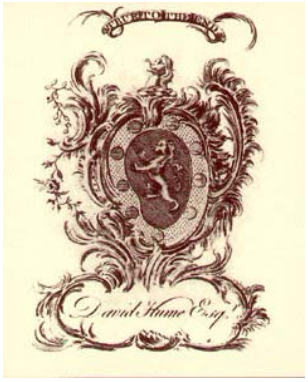

Hume's Classical Theory of Justice
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Hume Studies Volume VII, Number 1 (April, 1981), 32-54.

HUME'S CLASSICAL THEORY OF JUSTICE[1]

Let me begin by formulating a broad distinction between two sorts of theories of justice. I shall stipulate that a modern theory of justice is one which treats justice as a moral quality, in fact as one moral quality among a multitude of moral virtues, and which accordingly takes the obligation to be just as pre-eminently a moral obligation. On this approach the philosophical appreciation of justice requires that we interpret it in terms of a moral theory, and correspondingly any viable moral theory is expected to afford a framework within which the virtue of justice is to be understood. The important philosophical question to be asked about justice concerns the moral obligation to abide by the conventions and rules of justice.

By a classical theory of justice I mean one which treats this quality not as one moral virtue among many others but as fundamental to morality itself. Here justice would have to be explained before one could develop a satisfactory account of morality. Questions about the moral obligation of justice are on this approach not as important philosophically as questions about the basis of justice itself. The modern and the classical theories are distinguished by the relationship each posits between justice and morality. In the modern approach, the account one offers of morality conditions the account one can offer of justice, while in the classical theory the account one offers of justice conditions the account one can offer of morality.

As exemplifying a classical theory of justice one might cite Plato's Republic or, closer to the present topic, Hobbes' De Homine. While there seems to be no definitive interpretation of Hobbes' overall moral and political theories, in this work he maintains that the development of a settled morality is subsequent to the establishment of civil society and therein, of course, also of the order of justice. The following passage from the De Homine shows how the order

of civil justice plays a foundational role relative to the moral order.

> But whatsoever is the object of any man's appetite or desire, that is it which he for his part calleth *good:* and the object of his hate and aversion, *evil;* and of his contempt, *vile* and *inconsiderable.* For these words of good, evil, and contemptible, are ever used with relation to the person that useth them: there being nothing simply and absolutely so; nor any common rule of good and evil, to be taken from the nature of the objects themselves; but from the person of the man, where there is no commonwealth; or, in a commonwealth, from the person that representeth it; or from an arbitrator or judge, whom men disagreeing shall by consent set up, and make his sentence the rule thereof.[2]

Attributing to Hobbes the view that the account one gives of justice and the civil order conditions and serves as a necessary presupposition to the account one can give of a settled morality permits us to count Hobbes among those thinkers who have offered a classical theory of justice.

Because Hume seems in so many ways to deserve the appellation of thoroughly modern philosopher, it is not surprising that he is naturally construed as sharing in the modern conception of justice.[3] I want to argue that this way of interpreting Hume is mistaken and that he is in fact a classical theorist of justice. I shall contend, furthermore, that getting clear about the kind of theory of justice Hume offers allows us to resolve a problem in his moral theory--specifically a problem relating to the correction of the moral judgment.

In view of these aims, the paper has three parts: (1) investigation as to what kind of theory of justice Hume offers; (2) exploration of a quandary inherent in the modernist interpretation which serves as an objection to the thesis of this paper; and (3) resolution of this objection and conclusion as to the character of Hume's theory of morality. At the end I shall explore a few corollaries

of the thesis that Hume is a classical theorist of justice.

1. Hume: A Classical Theorist of Justice

There are two lines to be taken in arguing that Hume's is a classical theory of justice. First, if it can be shown that Hume develops his account of justice without relying on important distinctive elements of a theory of morality, then it would be plausible to claim that the theory is classical at least in the sense that clearly it would not be a modern theory of justice. Second, if it can be shown that Hume's account of justice not only does not rely on a theory of morality but affords inomissibly important elements for a theory of morality, then it would be necessary to conclude that indeed Hume's is a classical theory of justice. I shall argue both the weaker and the stronger claim.

