

NOT PAUL, BUT JESUS
VOL. III. DOCTRINE

by
JEREMY BENTHAM

THE BENTHAM PROJECT, UCL
LONDON
2013

Not Paul, but Jesus Vol. III. Doctrine by Jeremy Bentham published by the Bentham Project, UCL, 2013.

This work is licensed under a Creative Commons CC BY-NC-ND 3.0 Unported License.

The Collected Works of Jeremy Bentham

The new critical edition of the works and correspondence of Jeremy Bentham (1748-1832) is being prepared and published under the supervision of the Bentham Committee of University College London. In spite of his importance as jurist, philosopher, and social scientist, and leader of the Utilitarian reformers, the only previous edition of his works was a poorly edited and incomplete one brought out within a decade or so of his death. Eight volumes of the new *Collected Works*, five of correspondence, and three of writings on jurisprudence, appeared between 1968 and 1981, published by Athlone Press. Further volumes in the series since then are published by Oxford University Press. The overall plan and principles of the edition are set out in the General Preface to *The Correspondence of Jeremy Bentham* vol. 1, which was the first volume of the *Collected Works* to be published.

CONTENTS

EDITORIAL INTRODUCTION	7
A NOTE ON THE PRESENTATION OF THE TEXT	9
PART I. ASCETICISM	10
Chapter 1. Asceticism what—inimical to Happiness and Virtue—its Mischiefs	10
§. 1 Asceticism what—its opposition to Utility—their relation to Happiness, pleasure and pain	10
§. 2 Pursuit of pleasure. Limits set to it by Virtue— Asceticism is Vice	15
§. 3 Pretences employed by Asceticism	19
Chapter 2. Asceticism continued. War made by Asceticism against the pleasures of sense—its groundlessness	25
Chapter 3. Asceticism continued. War made by Asceticism against the eccentric pleasures of the bed—its groundlessness, causes and inconsistencies	28
§. 1 —its Groundlessness considered in a general view	28
§. 2 —its causes	28
§. 3 Groundless charges employed—1. Supposed injury to population	30
§. 4 2.—Imaginary deterioration of the lot of the female sex	36
§. 5 3.—Imaginary injury to personal security	40
§. 6 Inconsistencies in the war thus made	40

§. 7 Peculiar asperity of the vituperation lavished upon these modes—its causes	47
§. 8 Its innoxiousness manifested by the impossibility of finding place for it in an arrangement of penal law grounded on utility	52
§. 9 Groundlessness of the particular asperity against the pleasures of the bed	54

Chapter 4. Asceticism continued. Evils produced by the pleasures of the bed in the ordinary mode.—Remedies to them interdicted by Asceticism	57
--	----

§. 1 1. Intercourse without cohabitation. 2. Cohabitation without marriage. 3. Marriage polygamous on both sides. 4. Intercourse with precautions. 5. Voluntary Abortion	57
§. 2 Power of breeding-up or not during early infancy	60
§. 3 Divorce by consent	66

Chapter 5. Asceticism continued. Suicide, the all-comprehensive remedy against all evils—Groundlessness of the interdiction put upon it by Asceticism	68
---	----

Chapter 6. Asceticism continued. Happiness and Virtue, how diminished by Asceticism in an indirect way.—Useful and genuine obligations elbowed out by spurious ones	77
---	----

PART II. ASCETICISM IS NO PART
OF THE RELIGION OF JESUS 79

Chapter 7. Asceticism, as above, uniformly
discountenanced, nowhere countenanced, by Jesus.

1. Negative proof—For the condemnation passed in
Asceticism no warrant can be found in the Gospels.
Proof—Bishop Gastrell’s Institutes 79

Chapter 8. 2. Positive proof from the discourses of
Jesus 84

Chapter 9. 3. Presumptive proof from his practice
—the practice of Jesus 108

§. 1 Introduction 108

§. 2 Intercourse with Mary Magdalene and other
females. Paul’s explanation of it 112

§. 3 Mary Magdalene—no warrant for supposing her a
prostitute 115

§. 4 Origin of the supposition of her being a prostitute 120

Chapter 10. The condemnation passed upon these
forms not any part of the religion of Jesus 125

§. 1 In the allusions made by Jesus to the destruction of
the ill-famed Cities, no condemnation of the eccentric
pleasures of the bed is contained 125

§. 2 The propensity to the eccentric pleasures of the
bed, when reaped by consent, is not the reputed cause
of the destruction of the ill-famed Cities 134

§. 3 In the Epistles of the Apostles, Paul excepted, no
condemnation of this propensity is contained 138

Editorial Appendix to Ch. 10 147

§. 2 In the account given of the destruction of the consumed Cities, no condemnation of the propensity in question is contained	147
Chapter 11. Condemnation passed on the eccentric pleasures of the bed in the Mosaic law—it had its source in an illusion of the fancy	149
Chapter 12. Little regard shewn to the Mosaic prohibitions of the eccentric pleasures of the bed	161
§. 1 Story of the Young Levite and his Concubine: Judges xix	161
§. 2 Story of Jonathan and David	163
§. 3 Houses of resort for this purpose protected under the Kings	168
§. 4 In the discourses of the Prophets no condemnation of these pleasures is contained	170
Chapter 13. The eccentric pleasures of the bed, whether partaken of by Jesus?	177
§. 1 Introduction	177
§. 2 Intercourse of Jesus with the Apostle John	183
§. 3 Intercourse of Jesus with the stripling in the loose attire	187
§. 4 Jesus and Socrates compared in this respect	195
Chapter 14. How asceticism, not being part of the religion of Jesus, came to be received as such—non Ascetic sects extinguished by the Ascetic	198

EDITORIAL INTRODUCTION

Bentham addressed the subject of sexual non-conformity when working on his penal code in the 1770s and 1780s. He argued that, since consensual sexual activity did not cause harm to any one, it should not be constituted into a criminal offence, and hence the English penal laws against homosexuality should be repealed.¹ Bentham returned to the subject in the mid-1810s as part of a wide-ranging critique of religion. In 1814 he wrote an essay entitled ‘Of Sexual Irregularities’. In 1816 he composed material under the heading ‘Sextus’,² into which he integrated some of the material written for ‘Of Sexual Irregularities’.³ In the autumn and winter of 1817–18 he redrafted ‘Sextus’ in order to form the third and final volume of ‘Not Paul, but Jesus’. It is this text that is published here for the first time.

While neither the second nor the third volumes of ‘Not Paul, but Jesus’ were published during Bentham’s lifetime, the first volume appeared in 1823.⁴ In the work as a whole, Bentham aimed to drive a wedge between the religion of Jesus and the religion of Paul—between Christianity and Paulism.⁵ In this third volume, he focused on sexual morality. He argued that the doctrine of asceticism, the direct opposite of the principle of utility, had not only not been approved but had been condemned by Jesus, whereas Paul had taught and encouraged it. The reason why so many sexual practices were

¹ A version of this material was edited by Louis Crompton and published under the title of ‘Jeremy Bentham’s Essay on Paederasty’ in *Journal of Homosexuality*, III (1978), 383–405, and IV (1978), 91–107.

² The allusion was to sexual gratification as the sixth sense.

³ A preliminary version has been published in Jeremy Bentham, *Selected Writings*, ed. S.G. Engelmann, New Haven, 2011, 33–100. The authoritative edition of this essay, together with ‘Of Sexual Irregularities’ and other material, will appear as part of *The Collected Works of Jeremy Bentham in Of Sexual Irregularities and other writings on Sexual Morality*, ed. P. Schofield, C. Pease-Watkin, and M. Quinn, Oxford, 2014.

⁴ *Not Paul, but Jesus*, London, 1823, was published under the pseudonym of Gamaliel Smith.

⁵ See University College London Library, Bentham Papers, box 161, fo. 216 (30 December 1817) for the term ‘Paulism’.

condemned, in some cases criminalized, and in the case of male same-sex relationships, in England at least, punished with death, was the prevalence of a sexual morality that had originated in the Mosaic law but had been incorporated into the Christian tradition by the teachings of Paul. The only sexual practice that was approved was the ‘regular’ one involving one male and one female, within marriage, for the procreation of children. All other ‘modes’ of sexual gratification were condemned as unnatural, distasteful, and disgusting, and, therefore, morally wrong. The false standard of ‘good taste’ was thereby set up against the only true standard, the principle of utility.

I am grateful to the Leverhulme Trust whose generous grant has made possible the online publication of this important work. I am grateful to University College London Library for permission to reproduce this transcript of manuscripts in their possession. I would like to thank colleagues at the Bentham Project for their help in the preparation of the text. Catherine Pease-Watkin produced an initial transcript of the manuscripts and she, together with Michael Quinn, have been responsible for most of the annotation. Michael Quinn has undertaken a rigorous check of the edited text against the original manuscript on which it is exclusively based. Kristopher Grint has devised the TEI scheme for online presentation of the text.

The text is a preliminary version, in that the authoritative version will eventually appear as part of a complete edition of *Not Paul, but Jesus* in the *Collected Works of Jeremy Bentham*.

Philip Schofield
General Editor, *The Collected Works of Jeremy Bentham*
University College London
April 2013

A NOTE ON THE PRESENTATION OF THE TEXT

The original manuscripts on which the text is based appear on the right-hand side of the text. The numerals [161–216], for instance, refer to box clxi, folio 216, in the Bentham Papers, University College London Library. The date of the manuscript appears after the box and folio number.

Bentham did not add accents to his rendition of Greek words. Accents have, therefore, been editorially supplied.

Bentham's footnotes have been shaded for purposes of clarity.

Symbols

	Space left in manuscript.
[to]	Word(s) editorially supplied.
	Reading doubtful
[...?]	Word(s) proved illegible.

Abbreviations

Bowring	<i>The Works of Jeremy Bentham</i> , published under the superintendence of ... John Bowring, 11 vols., Edinburgh, 1843.
<i>CW</i>	The authoritative edition of <i>The Collected Works of Jeremy Bentham</i> .
MS add.	Text added to the original manuscript reading.
MS alt.	Alternative manuscript reading, usually interlinear or marginal.
MS del.	Word(s) deleted in manuscript.
MS orig.	Original manuscript reading.

PART I. ASCETICISM

CHAPTER 1. ASCETICISM WHAT —INIMICAL TO HAPPINESS AND VIRTUE—ITS MISCHIEFS

§1. *Asceticism what—its opposition to Utility— their relation to Happiness, pleasure and pain*

[161–216] [1817 Dec^r 30]

Of the doctrines above noticed as having been taught by Paul, though they had not been taught by Jesus,¹ and as belonging therefore to a religion of Paul's own invention, call it for example Paulism, we come now to that which stands last-mentioned,² and for the designation of which the word *Asceticism* is here employed.

Concerning the doctrine of Asceticism, [four]³ positions have presented themselves as demonstrable—viz.

1. That asceticism is to the whole extent of it a doctrine purely and incontestably mischievous.

2. That neither in any of the sayings or acts of Jesus is any countenance whatsoever lent to it: but on the contrary, much and uniform discountenance.

3. That to a great extent and on many occasions it has been taught by Paul, and that great anxiety has been manifested by him for the enforcement of it.

4. That to Paul and Paul alone this doctrine is indebted for the influence which, down to this time, has been exercised by it.

[161–217] [1817 Dec^r 30]

By asceticism I understand any system or article of doctrine in and by which endeavours are used to engage men to forego pleasure

¹ i.e. in the preceding volumes of 'Not Paul, but Jesus'.

² In a manuscript at 161–155 (23 August 1817), Bentham had listed Paul's doctrines as 1. Magnification of faith absolutely considered; 2. Magnification of faith as opposed to works; 3. Cacodæmonism; and 4. Asceticism.

³ MS 'three'.

in any shape for any other cause than the procurement of still greater pleasure in the same or some other shape, or the avoidance of pain to an amount more than equivalent: or to subject themselves [to] pain for any other cause than the avoidance of still greater pain, or the procurement of pleasure to an amount more than equivalent.

Correspondent and near of kin on this occasion to the word *doctrine* is the well known word *principle*: along with or instead of the doctrine, frequent is the need we shall have to speak of the principle, of asceticism.

[161–218] [1817 Dec^r 30]

By the appellation of the doctrine of *general utility*—say commonly for shortness the principle of utility^a—is designated that doctrine by which endeavours are used to engage men on every occasion to pursue that course of action by which, in so far as happiness is concerned, the greatest quantity of happiness,^b say or *well-being*, will be produced.

[161–219] [1817 Dec 30]

^a The use of the word *utility* labours under this inconvenience, viz. that not, in the language of the logician, being a *conjugate* of either the word happiness, or of the word pleasure, or of the compound appellatives absence of pain or exemption from pain—i.e. in the language of the grammarian not being derived from the same *root*, it affords not any immediate or certain indication of the relation between the idea associated [with] it and the ideas respectively associated with those several locutions.

Unhappily the language affords not any locution by which that purpose so desirable can be accomplished: nor, upon a long and diligent search, could any one more apposite than the one here employed—*utility*—be found.

By the word *utility* what is directly designated is the property which an object has of being the cause of the other considered in the character of an effect: by an useful action—an action of which utility is a quality—is here understood an action which has for its effect, or at any rate for its tendency, the augmentation of the stock of pleasures or, what is correspondent and may be equivalent, the diminution in the stock of pains.

[161–220] [1817 Dec 30]

^b Attached to the use of the word *happiness* is in like manner this inconvenience, viz. that in the usual acceptance of it, it is confined to the

designation of a large, to the exclusion of a small, quantity of the object which it is employed to designate. Of this limitation, one consequence is that, not being a conjugate of any one of the words by which the only sort of object to the designation of which in such large quantity it is applicable is designated, for example the words pleasure and exemption from pain—words which have the advantage of being capable of being employed for the designation of the object without reference to *quantity*—the relation of its import to the respective imports of those several words is, as above in the case of utility, apt to be out of sight: out of sight and that so completely as to be matter of doubt.

Seeing that nothing to which the name of *pleasure* has ever been applied can of itself, or otherwise than accompanied at least with exemption from pain, suffice to constitute what is meant by the word happiness, some men (James Harris, for example, in that one of his three treatises which has Happiness for its subject),⁴ in the view they give of happiness, have made a point of leaving pleasure altogether out of the account: accordingly in the whole of that work of his, scarcely will you find any the least intimation that, to the constituting happiness, any thing to which the name of pleasure has ever been given can be necessary or even so much as contributory.

The consequence is that with him *happiness* is a mere empty name—a word with which no determinate idea stands associated: a sign by which nothing whatsoever is signified: a straw would be much to give for all that in this work is presented to view by the word *happiness*. See on this head Bentham's *Chrestomathia*, Part II. § | |.⁵

[161–221] [1817 Dec 30]

To [the] designation of the sensation which, by a man who sits down to his dinner with a good appetite, is experienced in the putting into his mouth the first morsel of bread, no one will refuse the application of the word *pleasure*: on the other hand, scarcely to this same sensation in the eyes of any one could the word *happiness* be found applicable with propriety.

This being admitted, follows a position, the truth of which will not appear open to dispute—viz. *pleasure is not happiness*.

⁴ See James Harris, *Three Treatises: The First concerning Art: the Second concerning Music, Painting and Poetry: the Third concerning Happiness*, 2nd edn., London, 1765, pp. 107–247, particularly pp. 131–5, where Harris argues against the equation of pleasure with happiness.

⁵ See *Chrestomathia*, London, 1817, Appendix V, § VIII. 'Specimen of a New Encyclopedical Sketch, with a correspondent Synoptic Table, or Diagram', pp. 172–219, at 173–4 n., reproduced in *Chrestomathia*, ed. M. J. Smith and W. H. Burston, Oxford, 1983 (CW), Appendix IV, § VIII, pp. 179–212, at 179–80 n.

Observe now what a source of fallacies is contained in the unapt and unhappy form which, in so prodigiously important a part of the field of thought and action, has been assumed by language.

Next comes—and with all the appearance of an induction strictly and irrefragably logical—the position following, viz. therefore pleasures belong not to the account of happiness—or thus, happiness is not composed of pleasures—or thus—No quantity of pleasure can constitute happiness—or thus—In no quantity can *pleasure* have the effect of constituting *happiness*.

[161–222] [1817 Dec 30]

Attached in like manner is this same inconvenience to the word *wealth*.

The piece of rag which the beggar in the lowest stage of indigence has just cast or suffered to drop from him as being no longer convertible by him to any sort of use—with any degree of propriety, can this rag be termed *wealth*? Who is there that would be found to answer in the affirmative?

But this rag, whence comes it that it is not wealth? Only because there is not enough of it. Add to it as many more such as will make it fill a waggon, it shall be worth £20 or £30. Of these rags are there not as yet enough in quantity to constitute wealth? Well, then, add to it as many more as are imported into England in the course of a twelvemonth for the use of the paper-makers: then, instead of pounds, you will have thousands of pounds.

For want of adverting to these distinctions, and thence for want of having found clear ideas to attach to leading terms—to terms of the most extensive import, and the most frequent occurrence—works have been written by which, instead of light, clouds of darkness have been spread over every part of the field of thought and action to which they have applied themselves: and thus, instead of accelerating, the effect of those works has been the retarding the progress of art and science.

[161–223] [1817 Dec 30]

To this inconvenience, where shall we find the remedy? Long has it been found already: it remains not to be discovered: it requires but to be transferred and adopted: it consists in the word *matter* when properly applied:—why? only because the word *matter* is alike applicable to any quantity: to any quantity how small so ever as well as how great so ever.

To the Chemist, though the object itself is perceptible only not visible, the locution *matter of heat* is most familiar: the idea not less clear.⁶ In a

⁶ See, for instance, [Antoine-Laurent] Lavoisier, *Elements of Chemistry, in a New Systematic Order, containing all the Modern Discoveries*, Edinburgh, 1790 (first published as *Traité élémentaire de chimie*, 2 vols., Paris, 1789), pp. 4–5: ‘This substance, whatever

lump of ice taken at the freezing point, no man will say that he feels heat: no chemist, those excepted by whom heat is regarded as a mere quality, will deny that he has the matter of heat: for as the fluid in the thermometer descends, he has less and less, as it rises more and more, of it.

Thus also, no man will say but that in the rag which the beggar has just cast from him there exists not the matter of wealth: no man who has not, either by religious terror or philosophic pride, been driven into insanity will say that in pleasure, be it in what shape it may and in whatsoever small quantity it may, he has not the matter of happiness.

The object designated by the locution the *matter of happiness* being thus far fixt, now then may be seen two species or ideal parcels of it, in one or other of which every object to which with propriety it can be applicable may on every occasion be found: the one *positive*, viz. pleasure; the other *negative*, viz. absence of or exemption from pain. In one or other of these shapes will every thing, for the designation of which the compound term matter of happiness can be employed, be found.

[161–218]

So far as the application of it extends, directly opposite, therefore, are the doctrine and principle of asceticism to the doctrine and principle of utility as here explained.

[161–224] [1817 Dec 30]

In vain, indeed, would the appellation matter of happiness be denied to the word pleasure, for in the pursuit of pleasure, accompanied all along with the avoidance of pain, will not man alone, but every sensitive being whatsoever, be at all times—at all waking times at least—occupied.

Such is the fact—the indisputable fact: nor can any intelligible reason be assigned for so much as a wish that it were otherwise.

But though without pleasure there can not be any happiness, yet in no instance can the pursuit of pleasure be conducive to happiness if such pursuit have for its effect either the exclusion of greater

it is, being the cause of heat, or, in other words, the sensation which we call *warmth* being caused by the accumulation of this substance, we cannot, in strict language, distinguish it by the term *heat*: because the same name would then very improperly express both cause and effect. For this reason ... I gave it the names of *igneous fluid* and *matter of heat*': and Joseph Francis Jacquin, *Elements of Chemistry*, London and Edinburgh, 1799 (first published at Vienna as *Lehrbuch de allgemeinen und medicinischen Chymie*), p. 26: 'Of Caloric, or the Matter of Heat'.

pleasure, or the giving entrance to pain in a quantity more than equivalent.

Here, then, in so far as the maximum of happiness is the object—here we have two limitations both necessary to success: hence for the indication of these two limitations, two corresponding rules: 1. put not exclusion upon greater pleasure. 2. give not entrance to pain more than equivalent.

§2. *Pursuit of pleasure. Limits set
to it by Virtue—Asceticism is Vice*

[161–239] [1817 Dec 30]

Of him by whom, in the pursuit of pleasure, due regard is paid to both these rules, the conduct is in so far *virtuous*: virtue, the fictitious entity *virtue*, is contained in it.

If the greater pleasure in the fear of preventing which a man's pursuit of pleasure finds in this way a cause of restraint is his own pleasure merely, or the more than equivalent pain in the avoidance of which he finds in this same way a cause of restraint is his own pain merely, the virtue by which the restraint is composed is commonly termed *prudence*: to distinguish this from another sense in which the same word *prudence* is also wont to be employed,^c it may be termed *self-regarding* prudence.

^c viz. that quality in an action or that character in the mind by which, what person so ever be the person whose happiness or well-being is the object towards which the conduct is directed, *means* are chosen and adjusted to *ends*, whatever be the ends.

The person or persons whose bosoms are the seat of the greater *pleasure* the exclusion of which is thus avoided, or of the more than equivalent *pain* the production of which is thus avoided, are they persons other than the agent in question? in so far as they respectively are so, the virtue by which the restraint in question is imposed is wont to be characterized by the names of beneficence and benevolence: benevolence in so far as the design alone is considered; beneficence in so far as that design is considered as having taken effect.

[161–240] [1817 Dec 30]

Benevolence and beneficence, is the exertion of them respectively regarded as matter of obligation? probity is the name which in this case is given to the virtue: *probity*, also in some cases *justice*:^d legal justice, if and in so far as the obligation is considered as rendered perfect by the application of the force of the law: natural justice in so far as the fulfilment of it is considered as not being thus enforced and thereby as being itself left *imperfect*: in this case the obligation, if any, which remains is termed an obligation merely *moral*, in contradistinction to a *legal* one.

^d Though this same word justice is also wont to be employed on other occasions and in senses somewhat different.

These same virtues, are they considered as not being regarded as matter of obligation? In this case, in the designation of the virtue in question—the virtue by which the restraint is produced—these same appellatives are exclusively employed: employed to the exclusion of the words probity and justice.

[161–241] [1817 Dec 30]

Take the objects respectively correspondent and opposite to these same virtues, you have so many vices—

Opposite to self-regarding prudence, self-regarding imprudence.

Opposite to probity, improbity; opposite to justice, injustice.

Correspondent to beneficence, either the simple absence of beneficence, or the opposite vice of maleficence: correspondent to benevolence, either the simple absence of benevolence, or the opposite vice of *malevolence*.

[161–242] [1817 Dec 30]

The doctrine and principle of asceticism have respectively two branches: the one, that which regards pleasure; the other, that which regards pain; that which regards pleasure, requiring the abstaining from pleasure, call it the negative branch—call it the abnegative: that which regards pain, calling for the voluntary susception of pain, the positive branch, call it the afflictive.

The two cases in which, and in which alone, the doctrine and principle of utility call for the non-pursuit of pleasure have already been seen: they are the cases where the pursuit of it is opposed

by the causes of limitation above indicated. By the doctrine and principle of asceticism considered in its negative or abnegative branch, the pursuit of pleasure is interdicted simply, as well where such limitative principles have not respectively any application, as where they have.

The two cases in which and in which alone the doctrine and principle of utility call for the susception of pain have been in like manner brought to view.⁷

[161–243] [1817 Dec 31]

From the very nature of the case as above brought to view, it follows that there is no possibility of making any addition to the stock—to any man’s or men’s stock—of happiness, but by addition made to the stock of pleasure, or defalcation made from the stock of pain: by addition made to the stock of pleasure, viz. either by the addition made of some individual pleasure to the stock otherwise in existence, or by addition made to the intensity or duration of some individual pleasure already in existence: and so in regard to pain.

[161–244] [1817 Dec 31]

From the very nature of the case as above brought to view, it now appears, and moreover beyond all possibility of dispute, that the doctrine of asceticism as above explained is in the whole, and in every particular application that can be made of it, not merely an erroneous but a vitious and, in so far as it is productive of its intended effect, a pernicious doctrine—the principle of asceticism not merely a fallacious but a vitious and mischievous principle: that accordingly to forego pleasure otherwise than for production of greater pleasure or avoidance of greater pain is *imprudence*—self-regarding imprudence; to cause, by means of such doctrine, others to forego pleasure otherwise than as above is maleficence: to seek to do so, malevolence—and so conversely in regard to the gratuitously subjecting themselves or others to pain.

On no other ground than this can any intelligible reason be given why *vice* in any shape should be subjected to disrepute and reproach; why criminality in any shape should be subjected to punishment.

⁷ In the margin, Bentham has noted at this point: ‘☞ Compleat this paragraph from the preceding one.’

If the causing or seeking to cause a man to forego any the least particle of pleasure otherwise than as above be not vice, be not maleficence, be not malevolence respectively, then neither is the inflicting or seek[ing] to inflict on him any injury whatever, whether to person, reputation, property or condition in life, vice, maleficence or malevolence respectively: then neither for the subjecting to punishment or reproach the crimes of rape, robbery or murder, for example, can there be any reasonable cause. The money which a man is robbed of, of what use, had he not [been] robbed of it, would it have been to himself or any one, unless it be by adding in some shape or other to the sum of his or some one else's pleasures, or subtracting in some shape or other from his or some one else's pains?

[161–245] [1817 Dec 31]

According to the principle of utility, taking in its entirety the whole mass of pleasure in question—presence or, in case of absence, propinquity and certainty, i.e. probability, being given or out of the question—quantity is the sole measure of *value*: considered in themselves all other circumstances and incidents, *shape* and *source* for example, are regarded as matters of indifference.

If, from pleasure in a certain shape or from a certain source, pain be produced which, by pleasure of the same sort reaped in some other shape or from some other source, would not be produced, thus far indeed and in this respect shape and source have a claim to consideration: but still in this case it is not the shape or the source which in itself possesses the claim to consideration—it is the purity or impurity of the pleasure: of the pleasure particularly in question: and taking in the lump the whole mass of pleasure and pain in question, it is still neither more nor less than magnitude.

A pleasure may be termed impure in so far as, from the act by which it is produced, pain is moreover produced.

A pleasure may be termed *fruitful*, in so far as, from [the] act by which it is produced, other pleasure is at a subsequent time produced.

And so in regard to a *pain*.

Strictly speaking, it may be seen that it is to the act, and not to the pleasure or the pain, that the ulterior sensations thus indicated belong in the character of effects. But forasmuch as the act has for its object or end in view the production of the pleasure—as it is the prospect

of the pleasure that is the motive to the act, the consequences may in this way be referred and ascribed to the pleasure itself, viz. to the *pursuit* of it. The value of the pleasure may be said to be augmented by and in proportion to its fecundity, diminished by and in proportion to its impurity: in the first case the reason for pursuing it, encreased and strengthened; in the other case, done away or lessened. Thus may be seen the practical uses of these locutions in and by which, by a sort of fiction of language, the effects of the act are ascribed to the pleasure as their cause.

§3. *Pretences employed by Asceticism*

[161–258] [1817 Dec 31]

Though when once plainly brought to view, as above, the viciousness and, by the whole amount of its influence and efficiency, the mischievousness of asceticism can not without self-contradiction be denied, yet ever since the days of Paul, vice in this shape has been stalking abroad and strutting under the mask and in the name of virtue, and calling upon all within its reach for whatsoever tribute of respect may be supposed due to virtue.

Not to go for the present any higher, never since the days of Paul have there been wanting men whose constant [endeavours] have without disguise or reserve been employed in making war upon pleasure: upon pleasure in every shape, or at any rate upon pleasure in general without any determinate exception: the object of their exertions being to engage men to forego pleasure to as great an extent as possible: and this they call—labouring in the cause or in the service of virtue.⁸

[161–259] [1817 Dec 31]

Various are the grounds or pretences on which this war against every thing that is good has been raised and kept on foot. Among the most common is that which bears relation to the *shape* in which the pleasure is enjoyed, or in other words (for it comes to much the same

⁸ In the text, Bentham has noted at this point: ‘☞ Add. This is quarrelling with bread-and-butter.’

thing) the *source* from whence it is derived, or the *seat* in which it has place.

In every instance, be the pleasure in question what it may, the seat of it is either in the bodily faculties, in the mind, or in both. For no other cause than that of their having their seat in the body, against all those pleasures which have their seat in the body, unceasing war is made and kept up. Ask why? it is forsooth for some such reason as this—viz. that of the two component parts of the compound creature, the mind is more *noble* than the body—the pleasures of the mind more *noble* than the pleasures of the body. But by this word more *noble* what is meant? either it means *greater*, viz. in respect either of intensity or duration, or it means nothing and is so much nonsense. Take any pleasure of the body and compare it with a pleasure of the mind: if it is not greater but less, here then in case of competition is a reason—a genuine reason for taking up the pleasure of the mind and letting go the pleasure of the body: if not less but greater, here then is no sufficient reason for letting go the pleasure of the body.

[161–260] [1817 Dec 31]

In so far as it is greater, and come[s] in competition with a pleasure of the body, the pleasure of the mind is better worth than the pleasure of the [body]:⁹ true: but this is no less true of every pleasure of the mind.¹⁰

It is only in so far as competition has place, in so much that by embracing the one a man necessarily foregoes the other, that in the superiority of value, were it ever so real and constant, any rational cause for the foregoing of any pleasure of the body can be found. But, unless by accident, between the pleasures of the body on the one hand and the pleasures of the mind on the other, no such competition really has place—and by accident, be the pleasures respectively what they may—pleasures of the body or pleasures of the mind—the like competition has place between every pleasure and every other.

[161–261] [1817 Dec^r 31]

⁹ MS 'mind' appears to be a slip.

¹⁰ Presumably, where one pleasure of the mind comes into competition with another pleasure of the mind.

One circumstance indeed there is by which a sort of colour and countenance is lent to this pretence. This is that, from the nature of man, neither pleasure nor pain being capable of operating in the character of motives any further than in as far as at the very instant of operation they are present to the mind, a pleasure of the body being frequently capable of being reaped at the instant the correspondence takes place, while for securing its appearance in due season a pleasure of mind may require a long and painful course of preparation, the estimate on which action is grounded is, in the case of the pleasure of the body, apt to be above, in the case of a pleasure of the mind below, the real value.

But for applying this observation to use in practice, what is the true and reasonable course? That which is prescribed by the principle of utility, not that which is prescribed by the principle of asceticism. Under the principle of utility, enquiry is made in the first place whether there be any such incompatibility: and it is only in so far as the answer is in the affirmative that any comparison—any conjunct estimate—with a view to option is made: if, upon due consideration, the judgment is that competition has place, and that upon the whole the pleasure of the mind is better worth than that of the body, in that case and in that case only is the pleasure of the body foregone—whereas under the principle of asceticism, condemnation is passed on the pleasures of the body without enquiry. Under the principle of utility, nothing is lost, unless in so far as, according to the estimate formed by the only competent judge, something better worth is gained: whereas under the principle of asceticism, good things by wholesale are thrown away, and in the room of them nothing is so much as attempted to be gained.

[161–262] [1817 Dec^r 31]

When, by this principle, condemnation has been passed upon any species or mode of pleasure, it has always been on the ground of the *seat*, or the *source*, or both: on these occasions, seat or source have respectively been found to be *impure*. In this case the condemnation passed has its source in an illusion of the fancy, and the means employed by it to obtain submission is an abuse of words.

Of the only clear and usefully applicable sense in which the words *pure* and *impure* are capable of being applied to *pleasure*, a

view has been given under the head of the principle of utility:¹¹ and in these cases they are applicable with equal propriety to *pain*.

In both instances alike—in the one no less than in that of the other—the idea belongs to the same department in the field of thought and action: in one and the same, and that the *moral* one.

[161–263] [1817 Dec 31]

Under the principle of asceticism, the same word is used in two different senses, neither of them having any apposite connection with the other; the one belonging to the *physical* department, the other to the *moral*—the seat or source are one or both of them impure, viz. in the physical sense: therefore the pleasure is impure in the moral sense: therefore again it *ought* not ever to be reaped—therefore again the reaping of it is a vitious act and, by the application of prohibition backed by punishment, ought to be rendered a criminal one: therefore it accordingly is so rendered.

The punishment has in these cases been mortal—the punishment of death—a punishment as great as any that has ever been employed for the prevention of the most mischievous crimes. But for the justification of this extreme punishment, where is the mischievousness? Not any where. Thus is produced mischief in an enormous quantity, and this without so much as the least view of putting an exclusion upon mischief in any shape?¹² Such barbarity, whence came it? Answer—from men’s blindness—blindness to the only true and defensible principle of morals. As to any mischief producible by the act thus proscribed, none such was found, for none such was ever looked for. Why? because, by the principle adopted, no such research is prescribed or so much as admitted. What it prescribes is—when pleasure is looked for, to look for it not for any such purpose of promoting it—of encreasing it—but for the purpose of excluding it.

[161–264] [1817 Dec 31]

¹¹ See *An Introduction to the Principles of Morals and Legislation*, ed. J.H. Burns and H.L.A. Hart, London, 1970 (*CW*), Ch. IV, pp. 39–40.

¹² In the margin, Bentham has noted at this point: ‘☞ Note here afterwards the mischief of restraint as well as of punishment.’

Well but, the pleasure is impure—*impure*—viz. in your eyes, for as much as so you say it is. Impure: but in what sense? impure in a moral sense? Oh yes, to be sure, impure in a moral sense. But why and whence impure in a moral sense? Let the question be answered truly, it will be—because in my eyes it is, if you will force upon me this declaration,—impure in a *physical* sense. Well then, being in that sense impure, it is in your eyes to such a degree impure that you could never endure to make any such attempt as that of reaping it. What I? forbid it heaven! Well then, you never will: nor is it any body's wish that you should. But those who are in the practice of giving it to themselves, in their eyes it is not so much as *physically* impure; or if it be, it is not in such a degree impure as to extinguish the desire, and exclude the pleasure: in their instance, therefore, that reason which in your instance is so good and sufficient an one has no place: and for losing or so much as wishing any other person to lose it, no other reason have you found or can you find.

I should not like to do this—therefore I will punish you if you do it—such is the logic which has given birth to this article of morality, and to the legislation that has sprung out of it. And of this logic, this morality and this legislation, the word of Paul, it will be seen, and of Paul only, has been the ground.

[161–265a] [1817 Dec^f 31]

From what has just been said, the following position, without danger of contradiction on any rational grounds, may be laid down, viz.

No condemnation can justly be passed on any pleasure on any such ground as that of its *shape*, *seat*, *source*, or *inlet*: the *shape* in which it exists, the *seat* in which it resides, the *source* from whence it is derived, or the *inlet* ° through which it is derived.

° Though not the seats nor the sources, the eye and the ear are, in the instance of every individual, the necessary *inlets* to a large proportion of such pleasures of the mind as it falls in his way to enjoy: viz. to all those derived from discourse, whether by signs audible or visible—whether from hearing or reading.

So likewise in the case of all the rest of the fine arts—Music, painting, &c. &c., let the seat be in ever so large proportions of it in the mind, the necessary inlet to it is in the body.

[161–265b] [1818 1 Jan^y]

If all pleasure—every sensation of the pleasurable kind—were taken away, life would be left altogether without value: it would be all *being* without *well-being*: *being* it would have, *well-being* it would have none. But if all sensations of the pleasurable kind were taken away, those of the painful kind would not thereby be taken away: life would be an alternation of pain and insensibility: evil-being would be the condition of the only sensible part of it: a stone would be an object of envy to a man living such a life.

That either pride or terror have ever gone so far as to extend the proscription directly and purposely to the pleasures of the mind, it might perhaps be too much to say: not so that they have included in it all pleasures of the body—of which the body is in any part the seat. Yet if sensation were taken away, understanding would go along with it: if all pleasures of the body were taken away, along with them would go the pleasures of the mind.

With all this before their eyes—for to what eyes can it ever have been unobvious—men so far gone in asceticism have yet been found to whom pleasure has been an object of unceasing hostility and proscription wherever they have found or fancied it. In the lump under that its generic name collectively, and again in every particular shape in which they have seen it or supposed it to be lurking!

CHAPTER 2. ASCETICISM CONTINUED.
 WAR MADE BY ASCETICISM
 AGAINST THE PLEASURES OF
 SENSE—ITS GROUNDLESSNESS

[161–266] [1818 Jan^y 1]

The pleasures against which the most unrelenting war has thus been kept up—the pleasures which have borne the principal marks of this hostility—have been the pleasures of the *table* and the pleasures of the *bed*.

The pleasures of the table have been dealt badly enough with, but the pleasures of the bed, as being the more intense, have been dealt with still worse. The pleasures of the table could not have been struck out altogether: for with them, if struck out, forasmuch as from the satisfaction given to the appetites of hunger and thirst it is [impossible]¹ that pleasure should be altogether excluded, life itself—the life of each and every individual—would be struck out: and by the ascetic life can not be parted with—for in that case all pains would vanish with it—and to the votary of asceticism, life is indispensable, as being the only receptacle into which pains can be inserted: accordingly when life has been bereft of all its pleasures, then it is that his anxiety to preserve it is extreme: and by parting with life to obtain deliverance in one and the same moment from all pains, this, as it is the last and the most comprehensive, is in his eyes, of all sins the most flagitious and unpardonable.

[161–267] [1818 Jan^y 1]

The pleasures of the *table*, it has been seen, so obstinately do they adhere to life, can not be struck out by the ascetic, because in that case pains would go out along with them—pains which it is his object to accumulate.

