

Review

Reviewed Work(s): *Justice: Being Part IV. of the Principles of Ethics.* by Herbert Spencer

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Any illustration of the actual mode of application must be in close connection with such a definition. Our complaint against Mr. Ritchie here is that he substitutes for such a deductive application a general exhortation to permit legislative interference only where economic considerations "conflict with considerations seriously affecting the physical, intellectual, . . . and moral welfare of the community." Whereas, when the question is, "How to apply our principles," the trouble just is to discover what constitutes a "serious interference." Nor is Mr. Ritchie more fortunate in introducing at this point the somewhat outworn distinction between production, exchange, and distribution, appearing to hint that in the first legislative interference is mischievous, while it may be beneficial in reference to the last. Does an eight hours' bill, it might be asked, deal with production or distribution?

He fares better in his excellent little essay on T. H. Green's "Political Philosophy," and his suggestive notes in the appendix on the "Distinction between Society and the State" and on "Utilitarianism." Speaking in the latter of evolutionist utilitarianism, he says that one of its great services is the re-establishment of the connection between ethics and politics. Mr. Ritchie's essays show that others besides evolutionist utilitarians may contribute to this desirable result.

J. H. MUIRHEAD.

JUSTICE: BEING PART IV. OF THE PRINCIPLES OF ETHICS. By Herbert Spencer, New York. D. Appleton & Company, 1891. Pp. vi., 291.

In June, 1879, Mr. Spencer published the now so well-known "Data of Ethics," Part I. of his projected "Principles of Ethics." A tedious period of ill-health has since then delayed, until recently, the long-suffering thinker's labors upon the Synthetic Philosophy. Between 1886 and the beginning of 1890, as he now tells us in the preface to the present work, all "further elaboration of the Synthetic Philosophy was suspended." Since the latter date it has again become "possible to get through a small amount of serious work daily." The result of this renewed activity has been the completion of the long-awaited book on Justice.

What has thus come to hand as the product of the latest phase of Mr. Spencer's heroic struggle with physical weakness is one of the most characteristic and easily comprehensible of all his books. Here one finds his personal temperament most transparently expressed, the teachings of his earliest period of authorship once more reviewed, given final shape, adjusted to all that he has since believed and taught. It is not often that a man is able at threescore and ten to restate so vigorously, and yet in large extent with a new foundation and new arguments, beliefs that, in their substance, he first set in order for the public forty years earlier. The book on "Justice" is, indeed, no mere repetition of the "Social Statics," and its opinions are in many ways modified from the original doctrines of the book of 1850, yet the man is the same. His rigid individualism is unaltered. His love of highly abstract principles as a basis for practical teachings is as noteworthy as ever. His combination of the temperament of the typical Englishman, loving private independence and living by instinct, with the aspirations of the typical system-maker, loving to give articulate reasons for everything,—this combination remains as curious and instructive a study as ever.