It is relatively easy to show, I believe, that in the Treatise[4] Hume develops his theory of justice without appealing to important distinctive elements of the theory of morality he elaborates in this work. First, in the design of Pt. II of Book III Hume was rather deliberate about developing his account of justice quite independently of moral considerations. At the outset of Sect. II of Pt. II (T484) Hume explicitly distinguishes between an account of the manner of the establishment of justice and an account of the moral approval of justice. It is only after he had finished his treatment of the former question that he took up the matter of the moral approval of justice. In view of Hume's care on this heading, there can be little doubt that, at least in terms of what he was aiming to do in Pt. II, his is not a modern theory of justice.

Second, in defining his first task, that of accounting for the origin of justice, Hume has his reader imagine a condition of human existence from which all the familiar institutions of justice are absent. To appreciate Hume's approach, the reader is to abstract from the discipline

and education of man in his civilized state (T479), and to bear in mind that justice, *as it is now understood, wou'd never have been dream'd of among rude and savage men.* (T488) From this pre-conventional or pre-justicial scene of thought Hume has of course also removed the standard elements of morality: approbation, obligation, disinterestedness, extensive sympathy, and so on. Because throughout the section Hume is on his guard against logical backsliding, we may say that in terms not merely of his intention but of his execution as well Hume's exposition systematically excludes the elements of morality from his theory of the origin of justice.

Finally, if we examine the key feature of Hume's theory of justice, namely, the convention wherein men achieve security in alienable goods, we again find that his exposition on this convention does not involve an appeal to morality. Quite the contrary: Hume stipulates that were morality or the idea of justice naturally effective, there would be no need for an artifice or convention. (T479 f.; 488f.; cf. T496.) In fact, some critics have perceived Hume's account of the convention to be so distant from what we ordinarily think of as moral considerations as to warrant our concluding that he offered no more than an eighteenth century bourgeois theory of property.[5]

These three observations reinforce the supposition that Hume is a classical theorist of justice in the sense that his account is independent of his moral theory. Once it is clear that on Hume's view the order of justice is historically anterior to the moral order, we can appreciate his care in the design of Pt. II. The deliberate cleavage between the account of the establishment of justice and the account of its moral approval is no arbitrary preference or mere literary device. In actuality, the exposition in Pt. II could not consistently have proceeded otherwise, for the moral order, and a fortiori moral theory, are historical developments subsequent to the establishment of justice.

Further, if we can go on to demonstrate that the order of justice affords factors without which the development of the moral order would be unaccountable, it will be clear that the ordering of these two questions goes beyond historical ordinality to a theoretical dependence. I turn now to the stronger version of my thesis.

It is somewhat more complicated to show the nature of the relation between Hume's theory of justice and his moral theory. Because Hume's exposition in Pt. II of Book III is so widely known, I shall satisfy myself with offering here a brief sketch, skipping over many controversial points (and much that I would like to explore in detail). I shall limit myself to discussing: (a) the source of social ills that characterize the pre-conventional condition; (b) the convention which remedies those ills; and (c) the ongoing results of the convention.

Avidity and selfishness, Hume tells us, threaten the stability of the pre-conventional or pre-justicial social order. To counter the divisive force of this selfishness there is no natural motive. Hume observes that self-love shapes and informs a sense of values functioning in the natural order in a way parallel to the way moral values operate for civilized man. Rather than being conducive to the establishment of justice, however, this set of natural values is inimical to it.

> *This partiality, then, and unequal affection, must not only have an influence on our behaviour and conduct in society, but even on our ideas of vice and virtue....From all which it follows, that our natural uncultivated ideas of morality, instead of providing a remedy for the partiality of our affections, do rather conform themselves to that partiality, and give it an additional force and influence.* (T488f.)

Hume is very clear about what it will take to reverse this situation. The artifice or convention which would remedy the ills of the natural condition necessarily involves correcting the same sentiments which he characterizes as inadequate of themselves originally to produce the order of justice.

> *But 'tis certain, that self-love, when it acts at its liberty, instead of engaging us to honest actions, is the source of all injustice and violence; nor can a man ever correct those vices, without correcting and restraining the natural movements of that appetite.* (T480)

In referring to correction Hume has in mind a process which alters the sentiment itself. Synonyms are moderate, restrain, control. The cause of the correction is--and must be--a sentiment or passion; its occasion is the realization of information made pertinent to interest through the imagination or the judgment. Of this process the basic and foremost example is evidently the original convention of justice, of which the first step for Hume is the establishment of the rules of property.