With the pleasures of the bed he finds himself more at liberty: life may be cleared of them. Take any individual whatever—deprive him of all pleasure in this shape, life remains notwithstanding. If, indeed,

¹ MS ‘possible’. The alteration follows the corresponding marginal summary: ‘Pleasures of the *bed* worse dealt with than d^o of the table: for pleasure being inseparable from satisfaction of appetite, every man bereft of pleasures of the table would be bereft of life.’

you were to go so far as to extend the extirpation to every individual, life would within a limited time be extirpated along with it: and thus pain, the only object which in his view is worth preserving—the object to which, in his eyes, life is indebted for all its value—pain would likewise be at an end. Therefore, to keep on foot so many receptacles of pain, human beings must be kept alive—the population must be kept up: and to the number of those in whose instance life is purified of all pleasure in this shape, limits must somehow or other be set.

But the number of breeders necessary to keep up the greatest number of non-breeders being ascertained, then it is that the number of persons from whose existence pleasure in this shape is excluded ought to be as great as possible. As being the best security for the accomplishment of so desirable an object, a physical cause of exclusion, castration, so it be early enough, might present itself as still more advantageous than any moral one. But here the objection is that, along with the pleasures, are excluded certain pains—the pains of unsatisfied desire. Whereas when the recourse employed is confined to the use of moral means, the pleasures alone are excluded—the stock of pains remains pure and unadulterated.

[161–268] [1818 Jan^y]

In the case of the pleasures of the table, only in the Catholic edition of the religion which calls itself the religion of Jesus has asceticism set itself upon the exclusion of pleasures at certain seasons in consideration of the source; interdicting on this account at those seasons the use of certain species of food.²

Under the Protestant edition of this same religion, the source from which pleasure in this shape may be derived is left free.

Not so in regard to the pleasures of the bed. In this case, in regard to pleasure in this shape, Protestantism not merely with equal, but with still more anxious and implacable rigour sets itself to reduce the sum of pleasure.

² In the text, Bentham has noted at this point: ‘☞ exemplify?’

Traditionally, Roman Catholics did not eat meat during Lent, or on Fridays throughout the year.

In the case of the pleasures of the table, not only the choice of the crude material, but that of the mode of cooking, seasoning and serving up is left free. Not so in the case of the pleasures of the bed. In the case of pleasure in this shape, if reason and consistency, not asceticism with the terrors by which it was engendered and the antipathies which it has engendered, were the guides, *impurity* in the logical and rational sense apart, the choice of the source and of every thing that belonged to it would be regarded as matter of indifference, and as such the choice in respect of them left free: with or without a partner—if with a partner, whether with a partner of the same species or with a partner of another species: if of the same species, whether of the correspondent and opposite sex or of the same sex: number of partners, two only or more than two: and in all cases portions and parts of the body employed would equally be, in a moral and religious view, alike open to free choice.

[161–269] [1818 Jan]

Not less free in all these several particulars—not less free to choice—would be the pleasures of the bed, than in regard to raw material, compounding, seasoning and mode of cooking [and] of preparation, [are] the pleasures of the table.

In neither, any more than in the other, would any such ideas as those of morality or religion be understood to have any place.

CHAPTER 3. ASCETICISM CONTINUED.
 WAR MADE BY ASCETICISM AGAINST
 THE ECCENTRIC PLEASURES OF
 THE BED—ITS GROUNDLESSNESS,
 CAUSES AND INCONSISTENCIES

§1. —*its Groundlessness considered in a general view*

§2. —*its causes*

[161–273] [1818 Jan^y 2]

Of these several shapes, that in which, partnership having place, the species being the same, but the sex, instead of correspondent and opposite, the same, has principally and almost exclusively provoked the rage of the dæmon of asceticism. In this case too, little less than the whole of that passion has been occupied by that modification in which the sex is on both sides the male. If consistency had [been] at all consulted, between this case and that in which the sex is on both sides the female, little if any difference should have place in the energy of the expressions by which the sentence of condemnation is pronounced. But from the whole system of reasoning, or rather imagination, by which on this ground the course taken by the principle of asceticism is determined, all regard to consistency is (it may be seen) excluded.^a

^a Of the difference in respect of the aspect shewn in two cases between which the difference, if any, is so inconsiderable, the causes lie not far beneath the surface.

[161–274] [1818 Jan^y 2]

[1.] It is in *physical* impurity that the imagination of the ascetic finds in this case the ground on which it erects the imputation of *moral* impurity: and in the case of the female sex, the colours of physical impurity, if not altogether wanting, are much less prominent and vivid than in the case of the male.^a

^a In a case reported in the English law books, the governor of a poor house, in the abusive exercise he made of his power for the gratification of the sensual appetite on the person of a non-adult female, took that part which it is most apt to apply

itself to in the male.¹ The dæmon of asceticism had the satisfaction of adding in this case the life of the offender to the number of his victims. The ground made for this decision in some of these books affords a tolerable sample of the principles on the strength of which punishment and misery [are]² showered down on men's heads by English Common Law. The choice made by the offender in this case: his offence was that of a sort of virtual or constructive blasphemy, as contained in the contempt manifested towards him, in preferring to the provision which he had made, a provision which he had not made. In this sample, behold the view taken of the subject by the principle of asceticism. Behold now the view taken of it by the principle of utility. Had the provision which God is thus said to have made been employed, the consequence would have been that, the condition of the patient in respect of virginity being changed, her place in society would have been lowered and her chance of advancement and encrease of comfort in a matrimonial union impaired, if not destroyed: whereas in and by the choice actually made, neither in this nor in any other permanent shape was any mischief produced.

[161–273] [1818 Jan^y 2]

[2.] In the sufferings of those who presume to disobey his prohibitions, the malevolent affection in the ascetic beholds a sort of compensation or indemnity for the privations to which he subjects himself. To the infliction of punishment, delivery of evidence is a necessary preliminary: and in the case of the female sex, physical circumstances refuse pertinaciously that evidence which they are capable of affording, and which occasionally and accordingly [they] do afford, in the case of the [male].³

[161–274] [1818 Jan^y 2]

¹ See *R. v. Wiseman*, 16 March 1718, reported in John Lord Fortescue [Aland], *Reports of Select Cases In all the Courts of Westminster-Hall; also the Opinion of All the Judges of England relating to the Grandest Prerogative of the Royal Family, and some Observations relating to the Prerogative of a Queen Consort*, London, 1748, pp. 91–7. The case concerned the master of a workhouse at Maidstone, Kent, who had committed sodomy on a girl aged eleven. The trial was held at Rochester, Kent, where the defendant, Richard Wiseman, was found guilty, though the presiding judge then ‘reprieved the Prisoner, in order to have the Opinion of all the Judges, on this Offence, whether it was Buggery within the Statute or not’, that is within the meaning of the Buggery Act of 1533 (25 Hen. VIII, c. 6). It was agreed by a ‘great Majority’ of the judges that the act ‘was plain Buggery by our Law’.

² MS ‘is’. Having added ‘and misery’ to the subject of the clause, Bentham failed to amend the number of the verb.

³ MS ‘female’. Bentham had in mind the English Common Law rule which required evidence of emission for conviction of sodomy. See, for instance, *The Twelfth part of the Reports of Sir Edward Coke, K t.*, London, 1656, p. 37: ‘Note, that Sodomy is with Mankind, and it is Felony. To make that Offence *Oportet rem penetrare, & semen naturæ emittere, & effundere* Every of which ... imply penetration and emission of seed’.

[3.] In the case of females the transgression is, in the eyes even of the dæmon of asceticism, rendered more excusable by the contemplation of the impossibility of obtaining satisfaction for the appetite in the ordinary mode without extreme danger of ruin, compared with the facility possessed in this respect by the other sex.

Favoured by this state of things, persons of the female sex may to any extent, and probably do to a very considerable extent, obey the calls of appetite, secure against the defaming tongues of their own sex, as well as against the homicide fangs of the harpies of the law.

[161–275] [1818 Jan^y 2]

Thus it is that in which the sex concerned is on both sides the male, is the case of aberration by which the attention of the religionist, the moralist and the legislator have nearly been engrossed.

In this case, where reasoning or any thing that so much as assumes or affects the colour of it—where, in a word, any argument that is capable of ranking under the principle of utility is attempted, it will be found referable principally, if not exclusively, to two heads of charge: viz. 1. Alledged mischief to population. 2. Injury to the influence—the proper, and, with a view to the aggregate interest of the whole species, the useful and desirable, influence of the female sex.

In both these instances, the groundlessness of the charge will soon be manifest.

§3. *Groundless charges employed* —1. *Supposed injury to population*

[161–276] [1818 Jan 2]

1. As to the supposed or alledged injury to population. In this we have an argument—a consideration—which, howsoever it may have been in use to be recurred to in former days, presents little probability of its ever being thought worth employing even by the most ardent and inconsiderate zeal in future. Ever since the great work of Malthus on this subject has had time to produce its effect, so far as concerns population, a truth which every thinking and even every influential mind without exception seems sufficiently possessed of is that every

where it is from excess in this article that general human happiness has every thing to fear; from deficiency, nothing.⁴

By the pen of Bentham, several years before that work made its appearance, on the ground of circumstances essential to human nature and apparent on the very surface of the case, this same proposition had received a concise but not the less uncontrovertible demonstration.⁵

[161–277] [1818 Jan 2]

When a conclusion has once been accepted and the acceptance accompanied with the persuasion that to listen to any thing on the other side would be an offence against religion and morality, and thence with a determination to adhere to it at all events, any argument the most absurd may on that side venture to produce itself without fear of seeing itself rejected or so much as scrutinized.

For manifesting the absurdity of any such apprehension as that by any such cause as that in question any deficiency in population was capable of being produced, slight indeed is the view that need have been taken of the nature of the case.

Speaking in round numbers, in the only plan of sexual intercourse which is favourable to population, of the whole series of sexual operations which the male is capable of performing in the course of a whole twelvemonth, it is by no more than one that any addition to the mass of the population is capable of being made. Over and above this one, every such operation, whatsoever be the profit in the account of pleasure, is in the account of population so much waste: for any effect produced by it in that shape, as well might be

⁴ (Thomas) Robert Malthus (1766–1834), political economist, was the author of *An Essay on the Principle of Population, as it affects the future improvement of Society*, London, 1798, where he argued (p. 14) that while subsistence increased in an arithmetical ratio, population increased in a geometrical ratio.

⁵ In the margin, Bentham has noted at this point: ‘☞ Here make the reference to Dumont’s paper in Genevan Review.’ Between October 1796 and April 1798, Bentham’s Genevan friend and editor Pierre Étienne Louis Dumont (1759–1829) published a number of extracts from Bentham’s writings, translated into French, in a new Genevan periodical, the *Bibliothèque britannique*. For the paper in question here, entitled ‘De la population’ and contained in ‘Sixième Lettre de Mr Dumont aux Auteurs de la Bibliothèque Britannique; sur les manuscrits de J. Bentham, Esq.—suite du Manuel d’Économie politique’, see *Bibliothèque britannique* vii (1798), 369–78. Bentham’s view, summarized by Dumont at the beginning of the article, was that all measures taken to increase population were useless.

bestowed upon a being of the same sex or of a different species. Allowance made for absences and sicknesses, suppose only three hundred to be the average number of impregnations performed in the state of marriage among persons on both sides existing in a state of capacity in this respect.^b Here then are three hundred times as many acts of impregnation actually employed as would be sufficient for giving to the sum of population every addition which the other circumstances of the case admitt of its receiving.

[161–278] [1818 Jan 2^d]

^b The sort of general matter of fact here in question is of the number of those in relation to which the very nature of the case renders it most difficult to obtain any particular evidence.

A short lesson in rhyme belonging to the diætic branch of medicine which the author of these pages remembers once to have heard would, if it could be recollected, afford to a question of this sort an answer which, not having had any such purpose as the present in view, might on that account be deemed not the less satisfactory, but on the contrary more so.⁶

In it are presented to view the number of those acts which, in the compass of the twenty-four hours, are regarded as capable of being performed by an average male in the marriage state without prejudice to health. From a certain up to a certain age, one such act: thenceforward, two: then up to another age, the number unlimited: then down to two again: then back to one, and at last to none.

The mode of expression employed was, for the earliest age, a good night *or* good morrow; for the second, good night and tomorrow.

[161–279] [1818 Jan 2]

⁶ It is possible that Bentham is referring to the medical and scientific lectures of George Fordyce (1736–1802), physician and chemist. Fordyce gave regular series of lectures in London, repeated over many years beginning in the 1760s, and Bentham began attending these lectures as a young man: see Bowring, x. 133, and, for example, *The Correspondence of Jeremy Bentham*, vol. i, ed. T.L.S. Sprigge, London, 1968 (*CW*), pp. 239–41. Sixteen volumes of notes taken during 1785 and 1786 by one of Fordyce’s students, Henry Rumsey, are preserved in the Archives of the Royal College of Physicians, London (RCP Archives MS 138–53), and it is clear from these notes that diet was one of the topics covered by Fordyce, although a more precise reference to the rhyme that Bentham had in mind has not been found. Bentham’s brother Samuel Bentham (1757–1831), naval architect and inventor, married Fordyce’s younger daughter Mary Sophia (1765–1858) in October 1796.

According to this estimate, ere it could have any effect capable of making any defalcation not only from the actual, but from the greatest possible degree of population, the propensity of this appetite to the same sex would have to be three hundred times as great as towards the correspondent and opposite sex.

The oppositeness of this imaginary state of things to the real state of things is too glaring to admitt of comment: supposing it real, to the conjunction between the opposite sexes, if in either case, to that alone would the term *eccentric* properly be applicable, not to that between persons of the same sex. As to the term unnatural, it is a mere expression of thoughtless passion not applicable to desire in this shape, nor unhappily to guilt in any shape. But where the violence of passion, real or pretended, is received as matter of merit, the more flagrant the absurdity, the more rapturous the applause.

If, during a certain period, the sum total of the capacity for procreation were employed in any one of these eccentric modes to the exclusion of the ordinary mode, at the end of that period the species would be extinct.⁷—O yes, *that* it would: and so it would, if in the male sex the whole of that capacity were employed upon such of the female sex as had past the age of childbearing.

[161–280] [1818 Jan^y 2]

If,⁸ from the direction given in this case to the sexual appetite—to the pleasures of the bed—any real effect upon population in the way of check was to be looked for, so far from being an evil, it could not in this point of view be denied to operate in the character of a remedy.

⁷ See Voltaire, ‘Amour nommé Socratique’, in *La raison par alphabet. Sixième édition revuë, corrigée & augmentée par l’auteur*, 2 vols., Geneva, 1769 (constituting the sixth edition of *Dictionnaire philosophique*, which had been first published at Geneva in 1764), i. 33, and reproduced in *Dictionnaire philosophique: I*, ed. C. Mervaud *et al*, Oxford, 1994 (*Les Œuvres complètes de Voltaire*, XXXV), p. 328: ‘Comment s’est-il pu faire qu’un vice, destructeur du genre humain s’il était général, qu’un attentat infâme contre la nature, soit pourtant si naturel?’ François Marie Arouet (1694–1778), known as Voltaire, historian and philosopher.

⁸ Above this paragraph, Bentham has noted: ‘Go on to shew that pederasty tends not to decrease population.

‘This in the Appendix under the head of Overpopulation.’

No manuscripts written for such an Appendix have been located.

In no country in which, by the state of government, any tolerable security is afforded for property does the power of providing sustenance keep pace with the tendency to that union by which the numbers of mankind are kept up and increased.

This superfluity has for its inseparable consequence evil in a variety of shapes. In the indigent, premature death preceded by lingering disease. On the part of the affluent, pain of privation to an amount proportioned to the amount of the relief afforded to the distress of the indigent, as above. But as there is no civilized country in which such relief is altogether withholden, so neither is there any in which it is, or indeed ever can be, compleatly adequate. By the quantity of supply afforded at any given point of time, relief, and that adequate, is afforded (suppose) to the quantity of indigence existing at that time. Good: but the supply thus afforded is, as it were, a bounty having the effect of giving additional extent to that union by which an addition is made to the mass of the population, and thence to the mass of indigence. Be the encrease in the magnitude of the remedy ever so great, the encrease in the magnitude of the evil is constantly outstripping it.

[161–281] [1818 Jan^y 3]

By the Reverend M^r Malthus, whose work is the classical book on this subject, the causes of restraint from the operation of which the evil receives whatsoever check it actually receives are collected under three general heads, viz. *misery*, *vice* and *moral restraint*.⁹

1. To the head of *misery* may be referred the decrease which the numbers of the people experience by those premature death[s] which

⁹ See Malthus, *Essay on the Principle of Population*, p. 108: ‘In short, it is difficult to conceive any check to population, which does not come under the description of some species of misery or vice.’ Moral restraint as a check on population was added for the second edition: see *An Essay on the Principle of Population; or, a View of its past and present Effects on human Happiness; with an Inquiry into our Prospects respecting the future Removal or Mitigation of the Evils which it occasions*, 2nd edn., London, 1803, p. 11 (corresponding to: Malthus, *Essay on the Principle of Population*, ed. D. Winch, Cambridge, 1992, p. 23): ‘On examining these obstacles to the increase of population which I have classed under heads of preventive, and positive checks, it will appear that they are all resolvable into moral restraint, vice, and misery.’

[ensue]¹⁰ to an amount proportioned to the quantity of indigence unrelieved.

2. To the head of *vice* will, upon the ascetic principle, be referred all those instances in which that propensity which, in case of affluence, would have obtained its gratification in the prolific mode, obtains it in some unprolific mode.¹¹ By an author writing and publishing in any such situation as that of the Reverend Gentleman, this part of the effect could not, it is evident, escape being designated by some such damnatory name.

3. To the name of *moral restraint* may with propriety be referred every instance in which, by the fear of indigence in case of satisfaction obtained in the prolific mode or of the reproach of vice in case of satisfaction obtained in an unprolific mode, the appetite is kept unsatisfied.

[161–282] [1818 Jan 3]

So much for theory. When practical lessons come to be deduced from it, of these three checks, the Reverend Gentleman recommends, of course, the last in the character of the only eligible remedy. Misery, of course, no man would recommend in the character of a remedy. It is itself the extremity of evil: of that evil the remedy for which is the thing to be looked out for and as far as possible provided.

Under both principles, viz. under the system of asceticism carried to the length to which it is commonly carried in this country, and there stopping, and under the system of utility, misery will alike be admitted to be the evil.

Not so in regard to *vice*. Under the system of asceticism, if it be regarded as being to a certain degree a remedy against the above-mentioned evil, viz. against indigence, it will indeed be regarded not only as being itself an evil, but commonly, it is supposed, as an evil which, if it be a remedy, is still worse than the disease. Under the system of utility, if the above statements and observations are correct, it will be regarded at any rate not as an evil, but as a good, in

¹⁰ MS orig. ‘by premature death which ensues’.

¹¹ The following sentence has been marked by Bentham for deletion.

whatsoever degree it may operate or fail of operating in the character of a remedy in relation to the evil of indigence.¹²

At his rising from the bed of a happy marriage,¹³ a man may without much self-denial put pen to paper for the purpose of inculcating the duty of continence, and inveighing against what it suits him to stigmatize under the name of *vice*.

As to moral restraint. Under the system of utility, moral restraint, in whatsoever degree it may operate in the character of a remedy to the disease—to the evil designated by the name of misery, it involves in its whole extent two effects the claim of which to the appellation of evil will not in either instance be easily denied: these are 1. loss of pleasure, by the amount of the capacity of gratification thus prevented from coming into act. 2. actual pain, viz. pain of unsatisfied desire, as measured by [1.] the number of individuals in whose instance the desire, having existence, remains unsatisfied: 2. its intensity: and 3. its duration in the instance of each of them.

[161–283] [1818 Jan 3]

As to the evil of overpopulation, to shew by what means it may in the most advantageous manner, according to the principle of utility and discarding altogether the principle of asceticism, be made to receive such check as it is susceptible of will scarcely be denied to be a subject well worth the enquiry—a task the importance of which may afford ample payment for the labour. But lest in this place it should be found to protract the thread of the discussion to a disproportionate length, it has been discarded to the Appendix.¹⁴

§4. 2.—*Imaginary deterioration of the lot of the female sex*

[161–284] [1818 Jan^y 3]

¹² In the text, Bentham has noted at this point: ‘☞ Add that the unprolific gratification may save some men from prolific d^o and so from adding to the disease of indigence, yet by their abstinence from the prolific mode, so many men will be left free to practice it.’

¹³ Malthus had married Harriet Eckersall (1776–1864), his first cousin once removed, on 12 April 1804, and the couple had three children, Henry (1804–82), Emily (1806–85), and Lucy (1807–25).

¹⁴ No such Appendix has been identified.

Of any charge capable of receiving expression from any such form of words as the above, it should be remarked in the first place that it is but a charge hanging in the air: to be landed on *terra firma* it will require to be particularized by a designation of the pleasure in this or that particular shape excluded, or pain in this or that particular shape introduced.

Be it in other respects what it may, in respect of its foundation, it stands upon the same extravagant and untenable ground as the former charge: viz. the general predominance of the appetite in its eccentric shape over the same appetite in its ordinary shape: and not only the existence of that predominance, but its prevalence to an extent analogous in its extravagance to that spoken of in the former instance.

[161–285] [1818 Jan 3]

No where either in geography or history will any such apprehension find any the slightest countenance.

1. In the regions of the East it is that, at this time as in all former times, the eccentric propensity, finding no check to it either from the religious, the legal or the popular or moral sanction, prevails to the utmost extent of which it is susceptible. Yet in those same regions the value set upon the charms of the female sex, and the importance attached to the possession of them, so far from falling short, exceeds any thing that is found exemplified in these western and northern regions. In an European, jealousy is as ice to fire in comparison of what it is in an oriental breast.

True it is that, in those same regions, in comparison of what it is with us, the condition of the weaker half of the species is wretched in the extreme. But this wretchedness has for its cause not any want of sensibility in the breast of the male to the attractions of the female sex, but the despotism of the government, and the wretched state of legislation which is the result of it. Under cover of that despotism, the wretchedness of the condition into which the female sex is plunged—the afflictiveness of the yoke to which the weaker and tenderer sex are subjected—has for its cause and its measure not

the smallness, but the magnitude of the value set upon their charms by their barbarian masters.¹⁵

Were the eccentric propensity as unknown there as it is extensively prevalent, not any the smallest addition to the population could ensue. The excessive and all-pervading and ever-increasing want of security suffices of itself to keep the population in a state of perpetual decline. No improvement without capital: no capital without a long continued and persevering habit of accumulation: and where, by that insecurity which the rapacity of the government and its weakness concur in perpetuating, the greater the quantity of capital is in any single hand, the less the probability of its being preserved from depredation, accumulation of capital is scarcely consistent with the rules of prudence.

[161–286] [1818 Jan 3]

2. In Italy, though proscribed by the laws, the eccentric propensity prevails to such a degree as to be gratified not only without danger but without shame. Yet in that same Italy, the female sex governs with a degree of ascendancy beyond any thing exemplified in Britain where the propensity is so rare, or even in Ireland where it is scarce known.^c

^c In the course of a conversation I had once with the late Abbé Fontana, I was informed by him that, in all the hospitals he was acquainted with, a part of the population was commonly composed of male children in whose instance, by want of proportions, laceration had been produced. The Abbé, known to the public at large by his experimental works in Chemistry and Pathology, had been an eminent Physician, and was at that time Director General of the Museum at Florence.¹⁶

In Italy, the misery produced by overpopulation rages at the same time to a degree of excess unknown to any other European country.

¹⁵ In the text, Bentham has noted in relation to the following paragraph: ‘Post off to Population.’

¹⁶ Felice Fontana (1730–1805), Italian physicist, Director of the Museum of Physics and Natural History at Florence from the early 1770s, was the author of many works on various branches of science. He had visited Bentham in 1779: see *The Correspondence of Jeremy Bentham*, vol. ii, ed. T.L.S. Sprigge, London, 1968, p. 288.

In France, the eccentric propensity is much less rare than in Great Britain, and where it has place is a subject not of horror, but of jest. Yet in France, the ascendancy of the female sex is more conspicuous than in Britain or Ireland: the worship much more zealous as well as conspicuous. Few political intrigues in which females do not bear a part:¹⁷

[161–287] [1818 Jan 3]

Upon a closer inspection it will be seen that, from the eccentric propensity, the influence of the female sex has more to gain than to lose.

Rival compared with rival, much more formidable to the wedded female is a person of her own sex than any person of the opposite sex can ever be. The space in the field of life to which the eccentric propensity commonly applies itself is extremely narrow. In the days of imperial Rome, when all matters of this sort were settled by established custom, and where a harem of the male sex formed an ordinary part of the establishment of a man of rank and opulence, no sooner had a member of such an establishment passed his twentieth year, but he passed into a particular class distinguished by a special appellative *exoletus*—he was put upon the superannuation list.¹⁸ Thus ephemeral were the attractions of the male in the eyes of the male: whereas in these same eyes, the duration of those of the female has, as every one knows, no bounds.

It is in the place of the venal female only, and not in the place of her of whose charms possession is not to be obtained on any other terms than those of a union made permanent by law, that those of the male, venal or not venal, were ever seen to occupy.

¹⁷ The sentence appears to have been abandoned at this point.

¹⁸ The Latin adjective *exoletus*, past participle of *exolesco*, means literally ‘grown up’, ‘matured’, or ‘grown out of use’. According to C.A. Williams, *Roman Homosexuality*, 2nd edn., Oxford, 2010, p. 92, the term *exoletus* ‘denoted a male prostitute past the age of adolescence, who might well be called upon to play the insertive role in penetrative acts with his male clients, but who might just as well play the receptive role. His distinctive feature was not his sexual specialty, but rather his age, although sometimes even that was not a definitive characteristic, as the word seems in some contexts to refer to a male prostitute of any age.’ For examples of the use of the word with reference to those who, despite their physical maturity, continued to engage in, or be used for, homosexual sex, see, for instance, Cicero, *Oratio pro Milone*, xxi. 55, and Suetonius, *De vita Caesarum*, i. xlix. 2, lxxvi. 3.

[161–288] [1818 Jan 5]

How mean must be the opinion entertained of the attractions peculiar to her sex, by the female in whose eyes punishment is necessary to secure their prevalence!¹⁹

§5. 3.—*Imaginary injury to personal security*²⁰

§6. *Inconsistencies in the war thus made*

[161–292] [1818 Jan 4]

Among the grounds of condemnation to which the condemnation passed by the ascetic principle on the pleasures of the bed exposes itself, none are more palpably applicable than that of *inconsistency*. True it is, that inconsistency in the application made of a principle is an objection that goes not to the root of the principle. What it does not prove is that all the propositions contained in it and deducible from it are erroneous. But what it does prove is that some are: and, therefore, that of any such resolution as that of taking its dictates for a rule of action, error in practice will to an indefinite extent be a sure result.

A characteristic property of the eccentric modes of gratifying the sexual appetite is that of their contributing nothing to procreation—to the preservation of the species. In the distress of argument, this, if it has not been adduced already, can scarcely fail to be brought up in support of the condemnation so profusely bestowed by asceticism upon pleasure in these shapes. They contribute nothing to the encrease of population.—Well: and if they do not, what then?—the answer has been already given: so much the better: if true, so far from being a reason for condemnation, this, as far as it goes, would be a reason for encouragement.

¹⁹ In the text, Bentham has noted at this point: ‘☞ Here quote Dum. for the uses of a wife.’ See *Traité de législation civile et pénale*, 3 vols., Paris, 1802, ii. 202, on the subject of marriage: ‘Pour sentir tous ses bienfaits, il ne faut qu’imaginer un moment ce que seroient les hommes sans cette institution.’ Dumont eventually published five recensions of Bentham’s works, of which *Traité de législation civile et pénale* was the first.

²⁰ No text for this section has been identified.

Of the condemnation thus passed, to every eye in which the happiness of mankind is an object of regard, the groundlessness has surely by this time been rendered sufficiently manifest.

By its inconsistency—by any inconsistency with which it may be found chargeable—no addition is made to the strength of the ground on which, in point of utility, this condemnation stands condemned: but by every additional ray of light which is seen to be cast upon any field of enquiry, an additional ray of satisfaction is spread over a sincere and contemplative mind.

[161–293] [1818 Jan 4]

Of all the several distinguishable senses and appetites which enter into the composition of animals, and in particular of human nature, scarcely is there one which may not be seen conducive and contributory and acting in subserviency to two distinguishable uses—viz. the support of being, and the encrease of well-being—the encrease of well-being, viz. in the direct and positive way by addition made to the stock of pleasure.

Pleasures of the eye, pleasures of the ear—in both these instances this double function will at the first mention be seen to have place beyond dispute. To distinguish them from and above all others, the sense of which the ear is the organ and the sense of which the eye is the organ agree in possessing the peculiar privilege of being the inlets to the chief part of the aggregate mass of the pleasures of the mind—of those refined pleasures of which the seat is in the mind. So far as concerns this class of pleasures—so far as the organs in question, instead of seats, are but inlets to other pleasures, and those pleasures of the refined class in question, in every part of the Christian world, unless it be in here and there a monastery in the Catholic part of it, the refinement of their nature seems to have afforded them a tolerably secure retreat from the rage of the ascetic principle.

Even in their quality of seats of pleasure, these same organs, if not with absolute approbation, seem commonly to have been regarded by the eye of asceticism with comparative indulgence.

[161–294] [1818 Jan 4]

To exclude the use of these organs altogether would neither, consistently with the preservation of life, be practicable, nor, on the

part of the votary of asceticism, consistent: for his object is to swell to its maximum the quantity of pain: and, to the existence of pain in any quantity, life is a condition indispensable. Necessary at all times on the part of the larger portion of the species to the provision of the means of sustenance—of keeping life in repair, they are, in the case of the whole of the species, necessary at all times to the purpose of guarding against those dangers to which life stands continually exposed.^d

^d To this rule no exception is afforded even by the case of those individuals to whom the organs or senses in question are respectively wanting: viz. to the deaf and the blind: for, to all necessary purposes, though not by their own, the individuals labouring under these imperfections respectively hear and see by the ears and eyes of others.

In the like case are the organs of the three grosser faculties—the touch, the taste and the smell: in the case of the touch, the ultimate use, viz. preservation of being, and in a remote way of well-being, is most prominent: in the case of the smell and taste, the immediate—the pleasurable—use is most prominent. But these organs and faculties minister, moreover, to being as well as to well-being in virtue of an ulterior, though but occasionally exemplified, use: viz. by the help they afford to the Naturalist and the Medical practitioner when occupied in the examination of portions of matter with a view to the services or the mischiefs of which, when applied to this or that part of the human body, in particular the intestinal canal, they are respectively capable of being the instruments.

[161–295] [1818 Jan 4]

Of all the purposes to which they are respectively rendered subservient, those most constantly exemplified are, as every body knows, those which, in conjunction with that appetite for nourishment the seat of which is spread throughout the whole of the intestinal canal, they render to *being* by ministering to nourishment.

[161–296] [1818 Jan 4]

That which, to keep to the path of consistency, asceticism should aim at is the decomposing the system of existence in such manner as, in the instance of each sense and each organ, to separate, for

the purpose of excluding them, all those uses which, not being necessary to being, are contributory to well-being, viz. to pleasure. So far, for example, as regards sustenance, in affording to the appetite for sustenance at large, viz. to the appetites of hunger and thirst, that gratification which, consistently with the preservation of life, it is not possible to withhold from them, so to order matters that, by the secondary organs and faculties of taste and smell, as little gratification shall be afforded as possible.

The nourishment exclusively allowed in the solid form should be not merely, as among the Catholics, one sort of animal food to the exclusion of another,²¹ or vegetable food in general to the exclusion of animal,²² but in every species of food that which is least gratifying to the allied organs and senses of smell and taste: and as to that which, in the liquid form, is contributory to no other purpose, no other substance than pure water—the substance by which no particular sensation is produced in the organ of taste or that of smell—should be admitted. As soon as ever the appetites of hunger and thirst are respectively satisfied, there with inexorable rigour an end would, by the genius of asceticism, were consistency among his attributes, [be put] to the introsusception of the matter of nourishment in both forms.

[161–297] [1818 Jan. 4]

Thus²³ stands the matter in point of consistency: how stands it in point of fact? By the same censorial wand by which, with inexorable rigour, on the ground of their not being subservient to the continuation of existence, the eccentric pleasures of the bed

²¹ For the Roman Catholic avoidance of meat at certain times see Ch. 2 fn2 [p.26] above.

²² According to [George Foster], *Sketches of the Mythology and Customs of the Hindoos*, London, 1785, p. 35, ‘in Hindustan ... though the use of a vegetable diet, is so strongly inculcated, and with so few deviations, the Onion is forbidden to some of the sects of priests’. Describing the way of life of a set of Hindu ‘devotees, distinguished by various names, but not restricted to any cast’, [Quintin Craufurd], *Sketches chiefly relating to the History, Religion, Learning, and Manners, of the Hindoos*, London, 1790, pp. 121–2 noted: ‘It is said, in their sacred writings, “That a Saniassy, or he who shall devote himself to a solitary religious life, shall have no other clothing, but what may be necessary to cover his nakedness. ... That his food shall be confined to rice and other vegetables; that he shall eat but once a-day, and then sparingly”’.

²³ This and the following sentence have been marked by Bentham for deletion.

are marked out for exclusion, the pleasures of the table are let in with a profusion absolutely unlimited, how manifestly so ever uncondusive to that same necessary end. By consistency, if that were the oracle consulted, not only the whole tribe of fermented liquors, with tea, coffee and the whole tribe of articles of which the desert is every where composed, would be banished without scrutiny, but of the articles of which, in its solid form, the matter of nourishment is composed, all those to which, in consideration of their savour or in any other consideration than that of economy, preference is bestowed, and even of those, every quantity over and above that which, in the instance of each individual respectively and on each individual occasion, is necessary to afford satisfaction to the cravings of the intestinal canal.

Yet by such a multitude of those who would start with horror at the very mention of a gratification afforded to the sexual appetite in any eccentric mode, how compleatly dissolute and unlimited is the indulgence afforded to the appetites of which the organs of taste and smell are the instruments, and how enormous is the expence at and by which this indulgence is so constantly and regularly procured.

[161–298] [1818 Jan. 4]

By those by whom, to the pleasures of the table, no limits are attempted to be set other than those set, as above, by the allied considerations [of] self-regarding prudence and benevolence, why to the pleasures of the bed should any narrower limits be assigned? With what consistency can any difference be made in the extent given to the limits in the two cases?

So much as to the question between the pleasures of the table taken in the aggregate on the one part, and the pleasures of the bed on the other.

[161–299] [1818 Jan. 4]

Now again in regard to the pleasures of the bed considered by themselves, as between those pleasures reaped in the ordinary mode and the pleasures reaped by the same instruments in this or that eccentric mode.

In the case in which the mode employed is not in its nature capable of being employed in the continuation of the race, this circumstance, if not being of itself a sufficient cause for

condemnation, will scarcely fail to be employed by the partizan of asceticism, if hard pressed, in the character of a ground of aggravation: and thereupon will be poured out a torrent composed of all those words by which, in conjunction with the sexual appetite, a mark of condemnation is presented as associated with the idea of that same appetite: *lust, lustful, libidinous* and so forth.

But where, though capable of being applied to that necessary purpose, it is in point of fact not employed, and is neither expected nor intended to be so employed, this circumstance, how comes it not to be employed in that same character of a cause of condemnation applied to the ordinary mode? If condemnation be passed in the one case, with what consistency can it be refused to be passed in the other?

[161–300] [1818 Jan^y 4]

In the ordinary mode, out of such a multitude (say, as above, three hundred)²⁴ of acts of sexual intercourse performed in the compass of a twelvemonth, if, by producing conception, there be any one that proves contributory to the ulterior result, here are 299 of which it is certain that they can not by possibility be contributory to any such result. Not less plainly uncondusive to the ultimate effect in question are these 299 operations performed in the ordinary mode than the same number of operations if performed in any eccentric mode.

Of the whole number, a portion, it may be said, has been performed before it could be known in relation to them respectively but that they were conducive and necessary to that same ultimate effect. True: but only to a small portion of the whole number performed during the assumed period of cohabitation does this plea apply: say to about ¹/₉th: to the large remainder it is utterly inapplicable.

Take the case of a female past the age of child-bearing. In this case, in so far as regards contribution to the ultimate end in question, sexual intercourse in the ordinary mode differs not in the smallest degree from sexual intercourse in any eccentric mode.

²⁴ See Ch. 3 §. 2 ¶5 [p.31] above.

Take the case of a female who, at the time being single, whether in a state of virginity or widowhood, engages at any time after the cessation of the prolific faculty in the bonds of marriage. To any such purpose as that of the ultimate result in question, as well might the union, whether of the female herself or her male associate, be made with a being of a different species or of the same sex.

[161–301] [1818 Jan^y 4]

In and in relation to the connubial union, in compliance with those rules of good breeding which the laws of decency and delicacy combine in dictating, and from which pleasure itself in its most exquisite forms is [in] so great a degree a gainer, when the motives which, with reference to the commencement of the union, have acted as instruments and, with reference to the continuance of it, continue to act as *cements*, in the course of common conversation constitute the subject of contemplation, the only one of which express mention is made [is]²⁵ that purely social affection of the mind which with little difference is capable, without any admixture of sensual appetite, of having place between two persons of the same sex; this purely mental pleasure heightened perhaps by more or less of that perception of ideal beauty which is not less capable of being afforded by a picture or a statue, together with a desire of the means of affording gratification to that sympathy of which the issue of the body are the object, and the parental relation the cause.

