that the Act would indirectly and unnecessarily limit the hours of male labour, while the arguments with which it was supported referred only to women and children. Mr. Fawcett appeared to take the line of maintaining that the older Factory Acts had been exceptional, and that whatever might be the case at the time they were passed it was unnecessary to repeat similar legislation when the artisans

<sup>1</sup> 3 *Hansard*, cccix. 1419.

<sup>2</sup> Hyndman, *Historical Basis of Socialism*, 368.

had been enabled to secure their position by the withdrawal of the legislation which put their unions at a disadvantage. He argued<sup>1</sup> that if the change was worth having, the artisans should get it for themselves, as they had "proved in a hundred hard-fought industrial contests that they were perfectly competent to protect their own interests." He seemed to fear too, that there would be serious dangers if industrial questions were fought out on political fields, and at polling booths. He dreaded the effect of the numbers of artisan voters on the decision of such issues: whereas "if industrial questions were settled as they ought to be by a fair stand-up contest between capital and labour, capital, though not numerically stronger, had great resources and could defend itself;"<sup>2</sup> and hence he argued that for the State to take the matter up was certainly unnecessary and might be positively dangerous. To many people in the present day it would seem advantageous that the struggles between capital and labour should be settled in an arena of public discussion, rather than by a resort to force on either side,—with all the bad feeling and terrible misery thereby entailed. From the point of view we have taken, the curtailment of hours of labour, which are so prolonged as to injure the vigour of any considerable section of the population, is a matter of national importance, and therefore one in which the State may with propriety interfere.

A more interesting question, however, was raised by Mr. Holms, who argued that though regulation and inspection were necessary in many industries, *e.g.* the manufacture of machinery, india-rubber, paper, glass, tobacco, and printing and bookbinding establishments, it

<sup>1</sup> 3 *Hansard*, cexix. 1422.

<sup>2</sup> *Ibid.* cexx. 315.

was unnecessary to legislate for women as a class: "He ventured to say that women employed in factories were as independent and as well able to look after their own interests as any class of working people,"<sup>1</sup> and he asked whether "in interfering with the labour of adult women they might not be interfering with that freedom of action which was the boast of this country." The argument for non-interference with the condition of employed men, had been rested on the political status of artisans, and on the power they had shown of uniting for common objects: but in 1874 there were few if any women's unions, and their political disabilities rendered it reasonable to treat them differently from male operatives. There was therefore much force in Mr. Cross's contention that "a great number of these women were not free agents in this matter. They were to a great extent under the moral compulsion to support their families, and under the natural compulsion which was exercised by their husbands to go to work in factories."<sup>2</sup> Mr. Mundella's practical experience induced him to speak strongly on the same side<sup>3</sup> as well as Mr. Stanhope.<sup>4</sup> There may of course be people who hold that the right course is to give the woman the same political status as the man, and then trust to her protecting herself, but it may be doubted whether she would not even then find that the readiest means of protecting herself was by securing the enactment of measures very similar to Mr. Cross's Bill.<sup>5</sup>

When the expediency of State intervention, not only on behalf of children but of adults, had been thus established, the question remained as to the practica-

<sup>1</sup> 3 *Hansard*, ccxx. 303.

<sup>2</sup> *Ibid.* ccxix. 1419.

<sup>3</sup> *Ibid.* ccxx. 316.

<sup>4</sup> *Ibid.* ccxix. 1432.

<sup>5</sup> Cf. Mr. Baxter's figures, *Hansard*, ccxix. 1441.

bility of limiting the hours of labour further without driving manufacturers' capital to other countries. Special attention was called to the position of the Irish linen trade,<sup>1</sup> and an effort was made to allow the continuance of the longer working hours in the sister island: but the exemption was rejected: and the effort to omit so much of the measure as related to the length of hours, because of the danger of foreign competition, was not successful. Mr. Baxter alluded judiciously to the precisely similar fears which had been universally expressed at the time of the passing of the Ten Hours Bill, and which had been falsified by the course of events. He urged that foreign competition should be met by "reducing the hours of labour for our population." He argued from recent experience at Arbroath<sup>2</sup> that a voluntary reduction of three hours in the week had hardly reduced the production at all, and commented on the serious strain which increasing mechanical improvements put on the powers of the operatives.<sup>3</sup> This latter point was insisted on at some length by Mr. Mundella, who further quoted Mr. Hugh Mason's experience that "after he had reduced the hours of labour without adding a single revolution to the speed of his motive power, he had not turned out a breadth less in the year after he had made the change as compared with that which preceded it." There is an amount of tension which the human frame can bear, and to prevent men from going beyond it was really to establish the textile industries of Great Britain on a far firmer economic basis.

#### 47. The discussion of the *Factory and Workshops Act of*

<sup>1</sup> Mr. Mulholland's Amendment on Clause 4.

<sup>2</sup> 3 *Hansard*, cccix. 1444.

<sup>3</sup> *Ibid.* cccix. 1441, 1459.

1878<sup>1</sup> was one of considerable interest, as it showed clearly how far the principles which had been accepted in 1874 had gained ground in the interval. The bugbear of foreign competition was hardly raised, for as Mr. Mundella pointed out, our example had been followed by the laws passed in Belgium, Switzerland, France and Germany restricting the hours and ages of factory employment.<sup>2</sup> Nor was the question of the advisability of interfering with the labour of adult women revived: the only point raised in this connexion was as to the consistency with which the principle adopted by the framers of the Bill has been carried out. The O'Connor Don<sup>3</sup> recognised that the intention of the measure was "that restriction upon the labour of adult women could only be justified by its being shown, that the work in which they were engaged without restriction was injurious to health, and that they should not, for mere uniformity sake, interfere with that work unless injury was proved"—a line of distinction which seems exceedingly clear, and is in complete agreement with the general principles laid down above (§ 37).

48. The question of the housing of the poor has come so prominently before the public of late, that there is much interest in examining the principles which guided the action of Parliament at the time when Mr. Cross's Bill<sup>4</sup> was under discussion. The lines which he laid down in introducing the measure commanded on the whole the assent of Parliament. The economic grounds on which he advocated the interference of Parliament were similar to those on which he had dealt with the Factory

<sup>1</sup> 41 & 42 Vict. c. 16.

<sup>3</sup> *Ibid.* ccxxxvii. 1475.

<sup>2</sup> 3 *Hansard*, ccxxxvii. 1469.

<sup>4</sup> 38 and 39 Vict. c. 36.

question in the previous session. "There is a maxim which is as true of nations as of individuals—that health is actually wealth."<sup>1</sup> With this object in view he indicated the principles of action which should be adopted: "I take it as a starting-point that it is not the duty of the government to provide any class of citizens with any of the necessaries of life, and among the necessaries of life we must include that which is one of the chief necessaries—good and habitable dwellings. That is not the duty of the State, because if it did so, it would inevitably tend to make that class depend, not on themselves but on what was done for them elsewhere, and it would not be possible to teach a worse lesson than this—that 'If you do not take care of yourselves, the State will take care of you.' Nor is it wise to encourage large bodies to provide the working classes with habitations at greatly lower rents than the market value paid elsewhere. Admitting these two principles of action, . . . and looking at this question as a matter of sanitary reform, there is much to be done by the legislature, not to enable the working classes to have houses provided for them, but to take them out of that miserable condition in which they now find themselves—namely, that, even if they want to have decent houses they cannot get them."

The verbal distinction which was thus drawn served on the whole to disarm criticism at the time with the exception of that which is to be found in Mr. Waddy's two speeches; and the bill was certainly an honest attempt to give it a meaning. It seemed that the ratepayers might profitably provide better dwellings for the poor at their own expense, trusting that the saving in their gaol, hospital, and asylum expenses would cover the loss in-

<sup>1</sup> 3 *Hansard*, ccxxii. 100.



curred in providing better dwellings. In this way it seemed that a supply of houses would be forthcoming—but that it would not be provided out of charity but by far-seeing ratepayers who meant to benefit the ultimate financial condition of their town, and that the boon would therefore not be pauperising.

Such a scheme is economically unassailable in its broad principles, and it was to some extent based on the actual experience of Glasgow, Liverpool, and other towns: it was therefore an effort to render generally available the methods that had already answered, at least to some extent. The really strong criticism that was urged against the measure, and that subsequent discussions have confirmed, was the fact that in the effort to make the scheme perfectly safe, it had been rendered too narrow to do its work effectively. The providing of better dwellings would be undertaken where the ratepayers saw they could indirectly make it pay: but supposing they could not make it pay? or at least did not think they could make it pay? Mr. Waddy doubted whether the representations of the medical officers would really move the vestries and other bodies to act in the matter, and held that in all successful efforts to render the housing of the poor profitable, the thing had been done by ousting the lowest class and providing accommodation for a different class paying a higher rent. In Glasgow the rents in the new houses were 20 per cent. higher than those in the old ones, and thus the new accommodation was beyond the means of those who inhabited the old dens.<sup>1</sup> He therefore insisted that the problem must be treated on “principles of philanthropy”<sup>2</sup> and recourse had if necessary to Imperial taxation for the purpose.<sup>3</sup> This of course directly tra-

<sup>1</sup> *3 Hansard*, ccxxii. 346. <sup>2</sup> *Ibid.* ccxxii. 113. <sup>3</sup> *Ibid.* ccxxii. 348.

verses the first of Mr. Cross's guiding principles, but as a certain amount of public opinion would now advocate the course thus proposed it seems to demand careful attention.

The intervention of the State in such a matter if undertaken on philanthropic as opposed to economic grounds would be advocated because the evil of overcrowding was a great one that ought at any cost to be removed: but before we assent to this view of the duty of the State, we must ask ourselves carefully how far any one measure can be expected to remove the evil, or only to relieve the pressure for a time. If it could be shown that State intervention would really at one stroke sweep away the abominable dwellings for ever and enable everybody to have decent houses to live in for the future, the argument for such intervention would be very strong: but if the action of the State would only succeed in relieving the present generation to some extent, while the causes which produced overcrowding in the past would still be at work to bring it in again after a few years, the case is very different. We are then calling on the State not for a donation, but for a subscription to be repeated at longer or shorter intervals; and the argument that the calls on the State would become more frequent and the people more dependent on its aid has considerably greater force. In the case of the freeing of the negroes from the West Indian planters, one payment was sufficient to grant the race liberty for all time: it was a donation and could not become a precedent for other calls of exactly the same kind. But State benevolence<sup>1</sup> in housing the poor might be claimed over and over again, for one town after another, and even as Mr. Waddy argued for one village after another; while unless

<sup>1</sup> See above, p. 140.

it were accompanied by preventive measures the process might have to be repeated with every new generation. In these circumstances it appears that to commit the State to a philanthropic effort to relieve this evil would be a dangerous course.

On the other hand the State may be called on to intervene for economic reasons. It may be said that the saving of life and health would be so great that the national vigour would be immensely increased if the people were better housed: this would lead directly to a saving in the maintenance of hospitals, workhouses, and asylums. As a further effect it might be hoped that the better accommodation would remove much of the temptation to immorality and crime, and that we should have an additional saving on the items of police and prisons. From all this it may be argued that the saving to the State would be so great that the expense of housing the poor may be undertaken as a profitable outlay. Though it might not pay directly, nor in a generation, yet it would possibly do so indirectly and in the long-run.

It is most important that we should understand on which of these grounds—philanthropic or economic—State action in this matter is advocated; the latter line of argument may not perhaps be wholly convincing but it is more forcible than the former. The advocate of philanthropic action is bound to devise supplementary preventive measures which would hinder the evil from recurring; the advocate of economic action is bound to frame detailed schemes where the probabilities of ultimate saving shall be calculated out as accurately as may be.

With regard to the further question which Mr. Waddy raised as to whether the work should be undertaken out

of local or imperial taxation, the philanthropist would probably reply that he could not trust to the generosity of the vestries,<sup>1</sup> whose main object often was to save the ratepayers' money, and that the State should be called on to defray this expense from its larger resources; and it has been argued that the health of all the citizens is a national gain for the sake of which demands may be fairly made on the national resources. But just because the imperial funds are so large, and the difficulty of checking additional expenditure is so great, there is a greater danger of pauperising the nation when demands are made on the imperial treasury than there would be if appeal was always directed to local authorities.

The economist on the other hand would feel that local authorities have the special knowledge necessary to seize the best opportunities and to carry out the intended improvements at far less expense than the central government could do. He would also note that the most glaring evils of overcrowding occurred in growing and prosperous localities, and that it would be unfair to make the inhabitants of rural towns and decaying villages contribute to remedy the evils which had appeared in cities that had risen into wealth and power through their fall. As it had chiefly occurred as a local evil in rich localities the difficulty should be met from local funds by local administrators. Besides it may be argued that the expected savings would be made not so much in imperial as in local expenses.<sup>2</sup> Poor rates for workhouses and asylums, subscriptions to hospitals, and the greater part of the expenses connected with the punishment and

<sup>1</sup> 3 *Hansard*, cxxii. 112.

<sup>2</sup> If however the imperial subvention for local expenditure were largely increased this argument would be reversed; see debate of 28th March 1884.

detection of crime fall on English citizens, not as citizens, but as inhabitants of a given locality; and it is only right that those who would receive the ultimate and indirect economic gain should be charged with the initial expense. On all these grounds the economist would prefer to see this evil taken in hand by local and not by central authorities, at local not imperial expense.<sup>1</sup>

So far the Act of 1875 was drawn on principles which seem to be justified on economic grounds: the chief defect, and one which has rendered the measure much less operative than its authors hoped, was pointed out by Mr. Fawcett<sup>2</sup> during the debate on the motion for going into committee:—

“The Bill said that the owner of a house must be compensated at the market price of his property, and he was informed by competent authorities that in calculating the market price, an element which they would have to take into consideration would be the income which the house was yielding at the present time. Now it was perfectly notorious that the more disgraceful, the more overcrowded, and the more deficient was the state of many of these houses, the larger was the income they yielded; and the ratepayers would therefore see their money lavishly paid to owners who had allowed their property to fall into such a condition that it had to be condemned as unfit for human habitation. He was told that ominous rumours were spreading of the purchase of this class of property by house speculators in the hope of getting large compensation under this Bill. Fifteen ratepayers and therefore fifteen owners of these tumble-

<sup>1</sup> Another phase of this difficulty as between the localities and the Metropolis of the whole was discussed in connexion with Mr. Shaw Lefevre's Bill in 1882.

<sup>2</sup> 3 *Hansard*, ccxxiii. 41.

down habitations could set in operation this Act, under which their property would be bought at the full market price by the local authorities. He believed that if the right hon. gentleman would consult the local authorities, he would receive from them but one opinion—that the principle of compensation adopted in the Bill involved so much cost as to make it highly probable that it would produce but little beneficial effect.” Now though Mr. Cross added a clause in committee in the hope of guarding against these anticipated evils,<sup>1</sup> Mr. Fawcett’s prediction has been confirmed, and the measure has proved to a great extent a dead letter.

49. This has also to some extent been the case with the Act of 1868, which was in some respects far more sweeping than that of 1875 : it was intended to provide a means by which the local authorities—or if necessary the Secretary of State—should on the complaint of an occupier and report of the Local Medical officer compel the owners of houses to put them in good condition at their own expense or to demolish them.<sup>2</sup> All sorts of difficulties have been found in working this measure, partly because it was itself defective, partly it is said because the members of local boards are often interested as individuals in property which would be condemned under the Act ; and partly because the property is held by so many different persons that it was almost impossible to assign the proportions of expense which each ought to bear. This Act however embodied the sound principle that if houses are unfit for human habitation, the owners should be entitled to no further compensation

<sup>1</sup> 3 *Hansard*, ccxxiii. 761.

31 and 32 Vict. c. 130, §§ 12, 13, 18, 20, 23.

than the value of the materials after the expense of demolition and removal had been deducted. If the Act of 1868 were well carried out and houses duly scheduled for demolition unless the owners chose to render them thoroughly satisfactory, the question would be greatly simplified. There would be no need for any sudden action, but if the owners of such scheduled houses were treated as having no legal right of enforcing the payment of rents, there would be comparatively little difficulty in acquiring the property at a "reasonable" price. It is inconsistent with the whole tradition of English practice that while the dealer who sells unwholesome meat is liable to punishment, the landlord who lets unwholesome houses should be supported in his extortions and ensured against loss: and in future action in the matter the methods of 1875 might be followed but the compensation allowed on the principles of 1868.

Another most important step was taken by Mr. Cross in 1874 in connexion with the Midland Railway Bill. A standing order was subsequently introduced which has in the present session proved fatal to the Bill for a new railway route to Brighton. It compels those who demolish the dwellings of the poor and clear large spaces for great industrial undertakings to provide new houses for those who are thus displaced: and thus put a stop to what had been the most fruitful source of the evil.

It may indeed be questioned whether it would not be possible to go further, and not only compel companies to abstain from reducing house accommodation, but compel them to provide suitable dwellings for their own employés. They could create villages for their men at some little distance from the terminus and provide the means for bringing their engine-drivers, guards, and porters to their

work with far greater ease than other employers of labour, and therefore it might be worth while to attempt a beginning, in this matter, with them.<sup>1</sup> At the same time there is no reason why it should stop with them; large employers of labour might not unfitly be called on to see to the housing of their men, by providing good accommodation for the average numbers, as shown by their books, in their employ. In many cases there would be a distinct advantage to them in having the labourers thus grouped within reach, while with the present status and power of organisation which labourers possess there would be little danger of their suffering oppression, such as farm labourers have often felt, from the additional power which an employer possesses when he is also a landlord and can reduce the pay of his labourers by raising house rents.

50. The necessity of making some provision for the supply of additional house-room for the poor led to the passing of Mr. Torrens's Artisans Dwellings Act (1868) Amendment Act in 1879.<sup>2</sup> The Act of 1868, in the form in which it passed, had been chiefly a street improvement measure: in one district "three years and a half had been spent in pulling down one fifth of the premises without even beginning to rebuild, and in negotiating about freeholds and leaseholds while the plight of the wretched people was necessarily made worse than ever."<sup>3</sup> By giving the vestries powers to rebuild as well as to demolish it was hoped that the demolition of rookeries might proceed more rapidly and without the increasing misery which was induced by pulling down bad houses

<sup>1</sup> Devas, *Groundwork of Economics*, 409.

<sup>2</sup> 42 and 43 Vict. c. 64.

<sup>3</sup> 3 *Hansard*, cexlv. 1938.



before better ones were provided. It thus appears that the really pressing question is not whom shall we make responsible for the expense of removing insanitary houses, but the far larger one, who shall be responsible for providing accommodation in which the people shall live with a prospect of enjoying reasonable health. But even so, the question need not be taken out of the range of measures affecting national vigour, and may be argued as an economic, not a philanthropic question.

The measures which have been passed avowedly for improving the Public Health seem hardly to require any comment here: Mr. Sclater Booth's Bill in 1875<sup>1</sup> did little more than consolidate existing Acts; and that of 1882<sup>2</sup> only extended it with reference to the condition of Hop-pickers.

## 2. *National Administration of Capital.*

51. Under this heading a very considerable number of measures must be discussed. We must note the national employment of capital which has taken place by the investment of £4,000,000 in the Suez Canal, and through the State undertaking to carry on a parcels post: we must also try to discuss the effect which recent legislation has had in determining the direction of private capital, either by giving greater facilities for the investment of capital in certain employments, or by rendering certain undertakings more attractive by making them more profitable: but this large subject cannot be discussed at all fully in our limited space, and it is therefore necessary to omit all examination of the various budgets and of the effects on the employment of private capital which may

<sup>1</sup> 38 and 39 Vict. c. 55.

<sup>2</sup> 45 and 46 Vict. c. 23.

have been brought about by changes in the incidence of taxation.

52. The Suez Canal has been a remarkable enterprise in many ways, but chiefly because it has furnished the first instance of one of the world's highways falling into the hands of an association of private individuals: the peculiarities of the situation have become more striking since England, by the purchase of the Khedive's shares, became an important partner in a French commercial undertaking. The intentions of those who carried out this transaction<sup>1</sup> were fully explained by Mr. Disraeli. "We purchased them (the shares) from high political considerations; and had it not been for these considerations, we should never have entered into these negotiations. But having bought these shares, it became our duty to make every arrangement and take every precaution that the country should not be financially and commercially a loser."<sup>2</sup>

How far the political object was a wise one, and how far it was promoted by entering into partnership with the owners of the Suez Canal we need not discuss, for to do so would take us beyond the economic principles with which we are dealing. But supposing for the sake of argument that the policy was wise, no real objection can be brought against the step of promoting the political interests of the country by this unusual method of investing national capital in a commercial undertaking.