> *By this means, every one knows what he may safely possess; and the passions are restrain'd in their partial and contradictory motions. Nor is such a restraint contrary to these passions; for if so, it cou'd never be enter'd into, nor maintain'd; but it is only contrary to their heedless and impetuous movement.* (T489)

Hume believes that a common sense of interest, mutually expressed, coupled with expectation of general compliance, is sufficient to account for the establishment of a set of rules remedying the easy alienability of external goods. This part of his theory has been the subject of much critical discussion, but I must neglect it because my concern is not for the convention wherein justice is first established, about which scholars have had very much to say,[6] but for what follows upon its establishment, about which too little has been said.

The establishment of justice inherently involves, as we have seen, correction or restraint of the passions. Of this restraint the first outward expression consists in rules--initially those defining property but thereafter, more expansively, rules defining all manner of social relations. (To limit Hume's account of the correction of the sentiments to the matter of property would be to neglect the expansive discussion of the artificial virtues which makes up the bulk of Pt. II.)

In addition to its expression in rules, the original establishment of justice produces three kinds of consequences. First, there is a lessening of social tensions and parallel cementing of the social union, the ultimate extension of which is the idea of the public interest. Further, Hume talks about the first introduction of normative notions after the establishment of rules of property: *...there immediately arise the ideas of justice and injustice; as also those of property, right, and obligation.* (T490f.) Third, a basis is afforded for the development in men for a sense of probity, the pride of the individual who overcomes narrow self-interest, respects rules serving the common good, and honors the expectations of other men. It is important to note that the process whereby this original correction or restraint is effected naturally extends itself to produce ongoing refinements in the form of moderation of the passions, leading to what in Pt. II Hume calls a natural *progress of the sentiments.*[7] (T500) This process provides the linkage between the first and second questions taken up in Sect. II of Pt. II.

More specifically, as to the manner of the production of these consequences, it is important to note that Hume does not describe such corrections as unfailing or obtaining alike in all men. The following passage suggests the term gradualism as a fitting description for the way that, according to Hume, men advance toward a more enlightened and worthier kind of life.[8]

> *It is only a general sense of common interest; which sense all the members of the society express to one another, and which induces them to regulate their conduct by certain rules.... Nor is the rule concerning the stability of possession the less deriv'd from human conventions, that it arises gradually, and acquires force by a slow progression, and by our repeated experience of the inconveniences of transgressing it. On the contrary, this experience assures us still more, that the sense of interest has become common to all our fellows, and gives us a confidence of the future regularity of their conduct: And 'tis only on the expectation of this, that our moderation and abstinence are founded. In like manner are languages gradually establish'd by human conventions without any promise. In like manner do gold and silver become the common measures of exchange....* (T490, my emphasis)

Finally, the example set by justice-minded men as well as experience of the inconveniences of transgression of the convention reinforce the quality of reasonableness which reflection finds in the stability of property and of society. As Hume points out toward the end of Pt. II, once justice is firmly established, the conditions are present for its further reinforcement through political artifices, education and concern for one's public reputation.

The reasons that this progress is gradual, i.e., the correction of the sentiments does not take place once and for all, are that men come only gradually to discover the reasonableness of governing their relations by rules and that in many cases the recognition of social ills needing remedy requires that a certain degree of correction of the sentiments has already been accomplished. The processes of ongoing moderation share the general features of the original correction of the sentiments. The presence in history of the phenomenon of correction and moderation not only guides men's efforts to understand their own times but also shapes their expectations for the future. For this reason Hume's treatment of justice in the Treatise uncovers a prototype for understanding the continuing process of the

civilizing of men and of the emergence of the conditions for the development of morality.[9]

In sum, a process of correction of the sentiments is essentially involved in both the original establishment of justice and in the on-going refinements that make up the progress of the sentiments. This process of correction is independent of morality, for Hume's account of justice does not rely on distinctive elements of his moral theory. Precisely because the process of correction is independent, it affords a key to understanding how Hume's theory of justice conditions his moral theory. The order of justice is not merely temporally antecedent to that of morality; it produces specific conditions without which the actual development of an effective morality would not be possible. In general outline, the process is as follows: the theory of justice is rooted in elements that relate to basic needs common to all men; justice once established produces conditions wherein gradually men's sentiments are further corrected, which conditions in turn lead to additional refinements, and the ongoing process has the potentiality to contribute to a more enlightened social existence; and only through this progress of the sentiments are brought about specific conditions (the valuational and epistemic conditions of the moral judgment) that make morality possible. In this way Hume's theory of justice conditions his moral theory, and we can see how it is that Hume's is a classical theory of justice.