But when all these ostensible accidents—accidents to each of which it may alike happen to be in existence—are abstracted, what remains but that appetite of which alone in the whole groupe of motives the existence is certain? and what difference is there between this appetite when gratified in the above ordinary mode and the same appetite when gratified in any eccentric mode? What difference, any more than between the appetite for nourishment when satisfied by turtle or venison, and the same appetite when train oil or carrion are employed in satisfying it?²⁶

²⁵ MS 'are'.

²⁶ Henry Ellis (1721–1806), explorer and colonial governor, observing that Eskimos removed from their homeland missed it acutely, recounted that, 'One of these, after having been fed on *English* Diet, being present when one of the *Englishmen* was cutting up a Seal, from whence the Train Oil ran very plentifully, licked up what he could save with his Hands,

[161–302] [1818 Jan^y 4]

In the connubial union, when in either party the capacity of contributing to procreation either never came into existence or is extinct, in what respect does the sexual intercourse in this case differ in its consequences from the like intercourse with a being of a different species or the same sex? it is not indeed in every case that the incapacity is matter of certainty: it is, however, in one case, viz. where the female is past the age. Yet without objection even on the part of the most rigid ascetic, under this circumstance the union is not only continued, but even commenced.

By the pretious ointment of eulogy lavished in the one case, by the vituperation poured forth in so flaming a torrent in the other, can the nature of the thing itself be changed? And what if, to the feeder on train oil or carrion, the turtle or the venison would be as train oil or carrion to him to whom the matter of nourishment is administered by these costly viands?

*§7. Peculiar asperity of the vituperation
lavished upon these modes—its causes*

[161–303] [1818 Jan. 5]

Compared with the innoxiousness of the practice, it is curious to observe the sort of aspect with which it is so generally regarded. The horror bestowed upon the most mischievous acts is eulogy compared with that which may be seen poured forth upon this innoxious one, of which, wheresoever performed, the matter of happiness is a sure concomitant, or it would not be performed; of the matter of unhappiness, unless by accident, not a particle.

[161–304] [1818 Jan. 5]

Of the malignity of the passion thus expressed, the causes are by no means difficult to discover.

1. The most powerfully operating, though not the earliest, cause may be seen in the notion that the practice in question is of the

and said, *Ah! commend me to my own dear Country, where I could get my Belly full of this.* See *A Voyage to Hudson's-Bay by the Dobbs Galley and California, In the Years 1746 and 1747, for Discovering a North West Passage; with an accurate Survey of the Coast, and a short Natural History of the Country*, Dublin, 1749, p. 63.

number of those condemned by Jesus. In the religion of Paul, yes: in the religion of Jesus, no: of this a complete demonstration will have been afforded ere this work has reached its close. In the religion of Moses, yes: but in a part of the religion of Moses on which the stigma of reprobation may be seen stamped by Jesus.²⁷

2. A cause of earlier origin may be found in one of those antipathies which may be seen springing up in such number and variety in the field of taste.

The violence of that antipathy—of that ill-will—of that hatred—of that desire to visit with pain in any its most afflictive shapes—which in so many instances is ready to be excited, as by a mere difference of taste, as by a mere difference of opinion—whatsoever almost be the subject—a degree of antipathy capable of rising to a pitch equal if not superior to any that is wont to be excited by any the most serious injury, is a sort of anomaly of the human mind: a phenomenon in which it is difficult to find any analogy to the other parts of the human frame. But whatsoever be the cause, the existence is unhappily but too visible to admit of dispute.

[161–305] [1818 Jan. 5]

3. Another cause of perhaps earlier origin may be seen in philosophic pride: that species of pride which, among the Gentiles, gave birth to the sect of the Stoics:²⁸ and among the Jews, if it did not give birth, contributed at least to the growth of the Pharisees; and in their hands we shall see it serving as an instrument to ambition and a ladder to power. To the herd of men pleasure is the object of pursuit; pain, of avoidance. ‘I am not as other men are:° of their minds, the texture is earthly and sordid; of mine, celestial and pure. Differing from them thus, I exalt myself above them, and in that awful respect which the exaltation thus obtained has for its fruit, I find an indemnity for whatsoever I renounce of vulgar pleasure.’ Such is the mental process by which, even without any impulse from religion, men in such considerable numbers have been wedded to

²⁷ See Ch. 8 §§. 2 [p.94] below.

²⁸ Adherents of the Stoic school of philosophy, founded by Zeno of Citium around 300 bc, held that the end of life was virtue alone, and that any action undertaken for pleasure could not be virtuous.

asceticism: and *that* not only in profession, but doubtless in some degree in practice.

^e Mat. | ²⁹

Of the two branches into which, from the contemplation of their origin, the system of asceticism may be divided, a further account may be seen in Bentham's *Introduction to Morals and Legislation*, and in his papers on Legislation as published in French by Dumont.³⁰

[161–306] [1818 Jan^y 5]

4. Another distinguishable cause is the opportunity thus observed of purchasing, and at so cheap a price as that of a few words, the reputation of the love—the ardent love—of virtue. At this price the most consummate sensualist beholds little difficulty in dressing himself up in the garb of the strictest moralist: and the more flaming the colours in which his weakness is in danger of display[ing] itself, the stronger the need he feels himself to have of a cloak so cheap and so commodious.³¹

5. In the strictness with which he perseveres in refusing to himself a gratification towards which he feels no propensity, the votary of a religion finds means to reconcile with the prospect of escape from future torment, a sip or two now and then of present pleasure. Some, he say[s], will be saved: but all are sinners: some

²⁹ The phrase is, in fact, from Luke 18: 11.

³⁰ See *An Introduction to the Principles of Morals and Legislation*, ed. J.H. Burns and H.L.A. Hart, London, 1970 (*CW*), pp. 17–18, and *Traité de législation civile et pénale*, i. 6–9.

³¹ In the margin, Bentham has noted at this point: ‘☞ Note on the infamization of Sir Eyre Coote by the Prince Regent.’

Bentham has mistakenly identified the persons involved in this matter. The scandal did not involve Sir Eyre Coote (1726–1783), army officer, but rather his nephew Eyre Coote (1759–1823), army officer, colonial administrator, and MP for Barnstaple 1812–18. On 25 November 1815, Coote was charged with indecent conduct before the Lord Mayor of London, following allegations that he had paid boys from Christ's Hospital to be flogged. The Lord Mayor dismissed the case, but a military inquiry was convened on 18 April 1816, not by George (1762–1830), Prince of Wales, Prince Regent from 1811, and as George IV, King of Great Britain and Ireland from 1820, but by Prince Frederick, Duke of York and Albany (1763–1827), Commander-in-Chief of the army 1798–1809, and from 1811. The inquiry concluded that Coote's behaviour had been unworthy of an officer and a gentleman; he was dismissed from the army, and degraded from the Order of the Bath.

sin, therefore, is not incompatible with salvation: the more intense my abhorrence for one sin, the better grounded my hope of pardon under another: of this sort is the logic by which the effect is produced in this case.

Thus Hudibras:

Compound for sins they are inclined to,
By damning those they have no mind to.³²

[161–307] [1818 Jan^y 5]

6. Another cause may be seen in the opportunity of sharing in the pleasures of power without expence or risk. By mere difference of opinion or even by mere difference, a degree of antipathy has been seen produced strong enough to produce the wish and even the endeavour—and alas! that endeavour but too frequently successful—to persecute the object of it to the very death. But in the case of mere difference of opinion not made public, the faculty of affording to the dissocial affection its gratification to that degree of intensity which is afforded by the death of the victim is confined, in respect of its subject, to the field of religion, and in that field, in respect of country, to Spain and Portugal and perhaps a part of the whole number of the European states.

In England, though, for the more effectual exclusion of error by the exclusion of published enquiry, by some such denomination as heresy, schism or blasphemy, and under that pretence by appropriate punishment, men in power have contrived to expose to suffering him whose offence consists in the divulgation of an opinion different from that which [they entertain]³³ or would be thought to entertain and [choose]³⁴ to see professed, yet to the gratification of the antipathy produced by this exciting cause, odium and expence concur in opposing obstacles which few have the resolution to surmount, and which still fewer find cause for felicitating themselves on the having surmounted.

[161–308] [1818 Jan. 5]

³² Samuel Butler, *Hudibras*, Part I, Canto I, 213–14.

³³ MS ‘he entertains’.

³⁴ MS ‘chooses’.

In regard to difference in taste, taking the whole field together, such in some eyes is the hardship of the times,³⁵ that for the offence of differing on this ground from men in power, scarcely by means of any word, or by any other means, can any effective means be found of affording to antipathy in this shape the gratification which is the object of its desire. To a difference of opinion respecting the excellence of old music in comparison of new—of French in comparison of Italian—of one singer in comparison of another—of Shakespear in comparison of Corneille³⁶—no words corresponding to, and of any thing like equal efficiency with, heresy, schism or blasphemy have ever as yet been found.

In this one corner of the field of taste, the man in power has stepped in and afforded to the wounded mind the relief which in almost every other part it is condemned to be ever hoping for without ever attaining it. Behold there, says he, your victim: behold here my arm which, if you can bring him within my reach, is ready for the sacrifice.

The above several causes present themselves as applying to men taken indiscriminately and without regard to those differences which present themselves as referable to difference of situation as between disciple and teacher.

In those causes of condemnation which present themselves as attached to—as springing out of—the situation of teacher, there will be occasion to observe those by which the condemnation passed on the modes in question by Paul seems to have had its cause.^f

³⁵ Bentham may have had in mind William Eden, *Principles of Penal Law*, London, 1771, pp. 71–2, where a passage entitled ‘Of the Disposal of the dead Body of the Criminal’ reproduces the following quotation: *Ubi, præ iniquitate temporum, vivos homines dissecare non licet*, i.e. ‘When, because of the hardness of the times, it is not lawful to dissect living men’. Eden cites his source as Aulus Cornelius Celsus (*fl.* 14–37), in the proem to *De Medicina*. These precise words do not, however, appear there, and are probably a paraphrase. Celsus does refer to the practice of Herophilus of Chalcedon (c. 330–260 bc) and Erasistratus of Ceos (c. 315–c. 240 bc) of performing dissection on living criminals. See Celsus, *De Medicina*, Proemium, 23: *Herophilum et Erasistratum, qui nocentes homines a regibus ex carcere acceptos vivos inciderint*, i.e. ‘Herophilus and Erasistratus who laid open living criminals whom they received out of prison from kings’.

³⁶ William Shakespeare (1564–1616), English playwright and poet, and Pierre Corneille (1606–84), French playwright.

^f *Infrà* Ch. Paul's Motives for condemning eccentric modes.³⁷

§8. *Its innoxiousness manifested by the impossibility of finding place for it in an arrangement of penal law grounded on utility*³⁸

[161-289] [1818 Jan^y 5]

The account given of the mode in question by Blackstone³⁹—given in and by means of the place assigned to it in his tabular analysis of the field of law—is curious and instructive.⁴⁰ It affords a sample of the service that may be done by good logic, as in every other part of the field of thought and action to which it applies itself, so more especially to that of morals. In a system of classification founded on correct principles, error finds a bar of such efficacy, that without a degree of violence more or less manifest, admission can not any where be gained by it.

The mode in question having, in many of its varieties, a place assigned to it by Henry the eighth in the penal department of the law,⁴¹ a place was necessary to be found for it not only in the body of Blackstone's work,⁴² but in the tabular sketch by which it is preceded. Under which of all my general head[s] shall I place it?

³⁷ In the event, Bentham discussed this topic in 'Not Paul, but Jesus', Volume II.

³⁸ This and the following section do not appear on the plan at UC cxxxix 30 (11 January 1818).

³⁹ Sir William Blackstone (1723–80), first Vinerian Professor of English Law at Oxford University 1758–66, Justice of Common Pleas 1770, 1770–80, Justice of King's Bench 1770, and author of the famous *Commentaries on the Laws of England*, 4 vols., Oxford, 1765–9.

⁴⁰ See William Blackstone, *An Analysis of the Laws of England*, Oxford, 1756, where the text is preceded by an unpaginated 'tabular sketch' of the contents, in which the category of public wrong in which 'buggery' is included is 'Crimes against ... Persons; by ... Other corporal Injuries [i.e. other than homicide]'.⁴¹

⁴¹ The Buggery Act of 1533 (25 Hen. VIII, c. 6) defined buggery as an unnatural sexual act against the will of God and man, and established punishment of buggery by hanging. Henry VIII (1491–1547), King of England from 1509 and King of Ireland from 1541.

⁴² See Blackstone, *Analysis of the Laws of England*, p. 119, where 'Buggery, with Man or Beast' is classed among eight 'Crimes affecting the Person of Individuals, not amounting to Homicide'.

is a question which he came in course to put to himself. From the head under which at last he regarded himself as reduced to place it, the perplexity which he must have been labouring under may be imagined. Offences against the security of individuals. Against the security of individuals? O yes, if committed without consent. But this is a case not likely to have ever happened: nor has it ever happened in any one of the instances in which prosecution and conviction have ensued—in which execution has been given to the tyrannic law. When committed, as it always is, by consent, if this be an offence against the security of individuals, then so is simple fornication—an act to which, neither under that head or any other, is any place assigned in the penal department of English law.

[161-290] [1818 Jan^y 5]

Yes: if the act performed in the cases prosecuted under that same law were the act meditated by the population of the ill-famed city of old time from which the act takes one of its names. But this it never is: for in that act violence was included—violence of which, as will be seen,⁸ death in an excruciating form could not but have been a consequence.

⁸ *Infrà* Ch. | |.⁴³

To language, violence enough was done (one might have supposed) by such an arrangement. But no:—man the subject—man, though it be without violence and with perfect consent, this is one variety of the offence: a beast of any kind the subject—this is another which, under the same name, is subjected to the same punishment.⁴⁴ The security of individuals, viz. human individuals, violated or endangered by an operation of which a beast, and a beast alone, is the subject? If this were so, then is every act performed in the course of his trade by a butcher an ‘offence against the security of individuals.’

Now in this example may be seen in a still clearer light than at the outset the service capable of being rendered, to art and science in

⁴³ See Ch. 10 [p.125] below.

⁴⁴ See Ch. 11 [p.149] below for Bentham’s discussion of the Mosaic law.

all their branches, by logic, the mistress and directrix of them all. It was thus that Bentham was led to the discovery of the innoxiousness of Usury.⁴⁵ In a scheme of arrangement grounded on the principle of utility—nay even in the analysis sketched by Blackstone—no head could be found under which, without a manifestly false assertion, it could be placed.⁴⁶

[161-291] [1818 Jan 5]

Among the grounds he sees for self-complacency, Sir Thomas Browne, in his *Religio Medici*, mentions his never having had to charge himself with the commission of a sin without a name: such, says he, was that of the Egyptian embalmers, when in the course of the operation of converting dead bodies into mummies they were converted into instruments for the gratification afforded to this appetite.⁴⁷ Such is the sort of reasoning by which, in relation to this subject, the opinions of the moralist and the practice of the legislator have been wont to be guided!

§9. Groundlessness of the particular asperity against the pleasures of the bed

[161-270] [1818 Jan. 8]

In the sixth sense, any more than in any other, what can there be that should give the uses made of it a place in the field of morality, in any other way and on any other grounds than any other of the senses, with the appetites respectively belonging to them? The uses capable of being made of it, without prejudice to happiness and virtue, will indeed have for their limits those traced out by the two virtues which preside over the whole field of human thought and action, viz. self-

⁴⁵ *Defence of Usury; Shewing the Impolicy of the Present Legal Restraints on the Terms of Pecuniary Bargains*, London, 1787 (Bowring, iii. 1–29).

⁴⁶ See Blackstone, *Analysis of the Laws of England*, p. 115, where usury is included among ‘Offences against the public Trade’.

⁴⁷ Sir Thomas Browne (1605–82) referred to this practice of the Egyptian embalmers in *Pseudodoxia Epidemica, or Vulgar Errors*, London, 1646, Chapter 19, where he commented, ‘We require a name for this.’ In his *Religio Medici*, London, 1643, Part II, § 7, he remarked, ‘I thanke the goodnesse of God, I have no sinnes that want a name’, which, according to John Keck, in his annotations to the fourth edition of *Religio Medici*, London, 1656, was an allusion to the former passage.

regarding prudence and benevolence:—true, and so have the uses capable of being made of the several other senses.

The sight, the hearing, the smell, the taste—take any one of these senses singly, only by ultra-asceticism has condemnation in any shape been passed upon the freest use of it. Why?—because by no such use has any transgression been offered—any disobedience been manifested—to the dictates of virtue in either of those shapes.

If, in any instance, by any use made of any one of those senses, the dictates of virtue in either of those shapes were really seen to be infringed, here then there would be a correspondent and proportionate ground for the passing condemnation on that same use. In the case of the pleasures of the table when enjoyed to excess, use is made of two of those senses employed in conjunction, viz. the taste and the smell, together with that universally diffused sense which as yet seems to be without a name—that affection of the nervous system in general which is the seat of pleasure in the case of intoxication: under which denomination or some other should be included every sensation of the pleasurable kind capable of being produced in the system by the application of any other substances in the liquid or gaseous state to the stomach, or even to the organ of smell in the interior of the nose, as well as by fermented liquors.

[161-271] [1818 Jan^y 8]

Accordingly in this case, by an inordinate use of all those senses acted upon in conjunction, the dictates of the two virtues in question, one or both of them, are capable of being infringed: for example, by over-repletion, if to such a degree as to be [productive of]⁴⁸ sickness and indigestion, the dictates of self-regarding prudence: by intoxication, if in such sort as to be productive of those same effects, the dictates of that same virtue; and if in such sort as to be productive of mischief to others, by injury for example to person or property, the dictates of benevolence.

Thus it is that, according to the principle of utility, the pleasure, whatsoever it be, that may be capable of being derived from the pleasures of the bed—from the use of the sixth sense—from gratification afforded to the sexual appetite, belongs not either to the

⁴⁸ MS 'producing'.

field of religion or to the field of morality by any other title than does the pleasure of scratching where it itches. If, by inconsiderate indulgence in the use of this humble pleasure, which is but so much relief afforded to a sort of exterior pain the seat of which is in the skin, so it be that a sore is produced, in this sore may be seen an infringement of the dictates of self-regarding prudence—if, of this sore, such be the effects as, by disabling the man from labour, to incapacitate him from discharging in due time a pecuniary debt, here moreover may also be seen an infringement of the dictates of *probity*—a branch of the associated virtues of beneficence and benevolence.

[161-272] [1818 Jan^y 8]

In proportion to its magnitude, and more particularly in proportion to its intensity, pleasure in every shape—pleasure from the use of whatever sense—from the gratification of every appetite—will be liable to lead a man into the violation of the dictates of virtue in one or other or both of those tutelary shapes. Not unreasonable, therefore, is any peculiarity in the degree of vigilance with which, in the character of a source of temptation, it may happen to pleasure in that shape to be watched. That with peculiar vigilance it should thus be watched over is accordingly a rule to which no just objection can be made. That it should be watched over, and the consequences likely to result from the use of it scrutinized, and, in case of preponderant evil descried in either of the two shapes in question by means of such scrutiny, a *veto* put upon the pleasure—yes:—but not that the *veto* should be applied to it in the first instance—applied to it without scrutiny—applied to it on no other ground than that of its merely belonging to that sense, joined to the consideration that the use of it falls not under that case in which alone the generally prevalent tyranny of which it has been the chosen victim has vouchsafed to grant a licence.

Where prohibition is tyranny, by licence the tyranny is only more or less mitigated—never removed.

CHAPTER 4. ASCETICISM CONTINUED.
EVILS PRODUCED BY THE PLEASURES
OF THE BED IN THE ORDINARY
MODE.—REMEDIES TO THEM
INTERDICTED BY ASCETICISM

§1. *1. Intercourse without cohabitation. 2. Cohabitation without marriage. 3. Marriage polygamous on both sides. 4. Intercourse with precautions. 5. Voluntary Abortion*

[161–309] [1818 Jan. 5]

Among the consequences of the gratification when obtained in the ordinary mode have been seen a tribe of evils, against which the nature of the case suggests a set of remedies, applicable the one or the other according to the circumstances, the use of which the principle of utility could not without inconsistency condemn, and which, under the influence of the evil principle, are condemned without reflection, and punished without mercy. To this head may be referred:

1. Sexual intercourse without cohabitation.
2. Cohabitation without marriage, for the present occasion or other short term, termed prostitution, in so far as, in any other shape than that of the mutual gratification, a recompense is received.
3. Marriage polygamous on both sides.
4. Cohabitation with precautions employed to prevent conception.
5. Voluntary abortion.
6. Power of breeding up or not during early infancy.
7. Divorce by mutual consent.

On the circumstance of *time* depends the appositeness of these several remedies.

[1.] By the overcharge which is the common attendant on ephemeral cohabitation, sterility on the part of the female [is

produced],¹ at least so long as the habit of promiscuous intercourse lasts: the evil of overpopulation is thus in so far excluded at the earliest possible stage.

2. By doubly polygamous marriage, all that is gained, unless the fourth of the above remedies be added, is the setting correspondent limits to the field of intercourse; and thus confining the encrease within limits narrower, in a degree more or less considerable, than those within which it is confined by marriage in the ordinary mode.

[161–310] [1818 Jan. 6]

By the dæmon of asceticism, and the system of morals sprung from his loins, all these remedies are proscribed in the lump, though in the application of the proscription the degree of severity exercised is in the different cases different.

1. Intercourse without cohabitation on such terms as, on the part of the female, rank it under the name of prostitution.

Under the influence of asceticism, except in cases and on contingencies too narrow in extent to be worth consideration on so general a view, in the case of the male this remedy is, so far as depends upon the popular or moral as well as [the] legal sanction, left free; though in the case of the female, it is, by the popular or moral [sanction], punished with exclusion from the society of such females as do not transgress in this way or are not known to do so.

2. Cohabitation without marriage. To the state of things in question, viz. overpopulation considered in the character of a disorder, this mode of intercourse, if considered in itself, will scarcely be seen to produce any sensible effect in the character of a remedy. But, by reason of the impermanence of the situation, of the condition in life thus produced, the tendency of it is to depress the female into the penal situation brought to view in the preceding case.

[161–311] [1818 Jan. 6]

3. Marriage mutually polygamous. To this state of things, it being actually exemplified, viz. on Otaheite and the adjacent Islands,

¹ The insertion follows the corresponding marginal summary: ‘In the female, by overcharge, so long at least as it lasts, sterility is commonly produced; thence overpopulation diminished.’

all notice could not be refused.² At the stage at which the English and other European nations are arrived in the career of civilization, several circumstances, however, concur in preventing the adoption of it even at any future period. By the obligation which it imposes, no determinate benefits seem to be promised over and above such as would equally have place in a state of freedom.³ Where it has had place, its operation has been found beneficial, or, the engaging in it being free, it would not have continued to have place.

[161–312] [1818 Jan. 6]

4. Intercourse with precautions to prevent conception.

To this remedy, the dæmon of asceticism seems scarcely to have directed his blasting eye. It is probably in use, and to no inconsiderable extent, in three cases: 1. in the case of stolen intercourse where the female is unmarried: 2. in the case of stolen intercourse where the female is bound by the bonds of marriage: in these cases, for the avoidance of disrepute and the other evils incidentally attendant on exposure: 3. in the case of marriage, for the express and sole purpose of obtaining exemption from the burthen of fruitfulness in excess.

To the defalcation which in this case is necessarily made from the intensity of the gratification is plainly referable whatsoever application is made of either of the two remaining remedies.

[161–313] [1818 Jan.^y 6]

5. Voluntary abortion.

² See, for instance, John Hawkesworth, *An Account of the Voyages undertaken by the order of His Present Majesty for making Discoveries in the Southern Hemisphere, and successively performed by Commodore Byron, Captain Wallis, Captain Carteret, and Captain Cook, in the Dolphin, the Swallow, and the Endeavour*, 3 vols., London, 1773, ii. 207: ‘A very considerable number of the principal people of Otaheite, of both sexes, have formed themselves into a society, in which every woman is common to every man; thus securing a perpetual variety as often as their inclination prompts them to seek it’.

³ In the margin, Bentham has noted at this point: ‘☞ End here or add a little.’ In rudiments preceding this paragraph, Bentham has indicated the possible direction his expanded discussion might have taken: ‘1. Its complication would produce litigation.

‘2. Hence not likely to be entered into.

‘3. This rather because, without the disadvantages, the advantages are obtained by the sort of intercourse which has place among the higher ranks in countries which exclude divorce.’

Instigated by the dæmon of asceticism, the dæmon of chicane has fastened his claw upon this remedy and done what depends upon him towards the extinction of the benefit. Though in the shape of prosecution and punishment, evil is to a certain extent produced, and in the shape of the pain of apprehension derived from the prospect of these evils to a considerably greater extent, yet, in the way of prevention, no very considerable effect can be produced by it. Among the applications by which this effect is capable of being produced are some which, in case of an irreproachable disorder to which the sex is exposed, are necessary to the affording relief under that same disorder: and it would be too far even for the united power of the two dæmons to seek to deprive disease of all chance of remedy.

The medical practitioner who should proffer a remedy against the mischief of pregnancy under that name would bring himself within the gripe of the dæmon of chicane: but by offering it in no other character than as a remedy to the irreproachable indisposition, he saves himself from the gripe.

The misfortune is that this remedy has for its attendants present suffering accompanied with a foundation laid for suffering in other shapes in future. If the use of it for all purposes were left altogether free and unrestrained, evil in this shape might, by the progress of medical art and science, [be], if not altogether banished, at any rate in an indefinite degree diminished. But this of course is what the confederated Dæmons will not endure to see permitted. To maximize evil is their study, not to minimize it.

§2. *Power of breeding-up or not during early infancy*

[161–314] [1818 Jan^y 6]

It is in this case that, in comparison of all the others, the confederated dæmons have pursued their joint purpose with most savage barbarity and most extensive effect.

Deceived or pretending to be deceived by the external colour of the case, the man of law has, in the scale of punishment, raised to the pitch of the most mischievous crimes this innocuous remedy. Child murder is the appellation which has been fastened upon it: and by this misnomer, all the evils which are attendant upon homicide

in its most flagitious forms have been and continue to be but too successfully imputed to an operation purely remedial, which is not followed by any one of them.

It is to the evils distinguished by Bentham under the name of evils of the second order that, in the case where it is treated as an offence, homicide, similar in this to every other offence against individuals, as he has shewn, is indebted for by far the greatest part of its mischievous effects.^a Mischief of the second order, consisting in *danger* and *alarm*: *danger*, indefinitely reiterated production of the like mischief; *alarm*, pain of apprehension produced by the prospect of that danger.

^a Introd. | | Dum. | |.⁴

[161–315] [1818 Jan. 6]

In pursuit of profit by depredation, suppose an act of homicide committed by a highwayman on a traveller on a certain road, all those who foresee a need of travelling on that same road are filled with apprehension for their own lives.

In pursuit of like profit by like means, suppose a like act committed in the dead of night in the house and on the person of an inhabitant of a town, the like apprehension, to a degree more or less intense, spreads itself over the whole town. No man beholds, in the hour of repose, the hour of safety.

Of all this, what is there in the case where, to preserve both from a life of misery, a female takes back from a being altogether incapable of feeling the loss the worthless present she had given?

Down to the close of the first year after birth (to look no lower), all fear of evil from any other than a present source is altogether foreign to the human breast. Not to speak of an infant born in the lap of affluence and covered by the rival caresses of two fond parents, what infant, even though it [were] in the sink of misery,⁵ could derive any such idea as that of apprehension—could derive any idea

⁴ See *Introduction to the Principles of Morals and Legislation*, (CW), pp. 143–52, and *Traité de législation civile et pénale*, i. 81–8.

⁵ MS alt. illegible.

whatsoever—from the act by which a mother had rescued her infant from the same deplorable state?

[161–316] [1818 Jan^y 6]

The mischief of the second order being thus exactly equal to 0: the mischief of the first order is exactly next in value.

Inferior in every respect to that of a dog or even a horse at the same age were the minds of Locke and Newton⁶ on their first birthday. No prospect of the future: scarce any remembrance of the past: scarce any perception—scarce any suspicion—of the relation of cause to effect: scarce any tie by which the sensations of one day are connected with those of another: scarce any thing of that cement by which identity is put together. In regard to time, for the purpose of the argument, rigid accuracy is not necessary: deny all this, or any part of it, of the first birthday, you will not deny it of the first day: no, nor of the first month.

Thus in the pretended offence there would be, if suffered, much good: much good, if the prevention of evil be a good: yes, in the pretended offence much good: while in the punishment there is nothing but evil: evil altogether uncompensated and pure: evil of the first order, the suffering of the legally murdered female: evil of the second order, by the interception of that relief which, in the like situation from the remedy thus interdicted, the misery attendant on it would otherwise experience.

[161–317] [1818 Jan. 6]

Evil, therefore, look where you will—evil in reality—you will find absolutely none. But to a certain degree and in certain cases, there will be evil in appearance: there will be an apparent, though that a perfectly fallacious, shew of it. Through malice to a fond mother, suppose a secret enemy, suppose an enraged servant, to have become on purpose, for the gratification of that dissocial passion, the author of the infant's death: here perhaps might be blood spilt: and in the course of the measures taken by the destitute mother for the purpose [of] self preservation—to preserve herself and, with herself, her offspring from impending misery—here too peradventure blood

⁶ John Locke (1632–1704) and Sir Isaac Newton (1642–1727), the celebrated philosophers.

shall be visible. Ah, bloodthirsty wretch! exclaim with one voice the ascetic religionists and the men of law. Ah, bloodthirsty mother! blood cries out for blood: thy guilty blood shall pay for the innocent blood which thou hast shed.

[161–318] [1818 Jan^y 6]

Great has been the praise lavished upon the half-civilized nations of antiquity—the antient Greeks and Romans: great the eloquence bestowed on them for the exertion of those qualities which man possesses in common with the tyger and the wolf: for the vulgar quality of personal courage—of that courage which opposes itself to wounds and death: a virtue of which the absence is more uncommon than the presence. Great the admiration bestowed upon this vulgar virtue howsoever employed: especially when employed, as in those days it almost always was, in the service of conquest: i.e. injustice, oppression, depredation and murder, all committed upon the largest scale.

Among those same peoples, to the decision of the parents—to the arbitrage of those the most competent judges—at any rate to one of them—was referred in each instance the question whether the life they had given was worth preserving: worth preserving for their own sake; worth preserving for the sake of the possessor.⁷

To Pagan darkness—to the want of Christian lights—is imputed the application thus made of the conjoint force of common sense and common humanity to so beneficial an effect.⁸ Christian lights!

⁷ A Roman father had the power of life and death over his children, exercised shortly after birth when he chose to acknowledge and rear a child or not to do so. See, for instance, Dionysius of Halicarnassus, *Roman Antiquities*, ii. xxvi. 4: ‘the lawgiver of the Romans gave virtually full power to the father over his son, even during his whole life, whether he thought proper to imprison him, to scourge him, to put him in chains and keep him at work in the fields, or to put him to death, and this even though the son were already engaged in public affairs’.

⁸ Christian apologists often made the link between the imperfect morality of the pagans and the practice of infanticide. See, for instance, Warburton, *Divine Legation of Moses demonstrated*, i. 33–61 (Bk. I, § IV), esp. 58: ‘But of how great Power Custom is to erase the strongest Impressions of Nature, much stronger than that of the *Moral Sense*, we may learn from that general Practice, which prevailed in the most learned and polite Countries of the World, of *exposing Children*’. Warburton added the following footnote to the fourth edition of 1755: ‘Terence is he who seems to have copied human nature most exactly. Yet, his man of universal benevolence ... is the same person who commands his wife to expose

whereas by Jesus no cognizance at all is any where reported to have been taken of it. By Jesus?—no, nor in this case even by Paul.

[161–319] [1818 Jan. 6]

As was natural to those rude ages, the power thus given was incongruously extensive: continued to too great a length in the track of life, and not sufficiently bounded by those tutelary limitations of which it was susceptible.

But to the extent of the case here in question, nothing, we see, could be more unexceptionable.

The child being born, to breed it up or not breed it up was in each case the question: if carried in the affirmative, then commenced the parental enjoyments with their attendant cares: if in the negative, the obtrusive being, useless to itself, burthensome to all around it, ceased to live: ceased to possess that life, from which, by the surrounding circumstances, enjoyment had been banished.

[161–320] [1818 Jan^y 8]

Spite of asceticism and the legal tyranny which it has engendered, a power of life and death over the offspring during its irrational state is *in facto* possessed and, no one can say to what extent, actually exercised by the mother.

In that account of the number of Births and Deaths, with the declared or supposed causes of the deaths, which, under the name of the Bills of Mortality, is regularly made public, among the causes of death within the first year may be seen one designated by the word *overlaid*.⁹

her new-born daughter'. Warburton's allusion is to the speech of the character Chremes in *Heautontimorumenos*, 632–6, by Terence, i.e. Publius Terentius Afer (d. 159 bc), Roman playwright. See also Thomas Coombe, *The Influence of Christianity on the Condition of the World: A Sermon, preached in Trinity Chapel, Conduit Street, On Sunday, December 13, 1789*, London, 1790, p. 6: 'As impious and unworthy notions of the Deity must necessarily have a bad effect on morals, it is no wonder, that we should discover a suitable conformity between Pagan theology and Pagan ethics... . And, in consistency with the same relentless system, the exposure of infants was respected as a right arising from parental authority'; and Edward Ryan, *The History of the Effects of Religion on Mankind*, 2 vols., London, 1788–93, ii. 23: 'The Heathens murdered or abandoned infants, until the cruel practice was checked, and at length abolished, by the Christian emperors.'

⁹ The Bills of Mortality were weekly returns of the deaths, with their causes, that occurred in the City of London, Westminster, and Southwark, and a number of surrounding parishes. The statistics were compiled into annual returns, under the title *A General Bill of all the*

By this *overlaying* is understood the act—of course the unintentional act—of the mother or other *wet-nurse*: in some of those motions which, without being accompanied by consciousness, are apt to take place during sleep, the body of the nurse extending itself over the body of the infant, and by obstructing respiration, extinguishing life.

But in regard to this overlaying, one thing is altogether clear, viz. that, when a result of this sort has been produced, for any other human being than that by which it was produced to know whether the production of it was unintentional or intentional is never possible.

[161–321] [1818 Jan.^y 8]

Thus *far*, that which a real lover of humanity would wish to take place may take place accordingly: over the life of her offspring, the mother, whose condition in this respect is avowed and known, does in every instance for a considerable length of time, say a twelvemonth or more than a twelvemonth, possess a power incapable of being checked. And thus in every such case, to the evil of overpopulation, in every family taken by itself, the remedy in question—this gentlest of all remedies—is at this stage of the disorder capable of being applied.

Unfortunately, to the case where the evil is incomparably more afflictive, it has no application: viz. in the case where the offspring is produced without the sanction of the marriage contract, the saving the mother from that disrepute which so unhappily, and to a considerable degree, unavoidably attaches itself to disobedience manifested in this way towards the rules of self-regarding prudence on the part of the weaker sex. From the burthen of affording maintenance to the unwelcome guest, she may be saved or not, as it may happen. But by overlaying it, whether by design or accident, she may preserve herself from the burthen of maintaining it, if not preserved by other means. But in her case will attach a suspicion of

Christnings and Burials From December 16, 1766, to December 15, 1767. According to the Report made to the King's Most Excellent Majesty, By the Company of Parish Clerks of London, &c. (with an appropriate change of date depending on the period covered). In the ten-year period between 11 December 1770 and 12 December 1780, for instance, a total of 47 deaths were attributed to being 'overlaid', while in the ten-year period between 11 December 1804 and 13 December 1814, a total of 2 deaths were attributed to being 'overlaid'.

intention which in the other case will not attach: and at any rate the cessation of this burthen can not cause not to have taken place the manifestation of her disgrace.¹⁰

[161–322] [1818 Jan^y 8]

No calculation! no calculation! exclaims the shallow and empty-headed sentimentalist, who, by ostentation of passion, trusting to congenial weakness on the part of his reader, trusts, and in point of experience on but too good grounds, to drive reason out of the field.

No calculation! as if the distinction of right and wrong—as if the determination of an act in respect of conduciveness or destructiveness to human happiness—depended on any thing else than calculation.

In morals or politics, no calculation! in trade, as well might a man cry, no taking of stock! no keeping of accounts: thus thinking to serve economy—economy in trade.

§3. *Divorce by consent*

[161–336] [1818 Jan 14]

This is the remedy for the evils of an ill-assorted marriage—the complicated, the infinitely diversified, the boundless, mass of evil liable to be among the fruits of an ill-assorted marriage: a source of evil so copious could not be left unimproved or unprotected by the dæmon of asceticism.

That the union of one man to one woman, and that for life, except in case of dissolution by consent, is of this species of contract the most natural mode, as the phrase is, that the state of the case admits of, that in the most extensively prevalent state of things, it is the mode the most likely to be beneficial to both parties taken together—the most likely to be thought to be so—and thence the most likely to be adopted, has been shewn by Bentham.¹¹

That which on this occasion can not to a certain extent be compelled by law is the rendering of the characteristic services to the

¹⁰ The following three paragraphs are headed ‘Inserendumne’, i.e. ‘To insert or not’, and have been marked for possible deletion.