It was of course argued that financial mistakes had been made in the actual purchase of the shares,<sup>3</sup> but if this was so it was a blunder in management, not an error

<sup>1</sup> 39 and 40 Vict. c. 67.

<sup>2</sup> 3 *Hansard*, ccxxxi. 852.

<sup>3</sup> Mr. Rylands, 3 *Hansard*, ccxxxi. 836.

in principle : and financially the purchase has turned out better than appeared likely at first, as the additional strength the enterprise has received from the possession of such a wealthy partner, or the constant growth of trade has rendered it a very successful canal, a share in which is of far greater value now than in 1876.

On the other hand the criticism of the shipowners, who held that we were most insufficiently represented among the Directors, appears to have been justified by after events. It may be questioned whether any advantage has accrued to our commerce from our partnership in the canal, and great difficulty has been found by the government in trying to secure favourable terms for our shippers.<sup>1</sup> But striking as the transaction was from its very magnitude, it is of comparatively little importance from our stand-point, as it was so unique in character that it is most difficult to interpret the precise economic principles it involved.

53. The most recent assumption of commercial functions by the State occurred when Mr. Fawcett arranged for the introduction of a Parcels Post.<sup>2</sup> We have already had sufficient experience of the convenience it affords for national and international communication to feel that the step has been justified by its result. Considerable difficulty had been found in convincing all the railway companies that it was for their advantage to adopt the new scheme, but after an immensity of labour it has been brought into operation. Mr. Fawcett has so often led the opposition to State interference, that the

<sup>1</sup> See the debate on Sir Stafford Northcote's motion regarding negotiations with the Suez Canal Company, 3 *Hansard*, cclxxxii. 962 f.

<sup>2</sup> 45 and 46 Vict. c. 74.

fact that he introduced the bill probably disarmed much of the opposition which might have arisen; though it did not pass without a protest from Sir John Lubbock, who felt "very strongly against the general principle of allowing governments to undertake business for the sake of profit."<sup>1</sup> The supporters of the measure would have argued that the competition of the existing Parcels Delivery Companies would prevent the State from making any unfair use of the advantages they possessed. Those interested in the Parcels Delivery Companies feared that these undertakings would be ruined,<sup>2</sup> and even hinted at claims for compensation:<sup>3</sup> but there are no signs as yet that the State has secured a monopoly or that there is any danger of the business being conducted otherwise than in the interests of the public. It seems to be generally felt that there are great practical advantages in having this public service undertaken by public servants; in a large number of districts one or other carrying company was in possession of a practical monopoly, even though there is plenty of effective competition at most of the great centres of population; and there was sufficient excuse according to the principles stated above (§ 38) for trying whether the public would not be better and more cheaply served, when this business was carried on under the management of a public department.

54. *The Seed Supply Act*<sup>4</sup> was an instance of the application of national capital to productive employment. The grave agricultural distress in Ireland in 1879 had left many unfortunate tenants without any means of procuring seed; and it was determined to grant £500,000 out of

<sup>1</sup> 3 *Hansard*, cclxxii. 2115.

<sup>3</sup> *Ibid.* cclxxiii. 1347.

<sup>2</sup> *Ibid.* cclxxiii. 871.

<sup>4</sup> 43 *Vict.* c. 1.

the Irish Church Fund for procuring them seed. Nor could this be regarded as a mere measure of temporary relief, as there was every reason to believe that new and more vigorous varieties of the potato plant might have a greater immunity from disease in the future, and that this opportunity of introducing really good varieties should not be lost. The proposal was therefore made, and it was taken up by the government of the day, not so much with the view of aiding distressed individuals, as for the sake of increasing the future prosperity of the country by a comparatively small immediate outlay. It did of course confer an immense boon on the individuals who were permitted to take advantage of it, but their relief was not the primary object of the measure; though there was a good deal of discussion on the question how far these advantages might be extended, as it was obviously unnecessary to give a supply of seed to men who were so well off as to be able to buy really good seed for themselves. On this point Sir Stafford Northcote said "it would no doubt be a most advantageous thing for Ireland if they could supply the whole country with a fresh stock of seed. . . . It must . . . be borne in mind that the effect of purchasing large quantities of seed to be sold to the purchasers on extremely lenient terms, must be to considerably increase the price of seed to other persons. . . . They knew what they were now proposing to do for the smallest class of owners, and to carry that undertaking further than the real necessity of the case demanded was to incur a very serious responsibility indeed."<sup>1</sup>

55. The *Relief of Distress (Ireland) Bill*<sup>2</sup> was conceived in a somewhat similar spirit though it endeavoured to

<sup>1</sup> 3 *Hansard*, ccl. 655.

<sup>2</sup> 43 Vict. c. 4.

provide present relief and permanent gain by somewhat different means. Boards of Guardians were empowered to borrow for the purpose of granting out-door relief to able-bodied persons : loans might also be granted to the sanitary authorities and to landlords for executing works and thus employing labourers, while similar schemes might be undertaken by the baronial presentment sessions. No objection was taken to the principle of the measure ; though the loans were to be granted on exceptionally favourable terms, and a public fund was to be held responsible for the difference between this low interest and a market rate. The objection taken was not as to the principle of granting this public subvention under the circumstances, but as to the fund which should bear the expense. Mr. Synan<sup>1</sup> and several Irish members contended that it should be defrayed from the imperial treasury and not from the Irish Church Fund—a contention which is difficult to justify on the analogy of the case discussed above, (§ 48) and which hardly seems consistent with the view of the political relations of England and Ireland which these members commonly advocated.

56. In passing to consider those measures which affected the direction of private capital we may first notice a group of enactments which were intended to lead to the application of additional capital to land.

The *Leases and Sales of Settled Estates Act*<sup>2</sup> was intended to simplify the existing machinery by which leases and sales could be effected. The Court of Chancery often required to secure the formal concurrence of many people who had no substantial interest in the matter but whose

<sup>1</sup> 3 *Hansard*, col. 535.

<sup>2</sup> 37 and 38 Vict. c. 33.

powers of obstruction enabled them to prevent lands from being put to the best purpose; and this Act conferred powers on the Court of Chancery to dispense with the consents of such parties. Sir John Kennaway specially argued in favour of the Bill because of its probable action in removing the obstacles which prevented a larger application of capital to the land. He considered that the miserable homes of the agricultural poor, and the inferior condition of much of our tillage, were due to the want of enterprise and capital, and that there would be a great gain in freeing "stagnant settled estates."<sup>1</sup>

A further step in the same direction was taken by the *Settled Land Bill*,<sup>2</sup> which had been passed by the House of Lords in several sessions of Parliament but which only became law in 1882. Earl Cairns stated the Bill "would for every good purpose put the limited owner of property in the position in which the owner of the fee-simple stood, and it would lead to the more easy and free circulation of land and the execution of improvements of land as if the land were owned by an owner in fee-simple."<sup>3</sup>

57. Other statutes have been passed which were intended to affect the capital supplied not by owners but by occupiers of land. The immediate object of the *Agricultural Holdings Act* of 1875<sup>4</sup> was to remedy a grievance of many years' standing. As the Duke of Richmond said in introducing the Bill, "The complaint is that there is insecurity to the tenant for the capital he has invested in the soil, which insecurity prevents the tenant from

<sup>1</sup> 3 *Hansard*, cccix. 544.

<sup>3</sup> 3 *Hansard*, cclxvi. 1077.

<sup>2</sup> 45 and 46 Vict. c. 38.

<sup>4</sup> 38 and 39 Vict. c. 92.

investing as large an amount for agricultural purposes as he otherwise would, and which therefore results in the producing power of the country not being brought up to the pitch to which it might be raised if the tenant had security for that capital.”<sup>1</sup>

In many respects this Act presents strong points of resemblance to the *Artisans Dwellings Act* of the same session: it was based on the experience of localities like Lincolnshire where “customs” had arisen, which to some extent met the evils under consideration; it was not compulsory but enabling legislation, as special care was taken not to interfere with freedom of contract; and it has to a great extent proved inoperative. At the same time it offers an admirable opportunity for discussing the value of permissive legislation, and it has had a lasting importance, as after several years’ experience of its working the provisions of the measure were, with some slight alterations, rendered compulsory: perhaps no higher praise than this can be given to any measure, nor does the fact that it remained to some extent a dead letter, show that more progress would have been made, if it had been compulsory from the first. It may at least claim to have answered in the way of helping to form public opinion and thus preparing for a more complete solution of the difficulties.

An attempt was made in drafting the Bill to limit its operation to the case of large capitalists, that is, to those cases where it was most required and had most chance of working successfully. “If the Bill is wanted at all, it certainly is not wanted for small men, because they have no capital wherewith to make improvements on the land,—they have nothing to put in the soil. But we are told

<sup>1</sup> 3 *Hansard*, cexxii. 1683.



that there are men of means and intelligence who desire to put capital into the soil for the purpose of increasing its productive powers, and my knowledge of that class of farmers certainly leads me to believe that as a rule they are perfectly competent to enter into agreements with their landlords if they are assured compensation for unexhausted improvements.”<sup>1</sup> This also seemed defensible if the measure was to be regarded as a tentative one and not as a complete solution ; but Lord Redesdale took exception, on the first reading,<sup>2</sup> to the clause which operated in this way, and it was subsequently modified and removed.<sup>3</sup>

Such tentative legislation was attacked, as might have been expected, from two different sides : by those who regarded such legislation as unnecessary and who were inclined to trust to private bargaining, and by those who desired to see a measure passed which should render compensation for improvements compulsory. The Duke of Argyll, in the striking speech to which reference has already been made (p. 146), argued that it would be a real evil to devise a particular form of compensation which should be operative all over the country where no written contract existed, since different forms of bargains might be more suitable for different districts :<sup>4</sup> the cheaper machinery established by the Bill might, he thought, be used with advantage to enforce compensation under schemes of a different type, and the practical restriction to one form of bargain between landlord and tenant seemed to him out of harmony with our national experience in the matter of State interference for economic ends, and an unnecessary limitation on individual freedom of contract.

<sup>1</sup> 3 *Hansard*, ccxxii. 1691.

<sup>3</sup> *Ibid.* ccxxiii. 1440, ccxxvi. 113.

<sup>2</sup> *Ibid.* ccxxii. 1692.

<sup>4</sup> *Ibid.* ccxxii. 942, 956.

Mr. Knatchbull-Hugessen's speech on the second reading of the Bill in the House of Commons was in part at least a reply to the contentions of the Duke of Argyll : he objected to the proposed Bill, not because it was too restrictive on individuals, but because it did not render compensation for unexhausted improvements compulsory in all cases. He argued that the competition for land was so great that there was no real freedom of contract between landlord and farmer, but that the latter was practically compelled to accept the terms which the former offered.<sup>1</sup> He urged that there could be no real objection to rendering the measure compulsory on all landlords as "compensation for improvements and increased security of tenure, meant higher rents."<sup>2</sup> Thus it was said that to render the measure compulsory could not possibly injure the landlords, while a merely permissive enactment would unsettle existing relations without really providing a remedy. "It would create expectations which it would fail to satisfy, and it would disturb a condition of things which it would do nothing to re-settle upon a surer basis."<sup>3</sup> The representatives of the practical farmers all spoke in favour of compulsion ; but at the same time the forms of their various motions showed how impossible and unjust any definite scheme for compulsory compensation would have been. Mr. M'Combie<sup>4</sup> criticised the classification of improvements with some bitterness, but seemed to think they had better be re-arranged ; while Mr. Barclay<sup>5</sup> desired to exclude all consideration of permanent improvements, and to "provide that compensation for temporary improvements

<sup>1</sup> 3 *Hansard*, ccxxv. 461.

<sup>3</sup> *Ibid.* ccxxv. 466.

<sup>4</sup> *Ibid.* ccxxv. 483.

<sup>2</sup> *Ibid.* ccxxv. 464.

<sup>5</sup> *Ibid.* ccxxv. 1668.

be imperative in all cases." Mr. Lawes's view on some points of detail was quoted by Lord Elcho,<sup>1</sup> and the result seemed to show that in the then state of knowledge no scheme of compensation could be drafted which would be really satisfactory. Indeed it was urged that the defectiveness of the suggested scheme of compensation would lead many landlords to face the obloquy which might be involved and contract themselves out of the operations of the Bill: and from some reason or other this resulted very generally. The principle adopted for the classification of improvements is inherently erroneous: permanence is after all only relative, and gives no satisfactory ground of distinction.<sup>2</sup> As Professor Nicholson says,<sup>3</sup> "When land is let for the purposes of agriculture, or of some specific branch of agriculture, absolute security should be given for the capital necessary for good husbandry; but, conversely, the tenant should have no claim for alterations which really change the character of the subject, even although these alterations may have added to the letting value." In fact if land is let for a definite purpose, the tenant should be compensated for any improvement that makes it subserve that purpose better, but never for any expenditure undertaken in turning the land to another, even though a more profitable, purpose. Such a limitation preserves the rights of the owner in their fullest sense, while giving complete security to the capital of the agriculturist.

It would certainly have been a misfortune if a very defective scheme of compulsory compensation had been enforced in 1875, but nothing has transpired to confirm

<sup>1</sup> 3 *Hansard*, ccxxv. 1701.

<sup>2</sup> Nicholson, *Tenant's Gain not Landlord's Loss*, 125.    <sup>3</sup> *Ibid.* 128.

the view of those who objected to any interference with individuals in making contracts with each other. The agricultural prosperity which Lord Elcho appealed to as showing the satisfactoriness of the existing system and the danger of tampering with it has passed away: we have seen much of agricultural distress and are all ready to admit that things are out of joint and remedies should be sought. Public opinion has grown in the direction he feared, not in that he hoped, when discussing the Bill. "I perceive in it," he said, "the germs of legislation, which must sooner or later develop into Socialism as its legitimate outcome, substituting State-help for that self-help to which in so great a measure we owe the freedom we enjoy, and which has tended so much to form the characters of our race."<sup>1</sup> These germs have not been slow to develop for good or for evil, and they have not been sensibly delayed in doing so by the maxims cited as the "canons of political economy,"—canons which Lord Elcho ventured to think would "endure long after the new-born, crude, sentimental, false philosophy has been blown to shivers and the winds."<sup>2</sup> What Lord Elcho failed to see in appealing with such confidence to these canons as the "generalised deductions of common sense from the accumulated facts of daily human life and action," was that our daily life and action change, that our economic experience is enlarged with each new year, and that just on this very account the canons of political economy necessarily change, as the experience on which they rest gives us new results. But it is interesting to note from the slight sympathy these remarks evoked from other speakers, how entirely such an attempt to prejudge a measure by appealing to *laissez faire* had become an

<sup>1</sup> 3 *Hansard*, cccxxv. 1708.

<sup>2</sup> *Ibid.*, cccxxv. 1704.

anachronism in 1875; in 1883 it had degenerated into the merest farce, and obtained no serious notice.<sup>1</sup>

The *Agricultural Holdings Act*<sup>2</sup> of 1883 was a measure which gave rise to very keen controversy at the time it was passed; but the chief interest was in regard to matters of technical detail rather than of economic principle. It followed on the lines of the Act of 1875, but rendered compensation for improvements compulsory, and adopted a new scheme for calculating the amount of compensation due. Under the Act of 1875, this was done by taking the tenant's actual outlay, and repaying him subject to a deduction for the time that had elapsed since the improvement was effected: under the Act of 1883, the value to an incoming tenant has been taken as the basis on which compensation is to be made. This obviates the difficulties which had been felt as to the classification of different kinds of improvement, according to permanence, and the impracticability of laying down a fixed rate at which each kind of improvement would presumably be exhausted. There can be no doubt that this arrangement is more fair, supposing the value to the incoming tenant can be satisfactorily assessed: but the Act by giving no guiding principle similar to that of 1875 throws a considerable responsibility on the referees and umpires by whom the claims are decided.

The most severe criticism to which the bill gave rise was directed to the point that it only gave compensation to an outgoing tenant, and did not secure the good tenant in the continued occupation of his farm. "For the tenant who is continuing in his holding there is no protection given against his rent being raised on his own improvements. In fact the Bill as it stands holds out a

<sup>1</sup> 3 *Hansard*, cclxxxii. 1803 f.

<sup>2</sup> 46 and 47 Vict. c. 61.

premium to the least deserving class of farmers,—that is to say, the quitting tenants . . . The other class—the vast majority—are the backbone of British agriculture. To deny to them the benefit of this Bill is discouraging to them, detrimental to the public weal, as gauged by this produce of the soil, and repugnant to our sense of right and justice.”<sup>1</sup> But to this point an excellent reply was made by Mr. Dodson.<sup>2</sup> “Economically the Bill does protect the sitting tenant. If a landlord proposes to raise the rent and the tenant objects, on the ground that a part of the rise of rent is due to his improvement, what happens? The landlord must give the tenant notice to quit, and if so he must either provide a lump sum to pay the compensation for the improvements, or he must find a tenant to come in who will do it. . . . When you come to argue the matter out, you will find this—that the actual and only practical protection any proposal that has been made gives to the tenant against an increase of rent is the compensation which is provided by the Bill, or that if you are to do it otherwise you cannot stop short of fixity of tenure and judicial rents.”

58. The *Ground Game Bill*<sup>3</sup> may be also fitly included among those measures which had reference to the capital of the country, as it was avowedly designed to protect occupiers from the ravages to which they were exposed by the game preserved by their landlords. No one denied that a real grievance existed in some cases, though many members were inclined to aver that the grievance was exceptional, while the opinions of Mr. C. S. Read and Mr. Howard seemed to show that it

<sup>1</sup> Mr. Borlase, 3 *Hansard*, cclxxxii. 1124.

<sup>2</sup> *Ibid.* cclxxxii. 1185.

<sup>3</sup> 43 and 44 Vict. c. 47.

was at any rate not infrequent.<sup>1</sup> There was also a general agreement that some restriction was necessary in consequence of growing over-preservation, and three different proposals were made as to the best remedy. The impossibility of assessing compensation satisfactorily was exposed by Mr. Pell.<sup>2</sup> Mr. Brand's proposal to take Hares and Rabbits out of the category of Game was based on the recommendations of the Commission on the subject, but Mr. Rodwell "thought it would be very difficult to degrade them to the condition of rats, for as long as people would eat hares and rabbits there would always be a demand for them. If they attempted to do so, they would have to introduce such a stringent law of trespass as the spirit of the day would not endorse."<sup>3</sup> There therefore remained the course adopted by Sir W. Vernon Harcourt of insisting that the occupier and owner should possess concurrent rights for the killing of ground game: but to secure this right to the occupier he thought it necessary to introduce a proviso that any contract "whereby the occupier of land divested himself of such right should be void in law."<sup>4</sup> He said that "the principle appeared a sound one that when you place a man in occupation of the soil, you should not impose upon him conditions that practically made his occupation idle."<sup>5</sup> A great deal of criticism was directed against this provision, which had undoubtedly been introduced because in so many cases proprietors had contracted themselves out of the operation of the *Agricultural Holdings Act*, and one member after another averred that it was an unnecessary limitation of freedom of contract.<sup>6</sup>

<sup>1</sup> *3 Hansard*, ccliv. 1711.

<sup>3</sup> *Ibid.* ccliv. 1746.

<sup>5</sup> *Ibid.* cclii. 597.

<sup>2</sup> *Ibid.* ccliv. 1732.

<sup>4</sup> *Ibid.* cclii. 597.

<sup>6</sup> *Ibid.* cclii. 1725, 1743, 1748.