We have so far described the relationship between Pts. II and III of Book III only in general terms. Appreciating how Hume's moral theory is specifically dependent on elements of his theory of justice involves exploration of a principal feature common to the two theories, that of correction of the sentiments. It turns out, however, that correction of the sentiments is a problematical element of Hume's moral theory, and so much so that, against the background of the modern line of interpretation, it presents a

major obstacle to acceptance of the thesis that Hume has a classical theory of justice. Accordingly, I shall devote the next part of this paper to the topic of correction as part of the modernist interpretation of Book III. Since the modern approach to Hume's theory of justice gives the foremost place to the moral theory, we shall be dealing with correction as it relates to the moral judgment.

2. A Problem in Pt. III: Correction of the Moral Judgment

A major aim of Hume's in Book III is to account for the foundation or constitution of morality. To accomplish this aim he essays to give an originative account of the moral distinctions, that is, an account which does not appeal to morality as already constituted. The basic element of this account is, of course, the passions or sentiments, for it is of these that the moral judgment is expressive. The importance of the topic of correction--whether referred to as correction of the sentiments or correction of the judgment--to Hume's objective can scarcely be overestimated, for it is the function of correction as it figures in Pt. III to produce some correspondence between the sentiments actually felt relative to the object of appraisal and the application of the moral epithets. References in Pt. I of Book III to the sentiments which are to define virtue and vice are general, unspecific and potentially inclusive of much which might conflict with our extra-theoretical moral notions. The process of correction of the moral judgment referred to in Pt. III of Book III is intended to overcome this looseness and to corroborate the feeling-judgment correspondence which is the cornerstone of Hume's moral theory.

The theory of correction elaborated in Pt. III, however, is not without its problems. To account for the foundation of morality Hume must explain how the correction of the moral judgment occurs. One fails, however, to find a satisfactorily elaborate account of the causes of

correction.[10] More significantly, the corrective process as Hume describes it sometimes fails effectively to alter the sentiments.[11] As a result, one is obliged to conclude that Pt. III does not go far enough in defining just what a sentiment has to be like such that its expression should be a specifically moral judgment. Hume's approach places considerable weight on the correcting of the sentiments, yet the process is not itself accounted for, and its uncertainty seems to commit the moral sentiments to a condition of indefinition. Thus, while Hume's philosophical objective in introducing the theory of correction of the moral judgment is unimpeachable, the account of correction offered in Pt. III is nonetheless problematic.

In the preceding portion of this paper we concluded, however, that Hume's is not a modern theory of justice, and we did so without reference to the problematics of correction in the moral theory. Taking Hume as a classical theorist not only exempts the theory of justice from any flaws that may be found in the account of correction of the moral judgment, but more interestingly, affords a framework within which Pt. II of Book III may be appealed to as support for Pt. III, and specifically as a source for a possible solution to the problem of correction of the moral judgment. In showing how the theory of justice conditions the moral theory, I shall be advancing beyond the weak form of the thesis of this paper. In the next section I shall argue that in the Treatise Hume does offer an originative account of morality and explains correction of the moral judgment otherwise than by appealing to elements of morality as already constituted. Specifically, I shall be endeavoring to accomplish three things:

(a) to show how Hume offers a creditable account, even if not a causal explanation, of correction of the sentiments resulting in a moral judgment;

(b) to conclude my defense of the strong version of my thesis that Hume's is a classical theory of justice; and

(c) hopefully to furnish a key to the unity of Book III of the Treatise.

3. The Classical Theory of Justice as Conditioning Hume's Moral Theory

There are, I believe, at least two levels of talk about correction of the moral judgment in Hume's moral theory: (1) talk about conditions for the possibility of correction, and (2) talk about conditions actually causing correction in individual judgmental circumstances. Of these two levels, the first is the more important. I want to argue that Hume offers the materials for an account of the conditions of the possibility of correction of the moral judgment not in Pt. III, where one would naturally look for them, but in Pt. II of the third Book of the Treatise.