¹¹ See *Traité de législation civile et pénale*, ii. 212–14.

female by an unwilling male: that which to a certain extent, though that happily a considerably limited one, is the loss of those same services to both parties, by the obstacles opposed to the obtainment of the gratification from other sources: and this is the object to which on this occasion the dæmon of asceticism directs his views.

[161–337] [1818 Jan 14]

No tenable ground for his inhibition in this, any more than in any of the preceding cases, can he find in any of the acts or discourses—in a word, in the religion—of Jesus.

Dissolution of the marriage by the sole will of the male alone, no: to every such act of tyranny and injustice, he has in the clearest character imprinted the stamp of prohibition. The will of the male alone would have in this case for its source the interest of the male alone: the interest of the strongest, to which the interest of the weakest of the parties would thus be sacrificed: thus saith the law of utility: thus saith the law of Jesus.¹²

¹² In the margin, Bentham has noted at this point: ‘Quote the passage.’ See Luke 16: 18: ‘Whosoever putteth away his wife, and marieth another, committeth adultery’.

CHAPTER 5. ASCETICISM CONTINUED.
 SUICIDE, THE ALL-COMPREHENSIVE
 REMEDY AGAINST ALL
 EVILS—GROUNDLESSNESS
 OF THE INTERDICTION PUT
 UPON IT BY ASCETICISM

[161–323] [1818 Jan^y 6]

One remedy there is by which all the ills which flesh is heir to¹ may be shaken off at once. The dæmon of asceticism grudges him even this last remedy.

Here too he has succeeded in engaging into his service the dæmon of chicane. Here they exert themselves in conjunction, with triumphant rage, heaping affliction upon affliction: producing evil, preventing none: punishing the miserable for being miserable.

As to the sufferer himself—the pretended delinquent—the sufferer himself, he is out of the reach of their tyranny. But, having, such as it is, a pretence, they resolve not to be altogether without their prey: they fasten upon all such to whom, by the external evidence of situation, they have reason to regard him as being dear: all such as they suspect of being sufferers by the outrage done to his body: them they hold up, or seek at least to hold up, to infamy: them they deprive of the whole mass of the property which would otherwise have devolve[d] upon them—which would otherwise have afforded, as far as it went, an alleviation to their affliction.²

[161–324] [1818 Jan^y 6]

In the whole expanse of the field over which they reign, no where have pretences been so weak and threadbare: no where practice so compleatly destitute of every defensible ground: no where so groundless in the field of reason and utility: no where so groundless

¹ An allusion to Hamlet iii. i. 62–3.

² According to Blackstone, *Commentaries on the Laws of England*, iv. 190, the punishments for a suicide included ‘ignominious burial in the highway, with a stake driven through his body’ and ‘forfeiture of all his goods and chattels to the king’.

in the field of religion, and in particular in the field of the religion of Jesus: no where so inconsistent with itself.

Man a centinel: life his post: quitting life, he quits his post.³ Oh silly! Fiction is not argument. Life is not a post: with the exception of the few who are, men are not centinels. You feign him a centinel at his post: as well may you feign an order issued for his quitting it. By the same fiction, you may prove it wicked for a man to draw a rotten and aching tooth out of his head: call the tooth a centinel, the thing is done. On this occasion, as usual, out of his pocket, the tyrant takes his God: the dæmon he has created, and keeps there in readiness to be taken out and made to do whatsoever work shall be put into his hands.

A centinel who, without orders, quits his post, deserves to be shot. Be it so: well then, this centinel, whom you have appointed such and then posted him, having quitted his post and thus deserved to be shot, has shot himself. Well: he is punished then as you say he ought to be punished. What would you have? When a man really and lawfully constituted a centinel has quitted his post, and has been shot for it, you do not insult or plunder his wife and children for it—do you? Then if not the real one, why the one whose appointment is but imaginary—one of your own forgeries?

[161–325] [1818 Jan^y 7]

No where can be found an act more compleatly condemnation-proof. Good, more or less: of evil, not a particle. Mischief of the second order, absolutely none: danger to others, none: alarm as little. Effects of the first order, all of the good cas[t]: of the evil cast, none: of the good cast, always more or less: good by and in proportion to the balance which in his instance has place on the side of evil as between the good and the ill.

³ For the analogy between suicide and desertion see, for instance, Thomas Francklin, *Sermons on Various Subjects, and Preached on Several Occasions*, 2 vols., London, 1785, i. 134–5: ‘The crime of suicide is doubtless of all wickedness the most dreadful, because it admits not, like other crimes, of reparation or repentance. The deserter may return to the field of battle, and redeem that charcter by bravery which he had lost by cowardice; but when the fearful unmanly soldier has quitted his post in this life, who shall restore him to his duty?’; Gregory Sharpe, *Sermons on Various Subjects*, London, 1772, p. 152.

Oh, but his relatives! the loss—the affliction—to his relatives!—Affliction? No: but relief. No man—at least for any length of time, no man was ever a burthen to himself, without being a still heavier burthen to his relatives.

But where the subsistence of a wife and a family of children is dependent upon his labour! And so for the benefit of wife and children, the moralist would condemn the father and master of a family to toil during life in a condition worse than that of the most afflictive slavery. Yes: than the most afflictive slavery: for forasmuch as the life which he could shake off, if he would, is not shaken off by him, it is a proof that upon the whole, in his judgment, it is better for him to continue bearing it than to cease to live. Live on, says the moralist, live on and suffer: such is my will and pleasure. Soon said this and easily. But these his orders, issued or not issued, will they be obeyed? Then what trifling is it to issue them! But the relatives for whose good the mandate is issued, by a mandate to this effect, supposing it obeyed, will they be any thing the better? No: they will be all the worse: the slave will pine in his chains: howsoever willing to work, he will no longer be able to work with profit: what substance he had, instead of improving, it will keep wasting in his hands: after or before the last shilling is spent, by ever increasing melancholy and indigence, disease will be brought on, and the general result will be—the family left destitute, the father and master having perished by a lingering death, instead of a prompt one.

[161–326] [1818 Jan^y 7]

Oh, but religion forbids it.—What religion?—Not the religion of Jesus. Search the whole Gospel history from beginning to end—note in this view every act and every saying that ever was ascribed to Jesus,—not a syllable—not so much as the slightest hint—to any such effect will you find.

Look to his acts, so far from a prohibition, you will find an encouragement: an encouragement, if it be in the power of example—and from such a quarter—to afford encouragement.

The death suffered by Jesus, do we not hear continually—hear from these same taskmasters—that it was a voluntary one? But to say that it was voluntary, what is it to say but that it was self-inflicted? inflicted by the man's own consent, what matters it whether it was

by his own or any other hand? Before he slew himself (I Samuel xxxi. 4) Saul had commanded his armour-bearer to slay him. Had the subject obeyed, would the King have been the less a suicide?

Oh, but it was for the benefit of mankind that he brought it upon himself—this death:—True: but was it the less voluntary? if to suffer death for the sake of others is commendable, surely to suffer it for one's own sake can never be condemnable.

[161–327] [1818 Jan.^y 7]

Always in this one stream runs the logic of the ascetic. God is a malevolent being: on every occasion, to see man suffer is his delight: thus doing or thus forbearing, man suffers: therefore, that he should thus do or thus forbear is God's will.

Of this logic, the school will be seen in the Epistles of Paul by any body that pleases: but of no such logic will any such school be found in any one [of] the Gospels—any where in the sayings or in the acts of Jesus.

[161–328] [1818 Jan.^y 7]

Grant to the ascetic that he who committ[s] suicide commits a sin: behold the perplexity that awaits him: behold a problem that he will as soon kill himself as solve. For a man to offer himself to death is, if the death be certain, to committ an act of suicide. Agreed. But between certainty at the top of the scale and impossibility at the bottom, the number of degrees is infinite. At the top of the scale stands suicide beyond dispute. Proceeding downwards in the scale, let him take pen in hand and point to the degree at which suicide ends. The man who, for the instrument of release, employs a loaded pistol, is he a suicide? No, not he: although death ensues: for many have been the instances in which, the pistol having with this intent been discharged, death, though thus called, has failed in his obedience.

The officer who heads the forlorn hope in the mounting of a breach⁴—the soldier who remains till he has been shot dead in a post known to be untenable in which he has been left, that the main body may have time to retreat—is he a suicide? The medical

⁴ 'Forlorn hope', derived from the Dutch *verloren hoop*, i.e. 'lost troop', was a name given to a detachment of soldiers detailed to perform an especially perilous task, for instance leading an attempt to storm an enemy stronghold.

practitioner whose practice is put an end to by death while he is warring against the plague, is he a suicide? the trader who, while in pursuit of affluence, is overtaken by death in a pestilential climate, is he a suicide?

[161–329] [1818 Jan^y 7]

The labourer or manufacturer who, for better wages, engages in an occupation under which it is known that no life ever lasted beyond a certain small number of years, is he a suicide?

If among all these men there be not so much as one suicide, surely there are some whose case, if measured with his, will be seen to be at no great distance.

If the sin of the suicide, as some will have it, be—as, being the last, not admitting of repentance—the most sinful of all sins,⁵ surely the case of these other men can not in any instance be wholly guiltless:—quære, in each case, the place of it in the scale of sinfulness.

[161–330] [1818 Jan^y 7]

Fortes ideo non sunt monomachi neque suicidæ—brave, therefore, is not the duellist nor the suicide, says an Ethical compend in which, for the instruction of Academic youth, scholastic prejudices are engrafted on a summary of Aristotle.⁶

Brave are not the duellist or the suicide. Why not brave? exactly because, for the purpose of excluding the idea of bravery, he has taken to get up a definition of his own—a definition such as agrees not with any conception which till then had ever been associated with it.⁷

⁵ See Ch. 5 fn3 [p.69] above, and Edward Barry, *Theological, Philosophical, and Moral Essays on the following subjects: Celibacy, Wedlock, Seduction, Pride, Duelling, Self-Murder, Lying, Detraction, Duplicity, Avarice, Generosity, Temperance, Excess, Prosperity, Adversity, Justice, Mercy, Death, Judgment*, London, [1790?], pp. 121–2.

⁶ See *Ethices Compendium in Usum Juventutis Academicæ ... Cui accedit Methodus Argumentandi Aristotelica*, Oxford, 1745, p. 47. Bentham used this elementary textbook on moral philosophy while an undergraduate at Oxford: see *Correspondence (CW)*, i. 59–60.

⁷ See *Ethices Compendium*, pp. 46–7: ‘*Fortitudo est Virtus animi servans mediocritatem inter metum & audaciam circa acerba & terribilia.*

‘*Objectum fortitudinis est duplex. Vel Internum, ut Metus, seu potius Meticulositas, & praeceps audacia, quas fortitudo reprimat.*

Notable the contrivance; nor yet sparing the use. How oft has not this same discovery been rediscovered! How many an elegant essay—how many an edifying sermon—has been decorated by it: each time the penman paying himself for his labour with a smile of self-complacency and congratulating himself on the felicity with which taste and genius have been employed in the service of piety and virtue.⁸

Brave men? no: on the contrary, cowards—rank cowards, both of them. How deplorably, till this discovery was made, were men mistaken as to this point. Wherever you see a man whom the world calls brave, be sure you see a coward. Behold that man who, without a chance of success, is climbing up to that breach. Think how egregious must be his cowardice. Wherefore is it that he mounts? Only because he has not the fortitude to endure the reproach of cowardice.

[161–331] [1818 Jan 7]

According to this same institute, to know whether the man you see mounting the breach is brave or no, you must know whether the

‘Vel Externum, quod est in gener e, quicquid timorem potest incutere, modo malum non sit inhonestum, sed triste; & præsertim mors bellica, cum causa belli est justa’, i.e. ‘Bravery is a virtue of the mind, keeping the mean between fear and audacity in relation to bitter and terrible things.

‘The object of bravery is twofold. Either internal, as fear, or rather fearfulness, and headlong audacity, which bravery restrains.

‘Or external, which is generically, whatever can inflict fear, provided that the evil be not dishonourable, but unfortunate; and especially death in battle, when the cause of the war is just.’

⁸ See, for instance, Barry, *Theological, Philosophical, and Moral Essays*, pp. 119–20: ‘Courage is that virtue which supports the mind under a sense of danger, and gives him fortitude to meet it; it is for want, therefore, of this manly resolution, to combat against the various adversities of life, that men, by suicides, make a mean surrender of their own existence; and afraid of their enemies, ... by sneaking out of life, they imagine that they evade and are hid from all!—but these are the impressions of rank and cowardly fear!’; Charles Moore, *A Full Inquiry into the subject of Suicide*, 2 vols., London, 1790, i. 25–6: ‘It is clear that the generality of suicide proceeds either from a timidity of disposition, not capable of bearing up against impending troubles, or from a sudden gust and violence of passion, which no one will scruple to stifle impetuous and rash, or ... from a mixture of both. Now this being granted, there seems to be no connexion whatever between suicide and courage, but rather the widest separation; since courage is equally distant from that fear or that rashness, which separately and connectively form the basis of suicide.’

cause he fought in was a just one. You must have rendered yourself an adept in international law and history.

Can it be necessary here—can it be worth while to give on this occasion—a word or two of exposition by which the field shall be cleared of these thin clouds? of exposition by which plain logic shall be substituted to this tinsel rhetoric?

Fortitude, in the sense in which it has for its synonym *personal courage*, consists in voluntary exposure to pain or death, immediate or imminent: of virtue or no virtue, the degree of the quality is in the joint ratio of the magnitude and the probability of the suffering thus encountered.

Neither by the nature of the effect endeavoured to be produced, nor by that of the motive by which at this price the man was engaged in the endeavour to give birth to it, is the existence of the quality affected or the degree of it varied.

From him by whom, on the occasion in question, on the score of the supposed probability of sufferance compared with the supposed probability of success and the supposed value of the effect thus endeavoured to be produced, the manifestation of this quality is disapproved, it is wont to receive the name of rashness: but with whatsoever propriety this other denomination be applied to it, the appellation of fortitude—of personal bravery—is not with the less propriety applicable to it.

Thus much being understood, what will also be understood is—that an act of suicide can not be committed without an exercise of the quality of fortitude.

[161–332] [1818 Jan. 6]

In⁹ these several shapes of religionist and legislator and judge exercising the powers of the legislator, would he but content himself with calling names and saying *See what a coward!* the ascetic might continue on this note and welcome.

But in the role of religionist, he holds up in the face of the wretched sufferer the picture of hell-fire, and by adding despair to suffering draws him into madness: while in the role of the moralist,

⁹ In the text, Bentham has noted in relation to this and the following paragraph: ‘☞ Insert or omitt this paragraph?’

he overwhelms, or at least seeks to overwhelm, him with the load of contempt, and thus robs him of that sympathy by the influence of which mercy might otherwise be extorted from the iron sceptre of the law.

[161–333] [1818]

Child murder—self-murder—how false and at the same time how mischievous are the notions which, as often as these two words are pronounced, are inculcated! Thus it is that murder is really committed, and committed with impunity, by the pens and tongues of lawyers.

Alas! what a disgrace to a country which calls itself civilized is the whole of that mass of law on the occasion of which the word *murder* is employed!

On a question of property, for the purpose of ascertaining which of two men is in the right, they are set to try to kill one another. One of them killing the other would not in this case be a murderer. Why? because it is by a bench of Judges that he has been licenced so to do. Note that to this time, this is law in England: law beyond dispute.¹⁰

These are among the instances in which, by what in the language of the man of law is justice, one man is punished—not unavoidably but purposely punished—for the misdoing or supposed misdoing of another.

Transmitted from barbarian ancestors—screened from merited contempt and horror by the pretended wisdom of these pretendedly wise ancestors¹¹—every such abomination is cherished by the lawyer and by the tyrant of which he is the instrument. What could not be defended by reason, he [...?] defends by prejudice, and the tyrant, who, under the name of [...?], pursues the blood of the patriot through the rem[ot]est vein of his unoffending relatives, finds in this abomination a cover for his tyranny.

[161–334] [1818 Jan^y 10]

¹⁰ Trial by battle was not abolished until 1819 (59 Geo. III, c. 46).

¹¹ In the margin, Bentham has added the following clause for possible insertion in the text: ‘to which we are indebted for the phrases wise ancestors and wisdom of our ancestors’.

For Bentham’s comments on the fallacy of ‘The Wisdom of our Ancestors’ see *The Book of Fallacies*, London, 1824, pp. 69–81 (Bowring, ii. 398–401).

But though the community has so much to suffer by mischievous absurdity reduced to practice, the man of law has much to gain by it.

In practice, in this as in so many other instances, not much of that mischief which by law is professed and intended to be done is really done. Why? Because, without the concurrence of a Jury, it can not be done: and Juries, viewing with just abhorrence the wickedness [that] the man of law would perpetrate if he could, refuse most commonly their concurrence. They refuse it: but at what price? At the price of perjury. But to the man of law, what is the consequence of this perjury? Not loss or ill in any shape, but profit. From first to last, among the leading objects of his endeavours has been the weakening [in]¹² men's minds the sense of moral obligation, all for the purpose of inculcating the persuasion that right and wrong depend not upon the material consequences of the action, but altogether on his own will and pleasure: that when forbidden and punished by him, perjury, for example, is indeed an immoral act: but that no sooner has it been commanded by him than it is changed into a virtue.

For that reason, to give encrease to the utmost perjury in Juries has been among the most favourite of his studies.

In these endeavours, active and powerful is the second which he has found in excellent Church and its rulers.^a

^a See Bentham *Swear not at all*.¹³

¹² MS 'of'.

¹³ '*Swear not at all: containing an exposure of all the needlessness and mischievousness, as well as anti-Christianity, of the ceremony of an oath*, London, 1817 (Bowring, v. 187–229).

CHAPTER 6. ASCETICISM CONTINUED.
HAPPINESS AND VIRTUE, HOW
DIMINISHED BY ASCETICISM
IN AN INDIRECT WAY.—USEFUL
AND GENUINE OBLIGATIONS
ELBOWED OUT BY SPURIOUS ONES¹

[161–246] [1818 Jan^y 8]

It is not only by useless and therefore mischievous obligations that asceticism is inimical to well-being, but in a less direct way by weakening the force of useful ones.

In fact, no useless obligation, if imposed, can be conformed [to] but at the expence of useful ones: no useless obligation can be imposed but its efficiency, if any, will be at the expence not of happiness only, but of virtue.

In the following strain is the sort of reasoning by which this effect is produced.

All men are sinners.

Yet some men are saved.

Therefore, without prejudice to salvation, a certain quantity of sin may always be committed.

Such is the argument in the field of religion.

All men, the most generally respected not excepted, are transgressors more or less of the rules of morality.

Yet some men are objects of general respect.

Therefore, without prejudice to respectability, the rules of morality may in some degree be transgressed.

Such is the argument in the field of morality.

[161–247] [1818 Jan^y 8]

Religion or morality, to which ever field the case be considered as belonging—of the inculcation, in so far as successful, of any spurious rule, what then is the consequence? In a certain degree—always in some degree, though scarcely ever to a degree susceptible

¹ In the text, Bentham has noted at this point: ‘☞ These topics must have been handled elsewhere: perhaps gone through with. Yet what follows may serve for an Introduction.’

of any thing like a correct estimate, the violation of such as are genuine.

And thus in a double way is asceticism inimical to happiness: first in a direct way to happiness, by the coextensive exclusion of pleasures: then again in a less direct way to happiness, by exclusion put to an indefinite amount upon virtue—upon genuine and useful virtue, and by that means to happiness.

When on any occasion a sacrifice is rendered necessary, the shape in which it is naturally made is that in which the making it is least irksome. When a new tax is laid upon fermented liquors, it is not in that, but in any other article, that the consumption of the drunkard is lessened. Where, either by faith or by ceremonies, good works, whether positive or negative, are supposed to be atoned for, in faith or in ceremonies will a man be continually disposed to pay for every draught which he regards as made upon him for good works. Whatsoever draughts a man regards as made upon him for virtues—meaning the useful ones, which are the only genuine ones, ever will he be on the look out for the means of paying with spurious ones: more especially if they cost nothing and require no sacrifice, as is so apt to be the case with spurious ones in general, and above all others with some of those herein above spoken of: such as those which consist in the forbearance of gratification where there is no appetite.

PART II. ASCETICISM IS NO PART OF THE RELIGION OF JESUS

CHAPTER 7. ASCETICISM, AS ABOVE,¹ UNIFORMLY DISCOURAGED, NOWHERE ENCOURAGED, BY JESUS.

1. NEGATIVE PROOF—FOR THE CONDEMNATION PASSED IN ASCETICISM NO WARRANT CAN BE FOUND IN THE GOSPELS. PROOF —BISHOP GASTRELL'S *INSTITUTES*

[161–341] [1817 Nov 19]

Look over the whole of the Gospel history as contained in the writings of the four Evangelists—bring to view whatever report is there to be found concerning the sayings and acts of Jesus—in no one passage of that body of history will any thing be found by which any favourable report can truly be said to have been shewn to asceticism. On the contrary, much will be found by which discouragement is shewn to that so deplorably fertile source of unhappiness, folly and wickedness.

For proof of these positions, let us bring to view in the first place his *sayings* or *precepts*—in the next place, his *acts* or, collectively speaking, his *practice*.

[161–342] [1817 Nov 19]

Among the items of which the list of pleasures is composed, those to which the attacks of asceticism have applied themselves with greatest energy are the pleasures of sense: and among those of sense, that in which the individual, and that in which the species, respectively depend for their preservation: say pleasures of the table and pleasures of the bed.

On no occasion against either of these classes in the aggregate, or against any one modification of them taken separately, among the

¹ See Ch. 1 [p.10] above.

sayings of Jesus, as recorded in any one of the four Gospel histories, will so much as any one, whereby directly or indirectly any mark of reprobation is cast upon any of these pleasures, be found.

Of the truth of this position, a proof more summary and more satisfactory than, *negative* as is the complexion of it, might readily have been imagined, may be seen in a work of an orthodox and dignified divine of the Church of England, viz. Gastrell, Bishop of Chester—his *Christian institutes*.²

[161–343] [1817 Nov. 19]

On these subjects respectively, to any such effect as that of condemnation, had [there been] so much as the least hint from the lips of Jesus, the Bishop, in these ‘Christian Institutes’ of his, would he have omitted to have given them a place? By no man can any such supposition be entertained. On the whole field of the pleasures of sense—pleasures of the table, pleasures of the bed excluded, behold here following every thing he could find upon which any construction by which they could be brought to bear any relation to this subject could be put. Here they follow, [four]³ passages and no more: and of these [four],⁴ one the extent and thence irrelevancy of which will be recognized as soon as indicated.

I. Under the head of *Temperance*.⁵ Luke xxi. 34. Speaking to his disciples—and warning them to put and keep themselves in a state of preparation for the approaching catastrophe: ‘And take heed to yourselves (says Jesus) lest at any time your hearts should be⁶ overcharged with surfe[i]ting, and drunkenness, and cares of this life, and so that day come upon you unawares.’ For the subjects of the warning, here we see the pleasures of the table: warning? but for what purpose? for the purpose of simple abstinence? no: nothing more than for the avoidance of excess: from the reaping them in those

² Francis Gastrell (1662–1725), Bishop of Chester from 1714, was author of *The Christian Institutes, or, The Sincere Word of God*, London, 1707.

³ MS | |.

⁴ MS ‘three’.

⁵ *Christian Institutes*, p. 288.

⁶ King James Bible ‘hearts be’.

circumstances in which, in the only intelligible and rational sense, they may be termed impure—to a preponderant degree impure.

[161–344] [1817 Nov. 19]

II. Luke vi. 25. ‘Wo⁷ unto you that are full: for ye shall hunger.’⁸ But upon what supposition can this saying be so distorted as to [be] made applicable to this purpose: upon the supposition that, in his eyes, it was matter of sin for a man ever to have a bellyful. It is part and parcel of the Sermon on the Mount. The real import of it belongs not to the present purpose. By the contents of a verse which precedes it but by four verses (v. 21.) it will be rendered sufficiently manifest that it had no such object in view as that of passing a general mark of reprobation on the pleasures of the table, and by his own example this will presently be put out of doubt—v. 21. ‘Blessed are ye that hunger *now*: for ye *shall* be filled.’ Here, to be filled, is it numbered among evil things? no: but even among *good* things: objects of faith and hope.

[161–345] [1817 Nov 19]

III. Chastity and Modesty.⁹ Matth. v. 27. 28. On this occasion, what is the subject of the doctrine—Chastity or Modesty? No: but justice. ‘Ye have heard (says Jesus) that it was said by them of old time, Thou shalt not commit adultery.^a But I say unto you, that whosoever looketh on a woman to lust after her hath already committed adultery with her in his heart.’¹⁰ Of this precept, what then is the design? In whatsoever shape it may happen to the evil to invite transgression, be upon your guard against the approach of it. As to adultery, whatsoever suffering it is that flows from it, flows from it in the character of an Offence against Justice: an offence by which the marriage contract is violated.

^a Exod. xx. [14].¹¹ Said by God? no: but by those of old time.

⁷ King James Bible ‘Woe’.

⁸ See *Christian Institutes*, p. 289, still under the heading ‘Temperance’.

⁹ See *Christian Institutes*, p. 291.

¹⁰ King James Bible ‘hath committed adultery with her already’. For Matthew 5: 28 see *Christian Institutes*, p. 294.

¹¹ MS ‘24’ is a slip.

IV. Chastity and Modesty again. Matth. v. 8. ‘Blessed are the pure in heart: for they shall see God.’¹² Pure from what? from moral evil in this shape, exclusively or so much as more particularly? No: but from moral evil in every shape. Pure *in heart*? What means the adjunct *in heart*? evidently this: pure in intention and even desire, in contradistinction to purity in outward practice: in its design it is like the passage just mentioned, a general warning against the approach of evil in general—of evil in any shape.

[161–346] [1817 Nov^r 19]

Here ends the compleat catalogue of all the passages which, by the zeal and industry of the good Bishop, could with all his straining be brought to any so much as the most superficial shew of bearing upon these points: and in all of them put together, not any the faintest tinge of asceticism would it be in the power of the most anxious and scrutinizing eye to discover.

All this while does he want for authorities? does he want for texts? Oh no: there they are in abundance. But from whom? Even from our Paul: but, among those by whom, either in sincerity or in profession, the religion of Jesus was ever known to be taught, by no one else.¹³

[161–347] [1817 Nov^r 22]

Vain would it be to say—if, by Jesus, nothing was said in condemnation of sexual intercourse without the sanction of marriage, it was because no occasion for touching upon that topic had happened to present itself. To the character of Jesus it belonged to make occasions—not to wait for them. Look to his Sermon on

¹² See *Christian Institutes*, p. 295.

¹³ In the text, Bentham has noted at this point: ‘☞ Add here with comment from Harm^y §. 54 p. 61, per Matt. xv. 19 and Mark. vii. 20. 21., among things which defile a man are “adulteries and fornications”.’ No ‘Harmony of the Gospels’, that is a work showing the correspondences between the four Gospels, has been located in which the verses in question are discussed at the section and page numbers supplied by Bentham. A copy of James Macknight, *A Harmony of the Four Gospels: in which the natural Order of each is preserved*, 2 vols., London, 1756 is included in a list of books owned by Bentham (BL Add. MS 33,564, fos. 35–64), but the relevant verses from Matthew and Mark are discussed at i. 191, § 63.

In the margin, he has also noted at this point: ‘Mark μοιχεΐα, πορνεία: Matthew d^o.’ The Greek words mean ‘adulteries’ and ‘fornications’.

the Mount: what occasions were then waited for by him. And for teaching on a subject of this sort, was it possible that in a life of upwards of thirty years—and that a life so employed—is it in the nature of things—that no occasion should ever have presented itself.

Meantime so it is that, of one such occasion, mention is to [be] found on record: and this occasion, was it applied by him to any such purpose as that in question? Not he indeed. Behold it in John iv. 1 to 42.

It is that of his conversation with the Samaritan woman at the well called Jacob's well. The woman was a widow—she had no fewer than five husbands: but at that time she was living with a man who was not a husband.^b To Jesus, this circumstance belonging to her was known: he mentioned it to her: she acknowledged it. For this mode of life, did he take occasion to reprove her? any the least hint in reprobation of it, did it pass his lips? No: not any. They parted on terms of mutual satisfaction. He revealed himself to her. (v. 25. 26.)^cShe procured him proselytes. (v. 39.)

^b John iv. 18.

^c 25. 'The woman saith unto him, I know that Messiah¹⁴ cometh which is called Christ: when he is come he will tell us all things.
v. 26. Jesus saith unto her I that speak to¹⁵ thee am he.'

¹⁴ King James Bible 'Messias'.

¹⁵ King James Bible 'unto'.

CHAPTER 8. 2. POSITIVE PROOF FROM THE DISCOURSES OF JESUS

1. Eating and drinking with sinners justified. Things entering the body defile not—thence Mosaic law abolished

[161–353] [1817 Nov 19]

So much for negative proof: now for positive.

At this time of day, to satisfy a believer of the religion of Jesus, to whatsoever sect appertaining, that Jesus had, among his objects, the doing away in the lump the obligatory force of the Mosaic law, much labour can scarce be necessary. If such was not [his] intention, it is then in contrariety to, and not in pursuance of, his designs that those exertions are made which, in this our country, we see making, and even by members of the establishment, Ecclesiastical as well as temporal, for the conversion of the Jews.¹

[161–354] [1817 Nov 20]

No where does he recognize its pretensions to have been the fruit or result of any special revelation. To Moses, not to God—in a word, to any man rather than to God—when speaking of it in such allusions as he is represented as making to it, is he represented as referring it: if to God he is any where represented as referring it, it is in no other

¹ On 15 February 1809 an alliance of Evangelical Anglicans and Dissenters established The London Society for Promoting Christianity amongst the Jews, with Prince Edward (1767–1820), Duke of Kent and Strathearn, as its patron. In February 1815, the Society became exclusively Anglican when the Dissenters withdrew. At this time, the President of the Society was Sir Thomas Baring (1772–1848), banker and politician, MP for High Wycombe 1806–32, while the Vice-Presidents included peers such as William George Spencer Cavendish (1790–1858), sixth Duke of Devonshire, Robert Grosvenor (1767–1845), second Earl Grosvenor, Thomas Dundas (1741–1820), first Baron Dundas of Aske, and Thomas Erskine (1750–1823), first Baron Erskine, Lord Chancellor 1806–7; MPs such as Nicholas Vansittart (1766–1851), Chancellor of the Exchequer 1812–23, William Wilberforce (1759–1833), and Thomas Babington (1758–1837); and Bishops such as William Bennet (1746–1820), Bishop of Cork and Ross 1790–4 and Cloyne 1794–1820. See *The Christian Observer, conducted by Members of the Established Church*, vol. xiv (1815), no. iv, p. 257. In 1815, Prince Edward resigned as Patron, and was succeeded by Thomas Burgess (1756–1837), Bishop of St David's 1803–25 and Salisbury 1825–37, and Henry Ryder (1777–1836), Bishop of Gloucester 1815–24 and Lichfield and Coventry 1824–36.

sense than that in which, having been the work done by a man in authority (Moses), done in the exercise made of that authority, over a people who considered themselves specially favoured by God, God's was the authority to which, according to the mode of speaking so universally prevalent among that people, it might with indisputable local propriety be ascribed.

Even in speaking of that part of the Mosaic law which, in these times, is commonly distinguished by the appellation of the Ten Commandments, is it in the character of a discourse having God for its author that he speaks of it? Not he indeed. In the passage already quoted for another purpose:² 'Ye have heard (says he, Matth. v. 27. 28.) that it was said Thou shalt not committ adultery.'³ Said? by whom said? By God? no: but by men: 'by those of old time.' Those what? those Gods? that there were Gods more than one could not have been the saying of a Jew—of any Jew: much less of Jesus. Men were, therefore, those to whom this precept, whether considered as an article of law or a mere maxim of morality, were the beings to whom, by an indication so unequivocal, it was referred by him.

[161–355] [1817 Nov 20]

That ever since the time of Jesus, and in consequence of the religion delivered by Jesus, the law of Moses has been destitute of binding force, has among persons professing the religion of Jesus been all along, or at any rate in these our days is, out of dispute. Such being indisputably the effect, what shall we say of the cause? Is it that, acknowledging it to be in possession of an obligatory force in the character of God's law, he, as God or commissioned by God, divested it of that force? caused it to be no longer obligatory? Is it that, beholding in it man's ordinance and nothing more—an ordinance the usefulness of which had, by the power of maturer experience and instruction, been made to cease?

Take the matter either way, the result is much the same: since his time no binding authority, no force binding by the tie of the religious sanction, has belonged to it.

² In the margin, Bentham has noted at this point: 'Reference to the last Ch. or §.' See Ch. 7 ¶9 [p.81] above.

³ In fact, the whole passage is at Matthew 5: 27.

[161–356] [1817 Nov 20]

But that in his judgment it never possessed any binding force in any character other than that of a human ordinance seems the only opinion reconcilable to the Gospel history. ‘Not that which goeth into the mouth defileth a man, but that which cometh out of the mouth, this defileth a man.’ Thus saith Jesus, according to Matthew xv. 11. ‘There is nothing from without a man that, entering into him, can defile him: but the things which come out of him, those are they that defile a⁴ man.’ Thus saith he, according to Mark vii. 15: words in a slight degree variant: in the import not any the slightest difference: in Matthew, the phraseology rather the more pointed: the occasion a scruple made by the Pharisees, viz. that of not sitting down to a meal without an immediately precedent ceremony of washing the hands, whether they required it or no:⁵ a ceremony of more use among a people among whom, as among the Orientalists in general, no such intermediate instruments as knives and forks were, or to this day are, in use.

But particular as was the occasion, most importantly extensive, nor yet because extensive the less clear and instructive, are the words. Swept off by this aphorism, away goes that vast and most vexatiously ascetic portion of the Mosaic law—the whole of the law of meats.

[161–357] [1817 Nov 20]

Here then may be seen a sentence of condemnation passed at any rate upon this part of the Mosaic law: the assumption on which it had been grounded was the supposition that, by any thing taken into a man’s body in a *physical* sense, his *heart* (Mat. xv. 18; Mark vii. 19)⁶ in a *psychological* sense—his *heart* put as usual for his moral character—could be defiled. This assumption was then by Jesus denounced as erroneous: and now-a-days by what Christian will the truth of the denuntiation be denied? Mark well what the error

⁴ King James Bible ‘the’.

⁵ See Matthew 15: 1–2.

⁶ Matthew 15: 18: ‘But those things which proceed out of the mouth come forth from the heart; and they defile the man’; Mark 7: 19: ‘Because it entereth not into his heart, but into the belly, and goeth out into the draught, purging all meats?’

was on which he thus set his foot: it was that most baneful and wide-spreading error—that offspring of a disordered imagination, working upon a radical imperfection to which human discourse is in its very essence subjected—the confounding moral impurity with physical, and from this or that real, howsoever trifling, impurity having its seat in the body, inferring on no better ground the existence of immorality having its seat in the mind.

By Jesus, then, is condemnation passed upon a set of ordinances having for their basis the notion that, by a trifling physical impurity, a serious moral depravity might be produced: condemnation passed on the ordinances, because worthy of condemnation had been found the principle on which they had been grounded. Condemnation was passed upon it? why? Even because it was contrary to reason: and in such sort contrary as being, wheresoever applied, productive of more mischief than good.

[161–358] [1817 Nov^r 20]

Thus deeming it contrary to reason and essentially productive of more mischief than good, did Jesus regard it as having ever been, in the supernatural sense, part and parcel of God's law? as being in any other sense God's law than that in which, in the language of convenient adulation, every law emanating from men clothed with power—how bad so ever the exercise given to that power—is God's law? as being, in a word, any thing better than a human ordinance? The Christian to whom it shall appear consistent with his christianity so to do, let him answer in the affirmative.

By an interpretation thus authorized by Jesus, let any one consider what a host of self-contradictory suppositions, otherwise irremovable, will be removed. The almighty all-wise and immutable being, establishing a body of laws and then changing his mind: establishing a Code of law that, from the imperfections inherent in it, was incapable of answering its intended purpose: an omniscient being incapable of foreseeing those consequences which, at this time of day, a man of ordinary good sense would read on the very face of it!

[161–359] [1817 Nov^r 20]

But in this body of laws, if the sort of binding force in question was wanting to any one portion, so was it to every other: if, in the

only sense in question, viz. the supernatural sense, this portion of the Mosaic law was not God's law, so neither was any other.⁷

[161–360] [1817 Nov^r 20]

One thing is manifest enough, viz. that throughout its whole texture, the ceremonial part of the Mosaic law is a system of asceticism: a system prescriptive of ascetic practices in both forms, restrictive and afflictive—abstemious and vexatious—operations.

Not that, of the immense mass of restrictive and afflictive ordinances of which the ceremonial part of the Mosaic law is composed, human sufferance for the purchase of enjoyment to a greater value was [not] exclusively, nor perhaps so much as principally, the object. Fasting, for example, yes: and perhaps this or that other mode of sufferance. But the main object appears to have been the perpetually calling down the attention to the whole system of ordinances taken together: the more incessantly repeated calls thus made upon it, the greater the security for its constancy, and for that habit of never-remitted obedience which was the expected fruit of it.