The form of the book is, of course, determined by its place in the system of Synthetic Philosophy. Justice is a product of evolution. It has its "animal," its "sub-human," and, finally, its "human" types. To comprehend the latest type one must first comprehend the former types. As for "animal ethics," a study of the facts of nature shows (p. 4) that "animal life of all but the lowest kinds has been maintained by virtue of two cardinal and opposed principles." These are, first, that "during immaturity benefits received must be inversely proportionate to capacities possessed;" and that, secondly, "after maturity is reached, benefit must vary directly as worth; worth being measured by fitness to the conditions of existence." In case of mature animals, "the ill-fitted must suffer the evils of unfitness, and the well-fitted profit by their fitness." The reason for these two principles is "that if, among the young, benefit were proportioned to efficiency, the species would disappear forthwith; and that if, among adults, benefits were proportioned to inefficiency, the species would disappear by decay in a few generations." Passing over the matter of the care of the young, and considering the second of the above principles in its application to higher animals, we find as the "law of sub-human justice" (p. 9) that if the species is to be preserved and improved, "each individual ought to be subject to the effects of its own nature and resulting conduct." From this law, namely, results "survival of the fittest" (p. 13). And the law, moreover, "holds without qualification" "throughout sub-human life" (p. 9); "for there exists no agency by which, among adults, the relations between conduct and consequence can be interfered with." Among gregarious animals, however, this so far purely individualistic principle receives certain modifications. Gregariousness involves more or less co-operation, and co-operation depends first upon a certain instinctive restraint put upon acts of mutual interference (p. 12); and, secondly, in cases where the co-operation includes the defence of a group of animals against enemies, there may be needed for the purpose of co-operation a "further subordination" (p. 14) whereby the guardians of the herd run especial risks, or are sacrificed in numbers, for the preservation of the group, and so of the species. Thus one gets three laws of sub-human justice as holding in case of adult animals. The first law once more is (p. 15) "that each individual ought to receive the good and evil which arises from its own nature." This law "brings prosperity to those individuals which are structurally best adapted to their conditions of existence." Among gregarious creatures comes into play the second law, that "those actions through which, in fulfilment of its nature, the individual achieves benefits and avoids evils, shall be restrained by the need for non-interference with like actions of associated individuals." This law is subordinate to the first. "Later in origin and narrower in range is the third law, that under conditions such that by the occasional sacrifices of some members of a species, the species as a whole prospers, there arises a sanction for such sacrifices." The first law holds for all animals, the second for gregarious animals, the third for those gregarious animals that defend themselves in groups against enemies.

To these three laws the instincts of the animals concerned have adapted themselves in the fashion that Mr. Spencer has long since described in his psychology. It is true that in a few passages of the present book our author shows signs of

recognizing the doubts that recent research have thrown upon his own doctrine of hereditary "race-experience" as a significant factor in the production of instincts. On p. 55 he says, speaking of a certain "fixed intuition," that it "must have been established by that intercourse with things which, throughout an enormous past, has directly or indirectly determined the organization of the nervous system and certain resulting necessities of thought." The phrase *directly or indirectly* is suggestive of an alternative to which Mr. Spencer makes several references in this volume (e.g., on p. 25 and on p. 151). But the writer of the monograph on the "Factors of Organic Evolution" has already shown us that he is indisposed to abandon his former views on the heredity of acquired modifications. And, in fact, Mr. Spencer's whole theory of psychological evolution is far too completely bound up with the hypothesis of ancestral experience to admit of any such abandonment. On the whole, therefore, he remains, concerning this matter, where he was. The deeper instincts of all the higher animals, man included, are the products of the "intercourse with things," which has "determined the organization of the nervous system," and, on the whole, not indirectly determined it. And the instincts upon which the idea of justice is ultimately founded are of this sort, and have the "authority" that race-experience carries with it.

Passing to "Human Justice" proper, we learn that as human justice must be a further development of sub-human justice, the fundamental law of the former implies (p. 17) "that each individual ought to receive the benefits and the evils of his own nature and consequent conduct; neither being prevented from having whatever good his actions normally bring to him, nor allowed to shoulder off onto other persons whatever ill is brought to him by his actions." This law of justice may indeed be qualified by considerations of pity and mercy, not in this book especially treated. But common sense and philosophy so far (p. 18) agree that the foregoing statement stands for substantial justice, as distinct from mercy. Man is, however, a highly gregarious animal. Hence (p. 20) "the requirement that individual activities must be mutually restrained" is "more imperative among men, and more distinctly felt to be a requirement," so that it "causes a still more marked habit of inflicting punishments on offenders" than is to be observed in case of other gregarious animals. Thus the further modified principle of human justice takes the form of asserting "that each individual, carrying on the actions which subserve his life, and not prevented from receiving their normal results of good and bad, shall carry on these actions under such restraints as are imposed by the carrying on of kindred actions by other individuals, who have similarly to receive such normal results, good and bad." To the modification determined by the gregarious habits of the race comes the further modification required for purposes of self-defence when a community is attacked by foreign aggressors. Defensive warfare, not offensive, is relatively just. And defensive warfare, in a condition of human civilization in which "absolute ethics" must be regarded as still wholly impossible, renders relatively just the sacrifice of individuals in warfare, and many of the other burdens of the "militant type" of social organization. As peace grows with civilization, the need of such burdens will disappear. The "formula of justice" may then be developed for the social condition of a community at peace with its neighbors. In case of war the necessary modifications required for national defence can be easily sup-