In the preceding sections of this paper I have contended that there is a process of correction of the sentiments begun with the establishment of justice and extending progressively to more cultivated forms of social character, and that this process of correction is independent of the distinctive elements of Hume's moral theory. The next step is to show that the process of correction involved in the order of justice may, when carried out in time and supplemented by example, education and political acculturation, contribute to bringing about the order of morality, specifically to bring about the correction of the sentiments which figures in the moral judgment.

Hume's theory of justice may be said to condition his moral theory in two different ways. First, with respect to the basic evaluation of character, the moral distinctions comprise a refinement of sympathy and humanity in the historical order which may be accounted for in large measure through a progress of the sentiments of exactly the sort one finds in Hume's theory of justice. The need for such an account is particularly evident if one juxtaposes what in Pt. II Hume calls men's natural ideas of

morality (that is, a value scheme dominated by a concern for the selfish interests) with the more extensive sympathy that characterizes the moral distinctions. Clearly there is a gap between these two ranges of sentiments, and it is easy to see that this gap would be filled by the progress of the sentiments Hume refers to in Pt. II.[12] From those more cultivated sentiments affecting the generality of men and perhaps even all men at their best moments emerge elements for refined judgments of a generally moral character which, once acknowledged within a community, come to form a standard of correctness against which the elements of any judgment situation may be measured. In this way the classical theory contributes to our understanding of the possibility of correction of the moral judgment.

Additionally, there are four specific factors involved in morality, or more accurately in the correction of the moral judgment, of which an account may be garnered from Hume's theory of justice. These factors are:

(a) appraisal from a general point of view
(b) exercise of impartiality or disinterestedness
(c) habit of rule governance
(d) identification with the common interest.

It requires no special argument to show that each of these is also an element of the order of justice involving a particular form of correction of the sentiments. Plainly the establishment of justice would be unintelligible if men were not capable of adjusting their behavior and their way of judging values in accordance with the four factors listed above. For Hume what the establishment of justice signifies is that men are capable of correcting the sentiments in each of these ways. Given that the theory of justice is independent of the moral theory, the correction of the judgment in these four specific ways signifies that at least these elements of the moral judgment--specifically of correction of the moral judgment--may be accounted for to an important extent through Pt. II, and what is particularly relevant

here, accounted for in an unproblematical fashion. The classical theory of justice, consequently, underpins Hume's moral theory with respect to the foundational question of correction of the moral judgment.

There are two observations about how the theory of justice supports the moral theory which should be introduced here. First, it perhaps does not need emphasizing that the order of justice is not by itself commensurate to the moral order, but rather is separated from it by a distance to be traversed through the gradual *progress of the sentiments*. While I find it questionable whether Hume would admit that there may be moral disapproval (as opposed to displeasure based on natural sentiments) of the quality of justice,[15] I do not find it problematical that Hume should maintain that the moral order comprises a far more refined appraisal of character than does the order of justice.

Second, it perhaps does need emphasizing that the way Hume's theory of justice supports his moral theory parallels the first level of talk described at the opening of this section and not the second level of talk; that is, it relates to the possibility of correction in a general way and does not deal with the conditions actually causing correction in individual judgmental circumstances. Both in Pt. II and in Pt. III Hume refrains from attempting to trace the process of correction of the sentiments to specific causes; rather, in a global fashion, he lists a wide array of factors involved in the progress of the sentiments. His objective is not so much to give the kind of thorough causal explanation one frequently encounters in Book II of the Treatise, but to draw attention to a phenomenon of an historical and cultural character and to remark on its reasonableness. This latter concern permeates the discussion of justice to such an extent that correction may be said to be the specific process whereby Hume makes room in his writings on morals for the quality of reasonableness. (Cf. T489)

With regard to the second level of talk about correction of the moral judgment, it seems Hume does not explain why sometimes correction of the moral judgment involves alteration of the sentiments and sometimes does not. Clearly, if this were the only talk of correction to be found in Book III, the correspondence of judgment and sentiment, laid down in Pt. I as the cornerstone of the moral theory, would be problematical and Hume's objective of accounting for the constitution of morality would be uncertain. The classical interpretation transcends this problem, however, by showing that correction is adequately accounted for at the first level, and therefore that Hume's objective of accounting for the constitution of morality does not depend on the second level of talk about correction. Hume's originative account of morality involves the possibility of the correction of the sentiments of the sort that Hume discusses in Pt. II (corresponding to the first level of talk about correction). This in turn signifies that, with the constitution of morality adequately accounted for independently, elements of an established morality may be appealed to without inconsistency to explain correction in individual judgmental circumstances. While one may lament that Hume did not engage his investigative skills further with some fascinating and very specific problems relating to correction in individual judgmental circumstances, the classical interpretation shows that the second level of talk about correction is neither the only nor the chief locus for Hume's theory of correction of the sentiments.