With whatsoever other effects it may in practice have been attended, this was the principal, not to say the only, effect which would naturally be looked to, and, in the character of an end in view, the production of it endeavoured at by the legislator. In their salvation, they alone were concerned: in their obedience, the law-giver, and the aristocracy of priests which he established for his support, he and these his associates were concerned. Be the government what it may, composed of and proportioned to the obedience of the subject many, is the power of the ruling few.

[161–361] [1817 Nov^r 20]

Be this as it may, and whatsoever were the objects for the attainment of which it was designed, prostrate was laid the whole fabric of Mosaic asceticism by the breath of Jesus.

Prodigious was the service thereby done to mankind: to the Jew first, and thereafter also to the Gentile. Among the most powerful of the instruments of deceit in the hand of misrule is the system of

⁷ In the text, Bentham has noted at this point: ‘☞ With or without the mention of the other instances of slight put upon the Mosaic law by Jesus: in a note take notice of the prodigious superiority of Jew law compared with other Eastern d^o.’

ceremonies. By Jesus, the Mosaic ceremonies were thus laid low. Unhappily, in the bosom of his own religion the serpent revived, and under the system of Catholicism gained that giant bulk by the pressure of which so many nations even to this day continue to be galled.

Great as is the evil, in the first formation of societies, it may perhaps in many instances have been a necessary one.^a

[161–368] [1817 Nov. 20]

^a Preserving the principle, making only a slight and immaterial variation in the application, viz. by changing the day of the week, [of]⁸ the Jewish sabbath, a sort of Christian Sabbath was in the way of custom established by the early followers of Jesus, and since the establishment of Christianity by secular authority has been enforced by positive law.

Though under the religion of Jesus, if of that religion the acts and sayings of Jesus as delivered in the Gospel history be taken for the only legitimate ground, destitute of all ground in the field of religion, in the field of good policy, by the advances made in the science of political economy, a substantial ground may now be found for it in these latter times: and howsoever the discovery made of the ground is thus recent, the ground for the application of it is such as may be seen to remain unvaried so long as the species continues in existence.

Of rest from labour, how questionable so ever may be the existence of any need of repose on the part of the omnipotent God,⁹ on the part of weak man it remains but too unquestionable.

[161–369] [1817 Nov 20]

In this salutary institution, in so far as it has place, the working classes—those classes of which the great majority of the people in every political state must ever be composed, derive an exemption from oppression, and in that exemption a comfort which, from no other source whatsoever, could they be capable of receiving.

By means of that competition which is the necessary result of that perpetual tendency to over-population, which is among the physical laws of animated nature—a law from the pressure of which the human species is not exempt, the great majority of mankind would be placed in a state of affliction bidding defiance to all relief. But for the sabbath, without any

⁸ MS 'to'.

⁹ See Genesis 2: 2.

more pay than now for the six days, men would thus be forced to work the whole seven days: now under the sabbath, the pay they receive, so long as they subsist—this pay they receive for the six days—is sufficient to enable them to continue their existence during the whole seven: to work the six days, they must be kept alive during the seven: and during the seven they are thus kept alive, while it is only on six days out of the seven that they work. Every seventh day is thus left at their disposal, applicable to the purpose of relief from ordinary labour.


[161–370] [1817 Nov^r 20]

Were it not for the pressure produced by laws grounded on an unhappy colouring given to an institution capable of being rendered so much more salutary than it ever has been—a colouring of which asceticism has furnished the ground—how prodigious an addition might be made to the quantity of comfort of which, even under so vast a disadvantage, it has been productive!¹⁰

[161–362] [1817 Dec 28]

‘Not that which goeth into the mouth defileth a man; but that which cometh out of the mouth, this defileth a man.’ Mat. xv. 11: and still more pointedly and explicitly: ‘There is nothing from without a man, that entering into him can defile him: but the things which come out of him, those are they that defile the man.’ Mark vii. 15, explained 16 to 24.

In this one aphorism is contained a sentence of condemnation and annulment applying to the whole body of the Mosaic law. It applies, this condemnation, to the very fundamental principle of it: viz. the design—the avowed design—of keeping up a wall—an

¹⁰ In the margin, Bentham has noted at this point: ‘ per received *Sports*.’ Bentham may have had in mind the declaration concerning recreations lawful on Sundays first issued in 1618 by James VI (1566–1625), King of Scotland from 1567, and as James I King of England and Ireland from 1603, and reissued in 1633 by Charles I (1600–49), King of England, Scotland, and Ireland from 1625, and William Laud (1573–1645), Archbishop of Canterbury from 1633. See *The Book of Sports, as set Forth by King Charles the I. With Remarks upon the same*, London, 1709, p. 5: ‘And as for our good Peoples Lawful Recreation, our Pleasure likewise is, that after the end of Divine Service, our good People be not disturbed, letted, or discouraged from any Lawful Recreation, such as Dancing, either Men or Women, Archery for Men, Leaping, Vaulting, or any other such harmless Recreation, nor from having of May-Games, Whitson Ales, and Morris-Dances, and the setting up of May-Poles, and other Sports therewith used’.

everlasting wall—of separation between this and every other:^b the prevention of all convivial and thence of all social intercourse.¹¹

^b Levit. xx. 24. 25. 26,

That, of the prohibition put upon the matter of sustenance in so many economical and wholesome shapes, this was the final cause is openly and distinctly avowed. ‘I am the Lord thy¹² God (says Moses) which have separated you from {other} people.’ Levit. xx. 24. 25. ‘Ye shall *therefore* put difference between clean beasts and unclean, and between unclean fowls and clean: and ye shall not make your souls abominable by beast or by fowl, or by any manner of living thing that creepeth on the ground which I have separated from you as unclean. 26. And ye shall be holy unto me: for I the Lord {am} holy and have severed you from {other} people, that ye should be mine.’

[161–363] [1817 Dec 28]

From first to last, with what extreme anxiety this wall of separation was endeavoured to be kept up is manifested throughout the whole course of Jewish history.

To every eye that can refuse to close itself against it, the reason, i.e. the final cause, of this separation will be not less manifest. The government was an aristocracy in the hands of the priests. Of this set of priests, the yoke was preeminently heavy: so much so that, in the competition for power—for obedience—the matter of which power is made—the priests of the hostile surrounding nations or hordes, of which [there]¹³ were so many, would, by the offer of a less burthensome yoke, be in a condition to bid against them with great advantage. That there were rival powers of this sort continually at work may be seen throughout. Idolatry, i.e. worshipping other Gods, i.e. other Priests, was in their calendar the sin of sins.¹⁴

[161–364] [1817 Dec 28]

¹¹ In the margin, Bentham has noted at this point: ‘☞ In a Note. Object of this separation—preventing them from serving other Gods, i.e. other Priests.’

¹² King James Bible ‘your’.

¹³ MS ‘they’.

¹⁴ See the first and second of the Ten Commandments, Exodus 20: 3–5.

To destroy the law—No, assuredly: between 17 and eighteen Centuries have since elapsed, and not even yet is the influence of that same law destroyed: not only over the race of Jews, in still greater numbers than in those days, does it continue to reign with almost unabated influence to a considerable degree, but even by Christians themselves—by the professors of the religion of Jesus—is it felt.

Thus it continues to be with the law: nor thus has it yet ceased to be with the prophets. Of many a rhapsodist by whose eloquence in the days in which they were uttered little or no effect appears to have been produced, the productions are now the objects of reverential study, and many an important idea which never had found entrance into his mind planted in his discourses by the inventive industry of these latter times.

To destroy the law? No: but to fulfill. To fulfill? Yes: that is to give to the state of good morals that improvement, as well as to the extent of it that encrease, towards which whatever advance had been [made] by the law of Moses was but a step.

Behold there the explanation: behold here an example.

That which was said of old time was—an ordinance prohibiting the destruction of human life: prohibiting the consummation of the evil, but not including in the prohibition any of those indulgences to the dissocial passions which are the approaches to it: they prohibited the last step: I extend the prohibition to those that lead to it.

[161–365] [1817 Dec 28]

From one saying alone can any thing like a disavowal of this intention (the intention to hold up to view the incongruity of the Mosaic law, and thereby to change the belief of its divine and supernatural origin) be inferred. In one saying alone, viz. as it stands in Matthew, I am not come to destroy.^c ‘Think not that I am come to destroy the law or the prophets: I am not come to destroy but to fulfill. 18. For verily I say unto you, Till heaven and earth pass, one jot or one tittle shall in no wise pass from the law, till all be fulfilled.

^c Mat. v. 17.

‘19. Whosoever therefore shall break one of these least commandments and shall teach men so, he shall be called the least

in the kingdom of heaven: but whosoever shall do and teach them, the same shall be called great in the kingdom of heaven.

‘20. For I say unto you, That except your righteousness shall exceed the righteousness of the Scribes and Pharisees, ye shall in no case enter into the kingdom of heaven.

‘21. Ye have heard that it was said by them of old time, Thou shalt not kill; and whosoever shall kill shall be in danger of the judgment.

‘22. But I say unto you, That whosoever is angry with his brother without a cause, shall be in danger of the judgment: and whosoever shall say to his brother, Raca, shall be in danger of the council: but whosoever shall say, Thou fool, shall be in danger of hell fire.’

[161–366] [1817 Dec 28]

Thus much as to the ordinative or imperative part of the law: now as to the sanctionative. Those penalties the application of which is confined to the present life are the only ones which those men, whoever they were, employed to that purpose: I add to them those of which the application is to be looked for in the life to come.

Note well to whom, in the character of author or authors [of] the system of law the imperfectness of which is thus brought to view, reference is here made. God—the almighty in his own person? No. God? No: nor yet even Moses. And why not Moses? Because in the minds of the hearers, the idea of a supernatural commission from God himself was, with that of the law that bore the name of Moses, so strongly associated: bound up by bonds at that time so utterly incapable of being loosened, that the mention of that venerated name, on such an occasion and for such a purpose, would not have been found endurable.

Thence came the words—the unexceptionable and saving, though not insincere or inapposite, words—by which the persons in question may be seen designated. *Those of old time*: in this description there was no matter of accusation: for in this description there was nothing to which any the slightest departure from the strictest truth could by the utmost ingenuity be imputed.

[161–367] [1817 Dec 28]

Note well how necessary all this prudence was at the time at which it was manifested.

Part and parcel of the *Sermon on the mount* is this important passage. At that time the career of Jesus was but at its commencement: no fellowship capable of affording any prospect of support as yet formed. At this period, the ‘hour’ of Jesus, to use the expression so often employed by S^t John, ‘was not yet come:’^d by his death at this immature period, the purpose of it would not have been fulfilled. At this time, whatsoever word, while to the main purpose not necessary, might, by the exasperation producible by it, have brought the enterprize to a premature close, prudence and consistency forbad to be employed.

^d John ii. 4. vii. 6,¹⁵ 30. viii. 20.

‘Not that which goeth into the mouth defileth a man: but that which cometh out of the mouth, this defileth a man.’^e This aphorism by which, though still with prudential reserve, the ax of truth was laid to the Mosaic tree, when was it delivered? At a time at which the design of Jesus had already, when compared with that at which, in the Sermon on the Mount, he disclaimed the imputation of any such intention as that of destroying the Mosaic law, considerably advanced. It was time to be more explicit, such was the body of public opinion by which at this time he found himself supported: and without immediate danger, this degree of explicitness might be used.

^e Mat. xv. 11: explained ib. 15 to 20. Mark vii. 14 to 24.

2. *Fasts scorned—thence Mosaic law abolished*

[161–348] [1817 Dec 29]

Fasting.—In Matthew ix. | |,¹⁶ soon after he has been represented, at the house of Matthew, on the occasion on which the conversion and election of that apostle is declared, as sitting down in his house at meat with publicans and sinners, come to him, according to Saint Matthew, certain disciples of John the Baptist, and starting the

¹⁵ The passage at John 7: 6 refers to the ‘time’ rather than to the ‘hour’.

¹⁶ In the margin, Bentham has noted: ‘Matt. ix. 9 to 17.’

subject of fasting, put the question to him (v. 14), ‘Why do we and the Pharisees fast oft, but thy disciples fast not?’

Here, note well the answer. ‘No man putteth a piece of new cloth unto an old garment: for that which is put in to fill it up taketh from the garment, and the rent is made worse. Neither (continues he) do men put new wine into [old]¹⁷ bottles; else the bottles break, and the wine runneth out, and the bottles perish: but they put new wine into new bottles, and both are preserved.’¹⁸

Here, then, for the illustration of the same doctrine, we have two emblems—and by means of them, two parables: the first brought the doctrine but half the way; the last consummated it.

The old garment (who does not now see it?) was the Mosaic law: seeking, as John did, to give perfection to it by asceticism—by abstinence from wine, from savoury food—from all food—was but putting so many patches upon this old garment: bad of itself, by such patching it is thus made worse. Thus far, and by means of this parable, that which is bad—that alone—is brought to view.

[161–349] [1817 Dec 29]

But to compleat the illustration, now comes the second emblem—the second parable. Of the Mosaic law, an old bottle is now the archetype. Now, the Mosaic law is an old bottle.^f Now, of the putting of new wine into the old bottle, the consequence is that ‘the bottles break, the wine runneth out, and the bottles perish.’ Such is the effect of the adding more and more of the spirit of asceticism to the Mosaic law, supersaturated already with that pernicious gas: the consequence is that the whole system is blown to pieces and whatsoever good there was in it is scattered and lost. So much for the false doctrine: but now comes in the true. New wine being now put into a new bottle, nothing perishes; both are preserved.

^f The bottles here in question were—not of glass, as with us, but skins: the material of which, in those same countries, wine-vessels are made to this day. He who writes this saw, in the sea of Marmara, the sea studded with floating skins, the cargo of a vessel which had just been suffering

¹⁷ MS ‘new’.

¹⁸ Matthew 9: 16–17.

shipwreck within a few yards of him.¹⁹ In the wine of Cyprus, a taste contracted from these skins is perceptible.

Here, then, what is the new bottle? It is the entire system of the religion of Jesus. What is the new wine that is put into it? It is the abolition of asceticism: of asceticism in all its shapes—in all its branches—in all its applications: that system which teaches the susception of pain in any other view than that of the avoidance of more than equivalent pain, or the fruition of more than equivalent pleasure: the abjection of pleasure in any other view than that of the fruition of more than equivalent pleasure or the avoidance of more than equivalent pain.

[161–350] [1817 Dec^r 29]

Besides the general condemnation here put upon the Mosaic law, with that asceticism which constituted one of its lead features, note here two other things more particular in their extent.

One is the difference, or at least one grand difference, between the system of John and the improved system of Jesus: asceticism by the one strained still tighter than before: by the other, broken up, and cast into the draugh.

The other is the express and particular manner in which, here as well as elsewhere, that branch of asceticism which consists in abstinence from food is condemned.

The first is matter of history: the last applies to present practice. By Jesus, all such foolery was scorned and stands condemned—by us, professing all the while, such is our impudence, to do the words of Jesus, this same foolery continues to be practiced. Yes, practiced—by Protestants, indeed not on all occasions nor on common occasions. No: it is reserved for great occasions: when at this price assistance against our enemies is to be purchased of the God of battles: then it is that victory is secured not by the fulness of the muster-roll, but by the emptiness of the stomach.²⁰

¹⁹ This incident took place in November 1785, while Bentham was on his way to Russia to visit his brother Samuel: see *The Correspondence of Jeremy Bentham*, vol. iii, ed. I.R. Christie, London, 1971 (*CW*), p. 401.

²⁰ It was normal practice during wartime to issue an annual Royal Proclamation expressing hope that God would aid the nation's military forces, and commanding

In no point—on no ground—is Jesus—our Jesus, as we call him—ever good enough for us: still on every point must we be better than he. By Jesus, Phariseeship, with its asceticism, its supererogation, its hypocrisy, its pride, is continuously condemned: by us it is held in honour, and every where, either in practice or in pretence, or in both, pursued and imitated.

[161–351] [1817 Dec 29]

Yes: it is by the Pharisees that the Jews of that day were ruled: and at this day, to this time, by that same generation of vipers, so are we.

For the explanation of other particulars, a word or two of observation may be of use.

Condemnation thus passed upon the whole of the Mosaic system in the lump—how came it to be passed at all? and when passed, why thus under the cover of a parable?

1. A condemnation thus all-comprehensive, how came it to be hazarded? hazarded at this early stage of his career—hazarded, as above,^g when, in the words of John, his time was not come: when, by a premature application of that punishment which in the fulness of time ensued, his design would have been left unconsummated?

^g Suprà and infrà p. | |.²¹

Answer. Not in the hearing of the ruling powers or any of them—not in the presence of any Pharisee—were these parables delivered. No: it was after he had finished with the Pharisees that the men who thus questioned him came to him—and these were the disciples of John—his kinsman after the flesh, and precursor and self-acknowledged subordinate, John.

2. Why, then, under the cloak of a parable? Answer. Because by this means, indiscretion or treachery might have misused a more or less unfaithful paraphrase of the words, or even the words

subjects to observe a general fast. Proclamations were issued each year during the French Revolutionary and Napoleonic Wars from 1793 to 1801, and from 1803 to 1813. According to W. Fox, *A Discourse on National Fasts*, London, 1793, p. 5: ‘some call it a fast day to delay their breakfast a few hours, some omit a meal, others eat nothing till dinner, while others have only a slight repast in the day, delaying their principal meal to the evening.’

²¹ See Ch. 11 [p.149] below.

themselves, and still he might have been safe. These, he might have said to them, were *my* words: as to any interpretation you may be pleased to put upon them, it will be *your* s'.²²

[161–352] [1817 Dec 29]

As to the persons in speaking of whom the compound appellation *publicans and sinners* is here employed, they can not, it should seem, have been of any other description than that of heathens: they can not have been persons of Jewish race and bred up in the religion of the Jews. For:

1. By what token, unless it be the eating of meats forbidden to the Jews, can any of them have been recognized as coming in a [character] distinct from that in which the character is incident to all men without distinction under the description of a sinner? Seeing a man eating pork in public and without disguise, you might at all times have been sure that he was no Jew. But so long as none of the Jewish ordinances are seen to be violated by him, by what token, seeing him in a public company, would you have been assured of his being a sinner in any other sense than that in which every man is so too?

2. Of the money collected in the way of taxation, part at least went to the Romans. Witness the precept of which the tribute money was the subject: Render unto Cæsar the things that are Cæsar's.²³ Would an office in the execution of which, if exercised by a Jew, the political sanction would find itself so strongly counteracted by the religious, be entrusted to a Jew?

3. *Sabbath scorned*⁴

[161–371] [1817 Dec [...?]]

4. *Perfume accepted*

²² Bentham has noted at the head of the following paragraph, 'Quere this?', and has cancelled the text of the following three paragraphs.

²³ Mark 12: 17.

²⁴ Bentham does not appear to have composed any text for inclusion here.

The perfume which, with such decidedly expressed approbation on his part, was bestowed upon the person of Jesus—whether upon his [head]²⁵ according to | | and | |,²⁶ or upon his [feet]²⁷ according to | |,²⁸ or at one time upon the one, and at another time upon the other, can not on this occasion be suffered to pass unnoticed. Utterly impossible would it be to render consistent with the acceptance given to that gratification, the adoption or countenance given to the ascetic principle.

An embrace bestowed either upon the disciple the place of whose head was on his master's bosom, or upon the stripling in loose attire whose fidelity remained fixt after that of the apostles had evaporated,²⁹ would not be [less] destitute of all subserviency to the continued existence either of the individual or of the species, than was the effusion of the costly perfume.

Of what imaginable use could that perfume or any other be, than that of bestowing upon the organ of the sense in question the sort of gratification of which it is susceptible?

*5. Samaritan woman cohabiting
without marriage unproved³⁰*

6. Adulteress liberated

[161–372a] [1817 Nov 26]

The ground of the lesson delivered by Jesus on this occasion is susceptible of two interpretations: according to one, a principle is laid down by him inconsistent with the existence of all government: according to the other, it serves for the conveyance of a well-merited censure on the Mosaic law: the reader will adopt that one

²⁵ MS 'feet'.

²⁶ See Luke 7: 38.

²⁷ MS 'head'.

²⁸ See Matthew 26: 7; Mark 14: 3.

²⁹ See Ch. 13 §. 4 [p.195], Ch. 13 §. 3 [p.187] below respectively.

³⁰ Bentham does not appear to have composed any text for inclusion here, though he discusses the Samaritan woman at Ch. 7 §. 1 ¶14 [p.83] above.

of them which appears the most reasonable, and most consonant to the character of Jesus.

In this case as reported, an adulteress taken in the act stands for judgment, and for the purpose of making out against him a ground of accusation on the score of contempt towards the established law and government, his opinion on the question how she shall be dealt with is called for by the constituted authorities—the Scribes and Pharisees.

[161–372b] [1817 Nov 26]

By the Mosaic law as it stands in Leviticus, in case of adultery, both offenders, male and female, are to be put to death:³¹ and in this, as in other capital cases, stoning is the death appointed, the witnesses for the prosecution, of which two at the least are made requisite for conviction, are to throw the first stones.³² In the case in question, of the two offending parties, one only, the female, is produced.

‘This woman,’ say they to him, ‘was taken in adultery, in the very act.^h Now Moses (continue they) in the law commanded us that such should be stoned. But what sayest thou?’³³ Some time elapses before he has an answer ready. At length, ‘he that is without sin among you, let him (says he) first cast a stone at her.’³⁴ Convicted by their own conscience, says the report, they went out one by one, leaving the woman and him alone with her.ⁱ Taking notice that no man had condemned, ‘Neither do I (says Jesus) condemn thee: go and sin no more.’³⁵

^h John viii. 4.

ⁱ ib. 9.

[161–373] [1817 Nov 26]

³¹ Bentham has indicated that a footnote should appear at this point. See Leviticus 20: 10.

³² Bentham has indicated that a footnote should appear at this point. See Deuteronomy 17: 6, and ¶ 21 [p.103] below.

³³ John 8: 5.

³⁴ John 8: 7.

³⁵ John 8: 11.

On this occasion, if by *without sin* be understood altogether free from sin, and the exemption which would be the result of such an interpretation be understood to apply to every offence without distinction—if this were received for law—if in all other cases the consequence were such as in the case in question they are reported to have been, here is an end of all penal law and thereby of every other branch of the law: here is an end of all law, and, as far as depends on political ties, the society is dissolved. For abstaining from rendering, whatever be the occasion, punishment coextensive with delinquency, the most cogent necessity may have place: for by this means, the offence being supposed a capital one, the dissolution of the society might be effected in a still stronger way, viz. by the destruction of all the members of it. But where, as here, it is to no more than a single individual that the question *punish or not punish* is applied, the greater the multitude is of those who have been offenders in that same way, who does not see that, lest by impunity delinquency should be rendered universal, by so much the greater is the demand for punishment?

[161–374] [1817 Nov. 26]

On the face of the law in question, before the eyes of Jesus stood matter in abundance for just condemnation: and in the powers of which he saw himself in possession were not included the means of applying any adequate remedy.

1. There was the indiscriminating application of the same punishment to an offence the mischief of which varies upon a scale of such prodigious length—in some cases the severest suffering may be, in other cases no suffering at all can be, the result of it: as when, through inveterate disgust, the husband has deserted the wife, while by any issue she may have by another man, he the husband is not liable to be burthened.

2. There was the barbarous mode of execution: a mode by which the whole people were taught to delight in bloodshed, to look to each other's agony as a source of pastime, and where the pleasure derived from so impure a source served as a premium for engaging men in schemes of unjust accusation, supported by mendacious testimony. Accordingly, to those who should come forward in the character of witnesses was granted the privilege of casting the first stones.^j

^j Here we see why, on the occasion of the stoning of Saint Stephen, the witnesses had need of some one to take charge of their clothes.³⁶ The barbarian exercise required the arms to be at liberty.³⁷

[161–375] [1817 Nov. 26]

3. In the individual case in question, of the two that had been guilty, if under the circumstances of the case any mischief and on that score any guilt there was, one alone, viz. the weaker vessel,³⁸ the female, was produced for punishment. From the nature of men in general and of the Mosaic law in particular, there seems abundant reason for concluding that this partiality was the general, not to say the universal, practice. For such, under this same body of law, was the nature of the matrimonial contract; of the two parties to it, one alone—viz. that one which by nature is the weaker—was bound by it: the husband might without reason put away the wife: the wife could not for any reason put away the husband.³⁹

[161–376] [1817]

1. Leviticus xx. 10.

‘And the man that committeth adultery with another man’s wife, even he that committeth adultery with his neighbour’s wife, the adulterer and the adulteress shall surely be put to death.’

2. Deuteronomy xxii. 22. ‘If a man be found lying with a woman married to an husband, then they shall both of them die, *both* the man that lay with the woman, and the woman: so shalt thou put away evil from Israel.’

3. Deuteronomy xxiv. 1. 2. 3. 4. ‘When a man hath taken a wife and married her, and it come to pass that she find no favour in his eyes, because he hath found some uncleanness in her: then let him write her a bill of divorcement, and give *it* in her hand, and send her out of his house.

³⁶ See Acts 22: 20.

³⁷ In the margin, Bentham has noted at this point: ‘☞ Enter this under the account of Paul’s persecuting career. Ch. | |.’ The cross-reference is to material written for Volume II of ‘Not Paul, but Jesus’.

³⁸ An echo of I Peter 3: 7.

³⁹ In the margin, Bentham has noted at this point: ‘☞ Examine whether so?’

‘2. And when she is departed out of his house, she may go and be another man’s wife.

‘3. And if the latter husband hate her, and write her a bill of divorcement and giveth *it* in her hand, and sendeth her out of his house; or if the latter husband die, which took her to be his wife;

‘4. Her former husband which sent her away, may not take her again to be his wife, after she is defiled; for that is abomination before the Lord: and thou shalt not cause the land to sin, which the Lord thy God giveth thee *for* an inheritance.’

4. Deuteronomy xvii. 2 to 7. ‘If there be found among you, within any of thy gates which the Lord thy God giveth thee, man or woman, that hath wrought wickedness in the sight of the Lord thy God, in transgressing his covenant,

‘3. And hath gone and served other gods, and worshipped them, either the sun, or moon, or any of the host of heaven, which I have not commanded;

‘4. And it be told thee, and thou hast heard of it, and enquired diligently, and, behold it be true, and the thing certain, that such abomination is wrought in Israel:

‘5. Then shalt thou bring forth that man or that woman, which have committed that wicked thing, unto thy gates, even that man or that woman, and shall stone them with stones, till they die.

‘6. At the mouth of two witnesses, or three witnesses, shall he that is worthy of death be put to death; but at the mouth of one witness he shall not be put to death.

‘7. The hands of the witnesses shall be first upon him to put him to death, and afterwards⁴⁰ the hands of all the people. So thou shalt put the evil away from among you.’

[161–377] [1817 Nov. 26]

Without sin, says the English translation: in one word *ἀναμάρτητος*, literally *sinless*, says the Greek original.⁴¹ The occasion considered, nothing does the text contain by which the supposition that exemption from that particular sin only which was then in question, not from all sin whatsoever, was the condition

⁴⁰ King James Bible ‘afterward’.

⁴¹ See John 8: 7.

meant to be required. The historian, did the grammatical ambiguity of the expression escape his eye? or, as a security for putting the right construction, did he trust to the good sense of mankind for the not putting upon the passage a construction by which, if carried uniformly into practice, all government, and with it all human society, would be dissolved? did he trust to the influence of common sense in the minds of his readers? If so, his confidence, it is feared, would not be found very uniformly justified by the event.⁴² Where religion is concerned, causes unhappily are not altogether wanting, by which a marked preference is secured to the least rational of two rival interpretations.^k

^k See Ch. on Faith.⁴³

[161-378] [1817 Nov 26]

In the whole of this narrative, nothing like a justification for, or a leaning toward, asceticism on the part of Jesus is to be found. Nowhere in pleasure as such, either here or elsewhere, has Jesus himself been represented as finding a just cause for condemnation and prohibition, or so much as of disapproval. In the breast of an unbelieving critic, it would require some portion of candour—more than in such breasts has very often been to be found, to abstain from the inference that by Jesus, as by an official *custos morum*⁴⁴ in these latter days, adultery—detected adultery—was regarded in no other light than that of ‘*a misfortune*’.⁴⁵

[161-379][1817 Nov^r 26]

Taken all together, these texts must not be suffered to pass altogether without comment.

1. One is—that whereas in the second of the three successive Mosaic Codes, viz. Leviticus, the punishment of death was in general

⁴² Bentham has marked the following sentence for possible deletion.

⁴³ The cross-reference is to material written for Volume II of ‘Not Paul, but Jesus’.

⁴⁴ i.e. ‘guardian of morals’.

⁴⁵ In December 1812, John and Leigh Hunt, editors of *The Examiner*, were tried for libelling the Prince Regent. Edward Law (1750–1818), first Baron Ellenborough, Chief Justice of King’s Bench 1802–18, in his summing up, referred to the adultery of an associate of the Prince’s as a ‘misfortune’: see the *Morning Chronicle*, 10 December 1812.

terms attached to adultery—and that in the case of both Offenders, by the words [of] the third of those same Codes it is confined to the case where they are taken in the act, to which species belongs the individual case here in question.

2. Another is—that for the application of the punishment of lapidation to the species of offence here in question, the warrant afforded by the Mosaic text is by no means so clear as the functionaries in question are represented as supposing.

In the third of these codes, viz. that to which, as if it were but the second, the title Deuteronomy has been prefixt, what are the classes of offences to which the punishment here in question is attached? The offence of adultery in particular? No, assuredly: for any such supposition, there is no countenance. All capital offences whatsoever without exception? No, nor that neither: for to some of them, another punishment is specially attached, viz. *burning to death*. To the fifth verse, in which is given the description of the punishment, will here accordingly be seen prefixed the three immediately preceding ones by which it will be seen to be confined exclusively to the offence of idolatry. But to the government of the Jews as established by Moses, idolatry was exactly what High Treason is under our modern governments: it was the transferring the allegiance from the established God, that is from the established aristocracy of the priests, to a different and rival, frequently a foreign, set of priests.

[161-380] [1817 Nov 26]

In such a case, the barbarous and tumultuous mode of execution might not be incapable of finding a much better apology than in the case of an offence of so private a nature, and in many instances so devoid of mischief, private as well as public, as adultery. There as here and every where, then as now, by the policy of the ruling few—of the directors and instruments of government—every device would of course be set to work that afforded a promise of engaging and sharpening the passions of the people on the side of government. To the sort of Jury not *de circumstantibus*,⁴⁶ but composed of all the

⁴⁶ When there were insufficient persons summoned to make up a jury (through illness, or failure to show, or because some were objected to), various sixteenth-century statutes empowered the court to impanel jurymen *de circumstantibus*, that is from those standing around.

circumstances, the pleasure of witnessing the last agonies of a fellow creature and fellow countryman—was offered as a bribe to render conviction the more sure. A stoning bout was to the Jews of those days what an auto-da-fé has been to the Spaniards and Portuguese of modern times.⁴⁷

7. Harlots declared to go to heaven before Pharisees

[161-382] [1817 Dec^f 29]

According to Matthew, while he is teaching in the temple, the chief priests and the elders come to him and question him, and on this occasion mention is made of ‘*harlots*’. Of harlots? and for what purpose? for the purpose of condemnation? No: but rather of exaltation. ‘Verily I say unto [you] that the publicans and the harlots go into the kingdom of God before you.¹ 32. For John came unto you in the way of righteousness,^m and ye believed him not: but the publicans and the harlots believed in him.⁴⁸ And ye, when ye had seen it, repented not afterward, that ye might believe him.’

¹ Mat. xxi. 31.

^m i.e. strict observance of divers ascetic rules.

Nay: this, perhaps it may be said, is not exaltation, but the contrary: for it is in the character of persons defiled by acknowledged guilt that females of the profession here in question are brought to view. Of them, the intimation given is—not that they are not bad, only that there are others—viz. the members of the supreme government to whom this invective is addressed—that are still worse.

Reply. True, it is in the character of persons condemned as sinners that they are brought to view. Condemned? but by whom? by himself? no: only by public prejudice—by the opinion of the

⁴⁷ An auto-da-fé was a ritual of public penance imposed by the Spanish Inquisition, followed by execution by burning.

⁴⁸ King James Bible ‘believed him’.

public—or rather of the ruling few to whom this discourse of his was addressed—not by his. The persons by whom they are represented as condemned are any persons but himself: at his hands, [it is,] if not of absolute approbation, at any rate of approbation—of comparative approbation—that they are represented by him as subjects.

[161-383] [1817 Dec 29]

It is with *publicans*, for the purpose here in question, that they are ranked, and note well that [it is], if not for the purpose of absolute, at any rate never but for the purpose of comparative, approbation at least, that *publicans*, though so frequently mentioned by him, are ever mentioned. On this occasion, it is as being a better class of men than the chief rulers at large that they are mentioned: on another occasion it is as being a better class of men than the pharisees that they are mentioned.ⁿ And these pharisees, who are they? they are men who are themselves, some of them at any rate, if not all of them, of the number of the chief rulers: men who at any rate confessedly stood distinguished from all others by the strictness of their observance of the Mosaic law.

ⁿ Luke xviii. 10. ‘Two men went up into the temple to pray; the one a Pharisee; and the other a publican.’ 14. ‘I tell you, this man (the publican) went down to his house justified {rather} than the other’

CHAPTER 9. 3. PRESUMPTIVE
PROOF FROM HIS PRACTICE
—THE PRACTICE OF JESUS

§1. *Introduction*

[161–384] [1817 Nov 21]

Set in array to him at every turn did Jesus find the Pharisees: the Pharisees with their asceticism, their hypocrisy, and their overweening influence.

Every superstition by which human comfort is abridged found his doctrine occupied in undermining it, found them and their sinister interest no less busy in its defence.

Out of every thing he did, matter of accusation was extracted by their indefatigable vigilance.

They watched over his table. His repasts were too pleasant to him: to the company in which he was seen taking them, there was found something to object.

[161–385] [1817 Nov. 21]

[I.] In regard to the pleasures of the table, excess brings with it its own punishment: a punishment which experience [and] observation concur in bringing to each man's view, and which it requires no revelation to denounce.

That with the exception of that abstinence which, in his eyes as in all others, for avoidance of excess, common sense and common prudence could not but concur in prescribing—that with this obvious exception—too obvious to need mentioning—he saw no merit in self-denial has been rendered manifest from all the information which, in relation to this head, has reached these our times.

Whatsoever had been the cause, whether indigence or policy or both, in the mode of life [of] John surnamed the Baptist—John his kinsman and harbinger—something of abstemiousness had been remarked, and out of this part of his character, by these same enemies of reform, a cause of accusation, which, absurd as it was, was suited to the prevailing prejudices, had been extracted: *he hath a devil* was the phrase which, according to the joint report of the only evangelists

by which this conversation is reported, was employed by them. John the Baptist came neither eating bread nor drinking wine, is the phraseology as it stands in Luke:^a John came neither eating nor drinking, is the phraseology as it stands in Matthew.^b In neither is the discourse to be construed according to the letter: but in neither place, in the import of it, is there any ambiguity from which any misconstruction can arise.

^a Luke vii. 33.

^b Matt. xi. 18.

[161–386] [1817 Nov. 21]

‘The son of man (so continues the translation of Luke) is come eating and drinking; and ye say, Behold a gluttonous man and a wine-bibber, a friend of publicans and sinners.’¹ ‘The son of man (continues the translation of Matthew) came eating and drinking; and they say, Behold a man gluttonous and a wine bibber, a friend of publicans and sinners.’² ‘But (concludes the translation in both histories) wisdom is justified of her children:’³ or as a man might say at this time of day, the temperance of which you are witnesses—the temperance by which you see the enjoyment confined within the bounds of prudence—bears its own justification upon the face of it.

Upon the face of this conversation, what is sufficiently manifest is—that whereas in the mode of life of John, with relation to the pleasures of the table, abstemiousness had become a subject of observation, [that]⁴ of Jesus formed an unquestioned contrast to it.

After a proof thus comprehensive, it would be superfluous to insist on the incident of the perfume with which, while at table, he suffered his feet to be scented, whether an incident of this nature took place at different times, or whether it be the same incident reported with some variation in the circumstances. It may be seen in Luke

¹ Luke 7: 34.

² Matthew 11: 19.

³ Matthew 11: 19; Luke 7: 35: ‘But wisdom is justified of all her children.’

⁴ MS ‘those’ belongs to an earlier version of the sentence.

vii. 36 to 50; in Matthew xxvi. 6 to 13; in Mark xiv. 3 to 9; in John xii. 1 to 9.

[161–387] [1817 Nov 21]

II. In regard to the pleasures of the bed, the lights that have reached us are not equally explicit: nor in this deficiency is there any thing that need surprize us. Such in the field of religion—such among all the nations of the East in general—is the propensity to asceticism, when not only Jesus but the Apostles, who had been the chosen witnesses of his religion as expressed in and by his acts and sayings, had quitted the scene, the dæmon of asceticism, as will be seen,⁵ under the banners of this our Paul, invaded the peaceful empire. A schism took place: those who on this ground relapsed into the doctrine of Moses and his hypocrite spawn the Pharisees gained the ascendant: those who adhered to the doctrine and practice of Jesus were driven out of the field: and it is in no other garb than that of abhorred hereticks covered with reproach and infamy that the tokens of their existence have reached these our times.