Although Sir W. Vernon Harcourt mentioned various existing interferences with freedom of contract, Mr. Brand succeeded in showing<sup>1</sup> that none of them were exactly analogous to the case in point. For these interferences were chiefly in regard to the kind of contract; the working of women for more than ten hours a day in factories was injurious and was prohibited: the incidents in the letting of hosiery frames were extortionate, and in that case as well as in the Truck Acts, to make a certain kind of contract had been treated as a crime. But in the *Ground Game Bill* certain terms were introduced into all contracts between landlords and tenants; and the justification was that the farmers were unable to make fair bargains with their landlords and must therefore be protected, on the ground that such contracts were an injury to the farmer, from which he could not protect himself, "as he did not meet his landlord on equal terms."<sup>2</sup> It was also implied that such contracts were a direct injury to the public, but this could hardly be seriously maintained as there was some doubt whether the government proposals would bring about a reduction in the numbers of hares,<sup>3</sup> and with a free trade in corn it could hardly be contended that the diminution of hares would effect any direct change in the price of bread.

The real point of the matter was that unless the tenant had this right secured to him there was a measure of uncertainty in his position, and a consequent possibility of unfairness in his bargain. If the landlord began to over-preserve, he might suffer severely, and no other means than this could be found of binding the landlord to limit the amount of game on the estate. These contracts were

<sup>1</sup> *3 Hansard*, ccliv. 1688.

<sup>2</sup> *Ibid.* ccliv. 1713.

<sup>3</sup> *Ibid.* ccliv. 1742.



prohibited because though not fraudulent they opened a possibility for fraud, and the objection to them was similar in kind to that taken against the Truck Acts. But a comparison of the debates on Mr. Brand's amendment with that on the motion Mr. Fawcett pressed to a division on the second reading<sup>1</sup> of the Factory Act of 1874 is very instructive. Freedom of contract was no longer a name to conjure with : the farmers possessed political power, they were under no disabilities of any sort, and thus the case for leaving them to make their own bargains was infinitely stronger than that of the adult women in Factories : but the House of Commons showed wonderfully little hesitation in setting aside this principle in favour of these tenant farmers.

59. The *Contagious Diseases (Animals) Act*<sup>2</sup> was introduced and discussed throughout as a consumers' question, but the issue really involved was as to the way in which it would affect the direction of capital. It was said on the one side that unless prompt measures were taken to prevent the introduction of disease from abroad the breeders would be unable to continue their business and the home supply would decline ; while it was argued on the other hand that any interference with the foreign trade in live cattle would render it unprofitable to foreign breeders and to importing merchants,<sup>3</sup> and thus diminish the supply from abroad. It thus incidentally became an argument as to the necessity and probable effects of the measure, in which the "farmers' friends" and the representatives of the trading interests took different sides.

Some members questioned whether sufficient grounds

<sup>1</sup> 3 *Hansard*, ccix. 1421.

<sup>2</sup> 41 and 42 Vict. c. 74.

<sup>3</sup> *Hansard*, ccxli. 149, 215.

had been shown for introducing a new bill at all: but there could be little doubt that a consolidating measure was desirable, and that it was necessary to introduce some uniformity into the action of the 411 local authorities who were responsible for dealing with the matter under the Act of 1869.<sup>1</sup> There had besides been serious outbreaks of the Cattle Plague in 1872 and 1877, which had called public attention to the matter, and which raised a very strong presumption in favour of introducing further regulations on the subject. In view of the agitation which has been kept up ever since, it could hardly be contended now that it was unnecessary to try and deal thus with the matter.

The Duke of Richmond in introducing the bill distinguished three types of disease<sup>2</sup> against which precautionary measures had to be taken. The Rinderpest was a contagious disease, the introduction of which might, as he hoped, be prevented in the future by the action of the central authority; while pleuro-pneumonia and foot-and-mouth disease, whether originally introduced from abroad or not, were now prevalent in the country. He thought it might be possible however, by restricting the movement of cattle from infected to uninfected districts, to stamp out these diseases altogether: and regulations with this object, which were undoubtedly onerous on the farmers for the time, were embodied in the Bill, in the hope that the diseases might be got rid of altogether.

Mr. W. E. Forster argued that these regulations might be easily made without interfering with the import trade at all;<sup>3</sup> and that the different amount of discretion given

<sup>1</sup> 3 *Hansard*, ccxxxvii. 1486.

<sup>2</sup> *Ibid.* ccxxxvii. 1489.

<sup>3</sup> *Ibid.* ccxli. 157.

to the Privy Council in regard to the restrictions on home and foreign trade,<sup>1</sup> showed that this was really a measure of protection in disguise; while Mr. Rathbone strongly contested the allegation that the breeding of cattle was really declining<sup>2</sup> at home even under the existing system, or that there was a serious danger of either foot-and-mouth disease or pleuro-pneumonia being introduced from foreign countries.<sup>3</sup> But Mr. Clare Read held that these diseases could not be stamped out here unless an absolute prohibition was given to the introduction of them from abroad,<sup>4</sup> and that it was only on this condition that the government were justified in introducing restrictions, even of a local and temporary character, on English farmers. Such security could only be given as it seemed to them by the slaughter of all foreign cattle at the ports of debarkation, and Mr. Read argued that this would occasion no serious diminution of the supply of foreign meat, as the trade in dead meat was rapidly growing.

Mr. Forster pointed out that to insist on a universal slaughter on landing, would seriously affect the existing import trade. "The live animal can wait the market and he can follow it, while we cannot get rid of the fact that dead meat is a very perishable article, and that the forced sale of a very perishable article generally results in loss,"<sup>5</sup> and he seemed exceedingly doubtful as to a rapid development of a dead-meat trade.

In this way the debate resolved itself into a contest between those interested in the profitable returns for the foreigners'<sup>6</sup> and traders' capital, and those interested in the profitable return for the farmers' capital: each at-

<sup>1</sup> 3 *Hansard*, ccxli. 218.

<sup>3</sup> *Ibid.* ccxli. 218.

<sup>5</sup> *Ibid.* ccxli. 150.

<sup>2</sup> *Ibid.* ccxli. 221.

<sup>4</sup> *Ibid.* ccxli. 382, 399.

<sup>6</sup> *Ibid.* ccxli. 149.

tempting to convince the House that he<sup>1</sup> and not his opponent<sup>2</sup> was the true friend of the consumer.

The practical point at issue was the question as to the slaughter of all cattle on landing from foreign countries : this the farmers demanded : the traders insisted that only cattle coming from infected countries should be slaughtered : eventually the Act provided that all cattle shall be slaughtered unless coming from a country known not to be affected. It thus was less stringent than the farmers desired, but made the *onus probandi* rest on the dealers to show that a country was free of disease, not on the Privy Council to prove it infected : and this seems a fair compromise. That the measure has not accomplished all that its promoters hoped is evident from the discussion in the past session, and that discussion seemed to show that the evidence of specialists in the present day<sup>3</sup> gives more support to the contentions of the farmers than was the case six years ago. But with the special regulations introduced we are not concerned,—only with the principles on which they are based ; and it is noticeable that throughout the debates the position taken by both sides was that we should have “protection against disease, and not protection against competition.”<sup>4</sup> Whether the promoters of the measure were thoroughly honest in the acceptance of this principle or not—and their honesty did not pass unquestioned—does not concern us here, as they at least recognised that any argument based on protection against competition would only damage their cause. The idea of protecting the home producer of food against foreign competition was not a weapon that any

<sup>1</sup> Mr. Rathbone, 3 *Hansard*, ccxli. 222.

<sup>2</sup> Mr. C. S. Read, 3 *Hansard*, ccxli. 401.

<sup>3</sup> Feb. 1884.

<sup>4</sup> 3 *Hansard*, ccxxxvii. 1501.

political party dared to use : it could only serve the purpose of a bogey to frighten the town constituencies.

60. It is not unnatural to turn from the consideration of the Act just discussed to examine the measures which have recently been taken with regard to capital engaged in the trade. Little has been done in the way of granting the members of joint-stock companies additional facilities for managing their own affairs in their own way : but one point has received a certain amount of attention.

So much anxiety is often expressed in regard to the continual additions made by public companies to their capitals that it is of the highest importance that no unnecessary hindrance should be put in the way of their reducing their capitals when opportunity offers, either by cancelling lost capital, paying off unnecessary capital, or cancelling unissued shares. A decision of the late Master of the Rolls had rendered the state of the existing law somewhat uncertain,<sup>1</sup> two bills had been introduced in 1877 by private members, and a select committee was appointed to consider the matter ; on their reporting a government measure was drawn and passed without opposition.<sup>2</sup> The machinery created under this Act was however found to be rather cumbrous<sup>3</sup> by practical men of business, and Sir John Lubbock introduced a Bill<sup>4</sup> which became law in 1880, despite the cold reception it met from professional lawyers,<sup>5</sup> who seemed to fear that the interests of the public, considered as creditors, might occasionally suffer.

61. The State has begun in recent years to exercise a

<sup>1</sup> 3 *Hansard*, ccxxxiv. 1293.

<sup>2</sup> 40 and 41 Vict. c. 26.

<sup>3</sup> 3 *Hansard*, ccxlv. 921.

<sup>4</sup> 43 Vict. c. 19.

<sup>5</sup> 3 *Hansard*, ccli. 781.

much greater control than formerly over the carrying trade of the country, and has defined in many respects the ways in which this important branch of business shall be carried on. The regulations for Merchant Shipping enforced by the Marine Department of the Board of Trade may be more fitly considered below, as their avowed object has been the securing the lives and comfort of seamen not the better management of the purely commercial interests of the public. But the special interference with Railway Companies was based on other grounds: it originated in 1873 when a fear was felt lest amalgamation schemes might be pushed to such an extent that in many cases the traffic over a large area of England would be monopolised by a single company, and when it was urged that some means must be found of protecting the public against a possible abuse of this great monopoly. At the same time it became obvious to a committee which considered the subject that amalgamations were often beneficial to the public, and that the anticipated dangers were just as likely to arise from combination between the railways, which might be as destructive of real competition as formal amalgamation would have been. But other grievances were much felt in the existing Railway management. The Act of 1854 had been intended to secure that "every railway company should be compelled to afford full advantage of convenient interchange from one system to another, to give every class of traffic fair facilities, and especially to observe the rule of equal charges under similar circumstances."<sup>1</sup> In regard to the interchange of traffic the Act had remained a dead letter, and the Railway Commission<sup>2</sup> was formed chiefly for the purpose of carrying out the provisions of that Act for this desirable object,

<sup>1</sup> 3 *Hansard*, ccciv. 234.

<sup>2</sup> 36 and 37 Vict. c. 48.

though all questions as to amalgamation and the granting of through-rates also were to come before it as well.

The objections which were urged at the time against the appointment of this new tribunal were twofold. Mr. Hunt would apparently have preferred that steps should be taken for the purchase of the railways by the State,<sup>1</sup> and feared that the new tribunal would prove inoperative: this has not been the case, as it has constantly tended to enlarge the sphere of its interference, even though it has had but comparatively slight powers for enforcing its requirements. On the other hand Mr. Pease<sup>2</sup> took strong exception to the "great fundamental principle of the measure, which proposed to transfer the whole railway power of the kingdom to three commissioners." But Parliament on the whole approved the measure "as an experiment. Whether the tribunal it proposed to establish would answer its purpose was a matter that experience alone could demonstrate. It might succeed or not; it might have a great deal too much to do, or very little; but considering the state of feeling with regard to railway companies, it was expedient that some attempt should be made to satisfy the public that there was a ready means of arbitration, and of requiring those companies to carry out the principles of the Traffic Act without recourse to the slow and costly machinery of a purely legal tribunal. The experiment was worth making, the Bill treated it as an experiment, and there was a disposition, he believed, on the part of the House to give it a fair trial."<sup>3</sup>

<sup>1</sup> 3 *Hansard*, ccxiv. 1044.

<sup>2</sup> *Ibid.* ccxiv. 1046.

<sup>3</sup> Mr. Dodson, 3 *Hansard*, ccxiv. 1053. According to the phraseology adopted above (§ 44, *b, d*), this measure would have been described as *tentative* as the powers of the new body were exceedingly vague: it was not a definite step in a definite direction, the results of which can be accurately estimated, as is the case in an *experiment*.

The result of this tentative expedient may be most tersely stated by quoting the terms in which Mr. Chamberlain endorsed Mr. Samuelson's resolution that the Railway Commission should be made permanent. "To that proposition he gave his unqualified adherence. The Commission had done its duty uncommonly well, and its work was thoroughly appreciated by the public."<sup>1</sup> The evidence which was given before the Select Committee of 1881 and 1882, and the additional facts adduced and elicited by Mr. Samuelson in bringing forward his resolution have really put the matter beyond a doubt.

62. In the session of 1883 a measure was passed which, while granting a remission of taxation to the companies, greatly enlarged the powers of the Board of Trade in dealing with Railway Traffic.<sup>2</sup> The railway passenger duty had originally been imposed as a counter-vailing duty; but when the taxes levied on other public conveyances were repealed, there was an anomaly in retaining this solitary survival of the old taxes on locomotion. By this measure third-class fares were to be exempted from taxation, and the Metropolitan lines were to receive a reduction on other fares, conditionally on their consenting to more moderate rates for the conveyance of troops, and submitting to the new powers which the Bill gave the Board of Trade. Lord Brabourne took strong exception to the last provision, which empowered the Board of Trade to "interfere with private enterprise by regulating the time and manner of running workmen's trains:"<sup>3</sup> and the complaint has been repeated with considerable vehemence at the half-yearly meetings of

<sup>1</sup> 3 *Hansard*, cclxxviii. 1899.

<sup>2</sup> 46 and 47 *Vict. c.* 34.

<sup>3</sup> 3 *Hansard*, cclxxxii. 1612.



companies and at a gathering of Railway Shareholders.<sup>1</sup> It is difficult to show that there is any injustice to the shareholders in thus granting a conditional remission of taxation. No attempt has been made to prove that the new demands to be put on railway companies are likely to be more onerous than the taxation from which they are relieved, and indeed they have the means of avoiding this control if they prefer to do so. But the bill is of importance as showing the constant increase of State interference in the management of undertakings started with private capital. It was left to Mr. Warton to assert the constitutional rights of private capitalists. He protested that "the House was allocating too much power to the Board of Trade. The question of electric lighting had been placed in the hands of the Board of Trade: the administration of the Bankruptcy Act was to be confided to the care of the Board of Trade, and the object of this Bill was to give additional power to this Board."<sup>2</sup>

63. An interesting discussion of the wisdom of this policy took place with respect to the *Electric Lighting Act of 1882*,<sup>3</sup> which followed the lines recommended by the Select Committee which reported on the subject. There was a general feeling that a public blunder had been made with respect to the introduction of gas, and that it was desirable that no similar error should be committed with regard to this new means of lighting. Gas companies had made large profits, but they were not always careful to use their monopoly for the advantage of the public, while the powers they had of breaking up streets for repair of pipes and so forth were often an in-

<sup>1</sup> 3d Jan. 1884.

<sup>2</sup> 3 *Hansard*, cclxxxii. 1094.

<sup>3</sup> 45 and 46 Vict. c. 56.

tolerable nuisance: to save the inhabitants from these inconveniences, several corporations had purchased the gas works, and carried on the business for themselves: but they sometimes had to pay exorbitant prices for property which had been profitable because it had been successfully worked as a monopoly. With the view of remedying similar evils in this new instance it was proposed to license local authorities for carrying on the business of electric lighting, and to give them powers of compulsorily purchasing the property of private electric lighting companies where the enterprise proved successful. This was undoubtedly a new departure, but it was strictly parallel as Mr. Chamberlain<sup>1</sup> showed to the course which had been forced on the towns in connexion with gas-lighting. Mr. W. Fowler expressed a fear that Parliament was "going too far in the way of protecting local Corporations and discouraging private enterprise,"<sup>2</sup> and this is a danger which may be dreaded; but we cannot save the accruing gain for the community and stimulate private enterprise at the same time: the experience of the next few years and a comparison of our own with other countries in this matter will show whether we have steered a wise course or no.

64. The *Bankruptcy Act of 1883* furnished another example of the extension of the powers of the Board of Trade: the object of the Bill was twofold, for as Mr. Chamberlain pointed out "Parliament had to protect the salvage, and also to diminish the number of wrecks." These points may be kept quite separate in examining the Bill, and in discussing the alleged necessity for State interference in this matter.

<sup>1</sup> 3 *Hansard*, cclxxii. 574.

<sup>2</sup> *Ibid.* cclxxii. 571.

With respect to the "fair administration of bankrupt estates with a view to the fair and speedy distribution of assets among the creditors,"<sup>1</sup> Mr. Chamberlain contended that it was useless to rely on the creditors themselves who did not find it worth while to undertake the duty, that the Courts of Law could not originate inquiries, and that "unless the initial proceeding was intrusted to a public official the work could not be done."<sup>2</sup> Against this part of the measure Sir John Lubbock protested that the true method of dealing with the matter was just the reverse of the plan adopted in the Bill, as it lay in "giving the creditors power and enabling them to look after their own interests."<sup>3</sup> Mr. Serjeant Simon on the other hand held that the appointment of official receivers was necessary, but argued that the whole matter should be seen to by a different department of State, and treated in the Courts of Law and not by the Board of Trade.<sup>4</sup> Mr. Stanhope drew a terrible picture of the overwhelming mass of work which would be thrown on this department. "The Board of Trade<sup>5</sup> was also to appoint all the official Receivers, controllers, solicitors, clerks and officers; to examine the yearly statement of every bankruptcy in the country, to keep a bankruptcy estate account and authorise any payment out of it; to prepare books summarising the returns of all local Courts for the information of the public; to consult with the Lord Chancellor and the Court upon the rules of business; and to report yearly to Parliament upon all their proceedings; and lastly every Official Receiver in the country was to act under the direction of the Board of Trade, and the

<sup>1</sup> 3 *Hansard*, cclxxvii. 817.

<sup>3</sup> *Ibid.* cclxxvii. 892.

<sup>4</sup> *Ibid.* cclxxvii. 871, 872.

<sup>2</sup> *Ibid.* cclxxvii. 820.

<sup>5</sup> *Ibid.* cclxxvii. 839.

government thus became responsible for the due performance by him of the duties of investigating the conduct of every debtor, taking part in his public examination and prosecution, and of reporting on him to the Court, of acting as interim receiver, special manager of the estate and interim trustee ; of summoning all meetings of the creditors, presiding at the first meeting, issuing forms of proxy, advertising, and of reporting to the creditors on proposals for liquidation." This certainly seems an enormous amount of responsibility for any burdened department to undertake with regard to properties amounting to £30,000,000. But it is possible to retort that just because of its very magnitude the work cannot be rightly covered in any way but by a Department of State ; and as Sir F. Herschell noticed, "there seemed to be a general agreement that some system of officialism must be introduced if they were to make the system any better than it was at present."<sup>1</sup> In fact a form of officialism had been tried before 1869 : after that date the administration of the estates was left to creditors, but this had given rise to two great abuses. "The first<sup>2</sup> was the facility with which a fraudulent and reckless trader could laugh at his creditors. By going through a ludicrously easy set of forms, he could defy the man who had trusted him, rid himself of his responsibility, and start afresh as if nothing had taken place. The second abuse was the readiness with which trustees could get possession of a bankrupt's estate and keep it." Disgusted with such a state of affairs Parliament were ready to revert to the other tack, and see what could be done by means of a different kind of officialism. How the new machinery may work, how far the business of administering bankrupt estates

<sup>1</sup> 3 *Hansard*, cclxxvii. 893.

<sup>2</sup> Mr. Cowen, 3 *Hans.*, cclxxvii. 853.

may prove an undue tax on the resources of the department, or how far all these forebodings have been exaggerated, it is much too early to attempt to say: but there is fair reason to expect that the administration of assets will be managed by the official receivers more openly and fairly, and with less chances of interested collusion than has been the case during the fourteen years when the matter has rested with creditors, who shrank from throwing good money after bad by conducting tedious investigations and carrying out well-considered schemes of administration.