In sum, we may say that Pt. II offers the elements of an originative account of morality explaining how from pre-moral origins there developed the social and cultural conditions for the moral judgment--both refined values and certain important elements of the judgment, viz. a general point of view, disinterestedness, rule governance and identification with the common interest. The understanding

of the relationship of justice to morality which we gain in recognizing Hume's as a classical theory of justice clarifies as well what sort of account of the constitution of morality Hume set out to give.[16] Taking Pts. II and III together, it is clear that Hume elaborated a philosophically engaging classical theory of justice and morality. Herein lies, I submit, the unity of Book III of the Treatise of Human Nature.

4. Three Corollaries

Interpreting Hume as a classical theorist of justice and morality requires that we re-think some commonly accepted ideas about Pts. II and III of the Treatise. Although each of the following headings merits extensive treatment in a separate inquiry, before concluding this paper I shall briefly examine three corollaries of the present thesis, noting mistakes of interpretation which become evident once the modernist prejudice is overcome.

A. Relationship of Pts. II and III of Book III

It is a mistake to import into the discussion of justice as a pre-moral quality questions of a specifically moral nature. To inquire, for example, whether the original convention comprises elements such as to produce a genuine moral obligation is to commingle issues which Hume took pains to separate.

It is a mistake to fail to see that what Hume offers in Book III is a continuous theory of justice and morality. A form this mistake commonly takes is to expound Hume's moral theory with little or no reference to Pt. II, as though the theory of justice is incidental to Hume's intentions in Book III. The failure to appreciate the moral theory in terms of the theory of justice cuts Hume's moral theory off from its foundation and generates serious problems of interpretation (problems that have come to possess a certain notoriety).

B. Correction of the Moral Judgment

With respect to the discussion of correction of the moral judgment in Pt. III there are two pitfalls to be avoided. First, it would be a mistake to think that by itself this discussion determines the matter of the origin or possibility or constitution of morality. Second, it would also be a mistake to propose that the correction process is to be understood exclusively in terms of the actual perceptions of the single individual.

With regard to the first point, it is quite certainly true that the possibility of morality depends on the effectiveness of the corrective process, but the kind of correction that produces the conditions for morality is the gradual progress of the sentiments which Hume made part of his theory of justice and which is effective at the level of history of societies and civilizations. The modernist error lies in thinking that the constitution of morality is dependent exclusively on the correction of the moral judgment which Hume discussed in Pt. III. The classical theory shows that there is a line of continuity from the correction originative of justice (Pt. II) to the effective conditions of morality. Thus, morality as already established may be presupposed to the discussion of the moral judgment in Pt. III.

With regard to the second point, morality as already established provides a framework for explaining the actual rendering of the moral judgment as an individual act--though admittedly the classical theory of justice does not itself provide this kind of explanation. Indeed, Hume does not offer an elaborate account of correction of the moral judgment as an act of the individual, but for the viability of his theory all that is required is that he account for the <u>possibility</u> of such correction, and this he certainly accomplished. Thus, the classical theory of justice and morality in Book III of the <u>Treatise</u> offers an account of how we come to be able to talk about morality at all.[17]

C. The Relationship of Book III and the Second Enquiry

While I adhere to my 1976 interpretation of the place of the language of morals in the second Enquiry, I do not believe that the social and historical cast of the Enquiry makes it superior to Book III of the Treatise. It is of course accurate to say that in Book III Hume sought to give an originative account of morality which would not presuppose the existence of the moral order. Nevertheless my 1976 interpretation of Book III is superseded in recognizing Hume as a classical theorist of justice and morality. My mistake lay in looking to second level talk about correction of the sentiments to do the work of first level talk, and therein failing to recognize that the correction of the sentiments discussed in Hume's theory of justice is extendable to explain the possibility of the moral order. On the classical interpretation Hume's originative account of morality does not in fact presuppose the existence of the moral order, but it does presuppose the historical existence of another normative order--that of justice; and of this order of justice Hume did attempt to give in the Treatise an account ab ovo. It is just this intermediate step to which the modernist prejudice is blinded. The classical interpretation shows that the social and historical focus which one finds in the second Enquiry is a matter of similarity, not of contrast, with the Treatise (or at least with Book III).[18]