To this circumstance, perhaps, it may be owing that, in relation to this head, the information which we have falls so far short, as it will be found to do, of that clearness and compleatness that might be wished. The liberties which, whether by carelessness or design, have, even by the most steady believers and strenuous assertors of the religion of Jesus, been suspected to have been taken with the sacred texts form a topic which it is neither pleasant to bring to view, nor yet possible to overlook: and in these we have one but too probable cause of whatsoever deficiencies we may on the present occasion have to regret.

[161–388] [1817 Nov 21]

Under these circumstances, it will be manifest how inquisitive and diligent it will be necessary to be in looking out for and gleaning up every incident from which any light affords a hope of being cast on a subject of such unspeakable importance.

At the very outset of this enquiry, it will be evident how strong and formidable a bar is, by the mass of prejudice which, under the

⁵ See Ch. 14 [p.198] below.

auspices of triumphant asceticism, has been accumulating, opposed to every enquiry of this sort.

One justification, however, which he who has the boldness to venture upon so perilous a ground has the satisfaction to see can never be taken from him, is the already demonstrated impossibility of finding, in any one of the four only histories we have of the acts and sayings of Jesus, so much as a single passage in which, by any the most forced construction, a warrant can be found for supposing him to have cast any the slightest token of reprobation on the pleasures of the class here in question, in whatever shape and from whatever source derived.

[161–389] [1817 Nov 21]

Whether the person to which, in the history in question, the name of Jesus stands attached was that of a mere man, or whether it did not consist of the Godhead, or a portion of it, united to the substance and essence of a man, has been matter of dispute. But that all the characters of manhood appertained (meaning the physical characters, for as to the alledged incapacity of sinning, this moral quality belongs not to the present question) has never been regarded as exposed to dispute.

In his character of man, he possessed those organs by the exercise of which the individual is preserved: in this same character, he was no less compleatly in possession of those organs by which the species is continued. That those of the first mentioned description did not remain unexercised, we have, as above, proof direct and positive: that consistently with the exercise of those, those others by which the species is continued could not have remained altogether without exercise is no less certain. That to the two different functions to which they are formed for administering, while it is thus certain that in his instance to one they could not but have administered, what good reason is it in the power of human ingenuity to assign for any such belief as that from first to last they continued unapplied [to the other].

[161–390] [1817 Nov 21]

The conduct of the man in the parable, who, having in his possession talents received from the giver of good gifts, kept them wrapt up in a napkin instead of putting them to their use, was the

subject of a condemnation for the passing of which that parable was composed and delivered.⁶ The talents in the parable were of silver: but though they had been of gold, what are they in comparison of those on which, while the species depends for its preservation, the individual depends for those delights in comparison of which all others are so faint?

That under the tie and veil of marriage, no exercise was ever given to them is as clear as a negative, evidenced by the compleatest silence in a case where, in case of the affirmative, the call for explanation was so irresistible, can ever be expected to be.

*§2. Intercourse with Mary Magdalene
and other females. Paul's explanation of it*

[161–391] [1817 Nov 21]

The next incident which presents any thing like an aspect bearing upon the present purpose is that in which mention is for the first time made of Mary called Magdalene.⁶ On that occasion, it is reported that it was from the liberality of a number of persons of the female sex that at that time he was deriving his subsistence.

⁶ Luke viii. 1. 2.

A preaching progress is stated as being at that time made by him through every city and every village, with all his apostles and a considerable but unspecified number of females for his attendants: those named, besides that Mary, are Joanna, the wife of Chuza, Herod's steward, occupying a situation which it may well be supposed was of [no] inconsiderable importance, and a certain Susanna, of whom we learn nothing but the name.⁷

On the occasion of this progress—and in a company of which Mary Magdalene was one—were the laws of continence throughout rigidly observed? Perhaps so: the negative can not be proved. But of the affirmative, what proof have we? Had continence been ever

⁶ Bentham has indicated that a footnote should appear here, but has not supplied any reference. For the parable of the talents see Matthew 25: 14–30.

⁷ See Luke 8: 3.

enjoined by Jesus, yes: but by Jesus, as above shewn, no where can abstinence in that form be shewn to have been enjoined.

[161–392] [1817 Nov 22]

To this purpose, an anecdote, for which we are indebted to Saint Paul, may perhaps be not altogether inapplicable. In the first of his Epistles, Chapter IX,^d asserting with his wonted vehemence his claim to the title and character of an *Apostle*, he lays claim to the privileges attached to it, and for that purpose brings to view a list of them or some of them. First comes power to eat and drink (v. 4.), viz. at the charge of the disciples at whose dwellings his visitation is performed: and here we have the pleasures of the table. Next comes, power to lead about a sister or a wife:⁸ a wife, says the text of our English translation: but a *woman*, candidly enough, says the margin,⁹ and surely not altogether without ground. Ἀδελφὴν γυναῖκα, literally a sister woman, says the original Greek. Sister and Wife do not very well associate: though, of course, never but in the spiritual sense would sister be understood, if wife were understood in the temporal sense. True it is that, by an ambiguity under which, in respect of the names of domestic relations, all languages seem condemned to labour, in the instance of the Greek language, the same word is employed to denote a woman at large and a wife—the sex and the condition in life, as in English the same word child is employed to denote the domestic relation and the time of life. But that Paul never had a wife is a matter of fact that, under the circumstances of his travels, seems as clear as it is in the power of silence to make it. By ἀδελφὴν γυναῖκα, what then are we to understand? what unless it be a female companion, so she be in the spiritual sense a sister: in that spiritual sense in which, in these Epistles as well as in the Acts, the correspondent masculine denomination *brother* is so continually employed.¹⁰

⁸ I Corinthians 9: 5.

⁹ See, for instance, the marginal note to I Corinthians 9: 5 in *The Holy Bible*, Oxford, 1800.

¹⁰ In the text, Bentham has noted at this point: ‘☞ Note that in the next Chapter, I Cor. x. 8. Neither let us commit fornication, says he, as they who fell 23,000 in one day. Numbers xxv. 9.’ According to Numbers 25: 9, a total of 24,000 ‘died in the plague’.

^d I. Cor. ix. 1 to 6 &c.

[161–393] [1817 Nov 22]

Good, it may be said, as to Paul: but what is this to Jesus?

Answer. The sentence concerning the leading about the female companion, as above, was broken off in the middle: what it goes on to say is—‘as well as other apostles, and as the brethren of our Lord, and Cephas.’¹¹ But the English translation, from whence these words are taken, deals not fairly by the apostles: not other apostles indeterminately—a description the extent of which might be satisfied by so small a number as two—but *the* other apostles, says the original Greek.¹² Here we see Cephas, i.e. S^t Peter, mentioned by himself: and of the celibacy of this Saint, we have the same negative evidence as of that of his everlasting rival, Saint Paul: though the mention not being so frequent, nor the voyages and travels any thing like so abundant, the evidence in Peter’s case is not altogether so conclusive as in Saint Paul’s.

If the nature of the privilege thus claimed remain still exposed to doubt, will not what follows suffice to remove it? At the close of the same argument, at no greater distance than that of six verses (v. 11.). ‘If we have sown unto you spiritual things, {is it} a great thing if we shall reap your carnal things?’ If, in the use made of the female sister, there had been nothing of carnality, would a word or two, for prevention of mistake, have been grudged?

As to wife, if the meaning had been that the female companion should be understood to have been in every instance the wife of the apostle by whom she was led about, notwithstanding the ambiguity of the word *γυνή* taken by itself, nothing would have been easier than the removal of it. Under the same ambiguity labours the French. Instead of *ἀδελφὴν γυναῖκα*, it would have been *ἕκαστος τὴν γυναῖκα αὐτοῦ*, as in French, instead of *chacun une femme*, *chacun sa femme*.¹³

¹¹ I Corinthians 9: 5.

¹² i.e. οἱ λοιποὶ ἀπόστολοι.

¹³ i.e. ‘each *a* woman, each *his* wife’.

§3. *Mary Magdalene—no warrant
for supposing her a prostitute*

[161–395] [1817 Nov 23]

Among the evidences bearing upon this point, a name which expectation will naturally be disposed to fix upon is that of Mary Magdalene. A penitent, yes: that is the character in which she has been accustomed to be viewed. But as is but too well certified by experience, the penitent of today may be the sinner of tomorrow. This, of what nature so ever the transgression be: and the sort of transgression in question, if such it be, will not be numbered among those in which penitence [is] least subject to relapses.

On this point, as on so many other points of still superior [importance] every man finds himself more or less under the necessity of doing, taking his conceptions from common opinion, the author of these pages, at his entrance upon the research, could not but expect to find in the intercourse of Jesus with so celebrated a character a promising source of evidence.

Proportioned to the strength of this expectation was his surprize at finding on how weak a foundation the current notion respecting the profession of this handmaid of Jesus antecedent to her acquaintance with him was founded.

But, though that which was expected to be found has not been found, yet something will be seen which, though not expected to be found, has been found, and from which, if found, some inferences by no means void of instruction may be found.

[161–396] [1817 Nov. 23.]

To demonstrate in relation [to] this heroine of Christian history that, at the time of her decease, whenever it happened, any such claim as that of being added to the number of the eleven thousand virgins¹⁴ could have been made out on her behalf, is an exploit the atchievement of which would not be more impracticable than, to the present purpose, if practicable, it would be useless.

¹⁴ In Christian legend, eleven thousand virgins suffered martyrdom with St Ursula at Cologne.

That the common conception by which she is considered as having been a courtesan by profession has no sufficient grounds—and that, of the misconception which has been so universally prevalent, the real source is not incapable of being pointed out—this is what is here undertaken for—this and nothing more.

[161–397] [1817 Nov. 23]

In the Gospel according to Saint Luke, Chapter vii, verses from 36 to 50, stands a story of a female by whom the contents of a box of precious ointment were poured forth upon the feet of Jesus. What on that occasion is stated in relation to her is that she was a sinner: and that in contemplating, on the one hand the devotion manifested by the sacrifice thus made, on the other hand the sins, whatsoever they were, by which her character stood stained, Jesus pronounced them to have been forgiven. Not—I forgive thy sins—but, Thy sins are forgiven: and after, as if to remove misconception and stop the whispers that were going round—‘Thy faith (says he) hath saved thee; go in peace.’

Thus slender is the foundation. For fixing upon the character of Mary Magdalene the imputation of her having at this time been a courtesan by profession, the following are the particulars that required to be added: viz. that this unnamed female was Mary Magdalene—that she had transgressed the laws of chastity, and that to such a length had the course of transgression gone as to have aggregated her to the profession of those females, who derive from the sale of their favours their means of subsistence. This is what required to be added: and added accordingly it has been by imagination: by imagination, yes—but of what sort? not that of the poet, but that of the priest: not that which is set to work by harmless pastime, but that which is set to work by interested imposture.

[161–398] [1817 Nov 23]

Now, on the supposition that this female was Mary Magdalene, how can it be supposed that, in the account given of the matter by Saint Luke, she should have remained without a name? The name Mary Magdalene, was it unknown to him? Not it indeed. In the 24[th] Chapter of his history, verse the 10th, she is named as being of the number of those women, by whom the disappearance of the body of Jesus out of the sepulchre is reported to the Apostles. ‘It was

Mary Magdalene, and Joanna, and Mary the mother of James, and other women that were with them, which told these things unto the apostles.⁷

True it is that, in the concurrent testimony of Matthew and Mark, we read of a woman by whom the contents of a box [of] precious ointment were bestowed upon Jesus: and in both of these, the house at which this incident took place is declared to be that of Simon the leper.¹⁵ But the unction of which Saint Luke makes mention—at what time is it mentioned as having taken place? at the very commencement of Jesus’s spiritual career: and at what time that spoken of by Matthew and Mark?—just at the very close of it: by both of them, immediately before the mention made of the treachery of Judas, a few days before the concluding passover.¹⁶ In both of them, the house is mentioned as being that of Simon the leper: but in neither of them, any more than in Luke as above, is any name assigned to her. Yet in both of them is mention made of Mary Magdalene as being of the number of the women by whom the disappearance of the body of Jesus out of the sepulchre was reported to the Apostles,¹⁷ as above.

[161–399] [1817 Nov 23]

Among the Jews, as appears so plainly from such a multitude of passages in the Bible history, anointing with sweet-smelling oils was among the operations of customary luxury:^c and from this custom it is that Christ, i.e. anointed, has been so gratuitously added to the name of Jesus.

^c It was a treat for a monarch: a treat which was accordingly given to him upon his entrance into office.¹⁸

What wonder was it if, in an interval of so many years, by several women at different times, by several women all unknown to each other, each of them unknown to the company into which for this

¹⁵ See Matthew 26: 6–7; Mark 14: 3.

¹⁶ See Matthew 26: 2; Mark 14: 1.

¹⁷ See Matthew 28: 1–8; Mark 16: 1–10.

¹⁸ For the anointing of Saul, David, and Solomon on their installation as King of Israel see I Samuel 10: 1, II Samuel 2: 4, and I Kings 1: 34, 39 respectively.

purpose they obtained admission, this mark of passionate admiration had upon the same person been bestowed? It was to the feet that the oil mentioned by Luke—it was to the head that the oil mentioned by Matthew and Mark—was applied.¹⁹

[161–400] [1817 Nov 23]

In the Gospel according to Saint John—Chapters xi and xii—we have another anointing scene. Mary, having a sister of the name of Martha and a brother of the name of Lazarus, is the woman by whom the unction is administered. This story, however, belongs not to the present purpose. No mention of her being a sinner. Of her having on that or any other occasion received forgiveness of her sins, or of her having had any sins to forgive, no mention, nor so much [as] any the slightest hint. She, therefore, was not the same person. As little does any reason appear for supposing her the same person as Mary Magdalene. The time is much about the time of the unction spoken of in Matthew and Mark as having been performed in the house of Simon the leper: viz. but a few days before [the] last passover partaken of by Jesus: ‘six days before the passover’, says the text in John xii in so many words.²⁰ In this same Gospel (John’s), mention is afterwards on two several occasions made of Mary Magdalene. On the first she is one of four women, whereof three having each of them the name Mary, who are spoken of as standing by the cross, while Jesus was yet alive. John xix. 25: one of them Jesus’s mother, another the wife of Cleophas, Mary Magdalene the one last-mentioned. In the next Chapter of the same Gospel, John xx. 1, she is spoken of as having observed and reported Jesus’s disappearance out of the sepulchre, and in verse the 18th as having reported to the disciples that she had seen him.

[161–401] [1817 Nov^r 25]

But now then, here recurs again a question which has been already brought to view: having on those several occasions been designated and distinguished by the adjunct *Magdalene* thus constantly annexed, is it likely that in the same short history the same person should, a little before this, have been designated by the

¹⁹ See Ch. 8 §§. 4 [p.98] above.

²⁰ John 12: 1.

name itself simply, unaccompanied by the abovementioned adjunct? Magdala was a town situated in the territory occupied by the tribe of Gad. By the adjunct Magdalene intimation was given that that place was her birthplace, or had been the place of her abode. True it is that, of the three occasions here spoken of, in the last there was need of an adjunct to distinguish this Mary from her companions of the same name: but on neither of the two former was there any such need: on neither of them is any other Mary spoken of.

The place at which, according to Luke vii. 36 to 50, the unnamed female sinner, shortly after the commencement of Jesus's career, administers to him the perfume was (Luke vii. 11) a city called Nain, situate in the tribe of Isachar more than 50 miles distant from Jerusalem:²¹ the house, the house of a Pharisee, where, by invitation from the master, he was at dinner: the place where, according to Matthew and Mark, but a few days before his last passover, the unnamed female paid him the like homage was Bethany, (John xi. 18) not more than 15 furlongs—two miles—from Jerusalem: the house, that of Simon the leper: the place mentioned as the place in which the anointing scene mentioned in John's Gospel was acted is also Bethany: of the name of the master of the house, no mention is to be found, unless from this circumstance, viz. that Judas Iscariot, who is mentioned as being present and as being the person by whom Jesus was to be betrayed, is mentioned as being a son of Simon,²² an inference is to be drawn that the Simon who was Judas's father was Simon spoken of by the name of Simon the leper in Matthew and Mark.

[161–402] [1817 Nov. 25]

Be this as it may, that which will now, it is believed, appear to have been demonstrated is—that Mary Magdalene, mentioned at the close of the history, and the unnamed woman brought to view shortly after the commencement of the history in the character of a sinner woman, but of the nature of whose sins no intimation is given, nor any thing more said of them [than] that, on the occasion in question, they were declared to have been forgiven, are not the same.

²¹ In the text, Bentham has noted at this point: ‘☞ search more exactly’.

²² John 12: 4.

[161–403] [1817 Nov 25.]

True it is that, if that practice or course of action, which is spoken of in the character of sinful, and as such as having received forgiveness, and thence as having stood in need of it, was really the habit or act of sexual intercourse otherwise than under the sanction of the matrimonial contract, altogether immaterial would it be—no difference would it make—what her name was: whether Mary Magdalene or any other: at any rate, no otherwise than upon this supposition, viz. that of its being rendered certain, or more or less probable, that she lived on a footing of intimacy with Jesus, either before the moment at which the declaration was made that her sins had been forgiven, or after that point of time, or during both those periods.

Now for any such supposition, what ground is there any where to be found? None whatever: unless that sort of exercise of the animal functions of which pleasure is an inseparable concomitant, pain, when it comes at all, no other than, as in case of eating and drinking, an accidental consequence, is the only one to which the appellation of sin could, at the time in question, consistently with grammatical and logical propriety, be applied.

[161–404] [1817 Nov 25]

Thus, then, has the notion in question been proved to be altogether groundless: altogether unwarranted by that Gospel history by which the truth of it has hitherto been regarded as having been established: viz. that by Jesus, on the part of the female sex, sexual intercourse, carried on without the sanction of the matrimonial contract, but without any violation of it, was regarded in the character of a sin, and spoken of under that name.

Here, then, we have the error: of this error, it remains to give indication of the cause or source.

§4. *Origin of the supposition of her being a prostitute*

[161–405] [1817 Nov 25]

By the word *sin* has been commonly understood any act by reason of which evil has been apprehended at the hand of an omnipotent and vindictive being. Proportioned to the supposed magnitude of the

aggregate mass of sin has been the intensity of the fear by which such evil has been apprehended: proportioned to the value and efficiency of the assistance expected at the hands of any person in the character of spiritual guide able and willing to afford such assistance towards the diminution of the mass of such evil of sufferance will naturally be the obsequiousness manifested towards the will and pleasure of such spiritual guide: proportioned to the degree of such obsequiousness will be the power which the spiritual guide will have of making profit to himself whatsoever services it may be in the power of such supposed sinner to render. It is, therefore, the interest of the spiritual guide that, in reputed depravity and magnitude, the aggregate of such sins, and consequently their number, should, in the eyes of the sinner, be as great as possible.

[161–406] [1817 Nov 25]

In every state of the religion, whatsoever be that religion, if so it be that the assistance of another person in the character of a spiritual guide, i.e. of a person by whose assistance, in the way of instruction or otherwise, punishment on the account of sin may in any quantity be avoided, [is needed,] it is the interest, in the worldly sense of the word interest, of such spiritual guide that the quantity of punishment which the supposed sinner may consider himself as exposed to, and thence the depravity and number of the sins by which he considers himself as exposed to such punishment, be as great as possible: why? because [the greater] the mass of punishment thus apprehended, the greater, supposing it in his power to lessen the quantity of it, will be the power he possesses over the sinner, and thence the profit to himself capable of being reaped from the exercise or expected exercise of such power.

Such is the nature, magnitude and proportion of the power attached to the situation of spiritual guide by the very nature of the case: attached to it in under every religion, and in every state of that religion.

[161–407] [1817 Nov 25]

But under the religion [of Jesus], as modified by the religion of Paul, in proportion as it became more and more corrupted by the advantage taken of it to promote worldly interests, the power of the spiritual guide came day by day, through the course of many

centuries, to assume a more and more tangible and palpable shape, till at length the exercise of it ripened into the shape designated by the name of the sale of indulgences. Every sin had its price, i.e. the service rendered by clearing the conscience of the apprehension of future punishment—of punishment in a future life by reason of such sin—had its fixt price. The nearer this system of taxation approached to its maturity, the more palpable and distinctly liquidated was the interest which the spiritual guide thus possessed in the multiplication of the number of reputed sins which each individual, who regarded himself as capable of purchasing exemption from punishment on the score in question on the terms in question, regarded himself as having committed.

[161–408] [1817 Nov 25]

Of all imaginable sorts of sins, the sins of the flesh, as they were termed, and in particular such sins which were understood to be committed in and by the exercise of those animal functions by the exercise of which the pleasures of the bed are experienced, afforded the most productive portion of the contributions thus levied: more so, for example, than even those sins by which the matter of wealth was obtained or endeavoured to be obtained—that matter by which, in proportion to the quantity of it, pleasure in almost every shape—pleasure in the shapes best adapted to each man’s taste—is capable of being obtained. Casual and dependent upon circumstances are the [opportunities]²³ of obtaining the matter of wealth by any means, and in particular by means which, whether on the score of illegality or otherwise, were reputed sinful, whereas the means of obtaining pleasure in some shape or other by the exercise of the sexual organs are at all times at the command of the individual in whom the desire has place.

[161–409] [1817 Nov 25]

By Jesus and his religion, no gratification in any shape from this source had been placed in the catalogue of sins. By the industry of Paul indeed, and in his religion, the deficiency had been supplied; supplied, and with a liberality which left nothing to be desired, in every shape whatsoever: every shape, that on which the

²³ MS ‘opportunity’.

preservation of the species depends not excepted, had been placed in that forbidden and, to the spiritual guide, so useful and productive catalogue. Still, however, though so much more looked to than Jesus, Paul was not himself Jesus: if by any contrivance Jesus could be represented as having placed in the catalogue of sins this most productive and, to spiritual dealers, the most lucrative of all sins, it would be so much gained. Hence it is that the hand of Jesus was held up to view in the attitude of placing in the catalogue of sins every act of intercourse between the two sexes in which, without the sanction of a contract for the permanent continuance and repetition of it, the pleasures of the bed are sought.

[161–410] [1817 Nov 25]

For a support to their opinion, upon the most minute and careful scrutiny that could be made into the Gospel history, unfortunately no specific warrant could be found. What was regarded as coming nearest to such warrant was the story in which a person of the female sex is brought to view in the character of a sinner. Well, what is the sort of sin which, when the idea of the female sex is presented to the imagination of a person of the male sex, is most apt to present itself in company with the idea of the person? Answer: it is that sin which, if there be any thing sinful in the mode in which the pleasure of the bed is reaped, between the two sexes is committed.

In the Gospel history one instance is found in which, in the character of a sinner, a person of the female sex is specially brought to view. This is the instance of her by whom, for the first time, the sort of homage paid to Jesus by the administering of a perfumed liquid is mentioned as being performed.²⁴ But for the purpose of presenting upon occasion the idea of this sinful female, a name was wanting. Happily though, in another gospel and on another occasion and at a widely distant point of time, a female of the name of Mary is found occupied in the paying of the like homage. But there are several Marys: a name is still wanting which, as often as mentioned, shall present the idea of a determinate individual not liable to be confounded with any other. In Mary Magdalene, and her alone, was this name to be found.

²⁴ See Ch. 8 §§. 4 [p.98], Ch. 9 §. 3 ¶13 [p.118] above.

And thus it is that, from signifying an inhabitant of the town of Magdala, a Magdalene came to signify a female who sought and who seeks in the sale of her sexual favours the means of sustenance.

CHAPTER 10. THE CONDEMNATION
PASSED UPON THESE FORMS NOT ANY
PART OF THE RELIGION OF JESUS

§1. *In the allusions made by Jesus to the destruction
of the ill-famed Cities, no condemnation of
the eccentric pleasures of the bed is contained*

[161–411] [1817 Dec 1]

Of the calamity in question | | on three several occasions is Jesus represented in the Gospel history as making mention of it: of the occasion on which, as well as the times in which, this mention is represented as having been made of it some account will naturally be looked for in this place.¹

On no one of these occasions is the propensity in question in any respect the subject of observation or allusion—in all three it is the destruction—the destruction in the two first held up to notice in the character of a punishment, in the third in that of a spur to vigilance in respect of its unexpectedness.

[161–412] [1817 Dec 1]

1. First comes a passage in the Gospel according to Saint Matthew. Mat. x. 14. 15.

The twelve Apostles are sent out upon their evangelical mission: instructions for their conduct are given to them, and, as if for their encouragement, are added the two following verses:

‘14. Whosoever² shall not receive you nor hear your words: when ye depart out of that house, or city, shake off the dust of your feet.

‘15. Verily I say unto you, It shall be more tolerable for the land of Sodom and Gomorrha, in the day of judgment than for that city.’

In the Gospel according to Saint Mark,^a in the account given of this same mission, comes a passage to the same effect and in these words:

¹ Bentham, in fact, appears to identify four such occasions, though he intimates that the first and third may represent the same occasion.

² King James Bible ‘And whosoever’.

^a Mark vi. 1[1].

‘11. And whosoever shall not receive you nor hear you when ye depart thence, shake off the dust under your feet, for a testimony against them. Verily I say unto you, it shall be more tolerable for Sodom and Gomorrha in the day of judgment, than for that city.’^b

^b In the account given of this same mission in the Gospel according to Saint Luke,³ no mention is to be found of this allusion. With this exception, as far as it goes, it agrees with Matthew as well as Mark. But in Matthew, on this same occasion, a great deal of matter is delivered of which no mention appears either in Mark or Luke.

[161–413] [1817 Dec 1]

2. Next comes another passage in Saint Matthew (Mat. xi. 20 to 24.)

Three cities—Chorazin, Bethsaida and Capernaum—are mentioned on this occasion: v. 20. ‘Then began he to upbraid the cities wherein most of his mighty works were done, because they repented not.’

Speaking thereupon of Capernaum: v. 23. ‘And thou Capernaum (he is represented as saying) thou Capernaum, which art exalted unto heaven, shalt be brought down to hell: for, if the mighty works which have been done in thee, had been done in Sodom, it would have remained unto⁴ this day.

‘24. But I say unto you, that it shall be more tolerable for the land of Sodom, in the day of judgment than for thee.’

[161–414] [1817 Dec^r 1]

Immediately before the mention thus made of Sodom, on the occasion of the insensibility and non-repentance of Capernaum, comes a similar mention of Tyre and Sidon, on the occasion of the non-repentance of Chorazin and Bethsaida.

³ Luke 9: 1–5.

⁴ King James Bible ‘until’.

‘21. Wo⁵ unto thee Chorazin, wo⁶ unto thee Bethsaida; for if the mighty works which were done in you, had been done in Tyre and Sidon, they would have repented long ago in sackcloth and ashes.

‘22. But I say unto you, It shall be more tolerable for Tyre and Sidon at the day of judgment, than for you.’

[161–415] [1817 Dec^r 1]

[3.]⁷ Next comes the occasion on which, after the twelve apostles⁸ whose names with that title of distinction attached to them have been preserved to us, ‘*other seventy*’,^c whose names have never reached us, are in the Gospel according to Saint Luke (Luke x. 1.) spoken of as having been sent out on the like errand.

[161–416] [1817 Dec 1]

^c *Others?* besides whom?—Answer from the same Gospel, viz. Saint Luke, Chapter the last preceding (Luke ix. 1. 2.)

1. ‘Then he called his twelve disciples together... .’

2. ‘And he sent them to preach the kingdom of God... .’

[161–415]

On the face of this account, to a set of instructions, to the same effect as those which, in the case of the twelve, are stated as having been given to them before their departure, are immediately subjoined ‘upbraidings’ which, on a subsequent occasion, and as it should seem after and in consequence of their return, are bestowed upon the three non-repentant cities above-mentioned.

First behold the correspondent part of the instructions: Luke x. 10. ‘But into whatsoever city ye enter, and they receive you not, go your ways out into the streets of the same, and say,

‘11. Even the very dust of your city which cleaveth on us, we do wipe off against you: notwithstanding, be sure⁹ of this, that the kingdom of God is come nigh unto you.’

Then comes matter of encouragement:

⁵ King James Bible ‘Woe’.

⁶ King James Bible ‘woe’.

⁷ MS ‘2’.

⁸ MS alt. ‘missionaries’.

⁹ King James Bible ‘be ye sure’.

‘12. But I say unto you, that it shall be more tolerable in that day for Sodom than for that city.’

After the interposition of the three interposed verses which will herein immediately be brought to view, the matter of encouragement concludes with the following addition, viz.

‘16. He that heareth you, heareth me: and he that despiseth you despiseth me: and he that despiseth me despiseth him that sent me.’

[161–417] [1817 Dec^r 1]

With no other difference than that between the word receiveth and the word heareth, this concluding portion of the matter of encouragement which, according to Saint Luke, was given to the ‘other seventy’ (Luke x. 1.) is the same which, according to Saint Matthew, was given to the abovementioned twelve, and stands reported in the above quoted chapter, viz. Chapter x, and therein constitutes the fortieth verse (Matt. x. 40.)

[161–418] [1817 Dec^r 1]

Now, then, in Luke comes the interposed matter of the upbraidings.

‘13. Wo¹⁰ unto thee Chorazin, wo¹¹ unto thee Bethsaida: for if the mighty works had been done in Tyre and Sidon which have been done in you, they had a great while ago repented, sitting in sackcloth and ashes.

‘14. But it shall be more tolerable for Tyre and Sidon at the judgment, than for you.

‘15. And thou Capernaum, which art exalted to heaven, shalt be thrust down to hell.’^d

^d In Saint Luke (Luke ix. 10 to 17.) the upbrading thus bestowed upon Chorazin and Bethsaida presents itself, at least in so far as concerns Bethsaida, as having a special reference. For in the last preceding Chapter (Luke ix. 10.), after mention made (verses 1 and 2) of the mission of the twelve apostles, as above, it is said:

¹⁰ King James Bible ‘Woe’.

¹¹ King James Bible ‘woe’.

‘10. And the Apostles when they were returned, told him all that they had done. And he took them (it continues) and went aside privately into a desert place, belonging to the city called Bethsaida.

‘11. And the people when they knew it followed him ... ’ &c.: then comes the miracle of the 5,000 fed with the 5 loaves and the two fishes.

As to Chorazin being mentioned in the same breath with Bethsaida, a natural conclusion is that it was in the proximity of Bethsaida, in which case the miracle would be matter of as much notoriety in the one place as in the other.

[161–419] [1817 Dec^r 1]

As to Tyre and Sidon, in Matthew xv and Mark vii mention is made of the healing of the young woman—of Canaan, according to Matthew—a Greek by nation, a Syro-phœnecian, according to Mark—out of whom a devil or unclean spirit was expelled.¹² The coasts (Matthew) or borders (Mark) of Tyre and Sidon is the description given of the place. Is it to this that the mention made of the works done in Tyre and Sidon in Saint Luke bear reference? Neither in Saint Luke, however, any more than in Saint John, is any mention of this miracle to be found.

The works here mentioned as being done in the neighbourhood of Tyre and Sidon are here mentioned as inferior to those done in the neighbourhood of Bethsaida. Inferior in respect of notoriety, a miracle wrought in a house, as according to Mark (Mark vii. 24) was this of the dispossession, might well be deemed when compared with a miracle wrought in the presence of 5,000 witnesses.

Unhappily, in Matthew, the up[b]raidings bestowed upon Chorazin and Bethsaida, and the comparison thereupon made between the miracles wrought at those places and those wrought near Tyre and Sidon, are placed long before the account given in the same Gospel of the miracles wrought near Tyre and Sidon: the upbraidings being in Chapter xi, and the Tyre and Sidon miracles not till Chapter xv. At Bethsaida, Mark mentions, moreover, the cure of a blind man: but it is not till Chapter viii, whereas the mention made by Mark of the dispossession near Tyre and Sidon is in Chapter vii.

¹² See Matthew 15: 21–8; Mark 7: 24–30.

In the Gospel according to Saint Matthew, the *upbraidings*, it will be observed, follow almost immediately after the account of the first-mentioned mission, viz. that of the Apostles, and neither in Saint Matthew, Saint Mark or Saint John is any mention to be found of the mission of the seventy. Out of this discrepancy arises some perplexity, but any such enterprize as that of an attempt to clear it up would occupy too much space, and lead us too wide of the present purpose.

[161–420] [1817 Dec^r 1]

[4.] Now as to the occasion on which the quality of suddenness or unexpectedness is the quality with a view to which the allusion to the calamity in question is introduced.

Luke xvii. 20. ‘And when he was demanded of the Pharisees, when the kingdom of God should come, he answered¹³ and said, The kingdom of God cometh not with observation.’

‘26. ... as it was in the days of Noe, so shall it be also in the days of the Son of man.

‘27. They did eat, they drank, they married wives, they were given in marriage, untill¹⁴ the day that Noe¹⁵ entered into the ark: and the flood came and destroyed them all.

‘28. Likewise also as it was in the days of Lot, they did eat, they drank, they bought, they sold, they planted, they builded:

‘29. But the same day that Lot went out of Sodom, it rained fire and brimstone from heaven, and destroyed them all.

‘30. Even thus shall it be in the day when the Son of man is revealed.’

[161–421] [1817 Dec 1]

Of the two or three several occasions on which Jesus is represented as making allusion to the calamity experienced by the two cities, in no one is any the slightest allusion made by him to the propensity in question in the character of the sin by which the calamity was produced.

¹³ King James Bible ‘answered them’.

¹⁴ King James Bible ‘until’.

¹⁵ King James Bible ‘Noah’.

On the first occasion, indeed, it is mentioned in the character of a punishment: that is in the character of a calamity in itself of the utmost notoriety, and, to the eyes of the people to whom he was addressing himself, customarily presenting itself in the character of a punishment. But as to the course of conduct with reference to which it was employed in that penal character, neither is it the simple propensity, nor yet so much as the savage violence with which, on the current account, the propensity was on the occasion in question represented as intended to be gratified, but only in a general way the general depravity with which, in all sorts of shapes, the population of those cities had been considered as presenting an example.

Where it is only in respect of its suddenness that the calamity is brought to view, the mention made of it is not, it is evident, such as to afford any sort of inference, one way or other, applicable to the present subject.

[161–422] [1817 Dec 1]

A remark which, in some eyes perhaps, the case might present itself as warranting is—that, upon the supposition above suggested, having his disciples of all sorts to reconcile to the gratification of the propensity, he took the occasion so to do by bringing it in comparison with the depravity manifested by the population of the three places in question in respect of their non-repentance and unbelief.

But for the supposition of any such design, there seems not any sufficient warrant.

What such a supposition supposes is—that it was generally understood that it was in the general propensity, and not in the violence and barbarity with which, on the occasion in question, the gratification of it is represented as having been sought, that the cause of the calamity in question was, generally speaking, beholden by the Jews.

But for any [such] supposition, no sufficient ground presents itself.

1. Whatsoever be the aspect with which, in those times and in those countries in which it is so rare, the propensity may be regarded, in those countries in which, in those times, not to speak of the present, it was universally prevalent, it would be the violence that would naturally present itself as the principal feature.

2. But great and perhaps unsatisfiable as at present the demand for exculpatory expedients would be, in those days scarcely in any degree could any such demand have place.

Notwithstanding the condemnatory notice taken of this propensity in the Chinese criminal law, no where in the East has any man been at any time looked upon as the worse for it.¹⁶ At no time in those regions would a man be more ashamed of avowing it than, at Rome, Cicero and Pliny the younger and Catullus and Martial &c. &c. were.¹⁷

[161–423] [1817 Nov. 27]

1. Matt. x. 14. ‘And whosoever shall not receive you (viz. the twelve Apostles sent out to preach to the Jews only: x. 5. 6.) nor hear any¹⁸ words, when you¹⁹ depart out of that house, or city, shake off the dust of your feet. 15. Verily I say unto you, It shall be more tolerable for the land of Sodom and Gomorrha, in the day of judgment, than for that city.’

¹⁶ In the *Ta Ch'ing Lü Li*, the code of laws of the Qing dynasty, first issued in 1646, consensual homosexual sex was punished as an ‘unnatural crime’. See *Ta Tsing Leu Lee; being The Fundamental Laws, and a selection from the Supplementary Statutes, of the Penal Code of China*, trans. Sir George Thomas Staunton, London, 1810, p. 570: ‘Persons committing this crime [i.e. homosexual sex] by mutual consent, shall be punished respectively, as in ordinary cases of criminal connexion between the different sexes, that is to say, with 100 blows, and the *Cangue* for one month.’ The hundred blows were to be inflicted with a bamboo rod, whilst the *cangue* was ‘a square frame of dry wood’, or ‘moveable pillory’: see *ibid.*, pp. lxxv, 12. Despite this provision, John Barrow, *Travels in China, containing descriptions, observations, and comparisons, made and collected in the course of a short residence at the imperial palace of Yuen-Min-Yuen, and on a subsequent journey through the country from Peking to Canton*, London, 1804, p. 150, reported that, ‘The commission of this detestable and unnatural act [i.e. the display of homosexuality] is attended with so little sense of shame, or feelings of delicacy, that many of the first officers of state seemed to make no hesitation in publicly avowing it’.

¹⁷ Gaius Plinius Caecilius Secundus (c. 61–c. 112), writer, in *Epistulae*, vii. iv. 3–6, paraphrases an amorous epigram addressed by Marcus Tullius Cicero (106–43 bc), orator and statesman, to his secretary Tiro (see Ch. 12 §. 2 ¶25 [p.168]below). Many of the poems of Gaius Valerius Catullus (c. 84–c. 54 bc) have a homosexual theme: see for, example, poems 15, 21, 30, 33, 48, 81, and 100. Similarly, several of the epigrams of Marcus Valerius Martialis (c. 40–c. 102) deal with the topic of homosexuality: see, for example, *Epigrammata*, i. xlvi, ii. lv, iv. vii, v. xlvi, vi. lii, ix. xxxiii, and xii. lxxv.