This did not seem however to have been the chief ground for introducing State management, for it was more closely connected with Mr. Chamberlain's second object, he hoped "following the idea that prevention was better than cure, to do something to improve the general tone of commercial morality, to promote honest trading and to lessen the number of failures."<sup>1</sup> It was contended that the administration of a bankrupt's affairs came in this way to be a matter of public concern, and was not merely a private affair between the bankrupt and his creditors, and that being a matter of public concern it ought to be undertaken by the State. This was clearly put by Mr. Joseph Cowen, who however "viewed<sup>2</sup> with great apprehension the ever-widening network of officialism which was being thrown over the doings of private life. . . . They had far too much supervision and inspection. It was being carried into every department of political, social, civil, commercial, and even private life. It was altogether contrary to his conceptions of Liberal Government. The former theory of English Liberals . . . was that the less State meddling they had the better. Their effort should be to encourage indi-

<sup>1</sup> 3 *Hansard*, cclxxvii. 817.

<sup>2</sup> *Ibid.* cclxxvii, 854, 856.

viduality and independence, even if it went to the extent of eccentricity. That used to be the theory of the party which sat on that side of the House ; but it had fallen in with an entirely different policy now, and it was the special supporter of officialism and centralisation. Such procedure could only end in emasculating and enervating the population . . . What the government were going to do now was to protect grown men from the consequences of their own folly and carelessness." While indulging in this vigorous protest against what he admitted to be "the evident bent of public opinion" Mr. Cowen did not venture to assert that the loss from this additional interference was greater than the gain which it might accomplish. "The principle," as he saw, "which lay at the base of the proposal was that the community, as well as the creditors, were interested in a debtor's affairs—that was, they were all interested in seeing that reckless speculation and fraudulent trading were stopped." And there can be little doubt that public work of this kind done for the benefit of the community should not be left to private individuals, but should be carried on by public officials.

Mr. E. Clarke indeed denied that it was "one<sup>1</sup> of the duties of legislation to improve the tone of commercial morality : " and this contention would at once cut away the chief ground alleged in treating the administration of bankrupt estates as work which the State should undertake ; but it is unnecessary to repeat here the arguments stated above (p. 141), which led us to conclude that "the business of the legislator is always that of enforcing morality : " to us the relevant issue at this point must be that of estimating the probabilities of this enactment really

<sup>1</sup> 3 *Hansard*, cclxxvii. 875.

raising the tone of commercial morality : but it is just this "probable effect on human character" which we have had to notice above (p. 131) as a matter that lies almost beyond our powers of calculation.

There has indeed been such a variety of experience on bankruptcy under the different systems in vogue in different lands or in our own land at different times, that it may be possible to put forward something more than a mere guess on the subject. The need of a Bankruptcy Act was first felt in the reign of Henry VIII.<sup>1</sup> when merchants were ceasing to be content with the facilities they had of securing partners in their ventures, and began to trade on borrowed capital at their own risk (p. 36). As the usury laws were discarded the possibility of trading on borrowed capital increased : this "made<sup>2</sup> it easy for one man to speculate with the money of another, and the fact that it was not his own money he was speculating with did not make a man more careful of the risks he ran. . . . The tendency of easy liquidation was to encourage the growing opinion among a certain class that it was unnecessary and even foolish to pay their debts in full at all, and, unless checked, the feeling would spread that was enunciated lately by one of the learned gentlemen of the Law, that no man properly conscious of his duty to his family would ever think of paying 20s. in the pound." Now if the pressure under the new Act proves as effective as Mr. Chamberlain expected, there can be no doubt that the bankrupt would be more severely punished and much less able to start again on a more or less fraudulent course. What Mr. J. Cowen<sup>3</sup> described as the better tone

<sup>1</sup> 34 and 35 Henry VIII. c. 4.

<sup>2</sup> Mr. Dixon-Hartland, 3 *Hansard*, cclxxvii. 845, 846.

<sup>3</sup> Mr. Cowen, 3 *Hansard*, cclxxvii. 856.

of commercial morality in France, where the debtor can only be discharged of his obligations by actually paying his debts, confirms the view that if the Act is administered satisfactorily insolvency may prove less agreeable, and reckless trading receive a corresponding check.

On the other hand, a great deal of evil has arisen from the laxity and indolence of creditors in dealing with bad debts: the administration of bankrupt estates has been thoroughly careless just because it is rarely a man's interest, if he has made a bad debt of £500, to take much trouble on the chance of reducing that debt 5 per cent. or 10 per cent. He prefers to forget an unpleasant subject; and with the view of stimulating the energies of creditors, and checking the sources from which fraudulent debtors draw, it would be better to abolish the Bankruptcy Laws and leave "creditors to their Common Law rights. You would then find that creditors would be more careful how they gave credit. They would not be inclined to do then what the competition of trade induces them to do now—to push trade by giving undue credit; and . . . when a debtor failed to pay his debt within a reasonable time, the creditor would have recourse to his legal remedy."<sup>1</sup> But the present measure, by ensuring better administration and relieving them of personal trouble, can hardly be expected to have a moralising effect so far as the creditors are concerned. In fact with reference to the morality both of creditor and debtor no amendment of the Bankruptcy Laws could do half so much as their abolition, so as to let "the relations of debtor and creditor stand upon the Common Law."

The present measure then only affects the Bankrupt after his failure, it does not really prevent his obtaining

<sup>1</sup> Mr. Serjeant Simon, 3 *Hansard*, colxxvii. 870.



credit and speculating rashly because it brings no restraint to bear on the lenders; and so long as he can do this an enterprising trader is little likely to be much affected by the anticipations of possible severities if he fails of success: and even this slight influence will be removed if there is any irregularity in the practice of the receivers, and consequent uncertainty in the expectation of being severely dealt with in case of fraudulent failure. On the whole it appears that the moralising influence of the Act cannot be counted upon with great certainty, and that the justification for State interference in this matter must be rested, not on the advisability of doing a public service by means of public offices, but on the superiority of public to private administration of bankrupt estates so far as the division of assets among the creditors is concerned. If the departments can really succeed in the arduous task of administering these estates, all creditors will have reason to be glad that the duty has been undertaken by the State, while there may possibly be some improvement in commercial morality from the uniform and steady pressure put on fraudulent debtors. But the success of the department in this great undertaking has yet to be proved.

### 3. *National Resources.*

65. In the preceding sections those measures have been discussed which were concerned with the development of national resources by facilitating the application of capital to the land: it only remains for us to examine those enactments which had reference to the management of existing resources, and to the prevention of damage and waste. Such objects can be attained without the

application of additional capital, and thus come not unnaturally to form another division.

66. Few bills in recent years have elicited more diametrically opposed opinions both in regard to existing circumstances, and to the character of the legislation required, than did Mr. Cross's Bill in regard to the Enclosure of Commons.<sup>1</sup> Its supporters desired a measure which should define the terms on which enclosure might proceed, and thus facilitate the passing of schemes which had been delayed for several years : its opponents desired to render any further enclosure of commons practically impossible. The supporters had their attention fixed on the re-adjustment of existing and recognised rights, due regard being had to the interests of the general public : the opponents desired to enforce what they held to be the long-forgotten rights of the poor and to have the commons managed in behalf of the toiling millions of this and succeeding generations ; they claimed that the general public should have a voice in all proceedings of the kind. And therefore the opposition was based on what we may call "communistic" grounds : it demanded the creation of a right in every citizen to what had previously been controlled by a limited number. Mr. Fawcett regarded the bill as "defective in certain vital points," because "it did not give an ordinary person the *locus standi* of a commoner for the institution of proceedings against an encroacher."<sup>2</sup> As the encroacher did not encroach on the rights of "an ordinary person," but only on the rights of a commoner, to give the ordinary person the power of instituting proceedings could only be defensible on the ground that the "ordinary person" was sus-

<sup>1</sup> 39 and 40 Vict. c. 56.

<sup>2</sup> 3 *Hansard*, cexxix. 1222.

taining an injury, or in other words had rights as against the encroacher. Mr. Fawcett's attitude on this question was communistic in the strictest sense of the word, not merely because he wished to confer new rights on the ordinary person, but because he distinctly opposed private possession in the interests of common enjoyment. He was "determined resolutely and persistently, to maintain the principle that the worst and most miserable of all economies was that which, for the sake of aggrandising the few and making a paltry addition to the productive wealth of the country, would sacrifice those open spaces where the toiling millions could breathe the fresh air of heaven and behold the beauties of Nature unspoiled by man."<sup>1</sup>

Such a doctrine as this is noteworthy whether we regard it as deserving of praise or blame: but a few words may be necessary in order to remove some misconceptions with which the subject is surrounded.

The nature of the existing rights connected with unenclosed lands may be most easily apprehended from reading the Act of 1845, and the admirable speech in which the Earl of Lincoln introduced it;<sup>2</sup> from this it will be seen that that much-abused measure carefully provided for the rights of the poor whatever they were, and wherever they were found. In the greater part of unenclosed parishes, the commoner had defined rights of pasture on the common waste—pasture for two cows or so many sheep, but his rights of pasture were strictly defined, and none but commoners possessed any rights of pasture at all. In such a case the labourer would, generally speaking, have no rights in the common, and therefore no legal claim to compensation when it was

<sup>1</sup> 3 *Hansard*, cccxix. 1227.

<sup>2</sup> *Ibid.* lxxx. 23.

enclosed. There were, however, parishes in which the common pasture was unstinted, and where consequently the whole of the inhabitants of the village had a share in the pasturage, and in these cases no enclosure was allowed without the previous direction of Parliament.<sup>1</sup> In these cases too the Act provides for the laying out of allotments for the villagers in the neighbourhood of their houses, to be held at a rent of any person entitled to an allotment out of lands to be enclosed.<sup>2</sup> There were also cases where village greens existed, the use of which for purposes of recreation had been enjoyed by the inhabitants time out of mind: this use-and-wont privilege was carefully preserved, and the commissioners were empowered to extend it.<sup>3</sup> And further, the wellbeing of the inhabitants of neighbouring towns and their numbers, were to be taken into account, before any measure received the approval of the Commissioners or of Parliament.

Such then were the actual recognised rights of the poor, and these rights were carefully regarded by the Act of 1845: in fact one of the reasons for the passing of that Act and instituting Enclosure Commissioners, was to give a double opportunity—before the Commissioners as well as before Parliament—for the poor man to assert his rights.<sup>4</sup> Those who have most severely criticised the action of the Commissioners, have been accustomed to

<sup>1</sup> 8 & 9 Vict. c. 118, § 12.

<sup>2</sup> *Ibid.* §§ 31, 68, 108-110. These clauses have been very little enforced by the Charity Commissioners. Stubbs: *The Land and the Labourers*, 45.

<sup>3</sup> *Ibid.* § 15.

<sup>4</sup> "This I know, that in 19 cases out of 20, Committees of this House, sitting on Private Bills, neglected the rights of the poor. I do not say they wilfully neglected those rights: far from it; but this I affirm, that they were neglected in consequence of the Committees being permitted to remain in ignorance of the claims of the poor man, because by reason of his very poverty he is unable to come up to London, to fee counsel, to produce witnesses, and to urge his claims

assume that in ancient times the poor had very generally possessed rights of which they had been gradually deprived, and that it was desirable to restore these neglected rights. This is of course a mere question of history: and the assertion was made explicitly by Lord Edmund Fitzmaurice that originally "the inhabitants of every parish were regarded as having a right in them" [the commons], and "that these claims were gradually ousted by the exclusive claims of the lords of the manor and commoners."<sup>1</sup> This theory was sufficiently refuted by Mr. Knight,<sup>2</sup> and would probably not now be maintained by any competent authority. If more is demanded for the poor, it must be on the philanthropic ground that more ought to be conferred upon them, not on the legal ground that they are now, or even once were, entitled to more.

Lord Edmund Fitzmaurice seemed to suppose that these claims were implicitly recognised in the Act of 1845, as otherwise the clause which permitted the allotment of additional recreation grounds would have been a measure of confiscation. But confiscation generally implies depriving a man of what he already enjoys, and the Act of 1845 in providing for additional recreation grounds did nothing of the sort. By breaking up the old common fields, and allowing each man to have his holding in severalty, the value of the lands in the parish was increased some 20 or 30 per cent.: by providing for the creation of additional recreation grounds, the Act was only endeavouring to secure that the poorer inhabitants of the village should share along with others in the benefits

before a Committee of this House. A Commission, I think, may, therefore, be so constituted as to afford to the poor man, by examination on the spot and at his own door, more certain security than any system of private legislation."—Lord Lincoln in 3 *Hansard*, lxxx. 25.

<sup>1</sup> 3 *Hansard*, ccxxix. 1234.

<sup>2</sup> *Ibid.* ccxxix. 1236.

which the Act conferred on those who had holdings in the common fields. When the lands were so much increased in value, more might be assigned to the poor without any one feeling it a loss, but this is not confiscation.

These considerations will enable us to realise that the Act of 1845 was a just, and also a benevolent measure, and that Mr. Cross was not ill-advised in accepting it as his model. There were, however, two directions in which the country had undergone enormous changes during the thirty years that had elapsed since it was passed, and in consequence of which the provisions of that Act required attentive reconsideration: these were the repeal of the Corn Laws and the development of the railway system. In 1845 the nation was mainly dependent on the soil of these islands for a supply of food. It was of the highest importance as a matter of State policy, that the soil should be used to the best possible advantage. The system of open fields was wasteful because of the numerous balks, and it presented obstacles to all improved methods of cultivation because the custom of the parish was so frequently binding on the farmers, or manorial pasture rights on stubble interfered with their management of the land. The custom of Sutton Coldfield was probably unusually prejudicial, but there it was the practice to redistribute the portions of land cultivated by each occupier at short intervals:<sup>1</sup> and the Act (13 Geo. III. c. 81) which was intended to substitute common cultivation according to modern ideas for common cultivation on the old lines, and thus to avoid the expense and possible unfairness of enclosing, remained a dead letter.<sup>2</sup>

<sup>1</sup> J. Howlett, *Enclosures a cause of Improved Agriculture*, 1787, p. 80.

<sup>2</sup> T. Stone, *Suggestions for rendering the Inclosure of Common Fields and Waste Lands a source of Population and Riches*, p. 13.

But a mere glance at the excellent map in which Mr. Seebohm<sup>1</sup> has exhibited the scattered plots which made up each single holding in unenclosed parishes will serve to show how impossible it was to hope for good farming while the system of open fields still remained. For the sake of cheap food it was desirable that the enclosing of such fields should proceed as rapidly as possible, as this was the first condition of any other agricultural advance. The amount of this arable land in 1844 was very large.<sup>2</sup> Even as late as 1876, nearly a tenth of the whole unenclosed land lay in common fields.<sup>3</sup> This is a matter which the critics of the Commissioners have apparently failed to realise. They have spoken of the millions of acres of common land which have been enclosed, but they have not stated that these millions of acres of common land generally included all the arable land in the parishes in which they were situated.<sup>4</sup> In many of these parishes, there was no common-waste to speak of at the time of the enclosure, and enclosure did not mean the diminution of uncultivated land so much as the partition of the area already under cultivation. The allotment of land already tilled was at any rate the chief object of the Act of 1845, as this was the most obvious means of removing hindrances to the improvement of agriculture. But since we have ceased to be so wholly dependent on the home supply of corn, it is "no longer," as Mr. Cross

<sup>1</sup> *Village Community in England*, 26.

<sup>2</sup> *Report of Select Committee on Enclosures*, 1844, pp. 184, 185.

<sup>3</sup> *3 Hansard*, ccxxvii. 187.

<sup>4</sup> Many speakers and writers on this subject have referred to "the 4,000,000 acres enclosed previous to 1800." The *General Report on Enclosures of the Board of Agriculture* (1808) gives the figures as approximately 4,187,056 acres in 1805, but expressly states that in making this estimate they determined "to combine the two objects of Waste Land and Open-Field Arable," p. 46.

remarked, "the interest of the State—at least to nothing like the extent it was some years ago—to interest itself in the multiplication of enclosures. They must now rather consider enclosures as schemes for private improvement, the State seeing that the public interest did not suffer by the enclosure."<sup>1</sup> "They must take into consideration that which the people of this country wanted almost as much as food—the air which they breathed, and the health which they enjoyed. It might be that a great deal should be done with these waste lands; but (? and) in a very great many cases it was no doubt necessary for the people of the country that enclosures should still be made, but he believed it would be still more necessary that these commons in a great number of cases should not be enclosed. He therefore provided that they should be dealt with, not only under the old Enclosure Acts, by enclosing them separately, but by keeping them as commons, and giving the greatest facility for their regulation and improvement."<sup>2</sup> It is in this connexion that the rapid means of internal communication by means of railways, comes to have a bearing on this question: the public who are interested in the preservation of an open space, are not now those within a limited radius, but all the infinitely larger population who can reach it within a comparatively short time.

The clauses for the regulation of commons<sup>3</sup> were accordingly the chief point in which the Act of 1876 differed from that of 1845. And as to the necessity for taking some steps of this kind there was a general consensus of opinion even among those who objected to

<sup>1</sup> 3 *Hansard*, ccxxvii. 190.

<sup>2</sup> *Ibid.* ccxxvii. 191.

<sup>3</sup> The facilities for improving allotments were increased by 42 and 43 Vict. c. 36.



other parts of the bill. The real gist of the difference, however, turned on the question of principle as to the light in which the interests of the general public should be concerned. Should they be the main concern of the legislature in this matter, and the legal rights of private individuals be set aside in their interest? Or should scope be allowed to individuals to exercise their legal rights except in cases where the public weal was clearly endangered? Mr. Fawcett would have accepted the former alternative, while Mr. Cross followed the Act of 1845 in taking his stand on the latter.<sup>1</sup>

There can be no doubt that during the last few years public opinion has veered more decidedly in favour of the principle Mr. Fawcett thus advocated: the "Tourist Bill" which raised so much discussion in the session of 1884, has been the most decided utterance of this opinion, though it has made itself heard in opposition to Thirlmere water schemes and Ennerdale railways. On the other hand it may be argued with much force that even in the interests of the general public it is desirable that the legal rights of the British tourist should not be further increased. What is used by the public must be cared for by some one or it will assuredly be abused by the public: and the difficulties of effective regulation may often be most easily overcome by refusing to confer legal rights on the ordinary person to trespass on uncultivated lands, and thus preserving the power of the landlords to regulate the enjoyment of these lands. The Exmoor tourist whose after-luncheon pipe caused the burning of 130 acres of valuable moorland is not a solitary instance, and every one must know of instances, like that of Hawthornden, near Edinburgh, where

<sup>1</sup> 3 *Hansard*, ccxxvii. 190.

wanton mischief has been done by the public when visiting gentlemen's grounds. Where it is possible to provide for the due regulation of the public and their amusements it is most desirable that they should have legal security for the perpetual enjoyment of these privileges without favour from any landlord or fear of his caprice. But where this due regulation cannot be obtained so easily, the true interest of the "toiling millions" may be best secured<sup>1</sup> by not conferring a legal right to trespass on the "ordinary person."

67. Turning from this attempt at regulating the management of land to schemes for preventing the waste of agricultural resources, we may notice the attempt made by the Act of 1874<sup>2</sup> which extended the provisions of the Alkali Act of 1863. In the interval between the passing of these two Acts the number of Alkali works had increased very largely, both on the Mersey and the Tyne, and as the destruction of vegetation, crops, and trees in the neighbourhood of the works was becoming very serious, some new restrictions were necessary, if the districts were not to become uninhabitable. Cattle were "affected by the deposit of poisonous acids on the food they ate,"<sup>3</sup> though little complaint was made at that time of injury to human health from the state of the atmosphere. The chief change which the new Act introduced was in regard to the method of testing the quantity of noxious acids which escaped uncondensed. Under the new system it is provided that every alkali work shall be so carried on as to secure the condensation of

<sup>1</sup> Compare in regard to the use of an open space in Lambeth the deputation from the Vestry and the reply of the Archbishop of Canterbury, *Times*, 5th April 1883.

<sup>2</sup> 37 and 38 Vict. c. 43.

<sup>3</sup> Lord Walsingham, 3 *Hans.*, ccxx. 387.

the muriatic acid evolved to such an extent that in each cubic foot of smoke escaping "there is not contained more than one fifth part of a grain of muriatic acid."