plied. The required formula of justice is (p. 46) that "every man is free to do that which he wills, provided he infringes not the equal freedom of any other man."

The foregoing summary may serve to suggest the relation between Mr. Spencer's ethical theory of justice and the general doctrines of the Synthetic Philosophy. From the point where this formulation of the doctrine of individualism is reached to the end of the book, the progress of the argument is extremely obvious and, as it were, fatal. The doctrine of the rights of the individual, beginning with the "Right to Physical Integrity" (Chap. IX.), and proceeding through the "Right of Property" (Chap. XII.) to the "Rights of Free Speech and Publication" (Chap. XVIII.), is developed in a fashion easily anticipated at every step by the attentive reader. One admires the facility with which large topics are treated in brief space. Mr. Spencer is thoroughly at home in these regions of his creed. He moves swiftly and with absolute assurance; he pauses seldom to consider at any length opposing points of view; he fears no adversary; one is even disposed to add that he in general comprehends no adversary. The case of property in land gives him most pause. He devotes not only a portion of Chapter XI., but also a brief appendix (B) to this problem; but comes to no extraordinary conclusions. It is in these chapters on rights that our author's personal temperament most obviously appears. One learns what noises he most hates, what odors, such as that of stale tobacco-smoke in railway carriages, he finds most unjust; and in general he uses the excellent fashion that Archbishop Whately and John Stuart Mill made at one time so familiar,—the fashion of illustrating an exposition of your philosophy by a very concrete showing of many of your private tastes and impressions. Throughout, therefore, these chapters are highly readable. After two episodic chapters on the "Rights of Women" and the "Rights of Children," Mr. Spencer passes, in Chapter XXII., to the consideration of "Political Rights so called," and concludes his book with a study of the nature, limits, and duties of the state, to which Chapters XXIII. to XXIX. are devoted. The author's opposition to officialism, and his hatred of state interference, are now too well known to need any fresh exposition in this place. His statement of his case has never been plainer than here, and his absolutely impenetrable indifference to opposing arguments has never been made more plausible.

So much for an inadequate sketch of this compact and attractive little book. It can hardly fail in just this day and time to do good. It must, for the rest, awaken and silence some who have dreamed too vaguely and spoken too lengthily concerning the marvellous ethical insights that the "philosophy of evolution" was yet to give our generation. This rigid individualism is not precisely a novelty in English discussion. Nobody has told the tale of it more frankly and courageously than Spencer; but surely he must be a very devout disciple indeed who, with this book before him, will continue to imagine that evolution, as such, is in any significant way responsible for Mr. Spencer's form of individualism. In naming himself the differences that distinguish the present treatise from the "Social Statics" of 1850, Mr. Spencer lays, indeed, great stress upon the "naturalistic interpretation," and the "biological origin for ethics," which now adorn his doctrine. "The elaboration" of the "consequences" of this "biological origin"