¹⁸ King James Bible ‘your’.

¹⁹ King James Bible ‘ye’.

2. Matt. xi. 23. 24. ‘And thou Capernaum, which art exalted unto heaven, shalt be brought down to hell: for if the mighty works which have been done in thee had been done in Sodom it would have remained until this day. 24. But I say unto you, that it shall be more tolerable for the land of Sodom, in the day of judgment, than for thee.’

3. Mark vi. 11. ‘And whosoever shall not receive you (viz. the twelve Apostles sent out two and two to preach (no restriction as to the persons to be preached to): vi. 7. 8. 9. 10.) nor hear you, when ye depart thence, shake off the dust under your feet, for a testimony against them. Verily I say unto you, it shall be more tolerable for Sodom and Gomorrha in the day of judgment than for that city.’

4. Luke x. 12. ‘But I say unto you (viz. the ‘*other seventy*’ sent two and two before his face into every city and place whither he himself would come: x. 1.) that it shall be more tolerable in that day for Sodom, than for that city.’

[161–424] [1817 Nov. 27]

5. Luke xvii. 28. ‘Likewise also as it was in the days of Lot, they did eat, they drank, they bought, they sold, they planted, they builded. 29. But that²⁰ same day that Lot went out of Sodom, it rained fire and brimstone from heaven, and destroyed them all. 30. Even thus shall it be in the day in which the Son of man is revealed.’

N.B. This was part of the answer to the question when he was demanded of the Pharisees, when the kingdom of God should come. xvii. 20.

6. Rom. ix. 29. ‘And as Esaias said before, Except the Lord of Sabaoth had left us a seed we had been as Sodoma, and had been²¹ made like unto Gomorrha.’^e

^e Isa. i. 9.

²⁰ King James Bible ‘the’.

²¹ King James Bible ‘and been’.

§2. The propensity to the eccentric pleasures of the bed, when reaped by consent, is not the reputed cause of the destruction of the ill-famed Cities

[161–425] [1817 Dec 20]

That the enormity thus meant to be represented as having drawn down upon the cities the vengeance of heaven did not consist in the nature of the source from whence the gratification was intended to be derived, but in circumstances of an altogether distinct and different nature, will upon reflection appear altogether evident. These circumstances were: 1. the violence by which the gratification was intended to be procured. 2. the multitude of the persons by whom it was intended to be partaken of: 3. the breach of hospitality with which those other enormities would have been aggravated.

1. It was not the source from whence the gratification was intended to be derived: but in the first place the violence by which it was intended to be obtained.

In the other case in which this same appetite is the appetite to which the gratification is administered, violence is of itself a circumstance by which an act, which if performed by mutual consent is not regarded as any offence at all, is, under almost every government under which death is employed as a punishment, visited with that punishment. Such is the case of rape where, the agent being a person of the male sex, the patient subjected to the violence is of the female sex, and the organs subjected to it, the organs of that sex.

[161–426] [1817 Dec 20]

That as far back as history reaches, the procreation of children being out of the question, and the gratification of the appetite in question the sole object, among all nations of the known world, whether the person chosen for the gratification was of the same sex or the opposite sex was regarded as a matter of indifference—is a point of too much notoriety to stand in need of proof.²²

²² In the margin, Bentham has noted at this point: ‘☞ If any thing be said in proof, quære whether to post it off to the Appendix?’

‘Hor.—Virgil—Ovid—Cicero—Socrates.’

At the same time, where both were of the male sex and the enjoyment not reciprocal, the patient not in a state of slavery, in such a case violence would convert it into that sort of offence the character of which, in the eyes of third persons, might be still more irritating than if the object of the violence had been a person of the opposite sex. Among the Romans, originally a band of robbers, personal courage was held in such estimation, that the name by which that quality was designated was the only name they had by which they could endeavour to express that aggregate of good qualities of which personal courage is but one, and which is among us designated by the name of virtue:²³ personal courage, a virtue ever regarded as being amongst those any deficiency of which was, in the female sex, scarcely regarded as an imperfection, while in the male it was regarded as one of the most degrading, if not the most degrading, of all failings.

[161–427] [1817 Dec 20]

In a political nation in which the habit of giving to the appetite this direction was avowed with as little disguise as if it had been what with us is regarded as the only legitimate one—avowed by men of all descriptions, those most celebrated for virtue in its several forms not excepted—I speak of the Roman Commonwealth—yet such was the indignation which, when accompanied with violence, was excited by it, as to have served as the spark by which a civil war was kindled.^f The person was indeed a free-man, and not only a free-man, but a military man: but in a state in which all men that were free bore arms, this last circumstance could scarcely be regarded as a characteristic one. What, then, was the circumstance by which that by which, if obtained by consent and upon a footing of mutuality, no disrepute would have been incurred by either, was

The three Roman poets referred to here all allude in their poetry to desire which does not discriminate between girls and boys as its object: see Quintus Horatius Flaccus (65–8 bc), *Epodi*, xi. 1–4, 27–8, *Satirae*, i. ii. 116–19, and *Epistulae*, i. xviii. 72–5; Publius Vergilius Maro (70–19 bc), *Eclogae*, x. 37–41; and Publius Ovidius Naso (43 bc–ad 17), *Amores*, i. i. 19–20. Cicero was married for many years to Terentia but was also devoted to his secretary Tiro (see Ch. 10 fn17 [p.132] above); while the Greek philosopher Socrates (469–399 bc), whose susceptibility to the charms of young men was well-known, was also married, to Xanthippe (see Ch. 13 §. 4 [p.195] below).

²³ i.e. *virtus* (derived from the word for man, *vir*).

converted into so intolerable an injury and thence into so enormous a crime? It was this: viz. that by his inability to save himself against a connection in the case of which disgust in the extremity is the natural concomitant of repugnance, his deficiency in the military qualities of personal strength or personal courage or both stood demonstrated, and the idea of those imperfections which are numbered among the characteristics of the weaker sex thus attached to that of the person thus insulted.

^f See Hook.²⁴

[161–428] [1817 Dec^r 20]

By this same train of thinking it probably was that in the case in question, under the notion of compounding the matter, and at the expence of a lesser averting a greater evil, Lot, the master of the house, is represented as offering in sacrifice to the brutal appetites of the surrounding mob, two females in a state of virginity, and those females his own daughters. The less advanced in the career of civilization a community is, the less efficient is the protection derived by the weaker sex from the state of laws and manners, and the less raised above that condition of society in which they are regarded as a sort of game destined for the amusement of the stronger sex—as among the savages of New South Wales, there is no more impropriety in seizing a person of this sex for the momentary gratification of this appetite, than an animal of an inferior species for the gratification of the appetite of hunger.²⁵

Supposing life and health in both cases to remain uninjured, the injury to those females would have been a permanent and irreparable one: their prospect of advancement in marriage injured to a degree bidding defiance to calculation: while to the angelic beings of the

²⁴ Presumably N. Hooke, *The Roman History, from the building of Rome to the ruin of the Commonwealth*, 4 vols., London, 1738–71, although the incident described by Bentham does not appear to be recounted in the work.

²⁵ See David Collins, *An Account of the English Colony in New South Wales: with Remarks on the Dispositions, Customs, Manners, &c. of the native Inhabitants of that Country*, London, 1798, p. 559, for an account of the customary violent and forcible seizing of women for the purpose of sexual satisfaction.

other sex, the correspondent injury, so far as concerned only the physical part of it, would have been but momentary.

[161–429] [1817 Dec 20]

2. Another circumstance of aggravation was the multitude—the boundless multitude—of the ruffians both young and old, by all [of] whom a share in the abominable fruit was avowedly about to be extorted. Of an outrage repeated to such a degree as that of which the hospitable householder had the prospect before his eyes, death could not but be regarded by him as a probable, not to say a certain, consequence.

3. A circumstance of aggravation by which the climax of injury would have been crowned, is the violation of the obligations of hospitality.

In a state of society in which the whole country is on the one hand continually covered with travellers, on the other hand with houses of entertainment set up for their accommodation, in which ruin would be the certain portion of the individual, how opulent so ever, who, upon gratuitous terms, should offer the accommodations of hospitality to all who should choose to become partakers, it is impossible to form any tolerably adequate idea of the importance of general benevolence in the case in which it receives the name of hospitality. In every line of service, the value of the reward proffered tends to proportion itself to the exigency of the demand for, and thence to the value of, the service. Where places of accommodation for travellers are altogether wanting, a repulse given to the wearied and famished traveller may be a sentence of death—an inexorable door may be no less fatal than the sword.

[161–430] [1817 Dec^r 20]

The people of Judæa numbered those of Arabia among their next neighbours. In Arabia, whoso sees the people of the present day may, with little or no variation, behold the people of the days of Lot, not to speak of generations to an indefinite degree more remote. In Arabia, the virtue of hospitality may be seen flourishing in a dwelling in which scarcely in any other shape is any thing that can be called virtue to be found. In Arabia, you may be received and treated by

a man by whom, if you had not been received by him, you would have been murdered.²⁶

At the time in question, the mode of life pursued by Lot himself is represented as of the pastoral, which is as much as to say of [the] Arabian, cast. Of beasts of pasture, as in the case of so many Tartar nations of the present day, was the matter of his wealth chiefly, if not exclusively, composed. Of the city in question, he was but an occasional and, as it should seem, in intention a temporary inhabitant.

In the offer made of his daughters, the virtue of policy—honest as well [as] prudential policy—presents itself as meeting with that of hospitality in the patriarchal breast. Struck by the magnitude of the proffered sacrifice, impressed by it with a just idea of the enormity of the outrage which they are at the brink of perpetrating, who knows (he may [be] conceived [as] saying to himself) who knows but that sympathy and shame may concur and succeed in driving [them] from their execrable purpose?

*§3. In the Epistles of the Apostles, Paul excepted,
no condemnation of this propensity is contained*

[161-434] [1817 Nov 30]

Turn now to those other Apostles whose works²⁷ or reputed works remain to this day. Observe whether, in those discourses of theirs, there be any thing by which any light can be thrown upon the ground now before us.

These are Saint Peter, Saint John and Saint Jude.

To the stock of information derived from the Gospel teaching, small indeed is the utmost [addition] that can be drawn from all these sources put together.

²⁶ See C.F. Volney, *Travels through Syria and Egypt, in the years 1783, 1784, and 1785*, 2 vols., London, 1787 (first published at Paris), i. 412: 'What is there more noble than that right of asylum so respected among all the tribes? A stranger, nay, even an enemy, touches the tent of the Bedouin, and, from that instant, his person becomes inviolable. It would be reckoned a disgraceful meanness, an indelible shame, to satisfy even a just vengeance at the expence of hospitality.'

²⁷ MS alt. 'epistles'.

By none of these are any such tests of authenticity afforded as by those of Paul. The mere names excepted that stand respectively prefix to them, no reason appears for believing them to have been written by the individuals whose names the words in question respectively are. On the other hand, no special reason for believing the contrary.

They may have been written by the persons bearing those respective names, and they may as well have been written by any body else.

No contradiction do they afford to any of the particulars reported [in] the Gospel history: as little do they afford any confirmation of it.

[161-435] [817 Nov^r 30]

1. First comes the second of the Epistles ascribed to Saint Peter.

‘The Lord (he saith) (II Peter ii. 9) knoweth how to deliver the godly out of temptations, and to reserve the unjust unto the day of judgment to be punished.

‘10. But chiefly them that walk after the flesh in the lust of uncleanness, and despise government. Presumptuous are they, self-willed, they are not afraid to speak evil of dignities.’²⁸

Walking after the flesh in the lust (desire) of uncleanness—this and the contempt of government—transgressions of a description apparently so disparate, how is it that they are thus linked together—condemnation thus passed on them, as it were, in the same breath?

Answer. Of the sexual appetite, the gratifications to which the condemnation was meant to apply were such, and such only, to which the prohibitions issued in the country in question by government had applied themselves. Under all governments, under this head will have been included a number of acts productive of real mischief, such as rape, adultery and lascivious insults. These, therefore, could not but, at the time of penning this discourse, have been present to the penman’s mind: as to any others, no matter on which to ground a conclusion can the passage be seen to afford.

[161-436] [1817 Dec^r 2]

²⁸ In the margin, Bentham has noted at this point: ‘10. μάλιστα δὲ τοὺς ὀπίσω σαρκὸς ἐν ἐπιθυμίᾳ μισμοῦ πορευομένους καὶ κυριότητος καταφρονοῦντας.’ which is the Greek text for the first sentence of II Peter 2: 10.

In this same chapter, a few verses before, mention is made of Sodom and Gomorrah in one verse (verse 6), and of just Lot in the next. But here too in the way of allusion, and that for a purpose which seems not very explicitly expressed.

In verses 1 and 2, he speaks of false prophets—in verse 3, he declares that they shall be finally overtaken with condign punishment—and in verses 4 to 9, he exhibits a sort of argument having for its apparent object the producing in the minds of his readers the persuasion that such will be the result.

Here as elsewhere, for the purpose of producing or strengthening the general impression that sooner or later wickedness, in whatsoever shape it manifests itself, will even in this world be followed with condign punishment, the calamity so continually and universally resorted to as an exemplification of this doctrine and a proof of its truth is resorted to and brought upon the carpet.

As to [...] in question disturbance created by false prophets, by no particular relation can the wickedness of these towns, whether viewed in a general or particular point of view, be seen to be connected with it.²⁹

[161-437] [1817 Nov 30]

1. Lastly comes Saint Jude.

²⁹ In the text, Bentham has noted at this point: ‘☞ Transcribe now verses 1 to 9.’

II Peter 2: 1–9: ‘1. But there were false prophets also among the people, even as there shall be false teachers among you, who privily shall bring in damnable heresies, even denying the Lord that bought them, and bring upon themselves swift destruction.

‘2. And many shall follow their pernicious ways; by reason of whom the way of truth shall be evil spoken of.

‘3. And through covetousness shall they with feigned words make merchandise of you: whose judgment now of a long time lingereth not, and their damnation slumbereth not.

‘4. For if God spared not the angels that sinned, but cast *them* down to hell, and delivered *them* into chains of darkness, to be reserved unto judgment;

‘5. And spared not the old world, but saved Noah the eighth *person*, a preacher of righteousness, bringing in the flood upon the world of the ungodly;

‘6. And turning the cities of Sodom and Gomorraha into ashes condemned *them* with an overthrow, making *them* an ensample unto those that after should live ungodly;

‘7. And delivered just Lot, vexed with the filthy conversation of the wicked:

‘8. (For that righteous man dwelling among them, in seeing and hearing, vexed *his* righteous soul from day to day with *their* unlawful deeds;)

‘9. The Lord knoweth how to deliver the godly out of temptations, and to reserve the unjust unto the day of judgment to be punished’.

Of the epistle bearing this name and stiled his General Epistle, mention on the present occasion is made, lest either through negligence it should be supposed to have been overlooked, or through design passed by.

In the seventh of the five-and-twenty verses into which it has been divided, after speaking in verses [5 and 6]³⁰ of two other nests of reprobates, in v. 7 it makes mention of Sodom and Gomorrha in these words—

‘v. 7. Even as Sodom and Gomorrha, *and the cities about them*³¹ in like manner giving themselves over to fornication, and going after strange^g flesh, are set forth for an example, suffering the vengeance of eternal fire.

^g ἑτέρας.³²

v. 8. Likewise³³ also these filthy dreamers defile the flesh, despise dominion, and speak evil of dignities.’

In the mention here made of the devoted cities, it may be observed what amendments are made, by the letter writer, who ever he was, to the original account. To the only two ever before mentioned, others are added in a number to which there is no limit: and the fire which in the original account was but temporal, and did its business with the rapidity characteristic of that element, is made, as our Acts of Parliament say, *perpetual*, or as the translation here says, eternal: so that if the account thus given be correct, they are all of them together, with the stock of brimstone created or allotted for this purpose, undergoing the chemical decomposition at this very moment, in some appropriate place, to which for so important a purpose they have been transferred.

[161-438] [1817 Dec^r 3]

On this occasion may perhaps have been observed the same apparently heterogeneous conjunction, of which, in speaking of

³⁰ MS ‘6 and 7’. For verses 5 and 6 see Ch. 10 §. 2 ¶27-28 [p.143]

³¹ The italics are Bentham’s.

³² The literal translation of the Greek word is ‘other, different’.

³³ In the margin, Bentham has noted at this point: ‘☞ It might have been *In like manner*.’

the Epistle attributed to Saint Peter, an explanation has just been suggested, viz. that of a defiling of the flesh with that of a contempt manifested towards the constituted authorities. So far as it goes, if the explanation will serve for that text, so may it for this:—so far as it goes: for in this place we see immediately after subjoined to it an ulterior offence, viz. the speaking evil of dignities. If by *dignities* the same class of functionaries or public men be meant, as by the word *dominion*—then to the contempt manifested by deportment, we shall have to add another offence manifested by speech.

Yet for all this, strange as it may seem, ‘Michael the Archangel (continues the letter writer in the next verse, v. 9.) Michael the Archangel, when contending with the devil about³⁴ the body of Moses, durst not bring against him a railing accusation, but said, The Lord rebuke thee.’

To every reader in whose eyes either the laws of good breeding or the history of heaven and hell in former times are objects of curiosity and interest, it can not but be matter of regret that that author, who, if he were not himself present at the debate, would not have spoken of it in so confident a manner but upon the evidence of some correct report, had been more circumstantial in the account he himself has given of it. For example, not only do we remain ignorant whether the wish or prayer that the Lord would rebuke the devil has ever yet been fulfilled, but a doubt of a nature in no small degree alarming is thus left hanging over the lot of the pretious remains here spoken of, viz. the body of Moses. In whose possession, if it were to be searched for, would it be found? that of the Archangel, or that of the devil?—Of the devil? how can this be? What title could he have ever had to it? If his title was a forged one, by what interest could the evil spirit have been led into the commission of such a forgery? Separated from the pretious soul by which it had been animated, what use could the foul fiend have found for a rotten carcass, even though it were that of the great lawgiver of the Jews?

[161-439] [1817 Dec^r 3]

These and other particulars considered, it has to some commentators been matter of doubt, or rather of somewhat more

³⁴ King James Bible ‘devil he disputed about’.

than doubt, whether the title of this discourse, such as it is, to be considered as having come from the pen of Saint Jude, or from any other member of the goodly fellowship of the Apostles of Jesus, is any better than apocryphal, and whether it be not to the labours of some unknown book-binder of old times that we are indebted for the addition it is seen making to the sacred miscellany.

The abovementioned affair between the Archangel and the Devil, if this author is to be believed, is not the only piece of supernatural history of the particulars of which he had received information which, but for him, would never have reached us.

To two sets of reprobate to whose fate he alludes, reference has herein been already made.³⁵ The first mentioned of them, though not it should seem the first in the order of existence, were those perverse Jews who, after having been ‘saved ... out of the land of Egypt,’ were ‘destroyed’ for not having ‘believed’ something which they ought to have believed. Of this anecdote, though there was a time when they knew it, the persons to whom this epistle stiled *the General one* of Jude was addressed required, it seems, in his opinion to be on that occasion put in remembrance. ‘I will therefore put you in remembrance (says he, v. 5) though ye once knew this, how that the Lord, having saved the people out of the land of Egypt, afterward destroyed them that believed not.’

[161-440] [1817 Dec^r 4]

Of the fate of those other reprobates of superior rank, of whom the mention comes in the next verse (v. 6.), the persons addressed by him were not, it should seem, regarded by him as equally well informed. These were the persons of whom that verse speaks in the terms which follow: ‘And the angels which kept not their first estate, but left their own habitation, he hath reserved in everlasting chains under darkness, unto the judgment of the great day.’

For a mere change of place, even though by that change it were supposed that the angels thought to better themselves, the judgment, if measured by the rules of that which in the language of men is designated by the name of justice, seems rather of the severest: and in the ordinary course of justice, execution comes not till after

³⁵ See ¶18 [p.141] above

judgment: here it comes before it. Was it for want of bail, that it became necessary to secure the persons of the defendants, till the Court should be at leisure to hear the cause.

When, upon an examination made of a discourse bearing marks of high antiquity, and presenting itself in the character of a supernatural one, the import of it is endeavoured to be deduced from the terms of it taken in the sense with which on all other occasions they stand associated, if, as the examination proceeds, grounds present themselves for regarding the claim thus presented as being untenable, eyes unhappily are never wanting, in which the absurdity, if there be any, of which indication is thus given in the discourse, is employed as matter of crimination against the person by whom the indication is afforded. Blasphemy is the name given to the discourse in and by which it is afforded: blasphemous the appellation of reproach, the mark of defamation, stampt upon the enquirer by whom the error has been laid bare—then comes the tyrant hypocrite, and with or without the forms of law, devotes to ruin the man whom the addition of probity to talent has rendered odious, and punishment is held up to view as the ever appointed lot of him who dares to labour with sincerity in the service of mankind.

[161-441] [1817 Dec. 3]

By any person who had not been an apostle of Jesus might this epistle—happily not a very long one—have been penned.

Would it—could it—such a discourse—have been penned by Saint Jude or any other person who had ever been in possession of any such inestimable privilege?

No surely:—of Jesus—of some particular act—of some particular saying—of some particular suffering—of his, some mention would in that case have been to be found in it.

By some persons whom he saw standing in his way, and who, by this description thus given of them, he was assured would be sufficiently known to those for whose eyes this discourse was designed, the wrath of the writer appears to have been excited.

Among the expedients thus applied to the purpose of exposing them to reproach, it seems not altogether improbable that the imputation [of] excess in the pleasures of the bed, and to a greater

or less extent these pleasures being reaped in the particular shape in question, may have been of the number [of] the means so employed.

In the eyes of every person, the value of whose place in society is in any degree dependent upon the attention paid to the instruction endeavoured to be administered by him in the field of religion, all other pursuits present themselves as rivals to that which it is his endeavour to inculcate: and proportioned to the power of seductive attraction which it exercises will naturally be the degree in which it will be obnoxious in his eyes.

[161-442] [1817 Dec^r 3]

Where the part taken by Paul in relation to these matters is the subject of enquiry, it will be necessary that this observation should be more particularly brought to view.³⁶ But whatsoever be the religion and whosoever be the teacher of it, more or less application may in the nature of the case be found for it.

As to Jesus, his station was superior to any such competition.

Having like all other preachers, whether of piety or strict morality, the adverse force of present pleasure in all its shapes to contend with,—this chosen servant and constant attendant of Jesus—could he have found in the practice or in the sayings of his master any thing that, in his combat with them—in the war which he could not but have had to wage with them, this chosen servant and constant attendant of Jesus, would he have failed to avail himself of it? To such a question, one answer alone presents itself.

Note that, by some unknown hand, to this Epistle has been prefixt the title of a General one. *General* the appellation given to an Epistle, teeming with allusions to particular incidents, known only to certain persons for whose eyes it was designed, incidents by the non-explanation of which the whole tenor of it is rendered a blank, or rather a dark spot, to all other eyes.

[161-443] [1817 Dec^r 5]

Certain persons, it is manifest, there were, whom he had found standing in his way. Who they were [was]³⁷ known to himself, known also, he felt assured, to those for whose eyes this letter of his was

³⁶ In the event, Bentham discussed this topic in 'Not Paul, but Jesus', Volume II.

³⁷ MS 'were'.

designed. Against these adversaries, who ever they were, the war is accordingly carried on in the usual manner—in the manner so customary, not to say so exclusively customary, in those times: dark insinuation, vague vituperation—scarce so much as an attempt at any thing like close reasoning—scarce so much as an attempt at any thing which now-a-days would be called *argument*.

EDITORIAL APPENDIX TO CH. 10³⁸

*§2. In the account given of the destruction
of the consumed Cities, no condemnation
of the propensity in question is contained*³⁹

[161–431] [1817 Nov 29]

From the particularity of the circumstances of which the propensity in question forms the principal feature, the impression generally, not to say universally, received at present is—that it is in the prevalence of that propensity, at any rate if coupled with the circumstance of inhospitable violence, that the city found the cause, and the sole cause, of its destruction.^a

^a Numbers xix.⁴⁰ 1 to 11 principally: thence perhaps 12 to 21.

That this, however, was regarded not as the sole cause, but at the utmost as no more than one of a multitude of features of depravity operating in the character of concurrent causes, has been rendered manifest by several passages of the Jewish authors termed *the prophets*.⁴¹

[161–432] [1817 Dec^r 14]

In the book of Numbers, Chapter xix, verses from 1 to 28,⁴² an account is given of the sudden destruction, viz. by fire, which in the days of Abraham and his nephew Lot befel the two cities whose names will be presented by the occasion without any need of words.

In what is said in relation to wickedness of character having been the cause by which the catastrophe was produced, mention of the

³⁸ The following material is a superseded draft of Ch. 10, § 2.

³⁹ In a rudiment, Bentham has noted at the beginning of this section: ‘☞ Add. suppose a rape of a female under these same circumstances—if such crimes were common, might they not have been as sufficient to draw down the catastrophe as the crime reported to be meditated?’

⁴⁰ Actually Genesis 19.

⁴¹ In the margin, Bentham has noted at this point: ‘☞ This here or under tit. Prophets?’ This paragraph has been bracketed by Bentham for possible deletion.

⁴² Actually Genesis 19: 1–28.

propensity in question undoubtedly has place. A cruel and flagitious act of violence is stated as having been meditated and in some sort attempted by a multitude together of one of the two Cities—under the name of *angels*, viz. messengers, human or superhuman (let the reader say which), two persons are mentioned as being the intended victims. Whatsoever was their nature, whatsoever was their errand, they became the objects of the hospitality of Abraham's virtuous nephew.⁴³ To the men of the City—(v. 4) 'both old and young, all the people from every quarter'—they became in fact objects of sexual concupiscence, and in intention of brutal violence. After the appellation of angels, Men is another appellation given to them. Bring them out unto us—bring them out that we may *know* them, is the cry. That the multitude in whom this appetite raged with so much force was composed of the male sex alone is the subject not of positive assertion, only of inference.

[161–433] [1817 Dec^r 14]

Whether the female sex were or were not included, to have been made subservient to the appetite of but a small portion of the inflamed multitude, vast as it is represented to be, would have had for its probable consequence instant death.

⁴³ i.e. Lot.

CHAPTER 11. CONDEMNATION
PASSED ON THE ECCENTRIC
PLEASURES OF THE BED IN THE
MOSAIC LAW—IT HAD ITS SOURCE
IN AN ILLUSION OF THE FANCY

[161–444] [1818 Dec^f 23]

Of the system of Jewish law ascribed to Moses, and through him to the Almighty, any attempt at a comprehensive view would here be out of place. But that in any part of it, [nothing appears] to any such purpose as that of giving direction to practice among nations so far advanced in the career of improvement as the least advanced of the nations of Europe in these our times, is a most serious misfortune.

In travelling over the field of legislation, thrice did the God of Moses change his mind: in Exodus, in Leviticus, in Deuteronomy, each time a different—each time a differently imperfect—view. Instead of Deuteronomy, Tritonomy should have been the name:¹ for besides an act to amend an act, in Deuteronomy may be seen an act to amend the amendment. Chaos in three different forms: confusion worse confounded: on the first occasion, scarce any traces of foresight, on either of the two last, scarce any of recollection, are discoverable. Small is the space allotted to political regulations of the most important nature in comparison of that which is occupied in orders to the builder, the cabinet-maker, the goldsmith and the upholsterer. Half-a-dozen lines suffice for scattering death broadcast and blindfold, as if without a thought: as many pages are occupied with details concerning furniture.² If the doctrine of transmigration of souls had place in the 39 Articles, the soul of Moses, or of him who on those occasions writes in the name of Moses, would be discovered

¹ The word ‘Deuteronomy’ literally means ‘second law’ (from the Greek words δεύτερος, ‘second’ and νόμος, ‘law’) as the book repeats the Ten Commandments and most of the laws contained in the book of Exodus. Bentham has coined the term ‘Tritonomy’ from the Greek word τρίτος, ‘third’, to mean ‘third law’.

² Exodus 25–7 contains instructions from God to Moses for the construction of a sacred tent, a covenant box, a table, a lampstand, and an altar, with precise details about the gold decoration and the elaborate furnishings of each item.

making display of its taste in the body of some inhabitant of Carleton House.³

With the builder vies the upholsterer in the elaborateness of his exertions to give perfection to this code.⁴

[161–445] [1817 Dec. 24]

Lev. xix. 19. ‘Ye shall keep my Statutes: Thou shalt not let thy camel⁵ gender with a diverse kind: Thou shalt not sow thy field with mingled seed: neither shall a garment mingled of linen and woollen come upon thee.’

Deuteronomy xxii. 9. ‘Thou shalt not sow thy vineyard with divers seeds: lest the fruit of thy seed which thou hast sown, & the fruit of thy vineyard, be defiled.

‘10. Thou shalt not plow with an Ox, and an ass together.

‘11. Thou shalt not wear a garment of divers sorts, as of wollen & linnen together.

‘12. Thou shalt make thee fringes upon the four quarters of thy vesture, wherewith thou coverest *thyself*.’

[161–446] [1817 Dec 23]

The spectre of indelicacy

In the pericranium of this legislator, the organ of the horror of indelicacy possesses such an extent as to have almost obliterated every other: the phantom of uncleanness fills with scarcely intermitting agitation his whole frame. Uncleanness in the pleasures of the table: uncleanness in the pleasures of the bed: he beholds uncleanness every where.

To exempt its flesh from the imputation of uncleanness, and him who feeds upon it from abhorrence, a beast must not only divide the

³ Carlton House, a mansion on the south side of Pall Mall in London, had come into the possession of George, Prince of Wales, in 1783. The Prince spent a huge amount of money on extending, decorating, and furnishing the mansion in a lavish and extravagant fashion.

⁴ In the margin, Bentham has noted at this point: ‘☞ Number the verses occupied about upholstery matters and penal law respectively.’

⁵ King James Bible ‘cattle’.

hoof, but chew the cud⁶—fish must have fins and scales.⁷ A system of zoology is constructed and devoted to this purpose.

To console them, however, from being debarred from pork and hares and rabbits, the people have free liberty to eat their fill of locusts and grasshoppers and beetles.^a

^a Leviticus xi. 22.

Uncleanness after all, whether as a sin or as a misfortune, is what it requires the whole thought of a man's life to keep him from: nor will even that be sufficient.

[161–447] [1817 Dec^r 26]

By the God of Moses, violence out of the case, the act by which satisfaction is afforded to the sexual appetite in conjunction with a partner of the same sex (that sex being the male) appears to have been regarded with different eyes at different periods.

1. At the penning of the first of the four Codes,^b it appears not to have engaged his attention: that faculty was preoccupied by the more important cares respecting the patterns of curtains, hangings and vestments.⁸

^b A^o B.C. 1490.⁹

2. At the penning of the second of those Codes, as exhibited in Leviticus, the practice in question is brought to view. But in the first

⁶ Leviticus 11: 3.

⁷ Leviticus 11: 9.

⁸ Exodus 26: 1–13, 28: 2–43.

⁹ '1490' appears to be a slip. Bentham's immediate source for Biblical dates was almost certainly the running chronology in the margin of the King James Bible introduced in the second Oxford edition of 1679 and revised in the edition prepared by William Lloyd (1627–1717), Bishop of St Asaph 1680–92, Coventry and Lichfield 1692–9, and Worcester from 1699, and published at London and Oxford in 1701, which was retained in almost all the subsequent Oxford editions to the time of Bentham's writing. According to this chronology, the codes of law contained in the book of Exodus were delivered in 1491 bc. Lloyd in turn derived his Biblical chronology from James Ussher, *Annales veteris testamenti, a prima mundi origine deducti*, (i.e. 'Annals of the Old Testament, deduced from the first origins of the world'), London, 1650. James Ussher (1581–1656), Archbishop of Armagh from 1626.

instance, a simple prohibition includes the whole of the arrangement taken for the prevention for it.^c

^c Levit. xviii. 22.¹⁰

At the next interview as reported in this same Code, it bethinks the Lord to enforce the prohibition by a punishment: and that punishment is death.^d

^d Levit. xx. 13.¹¹

3. In the third Code, as exhibited in the book of Numbers, no fresh notice of it presents itself. Of any such fresh notice, what could have been the use? Once enacted, always enacted.

4. In the fourth and last of these Codes, however, the subject is resumed: *actum agere*¹² is the lesson now.

Now, however, if the English translation be correct, the capital punishment is dwindled into a simple prohibition: and the prohibition thus applying to that conjunction of male with male, is immediately preceded by a correspondent one applying to the case of the conjunction of female with female.^e

^e Deut. xxiii. 17.¹³

To the conjunction of female with female of the same species, prohibition applies without punishment: while to the conjunction of female with male of a different species, punishment is applied, and that punishment is death.^f

¹⁰ Leviticus 18: 22: 'Thou shalt not lie with mankind, as with womankind: it is abomination.'

¹¹ Leviticus 20: 13: 'If a man also lie with mankind, as he lieth with a woman, both of them have committed an abomination: they shall surely be put to death: their blood *shall be* upon them.'

¹² i.e. 'to do what has already been done'.

¹³ Deuteronomy 23: 17: 'There shall be no whore of the daughters of Israel, nor a sodomite of the sons of Israel.'

^f As well in regard to the offence of the female as in regard to that of the male, whoso will be at the pains to compare the English translation, text and margin, with the Greek in the Polyglot Bible,¹⁴ will see that great ambiguity hangs over the description of it in both cases.¹⁵ Possibly in neither may it be any thing more than the case of simple fornication: but this, as it may be inferred from the next verse the 18th, is the case where it has for its accompaniment prostitution for hire.¹⁶

[161–448] [1817 Dec^r 26]

It is not in many instances that, in these successive productions of the art and science of legislation, any such accompaniment as a rational cause, or any thing exhibited in the character of a reason, is regarded as necessary: but if the absence of reason be regarded as forming the general rule, in the present instance an exception may be seen to that rule.

¹⁴ Bentham's polyglot bible was probably either the 'London Polyglot Bible', *Biblia Sacra Polyglotta, Complectentia Textus Originales, Hebraicum, cum Pentateucho Samaritano, Chaldaicum, Græcum*; 6 vols., London, 1654–7, edited by Brian Walton (1600–61), Bishop of Chester from 1660, or *Biblia Sacra Polyglotta*, 4 vols., London, 1817–28, published by Samuel Bagster (1772–1851), publisher and author.

¹⁵ In the King James Bible, ambiguity is indicated by a marginal note to 'whore', stating 'Or sodomitess': see for instance, *The Holy Bible*, Oxford, 1800. The corresponding word in the Greek text is 'πόρνῆ', i.e. 'prostitute (female)', whilst the Greek word rendered in the King James as 'sodomite' is 'πορνεύων', i.e. 'prostitute (male)', which is ambiguous to the extent that its meaning may be active, 'one who prostitutes', or passive, 'one who is prostituted'. In the original Hebrew, the corresponding words are 'קדש', 'kedeshah', and 'קדש', 'kadesh', which translate literally as 'holy (feminine)' and 'holy (masculine)'. According to John Gill, *An Exposition of the Old Testament, in which are recorded the Original of Mankind, of the Several Nations of the World, and of the Jewish Nation in particular*, 4 vols., London, 1763–5, ii. 92: 'The word for *whore* is *Kedeshah*, which properly signifies an *holy* one; and here, by an *Antiphrasis*, an unholy, an impure person, one that is defiled by man; ... some understand this not of common harlots in the streets, but of sacred whores, or such as were consecrated to heathen deities'. In relation to the masculine variant, see *ibid.*, ii. 93: 'by the same rule that *Kedeshah* is rendered a whore in the preceding clause, *Kadesh* should be rendered an *whoremonger* here, as in the *Septuagint* and *Vulgate Latin* versions; though *Aben Ezra* interprets it passively, one that is lain with, and *Jarchi* one that is prepared to lye with a male ... and it looks as if there were such sort of persons sacred to idols'. Solomon ben Isaac Rashi (1040–1105) and Abraham ben Meir Ibn Ezra (1089–1164), rabbis and *biblical* exegetes.

¹⁶ Deuteronomy 23: 18: 'Thou shalt not bring the hire of a whore, or the price of a dog, into the house of the Lord thy God for any vow: for even both these *are* abomination unto the Lord thy God.'

In Leviticus xviii. 23 to 30, the reason is that, of a number of practices to which in the aggregate the term abomination is therein applied, this is one¹⁷—that of holding, during the time of her periodical indisposition, conjugal intercourse being another,¹⁸ [by which] the nations which, to make room for them, this chosen people of God were commanded to exterminate had defiled themselves.

Two Chapters after (Levit. xx. 22 to 24) this same reason is repeated: to which is added that of the determination to keep this people in a state of separation from every other (v. 24.)

These same conjunct considerations are in the next verse given for the exclusion put upon so many sorts of flesh in the character of food: those which are under the exclusion being pronounced unclean.

Abomination is the term of reproach applied to the prohibited sexual intercourse—abominable is the state to which, in the same breath, souls are declared to be plunged by the eating of any of these unclean viands.¹⁹

[161–449] [1817 Dec 26]

The same consideration will not in every instance serve in the character of a reason in different nations or at different times.