No opposition appears to have been brought against this bill by the alkali manufacturers; indeed it was argued that muriatic acid and sulphuric acid at any rate, were such valuable products that there would be a real gain to the manufacturers in conducting their business in accordance with these regulations and condensing these acids for sale, and that as a matter of fact many of them did so already. The chief importance then of this instance from our point of view is that it seems to show that even in cases where the interests of the manufacturers and the public really coincide it may yet be expedient for the Government to move in the matter, rather than trust to the removal of a public mischief by the manufacturers themselves. In a case where so far as their own business was concerned the manufacturers were indifferent which course was pursued, it would be necessary for the Government to promote a change which would be no injury to the manufacturers when once it was effected. It may be necessary too for Government to interfere to "bring up the manufacturers who did not do their duty to the level of the best-managed works,"<sup>1</sup> these last being in most cases it would appear the larger undertakings.

The subsequent history of these measures is also of considerable interest; they have been so far successful that constant pressure has been put on the Government of the country to bring a larger and larger number of trades within the sphere of their operation. A Commission appointed to inquire into the subject reported in

<sup>1</sup> 3 *Hansard*, cclviii. 870.

1878 that a very considerable number of new industries should be included. The last Act on the subject, that of 1881,<sup>1</sup> left something like a dozen of these industries untouched; it consolidated the old clauses about alkali works, but dealt also with the disposal of alkali waste, and extended inspection to salt works as well as sulphuric acid works. The chief criticism which the proposals received was that they did not go far enough, and failed *e.g.* to regulate coke-ovens. But it was answered with considerable effect that our scientific knowledge did not serve to enable us to prescribe regulations for all noxious manufactures. In some cases the process could only be rendered innocuous by very expensive means, which might so far cripple the manufacturers as to react injuriously on the interests of those employed. Earl Kimberley argued "that while it was of vital importance to secure the health of the people who lived in the neighbourhood of those manufactories, they must also take care that they were not depriving them of the means of living by interfering in such a manner as to drive manufactures to a distance."<sup>2</sup> Since this is the delicate practical problem which Parliament has had to face, there can be little doubt that wisdom has been shown in proceeding, "step by step, building up a system by means of experience, and not by experimental legislation causing a reaction against their measures which would have been difficult to face." The distinction which Earl Kimberley thus drew between experience and experimental legislation is a most important one, as was pointed out above (pp. 156, 158),—in whatever terms we may prefer to express it. In the case before us Parliament has moved slowly, insisting on the more

<sup>1</sup> 44 and 45 Vict. c. 37.

<sup>2</sup> 3 *Hansard*, clviii. 874.

and more general adoption of regulations that worked well in a limited sphere, instead of attempting the large experiment of dealing simultaneously with all cases of noxious gases however diverse the industries which gave rise to them might be. It is not often, however, that the mischiefs with which legislation has to deal, lend themselves so readily to classification and therefore to treatment in detail, as they did in this case.

68. The attempts<sup>1</sup> to remedy the pollution of rivers are somewhat parallel to the efforts that have been made to prevent the emission of noxious gases : but the question is in some ways a much more difficult one : the noxious gases do dissipate themselves as they leave the district where they are generated, but the polluting substances in streams are carried on in increasing quantities as the river runs towards the sea : and the health of the inhabitants at great distances may be affected, as well as the wealth of proprietors who are entirely unconnected with the districts where the industry is carried on. Besides, the question is complicated by the fact that pollution arises not merely from manufacturing refuse, but also from sewage ; and it has been found extremely difficult to draft a bill which should apply to both cases.

The destruction of fish was the chief point which seemed to render legislation necessary, as this was a serious loss to the owners of the waters, and also indicated a state of unwholesomeness that was probably injurious to the neighbouring inhabitants, and certainly interfered with their recreation. Both sides of the House appear to have been agreed as to the necessity of legislation, though the Duke of Somerset thought the case so hopeless

<sup>1</sup> 39 and 40 Vict. c. 70.

as to be past remedy, and deprecated futile action which might be prejudicial to the manufacturing interests.<sup>1</sup>

Though the principle of the Bill of 1875 was thus generally admitted, the difficulty of drafting a satisfactory measure was very great. Lord Shaftesbury had brought forward a bill in 1872, which relied on chemical tests for determining the amount of pollution which should be prohibited:<sup>2</sup> but the Marquis of Salisbury proved by experiment<sup>3</sup> that this scheme was too complicated to work satisfactorily, and left the decision to the common sense of County Court judges. This is obviously a most insufficient arrangement as it introduces a great element of uncertainty, as one judge may take a different view from another as to whether a river is "polluted" or not, and as to whether a manufacturer has taken the best possible means of purifying waste or not.

At the same time it must be remembered that this was admittedly a "tentative"<sup>4</sup> measure, that the want of sufficient scientific knowledge was the real hindrance to the introduction of quantitative tests, like those which are applied to noxious gases,—and that only by experience could better and more definite restrictions be devised. The result of the prosecutions under the Bill, and of the opinion of experts given as witnesses, may well have been the accumulation of so much additional knowledge on the subject, as to render a more satisfactory, because more definite measure, possible before long.

The Bill thus discussed was withdrawn for a year; but the delay did not serve to throw much additional light on the subject, and there are few points worth attention in the discussions of 1876.

<sup>1</sup> 3 *Hansard*, ccxxiv. 556.

<sup>3</sup> *Ibid.* ccxxiv. 544.

<sup>2</sup> *Ibid.* ccxxiii. 1888.

<sup>4</sup> *Ibid.* ccxxiv. 553.

69. The *Destructive Insects Bill*<sup>1</sup> was hurried through Parliament just before the recess in 1877, on account of the scare which had been raised by the reported appearance of the *Colorado Beetle*. Its object was of course to protect the crops of this country from the ravages that had occurred in America : but there was a sufficient precedent to follow in drafting the Bill. It was proposed to give the Privy Council power, resembling that which it possessed with reference to cattle diseases, to prohibit the importation of any articles which were likely to bring this terrible visitor to our shores, and also to order the destruction of any crops in which the beetle had appeared. It was further proposed that the local authority should be vested with the same power which it had under the Contagious Diseases (Animals) Act.<sup>2</sup>

70. Mr. Chaplin's *Wildfowl Preservation Bill*<sup>3</sup> met with little serious opposition though some exception was taken to the means provided for attaining its object by those members who had strong views against game-laws generally. It may therefore be sufficient to note its object by quoting the preamble. "Whereas the Wild Fowl of the United Kingdom forming a staple article of food and commerce have of late years greatly decreased in number by reason of their being inconsiderately slaughtered during the time that they have eggs and young ; and whereas owing to their marketable value the protection accorded to them by the Act of the thirty-fifth and thirty-sixth years of the reign of Her present Majesty, chapter seventy-eight, intituled 'An Act for the protection of

<sup>1</sup> 40 and 41 Vict. c. 88.

<sup>2</sup> Lord Sandon, 3 *Hansard*, ccxxxvi. 780.

<sup>3</sup> 39 and 40 Vict. c. 29.

certain Wild Birds during the breeding season' is insufficient; it is expedient therefore to provide for their further protection during the breeding season."

71. The short debate in the Lords on the *Seal Fishing Greenland Bill*<sup>1</sup> showed most conclusively how impossible it is to give free play to the action of private competition where the perpetuation of resources of any kind comes in question. It appeared that the Seal Fishing was conducted by about 60 ships of different nations, so that the number of owners cannot have been so large as to render private arrangements in their own eventual interests a matter of great difficulty, yet the trade was carried on in such reckless fashion that there was every reason to expect the extinction of the species and annihilation of the trade, unless Parliament established a close time for seal fishing and co-operated with other powers for the maintaining it. According to a document communicated by the Swedish Government "the captains give heart-rending descriptions of the manner in which the fishing was conducted this year—owing to its having commenced too soon, namely at the close of March. There was this year a good prospect of all the vessels being able to return full. Thousands of pregnant female seals were to be seen swimming about, preparatory to giving birth to their young on the ice, over the shoals frequented by the shrimps, on which the seals principally subsist. But the vessels were lying in wait, and such a destruction commenced that after the lapse of three days the fishing was utterly destroyed, and thousands of young seals were heard crying piteously after their slaughtered mothers. The young seal is worthless until it is three or four weeks

<sup>1</sup> 38 and 39 Vict. c. 18.



old. If the fishing is conducted in this manner for a very few years more, the seals will be utterly exterminated." Private agreements had been started on this matter, but the matter was so urgent that it seemed necessary to apply for Parliamentary interference, in order to protect these valuable resources from reckless waste.

## CHAPTER III.

### SOCIAL ENACTMENTS IN THEIR ECONOMIC BEARINGS.

#### 1. *Measures enforced through the ordinary Courts.*

72. THE measures we have hitherto considered have been directed towards securing national wealth—in the wide sense in which the word has been used above (p. 117), for all of them were intended to save or increase the physical means of maintaining the national life: and since they are thus directed to physical ends, argument about them may attain to a measure of precision, as their effects are susceptible of fairly definite calculation (p. 129). But when we turn to discuss social enactments the case is entirely altered, since it is much more difficult to guess how far the various measures are likely to attain their objects, to assess the importance of the object when attained, or to weigh the respective loss and gain when the object can only be accomplished at the expense of incurring certain obvious disadvantages. The onus which rests on the promoters of such measures is accordingly very heavy, and many of them have only been carried after long years of struggling to convince public opinion, or in certain exceptional conditions of public feeling.

It will be convenient to take the enactments which had such objects in two groups, according as it was possible to pass a law redressing a grievance, or conferring a

privilege and then to leave the matter to the ordinary courts of law, or as it was felt necessary to create a new machinery for resisting an evil tendency or maintaining some one in the possession of a privilege. It must be obvious that in cases where we have to rely on new and untried machinery, there must be much less certainty in attaining the object we have in view, than in cases where we can trust to the action of the ordinary courts with the powers and practice we are already familiar with.

Among these social measures I have somewhat doubtfully included the important series of measures which were intended to diminish the risks connected with a workman's calling; though they are so closely connected with the vigour of the population that the subject might perhaps have been more properly treated in the first part of the previous chapter: but while the diminution of accident may only prevent the destruction of the vigour of comparatively few, the diminution of the risk of such accidents affects the comfort of quite a large class, and I have therefore included the subject here.

73. To diminish risks to life or person is so admittedly a desirable object that some enactments with this view have been passed without either delay or discussion. Such were the measures insisting on the fencing of thrashing machines<sup>1</sup> and dealing with boiler explosions:<sup>2</sup> on the other hand the series of laws intended to diminish the risk of life at sea has given rise to constant and somewhat acrimonious discussion, and involved the development of a public department for assisting to secure this desirable end. A somewhat similar controversy has raged

<sup>1</sup> 41 and 42 Vict. c. 12.

<sup>2</sup> 45 and 46 Vict. c. 22.

on the principle of rendering the employer liable to a demand for compensation on account of accidents occurring to his workmen.

The object of the *Employers Liability Act*<sup>1</sup> was to decrease the risks of injury to the workman by rendering his employer liable for compensation even in certain cases where he was able to urge the defence that the accident was due to the negligence of a fellow-workman, not of the employer. This line of argument had been admitted as constituting a good defence in 1837, and subsequent decisions had so developed the plea of "common employment" that it was almost impossible for a workman to secure damages for injuries occurring while at work, for he could not recover compensation unless he proved the personal complicity of the employer in negligence, as in using machinery he knew to be defective, and even then it was incumbent on the workman to prove that he had not tacitly consented to working on these conditions. The English Law had not overridden the Scotch practice on this subject till 1867, so that this Bill only proposed to secure for workmen rights which they had possessed till comparatively recent times. Mr. A. J. Balfour contended that the risks of any workman's employment were already taken into account in the rates of wages he received, and that the result of the Bill would be to compensate him twice over for the same risk: he would therefore apparently have been quite willing that an injured man should proceed against a negligent fellow-workman if he thought it worth his while, but objected to the existing right of the public and proposed right of the workman to make an employer "pay for the infliction of damages in which he neither directly nor indirectly had any hand."<sup>2</sup>

<sup>1</sup> 43 and 44 Vict. c. 42.

<sup>2</sup> 3 *Hansard*, ccliii. 1406.

On the other hand Mr. MacDonal'd would have abolished the plea of common employment, and rendered the employer responsible for compensation on account of any accident due to the negligence of his workmen. The Government Bill was an attempt to steer a middle course: it distinguished workmen who possessed a delegated authority from others, and made the employer responsible for damages in the case of accidents occurring from the negligence of superintendents: in works where 4000 men were employed, employers would be responsible for compensation for accidents occurring from the negligence of about 50 of these men and no more.<sup>1</sup>

The chief objections urged against the Bill were that it would press very heavily on certain trades, especially on the mining interest: but that interest had survived the *Mines Regulation Act* of 1873 and Parliament was disposed to believe in its continued vitality. Nor so long as representatives of the mining interest asserted the willingness of the employers to contribute largely to funds which should insure against all sorts of accident, was it forcible to plead their inability to make compensation for a few.<sup>2</sup>

Others argued that it was a dangerous measure, as it would raise expectations it did not satisfy—that the workman would expect it to apply to all kinds of accident and not to a limited number only, and that it would embitter existing relations with employers and destroy the mutual contributions for insurance against accident. These arguments rested on expectations as to the probable bearing of the Bill on the feelings of different persons, (p. 132) and were hardly weighty reasons. The artisans were willing to take the risk of reaping less from bene-

<sup>1</sup> Mr. Chamberlain, 3 *Hansard*, ccliii. 1768.

<sup>2</sup> *Ibid.* ccliii. 1780.

volence : but they wished to have something else than benevolence to rely on. The men "desired that their position should be strictly defined, and that they should have by law and right, that for which they were obliged to appeal to private benevolence and public sympathy."<sup>1</sup>

Others objected to the Bill because they would have preferred a compulsory system of insurance, but Mr. Broadhurst clearly showed that this was impracticable, so long as workmen changed their employment from time to time, while the principle of the *Truck Acts* held against such stoppages out of wages.<sup>2</sup> Sir Henry James concurred in the impossibility of rendering insurance compulsory : before a serious scheme of governmental insistence on saving was brought forward, it would have been absurd to rely on such a project as a solution of a pressing difficulty.

None of the objections taken against the Bill was of sufficient weight to form a serious obstacle to its passing, while the impossibility of remaining *in statu quo* was generally recognised. The Government measure offered a fair solution of the difficulty : it did not secure any immunity from terrible loss by accident, but it gave a workman a legal right to compensation when the responsible servants of an employer had been guilty of negligence through which a workman was injured.

The risk of heavy payments was so far limited at first as not to present to employers any very great danger of heavy expenditure : and by the institution of Employers Liability Insurance Companies that risk is much lightened. The principle of insurance has come into play, but indirectly : the workman has a claim against the employer for negligent management, and the employer

<sup>1</sup> Mr. Inderwick, 3 *Hansard*, ccliii. 1402.    <sup>2</sup> 3 *Hansard*, cclii. 1118.

can save himself from sudden and serious calls by means of insurance. This seems to be a very satisfactory solution ; the law enters in to insist on compensation in cases of negligent management : other cases of accident may be as injurious to the workmen, but so long as they are not brought about by negligence, it is hardly the business of the State to attempt to grant immunity from them. Individuals may do so if they can afford the luxury of living free from the fear of disabling accident. But it is the part of the State to put pressure on men to exercise care, not to remedy physical evils (p. 140), and this is on the whole the line which has been taken in the Act of 1880.

74. Among measures which were intended to secure the workman's property, we might perhaps include all measures, like the *Truck Acts* which were meant to insure him the payment of his wages in full ; and two instances of measures of this sort fall within our period.

The *Act to provide for the payment of wages without stoppages in the Hosiery manufacture*<sup>1</sup> was an attempt to redress an evil of very long standing : some of the earliest oppressions of the artisan class that are recorded during the eighteenth century took place in connexion with these trades. By this measure it was enacted that all wages should be paid in full, as the employer could sue for any debt due to him on account of frame rent. All contracts to stop wages for frame-rents were rendered illegal and the terms "employer" and "artificer" were specially defined so as to prevent manufacturers from making the forbidden contracts through their foremen or other servants. No debate took place on the Bill in any of its stages : it was backed by Messrs. Pell, Heygate, Clowes, and MacDonald ;

<sup>1</sup> 37 and 38 Vict. c. 48.

and is chiefly of interest to us as a case where interference to prevent oppressive contracts between the employers and employed was allowed to take place without a single voice being raised on behalf of freedom of contract: it may perhaps serve as a precedent whenever a serious effort shall be made to draft a measure which may check the misdeeds of the sweaters who are to blame for so much of the misery of which we hear from the East End of London.

75. *The Merchant Seamen (Payment of Wages) Act*<sup>1</sup> of 1880 was a somewhat similar measure, as it prohibited a contract which seamen had been in the habit of making with "crimps" by giving a note for which they received an advance in money—nominally for clothes and outfit—but which was too often mis-spent. One Commission after another had reported against advance notes, both because of the debauchery they engendered and because they stimulated the seamen to desert as a means of revenging themselves on the "crimps." But when the proposal to abolish the system came forward, Mr. Norwood<sup>2</sup> appeared to deny that it was a bad one, while Mr. Bentinck<sup>3</sup> contended it was a necessary evil. It was also urged that the only alternative to allowing these advances was to sanction some system of truck by which the captain would supply his men with their outfits, as the sailors would not have and could not procure the means to buy them. The existence of grave practical evils arising out of contracts of this sort may however be held to have been established beyond a doubt, and Parliament felt that it was wisest to render them illegal; but the result of the enactment has been disappointing.

<sup>1</sup> 43 and 44 Vict. c. 16.

<sup>2</sup> 3 *Hansard*, cclii. 962.

<sup>3</sup> *Ibid.* cclii. 735.



76. The *Friendly Society Act*<sup>1</sup> passed in 1875 was a consolidating measure conducted through Parliament by Sir Stafford Northcote, who had been chairman of the Friendly Societies Commission: it was designed to regulate the Benefit Societies which the people of this country had started for themselves, and thus to give them a firmer footing, but did not undertake to promote or direct them in any way. In this there was a general consensus of opinion, though it was most epigrammatically put by Mr. Cowen. "Friendly Societies wanted protection, not interference. By protection he meant protection from the improper proceedings of dishonest officials; but there should be no Government interference with the internal affairs of the societies."<sup>2</sup> The difficulty in drafting a measure which should keep to these lines lay in the fact that the main security against fraud had to be obtained by insisting that greater publicity should be given to the affairs of the societies, and this end could only be attained by insisting on certain arrangements for valuations and audits, and thus interfering in the internal management of the societies. Sir Stafford Northcote described his measure by saying: "We recognise a state of things existing which we do not desire to disturb, but to assist and promote; and we desire, as far as possible, to provide for giving due publicity to the facts bearing on the status of different societies, so that those in whom the members have confidence may be able to tell them what appears to be the real position of the societies. Neither do we intend in any way to introduce unnecessary Government interference."<sup>3</sup> Yet Dr. Cameron moved the rejection of the Bill on the ground that it introduced so

<sup>1</sup> 38 and 39 Vict. c. 60.

<sup>2</sup> 3 *Hansard*, ccxxii. 882.

<sup>3</sup> *Ibid.* ccxxii. 118.

much interference into the management of registered societies that many societies would prefer a state of freedom even if they had no security against fraud, and that the Bill would thus defeat its own ends.<sup>1</sup>

A good deal of discussion took place, as was to be expected, on the details of the measure, on the relative advantages of local and central registration, and on the sufficiency of the security given against fraudulent officials. It would be useless to attempt to enter on these controversies now, but a few sentences may be taken from the speech in which Mr. Stansfeld laid down<sup>2</sup> the principles which should regulate such legislation. "There were two principles under the guidance of which it appeared to him they might safely legislate. The first was . . . that in the interests of the societies themselves and of the community at large, it was right that the societies should have ordinary protection against fraud—that they should be brought within the law and enabled to sue and be sued on easy terms. The second principle was not so absolute, although it recommended itself to his mind. It was that if after adopting the former principle they wished to apply a more stringent law in order, step by step, to raise the character and status of these popular bodies of men, it ought to be done by voluntary arrangement, and there ought to be nothing compulsory. . . . Whilst granting protection to all societies, without registration, and on deposit of rules, he should be prepared to go much further than this Bill proposed to do in the direction of making more stringent regulations for the government of registered societies, and so to secure their practical solvency. He would be willing to leave registered societies a select class to be dealt with much more

<sup>1</sup> 3 *Hansard*, ccxxii. 852

<sup>2</sup> *Ibid.* ccxxii. 884.

stringently than they were at present, but to which additional privileges should be given in return." The expedient of having two kinds of society had been approved by four members of the Commission, but it had not gained the support of the majority and was not embodied in the Bill; but there was an obvious difficulty in treating all friendly societies alike, and in solving the difficult problem of protecting without interfering, for all of them in the same way. Had trade-unions, with the special bonds which exist between the members, and the special purposes of providing for the unemployed to which their funds are devoted,<sup>1</sup> been included in the same scheme, the difficulties of carrying out the Act, which have been successfully met so far, would have been greatly increased.