is, he tells us in the preface, "the cardinal trait" of the present book. Yet it needs hardly a glance for a reader not wholly committed, as Spencer is, to the Synthetic Philosophy, to see that from the "biological" premises of this treatise any other reasonably plausible and sincere ethical doctrine could have received quite as rigid a demonstration. Evolution is a very complex affair. Survival has been attained by very numerous types of organisms. Even human evolution exemplifies for us all sorts of ethical products; and many of them survive even unto this day, and will long survive. To give a teleological estimate of any portion of so vast and complicated a physical process, it is necessary first to select the particular products and activities that you propose to approve. The Chinese and the Prussians, the Czar and the American political boss, the wise and the mighty of the earth, the pure in heart and the wreckers of railroads, are all alike survivals, are adapted to some sort of environment, are the products of ages of evolution. Approve on ideal grounds of any one of these types, as against its opponent, and nothing is easier than to show how, in the course of evolution, the stars in their courses and the tendencies of the ages have wrought and fought to bring to pass just this product. The "biological" view, as such, is, therefore, a very plastic doctrine. Spencer uses it to state the case for an excellent and manly form of individualism. How easy would it not be for, say, a modern Australian statesman to apply the same methods to vindicate as unanswerably his own beloved forms of what we should all call State Socialism? Not to dwell on less plausible, but possibly equally logical, formulations of the "biological origin of ethics," let us see for an instant the ease with which Spencer's fundamental principles could be altered, on "biological grounds," to reach relatively socialistic results, very remote indeed from those of his individualism.

"Among adults," says Mr. Spencer, speaking of animals in general, "there must be conformity to the law that benefits received shall be directly proportionate to merits possessed; merits being measured by power of self-sustentation." Does this mean merely that precisely those adult animals *ought* to survive and keep well which are physically so constituted that they *do* survive and keep well?" If so, is not the proposition dangerously near to an identical assertion? What is our *ought* but a mere stamp of private approval placed upon the *is* of nature? But is the proposition to be more than this, then, the way in which it may be more and may also become of practical significance is suggested by a case of considerable "biological" moment to which, curiously enough, this book of Mr. Spencer's makes hardly any reference. Consider namely that type of "sub-human justice" that is exemplified in the case of a domesticated breed of animals. Those who breed and maintain such animals give to them benefits which are in a fashion "directly proportionate to merits possessed." Only, among the traits presented by the individual animal's nature, the breeder chooses what ones *shall be* accounted, for *his* purposes, as true "merits." Is he breeding horses, then it may be *either* swiftness *or* draught-power that he regards as constituting the desirable "power of self-sustentation." Selecting accordingly, and breeding true to the selected traits, he violates no condition of the "survival of the species." On the contrary, he may greatly aid such survival. In so far he is "just" to that species as such; for he keeps it in life and improves its chances of survival in its domesticated environment. But now in all this is he

quite loyal to Mr. Spencer's further maxim, "that the individual shall experience all the consequences good and evil of its own nature and consequent conduct?" The answer is yes and no, according as one interprets the principle. Does the principle mean that the individual animal, in order to get what for it is its own sort of justice, shall receive the "consequences" without any interference from the breeder or from any one else? Then, indeed, the breeder's selection is, in itself considered, an injustice to dogs and horses, and is only to be justified from our human point of view. But if interference with "consequences" *were* thus always relatively unjust to the species interfered with, the *ought* would become once more nothing but the *is* of wild nature. And sub-human justice would then be only the principle that the survivors in the wild state, whoever they are, justly survive, simply because they *do* survive.

If, however, on the other hand, the breeder's interference, aiding as it does the survival of the domesticated but much modified horses and dogs, is "just" to them, in the "sub-human" sense of the word justice,—"just" to them because it *does* make the species survive and improve, despite its own interference with the individuals,—*then* Spencer's maxim may still be regarded as fulfilled in this case. The individual of the domesticated stock does, namely, "experience all the consequences good and evil of its own nature and consequent conduct." Only now it is the breeder's choice that determines what *shall* be good and evil in nature and so in consequences. This dog retrieves, that one flies at an enemy's throat, another slumbers lazily all day by the fire. Each "receives the consequences;" but they are consequences as estimated by owners and breeders. Does one want watch dogs? One leaves the timid retrievers to find other owner or die, and one breeds from good watch dogs. Does one desire only the docile retrievers? One poisons the fierce dogs that fly at one's throat. Is the household pet and ornament the object? One encourages laziness, and its "consequences" survive in a breed of lap-dogs. What one of all these courses is the course of "justice" to the canine species as such? Measured by resulting survival of the various stocks, *all* the courses are just, even as it is also just to the horses to breed on the one hand fast trotters, on the other hand strong draught horses.