5. Conclusion

I have argued the thesis that Hume offers a classical theory of justice. From an examination of his procedure in Pt. II of Book III I adhered to the weaker version of this thesis, viz. that his theory of justice is independent of his moral theory. Then by exploring the theory of the progressive correction of the sentiments developed in Pt. II, I showed in a general way how Hume's theory of justice, in affording elements for an explanation

of how conditions are brought about to make the moral judgment possible, conditions Hume's moral theory. A more specific dependence becomes evident in light of the problem of the correction of the moral judgment, viz. that correction as described in Pt. III is inadequate originatively to account for the constitution of morality. Recognizing that Hume's is a classical theory of justice and morality resolves this problem by: (1) indicating that the correction of the sentiments which accounts for the constitution of morality is that expounded in Pt. II, not the irregular correction described in Pt. III; and (2) allowing that, inasmuch as the problem in Pt. III does not relate to the constitution of morality, appeal to ambient morality as already constituted may be made in resolving the apparent incompleteness of Hume's account of correction in the individual judgmental circumstances. Thus, having shed the modernist prejudice, we can appreciate the raison d'être of the order of Pts. II and III and therein the unity of Book III of the Treatise.

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1. This is an editorially revised version of a paper read at the Ninth Hume Conference (Fall, 1980). Gratitude is expressed to three participants in the Pisa Hume Conference whose discussion bestirred me to the line of thought this paper has taken--Annette Baier, Mario Corsi and Christine Battersby; to the commentator on the paper at the Ninth Hume Conference, Bernard Freydberg, for his helpful remarks; and quite especially to James A. Rutledge, Dean of the Graduate School at Northern Illinois University, who covered the duties of my office while I was on sabbatical leave in Spring, 1980.

2. Thomas Hobbes, Collected Works (Scientia AAlen, 1962 reprint), W. Molesworth, ed., III, 41. Cf. Huntington Cairns, Legal Philosophy from Plato to Hegel (Johns Hopkins, 1966), 250.

3. When J. B. Stewart, who stands out among many writers on Hume's theory of justice as sensitive to the

difference between the conditions of justice itself and the conditions of its moral approval, nonetheless from the outset of his treatment of Pt. II subsumes justice under the rubric of morality, I believe we may take such a view as representative of a common and largely unquestioned approach to Hume's theory of justice. John B. Stewart, The Moral and Political Philosophy of David Hume (Columbia, 1963), 104, 133.

4. All references to the Treatise of Human Nature are to the oft-reprinted Selby-Bigge edition from the Clarendon Press.

5. "Given the modern understanding of the nature of justice, it might be reasonable to conclude that Hume's 'theory,' first outlined in the Treatise, is really a theory of property and not at all a theory of justice." Lawrence E. Scaff, "Hume on Justice and the Original Contract," Philosophical Studies (33-1978), 103f. (italics added). Walter Kaufmann remarks that Hume's "preoccupation with possessions makes for a curiously partial and inadequate account of justice." "The Origin of Justice," Review of Metaphysics (23-1969), 222. For an insightful approach to the relation of Hume's theory of justice to his theory of property, see Pall Árdall, Passion and Value in Hume's Treatise (Edinburgh, 1966), 179f.

6. In what follows it is assumed that Hume gives a creditable account of the establishment of justice. Of this account what is important for what follows is the idea of the adjustment or correction of the sentiment. The denial that there is a genuine alteration of the sentiments in connection with the establishment of justice is part of a reductionist argument which contends that the original self-interest is the controlling factor in any thinking about whether the agent should abide by the rules of justice. The reductionist position is worth examining because it reveals a common way of misunderstanding Pt. II of Book III. Construing the original passion of self-interest as unaltered and uncorrected through the processes of reflection which for Hume help to account for the establishment of justice, the reductionist then claims simply that self-interest will seek its advantage either through the convention, when that course looks best, or independently of the convention, when another course is more promising. If this were true, the *progress of the sentiments* would of course, be adventitious. The reductionist position is at odds with Hume's basic thesis that through the convention the passion is adjusted (T529), restrained, corrected. I would suggest that this kind of reductionism, capitalizing on the fact that in some men the passions are not easily restrained, confuses the case

of backsliding which has no bearing on the status of the rules of justice, with a fundamental objection to the possibility of the convention itself.