77. Other measures were intended to improve the labourer's position, not by protecting his life and property but by conferring on him additional legal status and means of self-protection. A brief account has been given above of the nature of the legislation for labourers in England, from the time of Edward III. onwards. Fair conditions were devised—as the authorities believed—and those who rebelled against these conditions were punished as criminals. The repeal of the combination laws had opened to the labourers a possibility of improving their position, but till 1867 they had continued subject to punishment as criminals for breach of contracts, while corresponding acts on the part of employers were dealt with in the civil courts. The Master and Servant Act of 1867, which is associated with the name of Lord Elcho, was intended to put the servant on the same legal footing with

<sup>1</sup> Howell's *Capital and Labour*, 486.

the master,<sup>1</sup> and thus to secure them a fair field in which to settle their disputes. But capitalists and labourers are not on exactly the same footing—labourers were liable to temptations to “misdemeanours of an aggravated character” such as did not come in the way of capitalists; and the Act in question, by giving the justices a power of deciding whether misconduct was aggravated or not, left open a loop-hole by means of which the labourer was still subjected to an apparent injustice, while the administration of the law gave rise to conflicting decisions and the hardship which arises from uncertainty in such matters. When the whole position of trade-unions was altered by the Acts of 1871, it was hoped that this evil had been stopped; but though the *Criminal Law Amendment Act* specified the acts which were to be regarded as criminal, it did not succeed as had been intended in eliminating from this category the element of trade strikes; while the Common Law in regard to conspiracy remained, and had been used to enlarge the definitions given in the Act of 1871.<sup>2</sup> The administration of these two Acts had consequently given rise to much dissatisfaction, and the *Conspiracy and Protection of Property Bill* was introduced to put an end to these anomalies. The real difficulty lay in the fact that employer and employed are not on the same footing: the employer is a substantial man from whom damages may be obtained in a civil court, but just because the labourer is comparatively poor, the employer cannot secure similar redress for damage inflicted by the labourer’s conduct. Lord Winmarleigh<sup>3</sup> gave a case in point. “An iron manufacturer had a blast furnace in charge of three men. When the

<sup>1</sup> Lord Elcho, 3 *Hansard*, ccxxv. 665.

<sup>2</sup> Lord Cairns, 3 *Hansard*, ccxxvi. 37.

<sup>3</sup> *Ibid.* ccxxvi. 40.

iron was in a liquid state, these men suddenly quitted their posts because their employer would not consent to certain terms they proposed. The consequence was that the iron got cold, and as it was impossible to melt the iron again unless the furnace was taken down, this had to be done at a cost of £2000. Their lordships would see that it was impossible to recover damages of such amount from the workmen who had no means of raising such sums." Considering the power which employers hold over men of depriving them of the opportunities of work,<sup>1</sup> it may be doubted whether they do not possess sufficient means of enforcing the men's performance of their bargains. But that they should have a legal means of punishing their employés by imprisoning a bread-winner and thus reducing his family to poverty was a power which angels could not be trusted to use with discretion, and which "was fit to be done away with." This was accomplished by the third section of the Act which provided that "an agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute shall not be indictable as a conspiracy if such act committed by one person would not be punishable as a crime."

This Act has thus secured the status of the English workman in a remarkable manner: and it cannot be seriously contended that he has misused the position thus given. Trade disputes have not of course ceased, but they have been conducted with less bitterness, because less sense of injustice. Trade-unionists are twitted by Socialists at home<sup>2</sup> and abroad with their conservative

<sup>1</sup> Compare Lord R. Montagu's Speech, 3 *Hansard*, ccxxv. 655, also Mr. MacDonald, *ibid.* 669.

<sup>2</sup> Hyndman, *Historical Basis of Socialism*, 427.

instincts, and are told that their programme for the future shows they have entered into an alliance with the capitalist classes. But if they have entered into an alliance for the maintenance of an industrial peace, and the settlement of disputes by calculation and agreement, no greater gain could have been secured to our industrial life. So far as the improved status of the workmen has rendered the relations of employers and employed smoother,—or at any rate less embittered by the constant sense of possible injustice—it has been a gain of the first order.

At the same time it must be noted that the difficulty urged by Lord Winmarleigh is a real one, and that if the employer could be relieved from the sense of injustice under which he suffers from the difficulty of securing redress, there would be a still greater gain from the removal of existing friction between the two classes. There is only one direction in which we can look for such a result. The funds of trade-unions are very large, and if these societies were rendered liable for damages inflicted by their members for trade objects, the employer would have ample security against cases like that instanced above, for there would be a responsible body from which he could recover his £2000. Nor would such a measure be so prejudicial to the Unions as may appear: the master would prefer to employ members of a Union as he would have no means of recovering damages from non-unionists: the whole weight of the employers' influence would be used to increase the membership of the unions; and they would thus become richer and more powerful, as well as more completely organised institutions than ever. With such a development of trade-unionism it would be once more possible—as well as necessary in their own

interests—for the leaders of the Unions to take measures to secure that their members did thoroughly good work, and labour might be once more as completely organised as in the days of the old guilds, but under forms which are suited to modern conditions of life.

78. The *Employers and Workmen Bill*<sup>1</sup> was a necessary corollary to the measure just discussed. It was generally approved on both sides of the House as embodying in a satisfactory manner the somewhat confused report of the recent Commission.<sup>2</sup> Little more is necessary here than to indicate the main scope of the measure as expounded by Mr. Cross in introducing it. Having first specified the acts which ought to come under the criminal law as crimes he proceeded, "When we come to consider other breaches of contract, we think they ought to be brought under a different system. We think the time has come when, considering the various attempts to modify the ancient laws, which have been coercive and oppressive, we may in other branches (? breaches) of contract between master and servant do away with all criminality and proclaim once for all, that as between master and servant contracts shall be treated civilly as any other contract case. . . . We propose that this kind of contract shall be dealt with as a civil proceeding, with all the incidents of a civil proceeding. . . . Therefore, we propose in this bill that any damages assessed should become a debt to be treated like any other debt and recoverable in the County Court—that Court to have the same power of enforcing payment of the debt as in all other cases."

In conclusion Mr. Cross endeavoured to forestall one

<sup>1</sup> 38 and 39 Vict. c. 90.

<sup>2</sup> Mr. Lowe, 3 *Hansard*, ccxxv. 658.

objection which might be taken in the matter : he feared that some one might raise the bugbear of foreign competition, but he showed that his measure could only put English employers in the same position in dealing with their workmen as that which was assigned to their rivals under Italian, French, German, and Belgian Law. But indeed unless we regard the relation of employer and employed as a chronic struggle, and not as a co-partnership in the industry of the country, we shall hardly feel inclined to believe that the improved status of the workman is in any sense a disadvantage to his employer.

79. Though the legislation of the preceding session had done much to improve the position of the individual workman there were still defects in the law as it related to his associations. These had first received a legal standing in 1871, when the Commission appointed to inquire into their constitution and objects had made their report. The result of that investigation had been to determine Parliament to relinquish the attempt to suppress these societies, and the second and third clauses of the Act of 1871 explicitly state that trade-unions are neither criminal nor unlawful. But this tardy granting of a legal status to these important bodies was a very insufficient measure, until supplemented by an enactment giving them additional legal powers. The chief object of the Act of 1876<sup>1</sup> was to secure the due administration of trade-union funds, and to provide more convenient machinery in connexion with the appointment of trustees. It also gave the societies much greater facility for protecting themselves against fraud, by allowing any trade-union to institute proceedings in the place where an

<sup>1</sup> 39 and 40 Vict. c. 22.



offence was committed and not only in the town where the registered office of the Society was situated.

The provisions of the Bill met with such general approval that it passed almost without discussion: at the same time its passage was not without significance. It was said that the Government had intended in the preceding session to regard trade-unions as mere Friendly Societies—to support them in that capacity, but to discountenance them as associations taking an active part in industrial relations. Whether this was the opinion of the Government or not, it was undoubtedly a view which was pretty generally held throughout the country at the time: it was said that the workman should be supported when he associated himself with his fellows for benefit or insurance purposes, but that he should contract, and sue and be sued for breach of contract on his own account: and the original bills of 1875 in regard to Friendly Societies<sup>1</sup> and the status of the workman appear to have been drawn on this view. But the modifications which the Friendly Societies Bill underwent led to the exclusion of trade-unions: they continued to be recognised as distinct bodies with other, and equally lawful purposes, from those of mere Friendly Societies; and by this measure they received most of the advantages in regard to the security of their funds which had already been given to the mere benefit societies. Their status was thus rendered more assured than ever—a result which cannot be considered unimportant by those who like Professor Thorold Rogers<sup>2</sup> regard them as the main security for the wellbeing of our industrial classes in time to come.

<sup>1</sup> Howell, *Conflicts of Capital and Labour*, 483. See also Lord R. Montagu's speech accusing the Government of aiming at the suppression of trade-unions. 3 *Hansard*, ccxxv. 652.

<sup>2</sup> *Six Centuries of Work and Wages*, 401.

80. The advantage which a labourer receives from possessing a small allotment which he can cultivate after his day's work is done, has been a constant subject of remark during the whole of the present century: if additional evidence had been required it was forthcoming in abundance when Mr. Jesse Collings moved the second reading of the Allotments Bill.<sup>1</sup> "The prejudices of the farmers," he said,<sup>2</sup> "against such legislation were disappearing, for it was found that the only way of keeping the best labourers was to give them some interest in land, which they could cultivate for themselves." Mr. Broadhurst<sup>3</sup> added that "labourers in rural districts were hard pushed indeed if they could not supplement their scanty wages by some little cultivation in the shape of garden or allotment ground. . . . Besides, it gave a man something to do in his leisure hours." While Mr. Arthur Arnold<sup>3</sup> adduced evidence of the profitable nature of the cultivation which could be there carried on.

The measure was thus promoted with a view of improving the labourer's status, not of turning him into a small farmer; it sought to provide the labourers with allotments of about "one acre whereon they might make a certain amount of money without endeavouring to live upon it—an attempt which must end in starvation." This improved status could also be secured without any loss and with probable gain to landowners who might get as good or better rents, and to farmers who might obtain more vigorous because more prosperous labourers to work for them. It gave improved status to a class, with the probabilities of general advantage as well.

It seems difficult to understand why a mode of letting land which was likely to prove so beneficial in many

<sup>1</sup> 45 and 46 Vict. c. 80. <sup>2</sup> 3 *Hansard*, cclxix. 941. <sup>3</sup> *Ibid.* cclxix. 942.

directions, and which had been so constantly advocated, should have been so rarely adopted. It probably was due to an unwillingness on the part of landowners to take the trouble of collecting the rents of so many holdings when they might deal with one man, and to the difficulty of finding suitable portions both as regards situation and soil, without affecting the letting value of large fields. On the other hand, farmers have not realised that the time is coming when they will get the best service out of the man whom they stigmatise as "an independent sort of chap," and have feared that the men would save themselves while at their work to have more energy to give to their own allotments<sup>1</sup>: but a man who has the additional prosperity which an allotment secures will be a more vigorous labourer, and better worth his wages. In this case, too, the less calculable (p. 131) advantages of a moral kind undoubtedly exist to a very large extent, and the improved status renders a man a more willing servant, and is an "attractive stimulus to vigorous labour," which acts more strongly than "the compulsion of poverty" (p. 152).

These causes may probably account for the hesitation of private proprietors and the slowness of the Enclosure

<sup>1</sup> This fear seems at first sight such a likely forecast of the probable effect on the labourers, that the conflicting evidence which is furnished by Mr. Thomas Estcourt in connexion with his experiment at Long Newton is worth quoting. "Some persons have conceived that inconveniences would arise out of this very circumstance of their being in a better situation in life than formerly; that it would put them above the necessity of labour, and would render them idle, insolent, and immoral. . . . The farmers of this parish allow that they never had their work better done, their servants more able, willing, civil, and sober, and that their property was never so free from depredations as at present."—*An Account of the result of an attempt to better the condition of the poor in a country village* (1804), p. 5. The whole pamphlet, with its account of the size of the allotments and conditions under which they were granted, is worth perusal, though circumstances have altered since the beginning of this century.

and Charity Commissioners in acting on the powers they possessed:<sup>1</sup> it was therefore found necessary to bring compulsion to bear on the trustees of charity lands, and Mr. Collings's Bill was intended to serve this purpose: there is, however, some room for fear that it has been so altered in passing through Parliament that this amount of compulsion may fail to force landowners to adopt a course that would often be beneficial to the labourers as well as profitable to themselves; though of course the scheme is no panacea.<sup>2</sup>

81. The extension<sup>3</sup> of the *Bank Holiday Act* of 1871 so as to include a larger number of employés who had hitherto been excluded, is a measure which is somewhat difficult to class; a holiday had become customary not so much as the result of direct legislation but from the indirect action of public departments, and the promoters merely assumed that holidays were a good thing, and did not argue that either the vigour or status of the population would be favourably affected by the increased opportunities for recreation. It is of course clear that whether a holiday is beneficial or not depends very much on the way in which it is spent, and one of the northern shipowners expressed a fear that the "Bill would be found to act injuriously by giving the working classes increased facilities for drinking,"<sup>4</sup> while Mr. Whalley regarded the measure as a Jesuitical attempt to undermine Protestantism, for he condemned it as "re-introducing a system of Saints' days into this country."<sup>5</sup>

But it is a better thing to set ourselves to face the

<sup>1</sup> Stubbs, *Land and Labourers*, 42.

<sup>3</sup> 38 and 39 Vict. c. 63.

<sup>4</sup> 3 *Hansard*, ccxxii. 800.

<sup>2</sup> *Debate*, 21st April 1884.

<sup>5</sup> *Ibid.* ccxxiii. 663.

problem of providing true recreation for the people than to condemn them to an unceasing round of drudgery : and Parliament seemed to feel that recreation like education is a good thing, though both may be misused. The real difficulty is to provide that recreation shall not interfere with necessary labour, especially with the labour of those who have a hard struggle for daily bread, and who can scarcely afford the luxury of recreation at all. The object of the Act was to extend the existing Bank Holidays to the Custom House officials, but this really implied the practical closing of docks and the non-employment of dock labourers, and thus it enforced idleness of many men who were paid by the day. To this it was answered that so little work was done at many of our ports at present—notably London and Liverpool—that the want of employment was felt already, and the Bill only enabled the Custom House officials to conform their practice to that of the public. The chief opposition came from the North-Eastern Ports, as it was said that the character of the Baltic trade made a closed day very inconvenient, and that the connexion between the ports and the collieries was so intimate that the compulsory holiday would be forced on many miners as well. The difficulty was overcome in Committee, by altering the wording of a clause so that while the holiday is compulsory in the Customs, Inland Revenue Offices, and Bonded Warehouses, there is only an enabling clause to allow the directors of docks to have the day kept as a holiday on giving due notice. It is of some interest as a piece of legislation which has approved itself and been expanded, while care has been taken to avoid the hampering of trade or the enforcing of idleness on those who would otherwise have had an opportunity for work. In regard to this last matter it is

obvious that the labourer paid by the day is much less likely to ask for holidays than a clerk in receipt of a quarterly or monthly salary.

82. This may be the most suitable connexion in which to say a few words about two measures of great practical importance—the *Bills of Sales Acts* of 1878<sup>1</sup> and 1882.<sup>2</sup> The measure of 1878 consolidated the existing law on the subject, and was framed more especially with the view of giving protection to the public against secret and fraudulent bills of sale. The experience of a few years however served to show that the facilities afforded were taken advantage of by money-lenders to an alarming extent, and evidence of a very sensational character was given by professional money-lenders before a Select Committee which considered the subject. “One witness, a money-lender, said that for loans under £50 the rate of interest ranged between 70 and 90 per cent., and often exceeded the higher figure, and that 15 times out of 20, where the money was not paid promptly, the borrower’s goods were seized and sold, often inflicting great misery and hardship. He said that it would be an advantage to smaller borrowers if they were prevented from borrowing on bills of sale, . . . and that 99 out of every 100 borrowers were insolvent, and many of them did not understand the effect of a bill of sale.”<sup>3</sup> At the same time a difficulty was felt in Parliament about limiting even in his own interests the right a man had “to raise money on personal property, while they allowed others to raise money on real property.”<sup>4</sup> Both Mr. Chamberlain and Earl Cairns

<sup>1</sup> 41 and 42 Vict. c. 31.

<sup>2</sup> 44 and 46 Vict. c. 43.

<sup>3</sup> Mr. Monk, 3 *Hansard*, cclxvii. 396.

<sup>4</sup> Mr. Serjeant Simon, 3 *Hansard*, cclxvii. 398.

criticised, the clause which prohibited bills of sale under £50, as excluding the working man or the small trader from using them. "If there was any advantage at all in giving bills of sale he could not see why the poor man should be prohibited from availing himself of the advantage."<sup>1</sup> The facts of our time however seem to show that whatever may be the case with the wealthy there is very little advantage to be obtained by the poor man out of facilities for borrowing, and that those prosper best on the whole who adopt a system of cash payments in their purchases and abjure credit in all its forms. Those must be very thorough-going advocates of the principle of *laissez faire* who object to a measure on the grounds that it limits a man's opportunity to do himself a injury.

## 2. *Measures involving the creation of new administrative machinery.*

83. We may now pass to consider a class of social enactments which have aimed like those already discussed at the preservation of the lives or property of the poor, but in which some new machinery has been created for attaining these objects.

The attention of Parliament has been directed over and over again to the terrible risks affecting a seaman's calling, and to the appalling loss of life at sea. Many measures had been introduced from time to time with the view of diminishing these risks,<sup>2</sup> but the evil continued and appeared to increase. At length public feeling was aroused on the subject by the eloquent appeals of Mr. Plimsoll, who called attention to the extent of the

<sup>1</sup> Earl Cairns, 3 *Hansard*, cclxx. 1548.

<sup>2</sup> Compare *Quarterly Review*, cxli. 251.

mischief and assigned it to the fact that ships were sent to sea in bad repair, and grossly overloaded—as well as to the special conditions of cargo in the grain trade from the Black Sea and the Canada timber trade. As to the cause of these evils he believed it was due to the criminal recklessness of shipowners, and excitedly asserted that “continually, every winter hundreds and hundreds of brave men are sent to death, their wives are made widows, and their children are made orphans, in order that a few speculative scoundrels in whose hearts there is neither the love of God nor the fear of God may make unhallowed gains.”<sup>1</sup> He therefore contended that the shipowners could not be trusted to manage their own property so as to take proper precautions for the lives and comfort of their seamen, and that Government must take upon itself the duty of insisting that ships should not go to sea unless in proper repair, nor if they were overloaded.