Well, in all this talk of "sub-human justice," wherein lies the application to man? Obviously, one may say, the application lies here: "As from the evolution point of view, human life must be regarded as a further development of sub-human life, it follows that human justice must be a further development of sub-human justice." Very good; the socialist, the lover of state-interference, may thank Mr. Spencer for that word. Let us consider the "biological origin" of human justice once again. What sort of an animal is man? One must answer: Civilized man at least is unquestionably a *domesticated animal*? There is no escaping this conclusion. To be sure, the human race has domesticated itself. None the less, however, is it sure that this self-domestication has been the work, in part, of man's leaders, his teachers, his chiefs, his strong and influential men, and in greater part still of the mutual neighborly and friendly criticism, counsel, reproof, and compulsion, which all men have exerted upon all in each organized community. No one man ever civilized himself; the thing has been done by endless interference. One man has domesticated another man, and, on the whole, every man his neighbor. Well, then, the sub-human justice

exercised in case of other domestic animals, suggests (why not?) the right principle in case of "human justice." What the breeders do for horses and dogs, we should be glad to do, if we could, for man, viz., to breed the race from the best stocks, and for the purposes of the wisest and cleverest breeders! Why is not this a "just" ideal? Meanwhile, this ideal being so far rather impracticable, of course we have to put up with what Mr. Spencer calls sometimes "an empirical compromise." We can't just yet breed men as we want, or weed out the bad stocks, because the breeders are so many, and of so many minds, and the means at our disposal are so imperfect. But we shall do what we can in the way of "relative ethics" until we get nearer to the "absolute ethics" of the far-off future. On the way thither shall we minimize or forbid "interference" with individuals? Nay, it is strictly "biological" to interfere, if you do so after the fashion that has achieved such brilliant results with the other domestic breeds. That is, you ought forcibly to trait, and, as far as may be, to select. To do so wisely is to help the domesticated race to survive. To do so unwisely is a little unfortunate, of course; but wisdom is learned only by trial; and they doubtless did not find out how to breed dogs for a long time. How much longer will it not need to learn how to complete the domestication of man? Here, then, is the case for social interference on "biological" grounds.

Such, stated very summarily, and therefore unconvincingly, is a suggestion of what one could do with the doctrine of evolution and with the nature of "sub-human justice," in case one were not Mr. Spencer, nor yet an individualist, but *were* misled, like Mr. Spencer, into supposing that a survey of the physical accidents of survival can of itself ever justify a coherent ideal. The reasonings here suggested could be made as elaborate as Mr. Spencer's, and would be probably as unsound. The doctrine of evolution has wrought a great wonder for our generation; but Mr. Spencer's special doctrine of the "biological origin" of justice can hardly be a large part of this wonder. For, as he here interprets this "origin," it furnishes a mere soil wherein any and every possible ideal of justice besides his own robust and manly individualism could take root and grow rankly.

To sum up: Mr. Spencer's personal ideal of justice is throughout interesting, often admissible, always admirably stated, highly representative,—sure, in this day of socialistic dreaming, to do excellent service by contrast. This ideal has, however, no essential relation to the doctrine of evolution. The "biological origin" of justice could be used, meanwhile, to give equal justification to other and opposed ideals. Solely to suggest this fact the present review has sketched such an opposing ideal of human justice as defined by the analogy of our justice towards domesticated breeds of animals. Far off be the day when that opposing ideal triumphs in the practical affairs of humanity! Far off, too, be the day when men shall regard Mr. Spencer's individualism as the last word of science!

JOSIAH ROYCE.