7. Hume does not specify the sentiments involved in this progression, but we may easily infer that they include: (a) sympathy and humanity, and (b) esteem for men of probity. The moderation and curtailing of self-interest makes room for the gradual emergence of the more extensive sympathy and the humanity of which Hume writes in Pt. III. The establishment of justice makes possible the third kind of consequence listed above, that is, esteem for the man who abides by the requirements of justice (which in itself is an extension of the sentiments). Among rule-abiding men there develops a common way of valuing conformable with justice; the model of thinking about matters of justice, then, would be thinking about characters and acts from the viewpoint of men of probity.

8. Cf. Jeffrie G. Murphy, "Hume and Kant on the Social Contract," Philosophical Studies (33-1978), 102ff. Antony Flew, "Three Questions about Justice," Philosophical Quarterly (26-1976), 7. R. McRae, "Hume as a Political Philosopher," Journal of the History of Ideas (12-1951), 290.

9. "...civil society has a history. It is the result of change. While the natural relationships are the result of natural feelings, the moral duties of civil society become obligatory only when the principles of justice and governance have been realized, that is, only when men, as the result of some historical cause, have come to believe that acts conforming to those principles are good. Civil society is the result of an advance in men's beliefs. It is the result of the civilization of men, a process by which they come to know that justice and governance are both usefully and morally good." John B. Stewart, op.cit., 135; cf. 145, 161, 170.

10. James T. King, "The Place of the Language of Morals in Hume's Second Enquiry," in Hume: A Re-Evaluation (Fordham, 1976), eds. Livingston and King, 343-361.

11. *Experience soon teaches us this method of correcting our sentiments, or at least, of correcting our language, where the sentiments are more stubborn and unalterable.* (T582).

12. Botwinick suggests a gradualist approach (though he does not use this term) to the progessive correction of natural sympathy which somewhat parallels the idea of progress of the sentiments emphasized in this paper.

Areyh Botwinick, "A Case for Hume's Nonutilitarianism," Journal of the History of Philosophy (15-1977), 423-435.

13. In both Pts. II and III the corrective process appears always to comprise a social element, either with reference to the behavior of others as part of the original convention of justice (T490) or to the extant moral standards reflecting the social refinement and gradual civilization of men that must be presupposed in Hume's account of correction of the moral judgment.

14. One of the advantages of the classical interpretation of Hume's theory of justice is that it correlates the correction of the sentiments as discussed in Pt. II with the phenomenon of effective rule governance and provides a theoretical framework for Hearn's approach to rules in the practical sphere. Thomas K. Hearn, "General Rules in Hume's Treatise," Journal of the History of Philosophy (8-1970), 405-422. Cf. Charles E. Cottle, "Justice as Artificial Virtue in Hume's Treatise," Journal of the History of Ideas (40-1979), 461.

15. The object of moral appraisal is not the act but the quality of character. Accordingly, the question of the morality of an act of justice should be posed first as the question of the morality of justice as a quality of personal character. Hume is right to recognize that an act falling under a rule of justice need not be naturally pleasing. It is unclear, to me at least, that Hume would admit a moral disapproval--that is, a corrected moral judgment--of the character of the just man in those cases where justice requires an act which taken apart from the system of rules is naturally displeasing. This has a prima facie odd consequence if the naturally displeasing sentiment is one akin to morality, for instance, based on sympathy or humanity. Rather than conclude that there may be an unresolved tension in Hume's moral theory, I prefer to argue that sympathy and humanity themselves are sentiments which must be corrected as part of the process of arriving at a moral judgment.

16. In this paper I have not entered into a discussion of the moral approval of justice (and the problems some scholars find therein) or of the distinguishing characteristics of the orders of justice and of morality. The issue of the possibility of correction of the moral judgment is a foundational one deserving special treatment. It is also important, of course, to examine the distinguishing traits of the two orders and to defend the view that justice is worthy of Humean moral approval, but these are tasks which must be dealt with in a longer paper.

17. Cf. King, op.cit., 356.

18. As a matter of fact, in comparing the treatments of justice to be found in the two works, there are some reasons to claim that the Treatise has a greater social and historical focus than the Enquiry. Cf. King, op.cit., 356ff.