A Merchant Shipping Bill had been introduced by Sir Charles Adderley in 1875, which was drawn on different lines. “It was framed on the principle on which all our legislation has hitherto been based—namely that of enforcing responsibility on those who conduct the Mercantile Marine service of this country to take all reasonable precaution or means in their power to protect the lives of those employed by them at sea. On the other hand, Mr. Plimsoll’s proposed measure attempted not only the punishment of offenders, but a needless and harassing Government inspection and warranty of all unclassed ships, and on the part of Government it actually undertook the conduct of the Merchant Shipping itself; and as I think, a Bill based on that principle, so far from securing life at sea, tends rather to a greater loss of life

<sup>1</sup> 3 *Hansard*, ccxxv. 1823.



at sea, by removing the principal check of the liability of those who are conducting the service, and the responsibility of seeing to all practicable security from off their shoulders."<sup>1</sup> Owing to some remissness on the part of the Cabinet this Bill was allowed to drop, but so much indignation was expressed at this proceeding that a temporary measure was hastily drafted and passed as the *Unseaworthy Ships Act*,<sup>2</sup> and offers one of the only examples in recent years of 'experimental' legislation (p. 157); after six months' experience of its working Sir Charles Adderley professed himself satisfied with its results and introduced the *Merchant Shipping Bill*<sup>3</sup> of 1876, which among other things rendered its provisions permanent. But it must be noticed that both of these measures proceeded on the lines advocated by Mr. Plimsoll, though not with the thoroughness he desired; for they met the evils of unseaworthiness by extending the survey powers of the Board of Trade, and of overloading by insisting that the owner should mark a load-line on his vessel. The Act of 1873 had already given powers to the Board of Trade to detain ships of which complaint was made that they were unseaworthy: the Acts of 1875 and 1876 therefore proceeded on a principle which was already partially admitted, and on the principle on which Mr. Plimsoll's Bill was based, and gave greater powers to the officers of the Board of Trade.

In 1875 Sir Charles Adderley adopted as a temporary expedient the principle which he had hitherto repudiated: in 1876 he continued to act on it, on the plea that the experiment told in its favour. It is interesting to look

<sup>1</sup> Sir Charles Adderley, 3 *Hansard*, ccxxvi. 146. Mr. Plimsoll admitted the effect of his Bill in diminishing the shipowners' responsibility.—Mr. Rathbone, 3 *Hansard*, ccxxvii. 429.

<sup>2</sup> 38 and 39 Vict. c. 88.

<sup>3</sup> 39 and 40 Vict. c. 80.

back from the present day and discuss how far a longer experience confirms the wisdom of Mr. Plimsoll's principle, or the sufficiency of the evidence of a six months' experiment.

Before doing so however we may note the anticipations which were formed at the time. A writer in *Engineering* expressed himself thus in 1875: "We are however at present disposed to believe that they [the load-line clauses] will tend too much to breed confusion and irregularity in the loading of ships, and tend perhaps as much towards making the majority of ships load somewhat deeper than they do now." After the six months' experiment he wrote: "It appeared certain that all owners, good or bad, would, for their own protection, mark the load-line higher than they ever intended to load to. The higher the maximum load-line is marked the greater latitude the ship has to overload, especially in foreign ports, and the temptation to load very deeply abroad is great where freights are high; and many captains under such circumstances would feel justified in taking in cargo as long as the marks remained above water. As a matter of fact the discs marked under the present Act are all placed higher than it is intended to load the vessels to."<sup>1</sup> It was not found possible to take the fixing of the load-line out of the hands of owners, but reliance had to be placed on the indirect pressure brought on them to fix it fairly;<sup>2</sup> and in whatever way the load-line was settled, it would necessarily be on the principle of marking a *minimum* of prudence, since loading beyond it was to be treated as criminal imprudence.

As to the effect of the Board of Trade Surveys Mr.

<sup>1</sup> *Shipping Legislation*, reprinted from *Engineering*, 25.

<sup>2</sup> Sir C. Adderley and Mr. E. J. Reed, 3 *Hansard*, ccxxvii. 174, 185.

Rathbone's account of the matter deserves much attention. Sir Charles Adderley and Mr. E. Stanhope "had visited together during the Recess several of the seaports, and had examined sailors, captains, surveyors, engineers, machine-makers, shipbuilders and shipowners, and he would appeal to them to endorse his statement that from the evidence of those persons the surveys of passenger ships under the Board of Trade had prevented the safest, the most economical, the most effective, and the best form of ship and machinery being adopted. They stated further that they had been repeatedly compelled, in compliance with the rules of the Board of Trade, and the demands of the surveyors, to do that which they did not consider was the most desirable for the safety or the efficiency of the vessel. This evidence came from men who were connected with the most wealthy and powerful shipping companies in the kingdom; and if men in their position, with wealth and influence at their back, and able, therefore, to hold their own with exceptional vigour against the Government requirements, had been hampered by them, what must be the effect of such a system upon the less wealthy rising set of shipowners to whom we must look for improvement and progress?"<sup>1</sup>

After seven years' experience of the system of guarding against overloading and unseaworthiness, we find that the anticipations of the specialists have been realised with terrible exactness. Mr. Chamberlain, speaking at Newcastle,<sup>2</sup> quoted the published opinion of an eminent underwriter who "alludes to the fact that in recent years foundering and missings have considerably increased while strandings have diminished, and he goes on to say this:—'This gives some warrant to the opinion that

<sup>1</sup> 3 *Hansard*, ccxxvii. 430.

<sup>2</sup> 16th Jan. 1884.

steamers either from weaker construction or from increased tendency to overloading are getting less fit for the work they are put to.' . . . With regard to sailing ships the decrease in stranding is from 45% to 34%; the increase in foundering and missing from 38% to 52%." By these quotations I have endeavoured to put as tersely as may be the argument which goes to show that the principle which Mr. Plimsoll advocated and which was adopted in Sir Charles Adderley's Bill was thoroughly unsound.

Mr. Plimsoll himself had complained bitterly of the Marine Department of the Board of Trade,<sup>1</sup> but hoped that it might be so organised as to do a much greater amount of work thoroughly and well—a curious but characteristic piece of reasoning. The then President of the Board of Trade undertook the increased work with hesitation and unwillingness: the shipowners as a class objected strongly to the powers of the Board being increased. Under these circumstances it seems most extraordinary that such a measure should ever have been passed; and this circumstance will repay investigation.

First, the opposition of the shipowners was disarmed because they believed that Board of Trade inquiries into seaworthiness would be more speedily carried through than if this work was left to the ordinary Courts. Since sailors had the right (given in 1871) of forcing an inquiry into the seaworthiness of a ship and thus detaining her, their chief anxiety was that the detention should be as short as possible. To most of them it seemed the least of two evils, and they accepted it as such; while the worst class of shipowners may possibly have been glad to find themselves partially divested of responsibility by the

<sup>1</sup> 3 *Hansard*, ccxxv, 1823.

intervention of the Board of Trade. Thus opposition was silenced.

No body of officials could be expected to underrate their own efficiency or the possibility of doing additional work well if their numbers were increased: the hesitation of the President of the Board of Trade could not serve as a serious obstacle against outside pressure.

On the other hand the popular estimate of the functions and of the powers of the State led to the growth of an overwhelming public sentiment in favour of Mr. Plimsoll's proposals. To the ordinary mind it appears that it is the duty of the State to protect life and property, and therefore to protect the lives of sailors. But as we have argued above (p. 140) it is not the function of the State to protect from physical evils, but to enforce proper attention to duty on the part of responsible agents. Mr. Plimsoll recommended a course which as he distinctly stated would protect lives, but diminish the responsibility of shipowners: he thus urged Parliament to neglect its proper function, and to expend the energies of public officers on work which lies outside the sphere of State action.

This error could not have been committed however if he had not exaggerated the power of the State to secure our sailors from the dangers which arise from overloading and unseaworthiness: his system was not carried out in its entirety, but it was so far carried out that the agitation which he led ceased; and under the scheme he accepted, as Mr. Chamberlain's statement shows, overloading and faults in construction have enormously increased. It has been a terrible price for the nation to pay in order to exhibit the mischief which may be done by benevolent enthusiasm coupled with misconceptions as to the duties and the powers of the State.

84. Since 1880<sup>1</sup> the intentions of Mr. Chamberlain, the responsible minister, appear to have been forming in the direction, not of divesting his department of powers which they have not exercised with success, but of putting more pressure on shipowners by interfering with the terms on which they contract to be indemnified in case ships are lost. It is the case that some ships are insured at a value which not only indemnifies the owner for his actual outlay in ship and cargo, but which indemnifies him for all the outlay which would have occurred and the profits which would have accrued on a successful double voyage; and it is contended that his care in the management of his business is unconsciously relaxed on account of gain which may arise from this source. We have already seen ample reasons of another kind to account for relaxed energy on the part of shipowners; and a very careful analysis of figures would be necessary to prove that over-insurance was even an important concomitant cause of loss at sea. Insurance premiums are so high that it is extremely doubtful whether a business could be profitably carried on in this manner, even though single cases of enormous gain to the owner may be quoted. Besides, it must be remembered that though insuring may be accountable for a certain amount of loss, a system has arisen in connexion with the great association of underwriters at Lloyd's which has done more than any of the legislative enactments for raising the character of our mercantile marine. The owner of a ship classed at Lloyd's has had her built by respectable shipbuilders in such a manner as to secure her getting the class he requires on Lloyd's Registry. From the time she receives her class "she is subject to a general inspection every year,

<sup>1</sup> 3 *Hansard*, cclii, 287.

and to a special survey at longer intervals. . . . The surveyor (or surveyors as the case may require) being unconnected with either the shipowners or the underwriters, is in a position to make an impartial report ; and this he is the more bound to do because Lloyd's Register Committee, who have to examine and take action on his report, are composed of representatives of both the shipowners and the underwriters, and they are not slow to detect and to check any tendency of the surveyors adverse to their respective interests. The expense of the repairs due to the damage sustained by the ship, when it is serious, falls chiefly on the underwriters. The interest of the owner therefore is to have the ship thoroughly set right again—not to shirk repairs. If the surveyor does not see that this is done efficiently the owner has a right to complain, and he can always find shipowners on the Register Committee ready to support his complaint if it is at all a fair one. On the other hand the surveyors have no inducement to deal unfairly with the underwriters, or to require more done than is necessary because the owner is content if the vessel is restored to her original condition and retains her class.”<sup>1</sup> This being the influence exercised by Lloyd's, it may be urged that insurance effected through agencies which bring this system to bear on the shipowners is distinctly productive of good, and that no greater mischief could befall than to have shipowners less willing to work through Lloyd's, and more willing to effect their insurance by means of “mutual clubs” where no such supervision is exercised. And it seems not impossible that any attempt to limit the amounts insured might have this effect, and instead of stopping over-insurance, only succeed in forcing men to effect it through different channels.

<sup>1</sup> *Shipping Legislation*, reprinted from *Engineering*, 34 f.

The policy which would correspond most closely with that which has been followed in regard to employment on land would be quite different. If we tried to follow on the same lines we should give the seaman full means of proceeding against the owner on the plea of the unseaworthiness of the ship in which he was to sail : but we should enable the owner to insure to the value he set on his "venture," including the loss to which he might be exposed because of undue detention on account of sailors' complaints. On the other hand, it might be possible to strengthen the hands of underwriters in proceeding against owners who were guilty of making fraudulent over-valuation of their risks. In this way we should attempt to guard against loss at sea, not by limiting the powers of the shipowners through the action of the Board of Trade on the one hand and the legal terms of insurance on the other, but by rendering more effective the checks on misconduct which can be brought to bear by sailors on one side and by underwriters on the other.

85. The task of describing in a few sentences the main features of the Irish Land Bill of 1881, is one of no ordinary difficulty ; while the issues it raised are so many and the feelings it excited were so keen that one can hardly hope to weigh its economic merits and demerits very satisfactorily : at best we can but indicate the lines on which the criticism of the measure must proceed.

There are several points which were discussed at considerable length in the debates on the Bill, which we may entirely discard, such as the proofs which Mr. Tottenham<sup>1</sup> brought forward that Mr. Gladstone's attitude in introducing the Bill was quite inconsistent with the doctrines

<sup>1</sup> 3 *Hansard*, cclx. 1373.



he laid down in 1870, and with his opposition to the measures advocated by Mr. Butt: that may be a matter of great importance for party politicians, but we are merely concerned in discussing the economic bearings of the measure, not in justifying the consistency of those who voted for it, nor in trying to settle the disputed question as to its parentage.<sup>1</sup>

On the other hand we cannot dismiss the whole subject with a phrase, and condemn it as contrary to sound economic principles<sup>2</sup> because it interfered with freedom of contract. It undoubtedly was inconsistent with the *laissez faire* political economy, and the efforts of Mr. Arthur Arnold<sup>3</sup> to demonstrate its consistency with these principles were by no means forcible or clear. A wiser line was taken by Mr. Thorold Rogers who remarked that "much had been said about that three-legged horse freedom of contract; but if they allowed persons to do just as they pleased in their relations with their fellow-subjects, the result would be universal swindling in the whole of society."<sup>4</sup> We must endeavour to examine its provisions fairly and judge of their economic bearing by seeing how far they were calculated to increase or to dissipate the physical means of sustaining national life (p. 117).

The object of the Bill was always treated as social not as economic: one part of the Bill was intended to "improve the tenure of the Irish tenant" and another to "facilitate the purchase of the freehold land by the Irish

<sup>1</sup> Mr. Gladstone always treated it as the necessary interpretation of a recommendation of the Richmond Commission and fathered it on Mr. Chaplin, 3 *Hansard*, cclx. 897, cclxi. 601: while the opposition and the Irish members constantly contended that it was practically due to Mr. Parnell and the League: see e.g. Lord R. Churchill and Mr. Healy on third reading, 3 *Hansard*, cclxiv.

<sup>2</sup> Lord Elcho's amendment on second reading.

<sup>3</sup> 3 *Hansard*, cclx. 1135.

<sup>4</sup> 3 *Ibid.* cclx. 1608.

tenant :"<sup>1</sup> or as Mr. Bright put it, "What we want to do and attempt to do partly by this Bill is to drive famine, and poverty and suffering and discontent, from Ireland:" Mr. Gladstone in introducing the Bill expressly declined "to enter into the economical part of the subject" of a peasant proprietary, since what he desired was "the political and social advantage of the people;"<sup>2</sup> while similarly he laid stress on the "immense political advantage that has been found to attend the principle"<sup>3</sup> of tenant right. Our discussion then may be limited to the question whether the means taken for this object were satisfactory when economically considered: we fully accept Mr. Gladstone's test and agree that the question is "what fruits we shall reap in the long future of a nation's existence:" but we are not so confident as he that "we cannot err" if our mere conception of "Justice is to be our guide"<sup>4</sup> (p. 126). Were it so, we might dismiss the economic question altogether and leave the discussion of the Bill to moralists: but "bearing in mind that what is not economically true may be plausible but cannot be really satisfactory" we must turn to the actual provisions of the Bill.

86. The chief means for improving the position of the tenant is that set forth in the first section of the Act, which recognises the tenant's right subject to certain conditions of free sale of his interest in the holding. The proposal was supported by the expectation that the additional security thus given to the tenant would call forth greatly increased energy on his part, since he would be secure in enjoying the fruits of his labours. Mr. Errington put the

<sup>1</sup> Mr. W. E. Forster, 3 *Hansard*, cclx. 935.

<sup>2</sup> 3 *Hansard*, cclx. 918.

<sup>3</sup> *Ibid.* cclx. 903.

<sup>4</sup> *Ibid.* cclx. 926.

matter most clearly : " What the Bill did was to liberate a capital at present locked up and unavailable, and which was in abeyance between landlord and tenant. The landlord had the legal right ; but in most cases he neither could nor would exercise it, and most landlords thought they ought not to do so. On the other hand, almost all authorities in Ireland as well as in England, admitted that the equitable right vested in the tenant ; but he of course could not use it except on sufferance. It was, therefore, in its present condition useless to every one, and it was certain that so long as things remained as they were the landlord would never use it. What they proposed in the Bill was to call that right out of abeyance in favour of the tenant in whom vested the equitable right."<sup>1</sup> There is undoubtedly a great mass of evidence to show that many tenants have improved their holdings wonderfully, and to raise the expectation that if they had more security they would do so to a much greater extent : but we may remark once more in passing that the conclusion rests on an argument of a kind which has been already noted as characterised by great uncertainty (p. 131), for it depends on probabilities as to the effects of certain changes on human disposition and character. Security is a negative condition without which great energy cannot be expected, but it does not necessarily follow that greater security will of itself call forth greater energy. It is even possible, as the critics of the Poor Law tell us, that a measure of security will render a man idle ; we might argue that security gives a man a chance to show what is in him, and the industrious becomes more diligent, and the idle idler : to prove it a generally satisfactory remedy it would have been necessary to dispose of Mr. Mitchell Henry's asser-

<sup>1</sup> 3 *Hansard*, ccxxi. 64.

tion that "all history taught them that amongst the class that was favoured by the legislation of the moment there would be the thrifty and the idle."<sup>1</sup>

Admitting however that the probabilities favoured the opinions of those who held that greater security would favour the investment by the tenants of greater energy in the cultivation of their holdings, it must be admitted that the form in which this security was given, was open to strong objection. By recognising a tenant's interest in his holding as a saleable property, the *Land Act* conferred upon him facilities for borrowing which he had not previously possessed. Nor is this an imaginary evil; the Irish peasantry have suffered much from the extortion of dealers who supplied them with meal, advanced them the seed for their land, or took off their butter and produce, and occasionally gave them money loans at exorbitant interest; and this evil seemed to be increasing. Mr. W. H. Smith stated that "it had come to his notice that many of those small tenants had been enabled in the early years after the *Land Act* to obtain credit. It was supposed that they were richer while in fact they were only spending money. They contracted debts till after a time the power of obtaining credit ceased, and their small properties were swallowed up by the money-lenders. . . . The end was that they were worse off than ever; and it appeared to him that, as far as those small tenants were concerned, if the Bill gave them a new interest in their holdings, the same thing would happen again that had followed the passing of the Act of 1870. They would obtain credit and for a time would appear more prosperous; but sooner or later disastrous harvests would occur again, their credit would be exhausted, and it would again be the

<sup>1</sup> 3 *Hansard*, cclxi. 343.

sad duty of England to endeavour to save the perishing people from starvation.”<sup>1</sup> Still more striking evidence was given by Mr. Brodrick from that part of Ireland where similar rights had long existed. “Side by side with the prosperity of Ulster<sup>2</sup> had grown up a system of indebtedness the extent and importance of which it was difficult to exaggerate. A gentleman managing 70,000 acres had said that the indebtedness of tenants in Ulster was so great that they paid more to the usurers than to the landlords. He had himself seen an advertisement of a wholesale stationer in Ulster, who said that at present he made up five times as many bill-books for the entry of accounts as he had done before the Act of 1870 had passed.” But the Act not only thus gave facilities for borrowing, but it increased the temptation to borrow money on the part of a tenant who wished to purchase his holding; or on the part of an incoming tenant who might have to pay exorbitantly for the tenant right, and who though he might have the means of recovering his capital when he left the holding, would not have the use of it for improving his holding during his tenancy. No answer was attempted to these prognostications of evil, and indeed Mr. Gladstone appeared to congratulate himself on the fact that the peasants “having the tenant right they will have something on which they can borrow.”<sup>3</sup>

Of course this objection rests on the same doubtful kind of argument—as to the probable effects on the average human character of certain changes in status and legal right; we may admit that the power of borrowing is an advantage to the prudent man, while it may be a danger either to the over-sanguine or the very poor; at

<sup>1</sup> 3 *Hansard*, cclx. 1575.

<sup>2</sup> *Ibid.* cclxi. 77.

<sup>3</sup> *Ibid.* cclx. 919.

the same time it was sufficiently clear that the danger was a real and increasing one in Ireland which might counteract the good effects of the additional security conferred on tenants by the bill.

87. In order to secure the tenant's interest still further it seemed necessary to provide that the landlord should charge a fair rent, as otherwise the tenant's property might be "nibbled" away by the landlord raising his rent,<sup>1</sup> until the value of his interest was destroyed; and it was stated that some landlords had rendered the Act of 1870 nugatory by adopting this course. It was therefore held necessary to create a tribunal through the action of which the fair rents might be assessed, to remain unaltered for fifteen years. The greatest controversies raged round the subject of fair rents, and the meaning of that phrase.

Two difficulties were felt; that of finding out what was *fair*, and that of having it *fixed* for just the period of fifteen years. Mr. Law held "that a fair rent was a competition [rack] rent minus the yearly value of the tenant's interest in his holding. . . . To find out what belonged both to the landlord and to the tenant, it was necessary to have recourse to the standard of competition:"<sup>2</sup> in other words the landlord's rent was to be taken as the highest he could get in open market, and the yearly value of the tenant's interest—as estimated from the sum it would fetch in the market—being subtracted, the remainder would prove a fair rent, and would approximate to the rents charged by good landlords at the time. The defect in this estimate was that no account was taken of the changed conditions of competition which were introduced by fixing rents for a considerable period. The

<sup>1</sup> Mr. Law, 3 *Hansard*, cclx. 1394.

<sup>2</sup> *Ibid.* cclxx. 1399, 1400.

land hunger had hitherto forced up the competition-value of rents enormously, and had had comparatively little effect on the competition-value of tenant right; but if the rent was fixed for so many years certain, the effect of the land hunger would operate in the way of raising the value of tenant right without affecting the rents at all. Competition was destroyed as affecting rents, while it operated on the price of rights, and the attempt to take it as a guide in determining what was fair was obviously illusory. On the other hand if competition-prices were no longer available, a fair rent could only be assessed by setting a valuator to estimate what it was possible for a man to live on, when the size and quality of his holding were taken into account, and then allowing the landlord to have the rest of the produce as rent. There was therefore much force in Mr. Balfour's<sup>1</sup> contention that "what the Bill was really attempting was to fix the standard of living for Irish labourers. A large proportion of the farmers were really in the position of labourers. To fix their rents was really equivalent to fixing the amount of wages they were to receive. In parts of Ireland the tenants had no capital, and any law regulating the rents they paid was really a law regulating wages." Now the State regulation of wages may or may not be a good thing, we have contended above (p. 71) that it was not such a bad thing in this country as is often supposed: but of State regulation of wages without any provision for the State regulation of work we have had no experience, and it would be very hard to argue that it would serve as a means of stimulating to greater industry.

We have thus passed to the second point, that of *fixing* rents for fifteen years: but it was obvious that all

<sup>1</sup> 3 *Hansard*, cclx. 1612.

the conditions of competition for holdings, especially in the face of the development of American farming, might alter in fifteen years, and the opposition of the Land League to the Bill was based on the ground that the rent assessed might easily come to be unfair ; in the same way prices might so alter that the possibility of living by a holding and the whole standard of comfort should alter during that period. Indeed the attempt to set a fixed rent of this kind by calculation was never made in those ages when the prices of most commodities and the reward of labour were fixed by rarely altered customs (p. 31). The value of corn or other agricultural produce must vary with the seasons : no attempt was ever made to fix its price, but only to secure conditions in which the competition by which its price was fixed should be fair. Where men lived at a *quit* rent, this was indeed fixed, but fixed with reference to the value of the services they no longer paid, not with reference to the produce of their land. Competition with all its uncertain incidents was sure to come in sooner or later, and to render any attempt to fix what was fair, in the hope that it would continue to be fair, absurd. If the tenant is a substantial man who bargains freely, he can take the risks of these changes in bidding for a lease : if he is a poor man on a yearly tenancy he may rely on his landlord as a wealthy man exercising some forbearance and waiting till better times : but there was room for doubt whether the Irish occupier would be sufficiently prosperous to bear up against temporary losses, and whether the landlords would be as willing as before to submit to temporary inconvenience.

The Act however became law without the removal of those difficulties, or much explanation as to the principles by which the tribunal were to be guided in attempting



the difficult task of fixing fair rents. It became increasingly obvious as the bill proceeded, that in whatever way the fair rents were fixed a measure of loss would fall upon the landlords—on one side the operation of competition for tenant rights without competition for holdings would alter the terms of bargains to their disadvantage; on the other, if calculation were resorted to, rents would have to be calculated at a rate which would enable the tenant to bear the loss from bad seasons: by either process farms would be put at a low rent. Mr. Gibson estimated the possible loss of rent at about one-third:<sup>1</sup> but the promoters of the measure denied that this result would follow: in introducing it Mr. Gladstone had borne testimony to “the good conduct of the great proportion of the landlords:”<sup>2</sup> Mr. Forster expressed his anticipation that “upon the low-rented and a great many of the moderately-rented estates, according to the Irish acceptance of the term, the rent would be raised.”<sup>3</sup> On this ground the promoters of the Bill rejected all admission of a claim to compensation: “the English law in the matter depends upon whether damage can be proved, and my firm belief is that no damage can be proved; on the other hand that if the landlord were compensated you would compensate him for conferring on him a benefit.” Since this was the opinion of the promoters of the Bill, they certainly committed a tactical error in not providing some means of compensation in those exceptional<sup>4</sup> cases where the landlord could prove damage, as the expense would not have been rated high, and the opposition to the measure would have been greatly disarmed, both in its passage through the house, and in its reception by the

<sup>1</sup> 3 *Hansard*, cclx. 1092.

<sup>2</sup> *Ibid.*, cclx. 892.

<sup>3</sup> *Ibid.*, cclx. 1160.

<sup>4</sup> Mr. A. Grey, 3 *Hansard*, cclxi. 1390.

landlords of Ireland. Such a provision, and such a provision only, would have taken the edge off the accusation of confiscation.

But whether this Bill would limit the rents of landlords or not, it undoubtedly restricted their legal powers, —legal powers which according to Mr. Gladstone had been on the whole well and wisely used : we may well inquire into the probable effect of the limitation of these rights. In the first place the fact that the landlord was precluded from raising his rents except at stated intervals, would interfere with his receiving an immediate return for his money ; while the fact that his ultimate return would depend directly or indirectly on the terms fixed by Commissioners as fair, deprived him of his power of holding out for the terms he thought necessary to repay him. This would be likely to militate both against his investing money in the estate, and against his trying as a resident landlord to exercise any control over his tenantry. The Portsmouth estates which were held up as a model were conducted on this principle, and thus for the first time in Irish history the non-resident proprietor who never spent a shilling on his land was held up as a model whom others were to imitate.<sup>1</sup> There was undoubtedly a fair case for arguing that since human beings are what they are, the tendency of the measure would be to induce Irish landlords to sink less capital in their land and exercise less care over their estates than ever. Now whether they had spent much or little, whether what they spent had been their own or borrowed from the State, this was an evil so far as it went. Anything that diverted capital from Ireland would aggravate the evils of the country by providing less employment for labour in industries or works, and thus

<sup>1</sup> Mr. Brodrick, 3 *Hansard*, cclx. 75.

increasing the land hunger. That the want of employment was the root from which the land hunger arose was admitted on all sides, and no attempt was made to show that the diminution of the landlord's rights, apart altogether from the possible diminution of his rents, would not tend in that direction.

By limiting the opportunities for eviction too, the powers of the landlord were limited in another direction: the power of eviction had been the instrument by which he was able to prevent the subdivision of holdings: one of the great curses of the country was the readiness of the Irishman to settle on a holding which was utterly inadequate for supplying him and his with the barest support: and it was incumbent on the promoters of the bill to show how they purposed to exercise this influence when the power of the landlords to evict was so greatly limited.

88. It thus appears that in its economic aspects the Bill of 1881 was difficult to justify: the whole argument *pro* and *con.*, turned on the probabilities of human action under certain conditions (p. 131), but the possible gain from security of tenure was purchased at the risk of increasing the possible losses from a development of usury, a diminution of employment, and the removal of the practical restriction on the subdivision of holdings. There is no evidence that the promoters of the measure recognised the existence of any of these dangers or made serious efforts to guard against them.

But even granting the unwarrantable, because unstated assumption of the promoters that increased security of tenure was worth purchasing despite these risks, it was certainly incumbent upon them to show that none of the other proposals for securing the tenant's interest were

sufficient for the purpose. As to the desirability of securing the tenant's interest in his improvements by granting a compensation for disturbance there was no dispute.<sup>1</sup> They even had had before them since 1845 and 1846 the bills by which Lord Stanley and Lord Lincoln had endeavoured to secure the tenant's improvements through the appointment of a "State Commissioner to judge of, and to authorise improvements effected by the tenant so that the tenant might be paid for the improvements effected on his farm, if evicted, and on the declaration of the Commissioner that those improvements had been wise and necessary."<sup>2</sup> They had the authority of Mr. Disraeli, and of the majority of the Richmond Commission for going thus far:<sup>3</sup> there were only two possible grounds for statesmen going further and thereby introducing all the elements of economic loss already discussed; either because the existing system was so bad that a desperate remedy was necessary, or because justice demanded that, at any risks, some additional right on the part of the tenant should be recognised.

There was of course great agitation in Ireland at the time of the passing of this measure, but no one could contend that temporary distress through bad seasons was a solid reason for revolutionising the land system of the country. And according to Mr. Gladstone, the system was on the whole working well. The cases in which rents were not raised were increasing, and the evictions were steadily decreasing,<sup>4</sup> while Mr. Bright averred that wages were rising.<sup>5</sup> It could not therefore be supposed

<sup>1</sup> Mr. W. H. Smith, 3 *Hansard*, cclx. 1576, Mr. A. J. Balfour, 3 *Hansard*, cclx. 1613.

<sup>2</sup> 3 *Hansard*, cclxi. 366.

<sup>4</sup> *Ibid.* cclx. 925.

<sup>3</sup> *Ibid.* cclxi. 602.

<sup>5</sup> *Ibid.* cclxi. 110.

that the normal case was so desperate, that an heroic remedy was necessary.

Therefore we must suppose that the argument for the Bill rested on the necessity of doing Justice to the tenants, by admitting as a legal right a custom which was generally recognised. This right might be claimed either on the tradition as to ancient Irish custom which had been persistently ignored for centuries, or as the logical development of the position conferred on the tenant by the Act of 1870. But the conditions of the contract on which land is let are not natural laws of right and wrong which are eternally binding, whether they are enforced or not; the fact that certain customs had been in vogue in Ireland once, by no means demonstrated that it was a necessity of Justice to revive them (p. 137). On the other hand the status given under the Act of 1870 had been conferred accidentally<sup>1</sup> and in opposition to the expressed intentions of the proposer of that measure, and there was no necessity to expand it on the ground of Justice. But turning to the other side we see that the powers of dealing with their property—of which the landlords were deprived—were theirs by every security that legal title can afford: it may have been politic to take them away, but it would have been hard to show any sense in which it was just. On consideration it seems that Justice had nothing to do with the measure, except to furnish phrases for the peroration of the speech that introduced it.

The reasons alleged then for going beyond the measures which all responsible statesmen were prepared to adopt, and thus introducing a risk of grave economic dangers, were wholly inadequate: one can only suppose that the promoters of the measure were unconsciously forced by the pressure

<sup>1</sup> 3 *Hansard*, cclxi. 902.

of outside agitation<sup>1</sup> to take a course which, on a retrospect at this distance of time, it is impossible to justify on the grounds of justice, necessity, or expediency.

89. It is too soon to judge satisfactorily of the effects of the measure, for both promoters and opposers appealed for justification to its influence on future generations. Sufficient time has elapsed however for us to be able to test some of the predictions which were made while the Bill was passing through the House.

*a.* The great object of the bill was "to remove the feeling of discontent"<sup>2</sup> on the part of the Irish tenants. Mr. Parnell's speech on the second reading must have shown how faint that hope was, while the ministry have already confessed its failure to do so by amending their own measure.

*b.* Mr. Bright and Mr. Forster agreed that rents would not, generally speaking, be lowered. Mr. Gibson anticipated a possible fall of a third. It is generally said that the reductions carried out by the Commissioners average a fourth.

*c.* The promoters of the Bill denied that it could be called a confiscatory measure; but it is difficult to give any other name to a measure which has reduced the annual value of landed property in Ireland by something approaching 25 per cent. Whatever their intentions may have been, the promoters of this measure passed an enactment which has as a matter of fact taken property from landlords generally and given it to their tenants.

*d.* The opponents of the measure alleged that the

<sup>1</sup> Lord Randolph Churchill on third reading.

<sup>2</sup> Mr. W. E. Forster, 3 *Hansard*, cclx. 1169.

attack on landed property in Ireland would spread to other parts of the realm : it has already obtained a firm footing in Scotland.

We need not follow out the matter into further anticipations on the effects as to the remaining property of the landlords in Ireland, or the influence on the loyal population of Ireland and consequently on the Union ; so far the anticipations of the promoters have been falsified in every particular, while those of its opponents have on the whole been realised. But one word may be said on the right of property in land.

The secret of the success of the measure really lay in the fact that it was pushed forward in a spirit which harmonised with the popular doctrine advocated by Locke that labour is the sole title to property ; the tenants laboured, and had improved the land, therefore the property ought to be secured to them. But the right to property rests on the power and ability to make a rational use of it ; those landlords who by the moderation of their demands had given scope to the tenants to improve had made a far more rational use of their wealth than if they had taken a competition rent and carried out expensive improvement schemes of their own. Those who by their residence gave employment to labour were making a rational use of wealth. Those who by the firm but considerate exercise of their power of eviction were preventing the subdivision of holdings, were making a most rational use of their wealth in the interests of the country. There is no ethical maxim which can justify a man's title to the use of land on which he has worked, which does not tell with far greater force to secure the title of those who have wisely and rationally administered the wealth that has come to them by inheritance or purchase.

90. Besides the parts of the measure to which attention has been already called there were several sections which were intended to lead to the creation of a peasant proprietary. This scheme was supported on both sides of the house, but as Mr. Chaplin<sup>1</sup> anticipated, it has remained a dead letter: the position of the occupier became so profitable that no one could be expected to put himself to much trouble to become an owner. It is necessary to observe however, that the scheme of establishing peasant proprietors has been invariably advocated on political grounds; and that no sufficient attention has ever been directed to the economic conditions which are necessary to render the scheme permanent. There is no evidence that a peasant proprietary can subsist, unless there are bye industries as in Wales, or extraordinary fertility as in Jersey, or protection for the agriculturist against foreign competition as there was while the yeoman farmers of England held their own. The experience of recent years on the Church Estates is by no means conclusive as to the possibility of planting the system in Ireland.

<sup>1</sup> 3 *Hansard*, cclxi. 836.



## CHAPTER IV.

### RETROSPECT AND PROSPECT.

91. OF the various measures we have had to consider, only two appear to be clearly unsound when tried by the principles of National Husbandry. Between the Merchant Shipping Act of 1876, and the Irish Land Bill of 1881 there is a curious parallel. Both were advocated on high moral grounds; both were introduced by ministers who had repudiated the principles on which they were based; both were passed because of the pressure of agitation outside the house; both were condemned by careful and fair critics at the time, and in both cases the condemnation has been amply justified. We had reason to comment above on the dangers of hasty legislation (pp. 139, 143), and these instances of enactments which were forced on, under outside pressure, by politicians who forsook the principles they had always advocated, serve to confirm the objections to which it lies open, and to raise a prejudice against proposals which awaken a widespread agitation in their favour.

92. Agitation in these days is most likely to be formidable when it is directed by men such as Mr. Plimsoll or Mr. George, who take their stand on some great moral principle; but abstract moral principles cannot serve as

safe guides for practical legislation (p. 126). And there is great danger in seeking to do what appears right on political or social grounds unless we weigh carefully its economic bearings. The whole history of English dealings with Ireland is the history of sacrificing industrial good for political purposes—political purposes that did not seem unjust to the men who carried these measures (p. 66). The repeated confiscations of the lands of men who were reputed to be disaffected were all due to political motives; so too were these measures, for preventing the migration of the Devonshire woollen trade to Dublin,<sup>1</sup> which are often alluded to by a strange misnomer as the suppression of Irish industries; the miserable condition of Ireland now is a standing warning against legislating for social or political purposes without taking the economic considerations into full account.

In days gone by we had a social system which was permeated by Christian morality, and where all the relations of life were defined on this basis: but a highly organised system is incompatible with rapid growth, and it could not be preserved in the conditions of modern life. Unless we are prepared to put an unwonted constraint on the habits of modern society—and introduce a State socialism—we cannot attempt to use moral principles as positive guides, and to construct institutions that give effect to them; we must be satisfied to use them as negative conditions, and to condemn and punish conduct that militates against them; but to carry this out we must be content to enforce such moral principles as are accepted by public opinion (p. 138), and to trust to other

<sup>1</sup> The detailed evidence for this will be found in the *Commons Journals*, e.g. xii. 64. The Irish Act which suppressed the newly planted woollen industry in Dublin specially excepted the established Irish manufacture of frieze.

means than legislation to raise the tone of popular judgment.

93. And this can be best done by insisting on the duty we owe to posterity—to make the future of our nation as great and noble as lies in our power. The most severe indictment which was brought against the Irish Land Bill, that it sacrificed all future generations in the interest of the existing tenantry, is still unproven: that would be the most complete renunciation of all National Husbandry as we understand it. Rather must we seek to keep the ideal of a better national life before us—to improve our ideal of national life year by year as we get a fuller knowledge of the capabilities of human nature and the possibilities of applying the resources of the world to the use of Man. But with this ever improving ideal, we may also have ever increasing knowledge of the means for realising it, in the *statistics* which measure the changes occurring under our existing laws, and the histories which explain the *principles* on which the economic life of other ages or other lands was regulated. From such constantly growing experience we may frame practical principles that will help us to judge of the wisdom or unwisdom of any proposal connected with National Husbandry.

94. One danger we have indeed had brought before us, in the cumbrousness of the machinery which has been developed for certain economic purposes. From all sides we hear complaints of the inability of the State to fulfil the functions it has undertaken. The overstraining of our Indian civilians is notorious, the working of our Education system has given rise to grievous complaint,

the Marine Department of the Board of Trade has found few defenders, and the machinery of Bankruptcy Administration and of the Irish Land Act have yet to prove themselves successful. The objection to State interference lies not so much in principle as in practice; there are indeed *doctrinaires* who disregard the lessons which were given during the dominance of *laissez faire*, and who fix their faith to the principle of leaving the individual free to pursue his private interest in the way that seems right in his own eyes. But public opinion, as represented in Parliament, fully recognises now that this form of economic science has received a practical refutation from the course of events. Just as the rapid expansion of commerce, in the sixteenth century, broke down the mediæval system; just as the new political combinations in the eighteenth upset the doctrines of mercantilists, and modern machinery destroyed the industrial code of Elizabeth; so in this nineteenth century has our national experience demonstrated the one-sidedness,—and therefore the falsity—of the principles of *laissez faire*. No practical politician can now get a hearing who objects to all State interference as such; there are some things, such as the delivery of letters, which can by common consent be best managed through State agency; and if the State can do certain work better than individuals, by all means let it undertake it. The real difficulty is to tell whether in any particular case State management may be attempted. And this is the crucial problem for those who advocate the nationalisation of land; they must show that State-landlordism would be cheaper and better for the nation as a whole than the present system. There would of course be comparatively little difficulty in taking over estates like the Duke of Buccleuch's, as

the machinery for managing them has been developed by a large proprietor; but in the case of the smaller estates no such agencies exist, and the necessary machinery would have to be created. The probabilities of success are least in those cases where the State not only undertakes a new function, but is required to create wholly new machinery to carry it out, instead of being able to adapt some existing system (p. 123).

95. Yet it is well worth while to set ourselves in earnest to the solution of these problems; to try by firm repression of private wrong-doing, by wise administration of the powers of State, *to sustain and prolong our national life*. Each great race has made a notable contribution to the development of the civilisation of the world: we owe a debt to Egypt for some measure of skill, to Greece for the triumphs of Art, to Rome for the vigour of her Law. We English too have a destiny to fulfil, a duty thrust upon us by Him whom we profess to serve, a heritage to bequeath to all future generations and all other races. We are a nation of shopkeepers; a nation whose triumphs and whose position are inextricably bound up with commercial success. And therefore it is that the problems of industrial and social life lie before us for solution, that it is in our progress and our poverty, our bitter misery and our struggle with it, that the world may learn about the evils of grinding competition and pitiable luxury, of the race for wealth and the failure to enjoy it. These are the questions with which the Sphinx has set us face to face, and by our answers to these will our place as a nation be judged in the ages to come.

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CONTENTS.

	PAGE		PAGE
GENERAL LITERATURE . . . . .	2	MILITARY WORKS . . . . .	33
PARCHMENT LIBRARY . . . . .	21	POETRY . . . . .	34
PULPIT COMMENTARY . . . . .	23	WORKS OF FICTION . . . . .	42
INTERNATIONAL SCIENTIFIC SERIES . . . . .	30	BOOKS FOR THE YOUNG . . . . .	43

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