In modern times, when a reason has been looked for, for applying to a state of society so different the principles of the Mosaic law, the danger of depopulation, in case of toleration, has been assigned for the law in virtue of which a person convicted of the unclean practice in question is devoted to destruction—that part of the population which shall be found composed of persons so conducting themselves shall be cut off.²⁰

¹⁷ The relevant verse is, in fact, Leviticus 18: 22: ‘Thou shalt not lie with mankind, as with womankind: it *is* abomination.’ Bestiality is condemned as ‘confusion’ in Leviticus 18: 23, while the remainder of the passage consists of an exhortation against abominable practices in general.

¹⁸ The relevant verse is, in fact, Leviticus 18: 19: ‘Also thou shalt not approach unto a woman to uncover her nakedness, as long as she is put apart for her uncleanness.’

¹⁹ Leviticus 20: 25: ‘Ye shall therefore put difference between clean beasts and unclean, and between unclean fowls and clean: and ye shall not make your souls abominable by beast or by fowl, or by any manner of living thing that creepeth on the ground, which I have separated from you as unclean.’

²⁰ Although Voltaire had argued in his *Dictionnaire Philosophique* that the generalization of homosexuality would eradicate mankind (see Ch. 3 fn7 [p.33] above), he had also added

To what a degree of extent, notwithstanding all this verbal rigour, it had place in that same country will presently be observable. Yet of no such apprehension on the score of population is any symptom to be found in the Mosaic law.

Continually addicted to this practice, this same impure race was prolific to a degree altogether unexampled under the laws of modern purity.²¹

Ere long the prohibition respecting the houses of accommodation will be seen interpreted by the rule of contraries.

This, it may be said, was the consequence of idolatry. In that instance, perhaps so. But no symptoms of idolatry appear to have accompanied the accessorship and support afforded by the whole tribe of Benjamin to a libidinous outrage in which the whole population of one of its cities had participated.²²

[161–450] [1817 Dec 26]

Remarkable, howsoever little wonderful, is the blindness with which every work to which the epithet of sacred or holy has been attached is predestinated to be interpreted.

To the case in which the satisfaction given to the appetite is given to it without a partner, the name of another character in Jewish history has been given to the practice: and books in which the

in a concluding note that the punishment of burning ‘est trop fort; *est modus in rebus*: on doit proportionner les peines aux délits’: see *La raison par alphabet*, i. 36 n. (*Dictionnaire philosophique*: I, 332 n.) Bentham may have had in mind instead John Fortescue Aland (1670–7146), judge, who in his report of the case of Richard Wiseman (see Ch. 3 fn1 [p.29] above) had quoted with approval from *de Publicis Concubinariis*, a commentary written by the canonist Bermond Choveron at the time of the fifth Lateran Council of 1512–17: ‘*Apud Deum tale Peccatum reputatur gravius homicidio, eo quia homicida unum hominem tantum, Sodomita autem totum genus humanum delere videtur*’; i.e. ‘According to God such a Sin (i.e. sodomy) is held to be more serious than homicide, because the homicide is seen to destroy one man, but the Sodomite to destroy the entire human race’: see Fortescue, *Reports of Select Cases In all the Courts of Westminster-Hall*, p. 94. For a later assertion that the argument from population was used by those defending capital punishment for homosexual offences, see, for instance, the letter signed ‘A.B.’, printed in the *Morning Chronicle*, 20 August 1772, p. 4: ‘The true mode of estimating (I speak politically) the guilt of any act, is by the degree of injury it is of, or threatens, to the society... The only argument I ever heard used ... to prove the enormity of this crime, is, that if it was practised in its full extent, it would stop the propagation of mankind.’

²¹ The following two paragraphs have been marked by Bentham for deletion.

²² See Ch.12 §. 1 [p.161] below.

practice is considered in a medical point of view have taken their titles from that name.²³ The man is represented as having committed a sin. Why? because death, inflicted by supernatural means not specified, is stated in the character of a punishment by which the sin so committed was visited. Read the original, the act in the two cases will be seen to be altogether different.⁸ Judah had three sons: to the eldest he gave a wife: he was ‘wicked in the sight of the Lord (v. 7.) and the Lord slew him.’ For the Lord put ‘his father’ and you will probably be not far from the truth. This done, he gave the widow to the second son: had he had a child by her—had the surviving brother had a child by his dead brother’s widow—this, in the phrase there employed, would have been ‘raising up seed,’ or ‘giving seed to his brother.’ (v. 8. 9.) The conceit of the father was not seconded, but opposed, by the imagination of the son: obedient in shew, he took her to his embrace; but, to defeat a project by which his own comforts were destined to be sacrificed to a partial whimsy of his father’s, he took the requisite measures from preventing the embrace from being prolific. Equally unprolific would all subsequent embraces have been, reckoning from that moment to that of parturition, had conception in the ordinary course been suffered to follow from this first embrace. But the projects of the Lord, predestinated as they seem to have been to such frequent disappointments, have not been always disappointed with impunity: on the present occasion, though he missed his purpose, he had his revenge: ‘the thing (v. 10) displeased the Lord: wherefore he slew him also.’

[161–451] [1817 Dec 26]

The child begotten by the living son would have been begotten by the dead one after his death: in this they both of them, father and son, agreed. But the son did not choose that a child, in the event of its having been begotten by him, should not be his: which the father did. Here was a disagreement: and the consequence was that, probably

²³ i.e. Onan. See, for example, *Onania; or, the heinous Sin of Self-Pollution, and all its frightful Consequences, in both Sexes, considered, with spiritual and physical Advice to those, who have already injur'd themselves by this abominable Practice*, 8th edn., London, 1723; [S.A.D.] Tissot, M.D., *A Treatise on the Crime of Onan: Illustrated with a Variety of Cases, together with the Method of Cure*, London, 1766.

by the hand of the father, the Lord sent this second reprobate after the first.

To have been known to the father, unless it were made known by a vision or in some other way by express revelation, the offence must either have been committed in his presence, or found an informer in the injured lady. One and the same sentiment or sense, whichever it is to be called, displays itself by tokens considerably different in different times and places. In France, when the wedding has been a royal one, a circle of courtiers has been seen accompanying the spot, more or less enclosed, in which the consummation was performing.²⁴ In Otaheite, not only the functions by which the species is preserved, but all other operations by which satisfaction is afforded to the sexual appetite, are, or at least used to be, performed, as often as desire happened to invite, how numerous and how mixt so ever

²⁴ See, for instance, *Memoirs of the Court of France and City of Paris: containing the Intrigues of that Court, and the Characters of the Ministers of State, and other Officers; together with the Occurrences of the Town*, London, 1702 (attributed to Marie-Catherine Le Jumel de Barneville, baronne d'Aulnoy, but almost certainly not written by her), p. 192, discussing the marriage of Princes Marie-Adélaïde of Savoy (1685–1712) and Prince Louis (1682–1782), duc de Bourgogne, grandson of Louis XIV (1638–1715), King of France from 1643, on 7 December 1697: 'Upon the Marriage-day, the new married Couple were put to Bed; but the Curtains being undrawn, there were a great many Witnesses of their Actions, only in order to see if they lay close to one another. The King, to give them a sufficient opportunity, caus'd draw the Curtains, while the ... Officers of the young Prince, stood just by to over-hear what might pass; but nothing having pass'd, they soon undrew the Curtains.' According to Louis de Rouvroy (1675–1755), duc de Saint-Simon, French diplomat (see see *Mémoires de Monsieur le Duc de S. Simon, ou l'observateur véridique, Sur le Règne de Louis XIV, & sur les premières époques des Règnes suivans*, 3 vols., London, 1788, ii. 90), when in 1722 Louise Élisabeth d'Orléans (1709–42), daughter of Phillippe (1674–1723), duc d'Orléans, Regent of France 1715–23, married Luis Felipe (1707–1724), Prince of Asturia, as Louis I King of Spain 1724, 'La modestie et la gravité des Espagnols, ne leur permettent pas de voir coucher des mariés: ... je ne pouvois regarder comme bien solide un mariage qui ne seroit point suivi de consommation, au moins présumée'. Saint-Simon then recounts (*ibid.*, ii. 97) that he convinced the King and Queen of Spain to use the same strategy of providing witnesses to the joint occupation of the marriage bed as had been employed by Louis XIV in 1697: 'Leurs Majestés seules avec le pur nécessaire, assisteroient au déshabillé, les verroient mettre au lit ... et tous, les rideaux entièrement ouverts des trois côtés du lit, feroient ouvrir ... la porte, et entrer toute la Cour, et la foule s'approcher du lit, laisser bien remplir la chambre de tout ce qu'elle pourroit contenir, avoir la patience d'un quart-d'heure pour satisfaire pleinement la vue de chacun, puis faire fermer les rideaux en présence de la foule, et la congédier'.

the company:²⁵ while, howsoever differently applied, the same law forbad with inexorable rigour the female part of the company from satisfying, in the presence of any male, the appetite by which the individual is preserved.²⁶

Under the Mosaic law, delicacy, if so it was that to this function it had any application, gave way to the important object of giving a public proof of the virginity of the bride by the best evidence of which the nature of the case was susceptible. (Deut. xxii. 13 to 21.) To any one whose piety or whose patience will carry him through the paragraph thus referred to, it will be pretty evident that in those days the rules of evidence were not altogether so well understood as the law of fringes for robes or the laws for the composition of perfumes. For God's instructions to Moses regarding fringes on garments see Numbers 15: 37–9, and regarding the composition of perfumed anointing oil see Exodus 30: 22–25.

Under the management of a prudent father and mother, he may see with what facility, by a few drops of blood well applied, the

²⁵ For accounts of the public satisfaction of sexual desire in Otaheite see, for instance, William Alexander, *The History of Women, from the earliest antiquity to the present time*, 2 vols., London, 1779, i. 286: 'But a still more striking singularity in the character of these women [i.e. the women of Otaheite] ... is, their performing in public those rites, which in every other part of the globe, and almost among all animals, are performed in privacy and retirement: whether this is the effect of innocence, or of a dissoluteness of manners to which no other people have yet arrived, remains still to be discovered; that they are dissolute, even beyond anything we have hitherto recorded, is but too certain'. See also Hawkesworth, *Account of the Voyages undertaken by the order of His Present Majesty*, ii. 206–7, 207–8, in discussion of a dance 'called *Timorodee*, which is performed by young girls ... consisting of motions and gestures beyond imagination wanton, in the practice of which they are brought up from their earliest childhood, accompanied by words, which, if it were possible, would more explicitly convey the same ideas'; 'the women ... dance the *Timorodee* in all its latitude, as an incitement to desires which it is said are frequently gratified upon the spot'.

²⁶ For accounts of the separation of the sexes in Otaheite during meals see Alexander, *History of Women*, i. 196: 'The women sometimes serve the men at their repasts; but never eat with them, or in their company; so that it is presumable, the action of eating or drinking is, in this island, ranked among the number of female indelicacies'; Hawkesworth, *Account of the Voyages undertaken by the order of His Present Majesty*, ii. 204: 'The women not only abstain from eating with the men, and of the same victuals, but even have their victuals separately prepared by boys kept up for that purpose, who ... attend them with it at their meals'.

reputation of a bride might be preserved, or for want of them her life forfeited.

[161–452] [1817]

Under the terrors of everlasting fire, a sin—and that a deadly one—was thus formed out of a shadow. A little more, and the sinfulness with its punishment might have been extended to the act of scratching where it itches.

The sin in the text did not consist in the giving satisfaction to the appetite without a partner: for a partner to the act there was: the sin, such as it was, consisted in an act of disobedience—not, it must be confessed, altogether unaccompanied by tokens of ill-humour—of disobedience: to the will, whether of the sinner's father or the Lord or both, will be for the reader to determine.

As to the punishment, in that state of society the concupiscible appetite was not in the habit of waiting long for such satisfaction as it happened to take a fancy to.

In the present instance, had reparation been the object, a few moments of repentance might, at the end of any length of time, have sufficed for furnishing it. Bereft thus speedily and suddenly of her second husband, [she] waited for the third brother, till seeing him ripe for marriage and herself still in the same desolate state, she lost all patience. She way-laid her father-in-law, and concealing her physiognomy she personated a common prostitute, and in the masquerade obtained from his concupiscence a satisfaction, though alas but momentary, of the sort which she had for years been vainly looking for from his compassion and his justice.²⁸

[161–453] [1817 Dec 27]

Thus²⁹ did the daughter-in-law obtain in this case from the incurious weakness of her father-in-law the benevolence which the patriotic simplicity [of] two daughters of a preceding patriarch obtained from their venerable father by a cup formed out of the same materials with the cup of Circe.³⁰

²⁸ Genesis 38: 11–18.

²⁹ This paragraph is marked by Bentham for deletion.

³⁰ The two daughters of Lot made their father drunk so that they might sleep with him without his knowledge, in order to preserve his blood line: see Genesis 19: 30–8. In Homer's

Such are the scenes which, in those earlier days, were, by the hand of inspiration, recorded (we are told) for the instruction [and]³¹ edification of these latter days and of those which shall follow them till time shall be no more.

Odyssey, Circe was an enchantress who used magical potions to turn some of Odysseus's crew into swine.

³¹ MS 'in'.

CHAPTER 12. LITTLE REGARD SHEWN
TO THE MOSAIC PROHIBITIONS OF THE
ECCENTRIC PLEASURES OF THE BED

§1. *Story of the Young Levite
and his Concubine: Judges xix*

[161–454] [1817 Dec^f 20]

In the book called the book of Judges, in which the history of the Jews is continued under the government of those monarchs of comparatively limited power who, in contradistinction to the race of Kings, are called Judges, may be seen a story which, in some of its principal features, coincides with that of Lot and his angelic guests.^a At the house of a venerable old man to whom they are strangers, a young man travelling with a female, who is indifferently stiled his wife and his concubine, are received on the footing of guests. The character of the before mentioned city had propagated itself, or had broken out anew, in Gibeah. In the breasts of a multitude stiled the men of the city, the person of the young Levite had excited the same appetite as had been excited by the angelic charms and had given to it the same wayward direction. An offer similar to that made by Lot is made by the nameless in[n] hoster of his virtue. In addition to the Levite's concubine, he offers his own daughter: and as in the more antient case, so in this, the offer, in the shape in which it comes from the venerable host, is refused. Not altogether, however, so inexorable as the men of the conflagrated city were the ruffians of Gibeah: something new they were determined to have: a second offer made by the Levite of his concubine alone is accepted by them: and at this price he remains unmolested. The fate which, unless their angelic characters had sufficed to preserve them [from]¹ it, would probably have been experienced by the g[u]ests of Lot, was experienced by the hapless concubine: at the conclusion of the tragedy, her lord, as he is called, found her lifeless.

¹ MS 'for'.

^a Judges xix. 1 to 30.²

[161–455] [1817 Dec^r 20]

By the news of this enormity, a civil war is kindled, between the Benjamites on one part, to whom the ruffians belonged, and all the rest of the Israelites. In two battels, the partizans of the party injured suffer a loss of 40,000: in a third, the abettors of the injurers lose their whole number except 600.³

This history of the Levite and his hapless concubine is in a considerable degree more intelligible and unequivocal than that of the two beings who, being of the male sex, were either human or superhuman or both in one. The stock of æthereal brimstone was now exhausted.

The people of Gomorrah had no part in the outrage attempted by those of the neighbouring and sister city: yet their punishment was the same.

After the outrage of which Gibeah was the scene, not only did the remainder of the people of Gibeah—of fighting men total number 700—join in the protection of the malefactors,⁴ but all the rest of the tribe of Benjamin—26,000 warriors in number—joined in that same denial of justice.⁵ In the war that ensued, the 26,700 aggressors were cut off all but 600: but before that loss had been sustained by these aggressors, the avengers of the injured party had sustained a loss of more than half as many again—a loss of forty thousand fighting men

² For the story of Lot and his angelic guests see Ch. 10 [p.125] above and Ch. 13 §. 1 ¶11-17 [p.180] below.

³ In the margin, Bentham has noted at this point: ‘☞ This from the *heads*: confront it with the text.’

⁴ In the margin, Bentham has noted at this point: ‘☞ See whether they were not all *principals*?’

⁵ See Judges 20: 15: ‘And the children of Benjamin were numbered at that time out of the cities twenty and six thousand men that drew sword, beside the inhabitants of Gibeah, which were numbered seven hundred chosen men.’

out of the 400,000 of which the fencible part of the whole population was composed.⁶

Nearer to modern times in its date, this account will be acknowledged to be,⁷ in its character, nearer to that of modern history—to the productions of the human mind in its modern state.

[161–456] [1817 Dec^r 20]

The pen of any historian is better evidence of a war, and even of the cause of the war, when the reason assigned to it is a particularly described outrage offered to a particular individual, than the same or any other pen can be in proof of the reputed fact that the fire, by which two cities were consumed, had for its instrument a quantity of brimstone imported from heaven—whether it be the sky or the special abode of the almighty and omnipresent being—[and] created for that special purpose.

§2. *Story of Jonathan and David*

[161–457] [1817 Dec^r 21]

I Samuel xvii. 56. 57. 58. xviii. 1. 2. 3. 4.

⁶ See Judges 20: 2: ‘And the chief of all the people, *even* of all the tribes of Israel, presented themselves in the assembly of the people of God, four hundred thousand footmen that drew sword.’

⁷ The Book of Genesis, containing the account of the destruction of Sodom and Gomorrah (in 1898 bc according to the marginal chronology in the King James Bible), was traditionally attributed to Moses. It was variously estimated to have been composed either during the period after Moses had fled Egypt into the land of Midian (1531–1491 bc), or during the forty years of wanderings after the exodus of the Israelites from Egypt (1491–1451 bc). See, for instance, Robert Gray, *A Key to the Old Testament and Apocrypha*, London, 1790, pp. 77–8; John Brown, *Dictionary of the Holy Bible*, 2nd edn., 2 vols., London, 1797, i. 480; and [Augustin Calmet], *Calmet’s Dictionary of the Holy Bible: Historical, Critical, Geographical, and Etymological*, 2nd edn., 3 vols., London, 1798 (first published in 4 vols. at Paris in 1722–9), ii. entry for ‘Moses’. According to the marginal chronology, the events of Judges 19–20 took place in 1406 bc. The Book of Judges was often attributed to the prophet Samuel, and its composition dated to shortly after the restoration of kingship in Israel in 1095 bc: see Gray, *Key to the Old Testament*, pp. 151–3; Brown, *Dictionary of the Holy Bible*, ii. 58; and *Calmet’s Dictionary of the Holy Bible*, i. entry for ‘Judges’. Recent scholarship estimates that both Genesis and Judges were compiled in their current form in the seventh or sixth centuries bc: see *The Oxford Bible Commentary*, ed. J. Barton and J. Muddiman, Oxford, 2001, pp. 37–40, 177–8.

‘56. And the King (Saul) said, Enquire thou whose son the stripling {is}.

‘57. And as David returned from the slaughter of the Philistine, Abner took him, and brought him before Saul with the head of the Philistine in his hand.

‘58. And Saul said to him, whose son (art) thou, (thou) young man? And David answered I (am) the son of thy servant Jesse the Beth-lehemite.⁸

‘1. And it came to pass when he had made an end of speaking unto Saul, that the Soul of Jonathan was knit with the soul of David, and Jonathan loved him as his own Soul.

‘2. And Saul took him that day, and would let him go no more home to his father’s house.

‘3. Then Jonathan and David made a covenant, because he loved him as his own Soul.

‘4. And Jonathan stripped himself of the robe that (was) upon him, and gave it to David, and his garments even to his sword, and to his bow, and to his girdle.’

I Samuel xx. 17. ‘And Jonathan caused David to swear again, because he loved him: for he loved him as he loved his own soul.’

II [Samuel]⁹ i. 17. ‘And David lamented with this lamentation over Saul, and over Jonathan his son.’

‘[19.]¹⁰ The beauty of Israel is slain upon thy high places: how are the mighty fallen!’

‘26. I am distressed for thee, my brother Jonathan: very pleasant hast thou been unto me: thy love to me was wonderful passing the love of women.’

[161–458] [817 Dec^r 21]

In a country which could give birth to such an occurrence as that which originated in the beauty of the young Levite, is it possible that the nature of that love which had place between David and Jonathan should be matter of doubt? or that it could be more clearly designated by any the grossest, than by this sentimental, language?

⁸ King James Bible ‘Bethlehemite’.

⁹ MS ‘Kings’.

¹⁰ MS ‘18.’

Between two young men, such the strength of their affection, as not merely to equal, but to surpass the strongest that can bind together man and woman? So far as regards the mere love of mind, no love capable of having place between male and male can equal that which is capable of having place between man and woman. For setting aside all love between body and body, it is impossible to assign any reason why the strongest love between man [and man] should exceed the strongest love between man and woman: the love of body to body must in that case amount to nothing if, being joined to the love of mind to mind, it makes no addition to its strength.

But at the very outset of the story, the clearest exclusion is put upon any such notion as that the love of mind to mind, or in one word *friendship*, was in the case in question clear of all admixture of the love of body for body—in a word, of sexual love. Love at first sight? in the words of the title to the play¹¹—few incidents are more frequent: nothing can be more natural. But friendship at first sight—and friendship equal in ardency to the most ardent sexual love! At the very first interview, scarce had the first words that Jonathan ever heard of [David's]¹² issued from his lips, when the soul of Jonathan was knit with the soul of David, and Jonathan loved him as his own soul. In a country in which the concupiscence of the whole male population of a considerable town is kindled to madness by a transient glympse of a single man, what eye can refuse to see the love by which the young warriors Nisus and Euryalus were bound together in Virgil's fable,¹³ and Harmodius and Aristogiton in Grecian history?¹⁴

[161–459] [1817 Dec^r 24]

¹¹ Possibly either D. Craufurd, *Love at Frist Sight. A Comedy*, London, [1704], or *Love at First Sight: A Ballad Farce*, London, 1763.

¹² MS 'Jonathan's'.

¹³ Nisus was the devoted older lover of Euryalus in Virgil's *Aeneid*. He helped Euryalus to victory in the foot race in *Aeneid* v. 286–361, and died avenging him during a night raid on the enemy camp in *Aeneid* ix. 176–502.

¹⁴ Harmodius and Aristogiton plotted to kill the tyrant Hippias in 514 bc. The plan miscarried, and Hipparchus, brother of Hippias, was killed. The 'tyrannicides' were executed, but later, after the removal of Hippias, were elevated as heroes. See Thucydides, *History of the Peloponnesian War*, vi. liv–lix.

The connection thus represented as having had place between these two young men, not unfrequently has it, together with the song in which it is represented as having been celebrated,¹⁵ been held up to admiration, and numbered among the passages and examples in holy writ by which edification is afforded. Of course, on the part of those by whom it has been presented to view in this light, no apprehension has on that occasion been entertained that, by any persons whom they expected to have for readers, any thing of sensuality—especially of sensuality in so irregular a shape—could be regarded as having had place.

The one loving the other as his own soul! sensuality in so impure a shape, is it possible that it could ever have formed the basis of an affection so ardent—so sentimentally expressed? And this too in a book in which any admixture of sensuality is represented as sufficing to convert the attachment into a crime of the foulest complexion and which, as such, is accordingly appointed to be visited by the severest of punishments?

But if, among the Jews, while under some circumstances the law by which it was made capitally punishable was regarded without disapprobation, this same propensity was under other circumstances regarded not merely with indifference, but even admiration, and spoken of in correspondent terms, in this, whatever inconsistency there were, there would be nothing at all extraordinary: considered as mere sensuality, it would be regarded with disapprobation, especially if running to excess—leading to excess in *quantity* as well as to aberration in respect of *shape* and *quality*:—considered as a support to virtue, a bond of attachment between two persons jointly engaged in a course of life regarded as meritorious, it might nevertheless be respected and applauded.

[161–460] [1817 Dec. 24]

In the patriotism and courage—in the joint exertions—of two young men, Harmonius and Aristogiton, Athens beheld and celebrated its liberators from a tyranny under which it had groaned. But the nature of the gratification which had served as cement to

¹⁵ See 'David's Lament' at II Samuel 1: 19–27.

their union was no more a secret than the fruits of which it had been productive.

An object of universal admiration and eulogium among the Greeks was the intimacy of the union between the members of the famous Theban band—the intimacy of the union and the virtue—the fortitude—which it had been found to inspire: but no less notorious was it that it was by the admixture of sensuality that the attachment in this case stood so much distinguished from that ordinary species and degree of attachment which in general has place among fellow soldiers.¹⁶

Neither among the Greeks, nor among the Romans, was the epithet pious regarded as incapable of being applied without impropriety to an attachment of this sort. Μηρῶν δε τῶν σῶν εὐσεβῆς ὁμιλία καλλίων—*Femorum vero tuorum sancta conversatio melior*—are the words in which, in a dramatic composition, Achilles is represented as addressing himself to his favourite Patroclus.¹⁷

Nisus, amore pio pueri &c., says Virgil, in the episode in which are portrayed the conjunct exploits and subsequent deaths of two of his Trojan Heroes, Nisus and Euryalus.¹⁸

[161–461] [1817 Dec. 24]

But pious—had it been his intention that, in the friendship so affectingly displayed, any such impure admixture was contained, would he, in speaking of the love, have attached to it any such epithet as pious? ... Why not, when from this same Virgil, in the same volume, is so constantly bound up a sort of song having for its subject, and its only subject, the unsuccessful passion of Corydon

¹⁶ According to Plutarch, *Life of Pelopidas*, xviii. i–v, the Sacred Band of Thebes, the elite force of the fourth century bc Theban army, was formed of 150 homosexual pairs, whose mutual love led them to fight more fiercely.

¹⁷ The Greek quotation is a fragment from Aeschylus' lost tragedy *Myrmidons*, and is spoken by Achilles to the dead Patroclus. The phrase means 'the sacred intimacy of your thighs is better'. The Latin phrase is a translation of the Greek.

¹⁸ The phrase Bentham quotes, 'Nisus, with a boy's pious love', occurs at *Aeneid*, v. 296, where Nisus and Euryalus take part in a foot race, rather than in the episode of their attack on the enemy camp, which ends in their deaths, at *Aeneid*, ix. 176–502.

for Alexis—a passion of the nature of which the terms of the poem leave not the smallest room for doubt?¹⁹

In the Orations of Cicero, various are the occasions on which Cicero, in speaking of the persons against whom his eloquence was directed, mentions the demonstrations afforded by them of the strength of that propensity among their titles to public reproach. Why? because it was carried to a scandalous excess—to such a pitch either of excess or of notoriety as to have subjected them to general reproach.²⁰

But this same propensity, if the personal gratification of it were administered to it with common decency—if the laws of decency were observed on the occasion of the gratification afforded to it, so far from marking it out [for]²¹ reproach, he had avowedly, in his own person, taken it for an object of imitation.²²

*Cum queritur quo d fraude malâ frustratus amantem
P aucula cœnato sibi debita sauvia Tyro
Tempore nocturno subtraxerit:—h is ego lectis
Quidne &c.
Tyronisque dolos, Tyronis nôsse fugaces
Blanditias, et furta novas addentia flammâs.*

§3. *Houses of resort for this purpose protected under the Kings*

[161–462] [1817 Nov 28]

State of the law is one thing: state of manners and practice under that law is a very different thing. What was the tenor of that law has here been seen. But practice—the state of practice—was it conformable to that same law?

¹⁹ Virgil, *Eclogae*, ii is addressed by the shepherd Corydon to the beautiful but heedless youth Alexis.

²⁰ See, for example, Cicero, *Post Reditum in Senatu*, 11, and *De Haruspicum Responsis*, 42, 59, where the excesses of Clodius are criticised; and *Philippics* ii. 44–5, which portrays the sway held over Marcus Antonius by his lover Curio.

²¹ MS ‘from’.

²² See Ch. 10 fn17 [p.132] above.

That, if it ever had been, it had frequently and in all probability finally ceased to be so is manifest from a variety of successive passages in the history of this same people. So far from its being punished, we find receptacles for this species of gratification set up and maintained at different periods in Judah by authority of government.

[161–463] [817 Nov 28]

1. I Kings xiv. 21 to | |. In the reign of Rehoboam ... ‘22. Judah²³ did evil in the sight of the Lord, and they provoked him to jealousy²⁴ with their sins which they had committed, above all that their fathers had done. 23. For they also built them high places, and images, and groves on every high hill, and under every green tree. 24. And there were also Sodomites in the land, {and} they did according to all the abominations of the nations which the Lord cast out before the children of Israel.’

2. Rehoboam reigned 17 years:²⁵ to him succeeded his son Abijam, who walked in all the sins of his father (xv. 3) and reigned 3 years.²⁶ To him succeeded his son Asa, who (xv. 11) ‘did {that which was} right in the eyes of the Lord 12. And he took away the Sodomites out of the land, and removed all the idols that his fathers had made.’

3. I Kings xxii. 46. Not so easily removed, however, as the idols were the Sodomites. Of these, in the days of his son Jehosaphat, there remained a remnant of whom it is written, ‘And the Sodomites²⁷ which remained in the days of his father Asa, he took out of the land.’

Asa reigned 41 years (I Kings xv. 10.): Jehosaphat 25 years.²⁸

4. Clearing the kingdom of Judah of sodomites was like clearing the Strand of prostitutes.²⁹ | |³⁰ years after they may be seen

²³ King James Bible ‘And Judah’.

²⁴ King James Bible ‘jealousy’.

²⁵ See I Kings 14: 21.

²⁶ See I Kings 15: 2.

²⁷ King James Bible ‘And the remnant of the sodomites’.

²⁸ See I Kings 22: 42.

²⁹ In the eighteenth and nineteenth centuries, the Strand in London was notorious for its prostitutes.

³⁰ In the margin, Bentham has made the following calculation:

established ‘by the house of the Lord’, in or close by an establishment in which there were women whose business it was to weave hangings for a sort of machine called the grove. ‘And he (Israel)’ says the text, ‘brake down the houses of the sodomites that were by the house of the Lord, where the women wove hangings for the grove.’³¹ concerning which see II Kings xxi. 3.

*§4. In the discourses of the Prophets no
condemnation of these pleasures is contained*

[161–464] [1817 Nov^r 29]

In all ages and all nations, among the devices of priestcraft and the propensities of uninstructed minds has been the laying hold of natural events and converting them into supernatural dispensations: prosperous ones into mercies; calamitous into judgments: and, for this purpose, fear being more impressive than hope, the terrific sort have been most in use. Vast is the force of this engine, especially in the hands of those who possess talents adapted to the use of it. Of the existence of the connection between the human act and the supposed superhuman dispensation, terror disposes the ignorant herd to receive as evidence the assertion of any one who is bold enough to utter it, and the efficiency—the probative force—with which it operates rises naturally with the apparent intensity of the persuasion thus manifested. But the grand advantage is—that by the essential nature of the case, all counter-evidence is excluded. To be able to deny the connection upon any specific ground, it would be necessary a man should be in the secret of the counsels of the Almighty. True it is that he by whom the existence of the connection is affirmed, does by the very affirmation declare—not explicitly, it is true, but not the less necessarily and substantially declare—that he himself is in

‘b.c. 913

b.c. 624

289*

Bentham has taken the dates corresponding to I Kings 22: 46 and II Kings 23: 7 from the running chronology which appeared in many editions of the King James Bible from 1701 (see Ch. 11 fn9 [p.151] above).

³¹ II Kings 23: 7.

possession of that very extraordinary privilege. But in this case, the general tide of popular favour is naturally in favour of the affirmative and thence on the side of him who maintains it: faith and piety present themselves as manifested by the affirmative; impiety and incredulity are suspected [of], or at any rate taxed with, lurking under the negative.

[161–465] [1817 Nov. 29]

In the damage more or less extensive received by these two towns³² from fire, all those who, by working upon the fears of the people, took upon them the direction of their conduct saw an instrument—and an [instrument]³³ of the most impressive nature—ready provided to their hands: thus the instrument was lying in readiness for every hand that, to the boldness, should add the occasion and the desire to wield it.

In the works of those twelve Jewish statesmen on whom, by an ever palpable yet ever deceptitious ambiguity, an appellative at that time designative of statesman, and nothing more, at present designative of a predictor of distantly and darkly future events, the word prophet continues to be bestowed, seven passages may be seen in which the individual calamity in question has, in its quality of an instrument of terror, been employed: viz. in Isaiah 2: in Jeremiah, in the Book of Lamentations, in Ezekiel, in Amos and in Zephaniah, in each, one.

[161–466] [1817 Nov. 29]

[1.] In Isaiah—in the first of the two passages of his book in which the allusion to the fate of the two cities occurs, the manner in which mention is made of them seems extraordinary enough, and to look at it may naturally enough be expected to have occasioned no small perplexity to, and imposed no small quantity of labour upon, the Commentators.

In the first mention made of them, they are alluded to in the usual character of places affording an example in proof of the existence of the particular providence by which the people in question were

³² i.e. Sodom and Gomorrah.

³³ MS ‘argument’. Bentham has failed to make the alteration here, though he did so three words previously.

taught to consider themselves as all along governed.^b After speaking of the country as having suffered desolation by fire as well as other means at the hands of a foreign enemy (v. 7), it goes on to observe that (v. 9), ‘Except the Lord of hosts had left unto us a very small remnant, we *should have been* as Sodom, and we should have been like unto Gomorrah.’ Thus far the character in which the two cities are brought to view is that of so many places of which, at a period of high antiquity, the compleat destruction had been effected.

^b Isaiah i. 7. 8. 9.

[161–467] [1817 Nov. 29]

Comes the next verse, and now the discourse is addressed to them, one after another, as if they were so many cities either revived or still in being: and then comes a foreboding and exhortative invective which, from this verse (v. 10), lasts even to the end of the Chapter, which is at the 31st verse.

By one supposition alone can the strangeness of this appearance be removed, and it presents itself as a satisfactory one. The city to which this lesson of invective was meant to be understood as addressed was the capital of the kingdom to which he belonged, even Jerusalem, the capital of Judæa: and it is by a figure of rhetoric that the one city in question is addressed by those two so universally notorious and opprobrious names.

In no other character than that of subjects of supernatural destruction are the two inseparable cities spoken of: to the particular propensity in question, no allusion is here to be found: examples of wickedness in general—not of wickedness in that particular shape—this is the character in which they are here brought to view.

[161–468] [1817 Nov. 30]

2. Soon after (Ch. iii.) comes another passage in which, in the character of a proverbial expression, Sodom is brought in: brought in, but in what character? not in the character of a place specially remarked for the prevalence of the particular propensity, but in that of a place, which, for depravity in all shapes taken together, was commonly regarded as having been subjected, by supernatural means, to the calamity of fire in the character of a punishment

inflicted by a particular providence. Isaiah iii. 9. ‘The shew of their countenance (that of the people of Judah in general, and Jerusalem in particular) doth witness against them, and they declare their sin as Sodom, they hide it [not]: wo³⁴ unto their soul, for they have rewarded evil unto themselves.’

In this picture, effrontery seems to be the principal feature.

[161–469] [1817 Nov. 30]

3. Next comes a passage in Jeremiah xxiii. 14.

‘I have seen also in the prophets of Jerusalem an horrible thing: they committ adultery, and walk in lies: they strengthen also the hands of evil doers,³⁵ that none doth return from his wickedness: they are all of them to³⁶ me as Sodom, and the inhabitants thereof as Gomorrah.’

Dishonesty seems, in this passage, to have been the principal imputation meant to be conveyed.

Here we see prophet Jeremiah pouring down as usual upon the heads of rival prophets, as well as enemies at large, a torrent of vague vituperation: they on their part, we may well believe, were not behind hand with him. But happily, their prophecies have perished with them, and the storehouse of religion is encumbered with his.

[161–470] [1817 Nov^r 30]

4. Next comes the book of Lamentations.

In terms full of the usual mixture of melancholy, malevolence, obscurity and extravagance, the author speaks of calamity in general, and famine in particular, as raging in Judæa, but without any fixation, or so much as the least hint, which can lead to a conception of the time.

‘For (continues he) (Lament. iv. 6.) the punishment of the iniquity of the daughter of my people is greater than the punishment of the sin of Sodom, that was overthrown as in a moment, and no hands stayed on her.’

[161–471] [1817 [Nov] 30]

5. Next comes a whole string of passages in Ezekiel, Ch. xvi.

³⁴ King James Bible ‘it not. Woe’.

³⁵ King James Bible ‘evildoers’.

³⁶ King James Bible ‘unto’.

Speaking of Jerusalem, ‘Behold (says he, v. 44) every one that useth proverbs shall use this proverb against thee, saying, As is the mother so is the³⁷ daughter.

‘45. Thou art thy mother’s daughter, that lotheth her husband and her children, and thou {art} the sister of thy sisters, which lothed their husbands and their children: your mother {was} an Hittite, and your father an Amorite.

‘46. And thy³⁸ elder sister {is} Samaria, she and her daughters that dwell at thy left hand: and thy younger sister, that dwelleth at thy right hand, [is] Sodom and her daughters.

‘47. Yet hast thou not walked after their ways, nor done after their abominations: but as {if that were} a very little {thing}, *thou wast corrupted more than they in all thy ways.*

‘48. As I live, saith the Lord God, Sodom thy sister hath not done, she nor her daughters, as thou hast done, thou and thy daughters.

‘49. Behold this was the iniquity of thy sister Sodom, Pride, fulness of bread, and abundance of idleness was in her and [in] her daughters, neither did she strengthen the hand of the poor and needy.

‘[50.]³⁹ And they were haughty, and committed abomination before me: therefore I took them away as I saw good.

‘[51.]⁴⁰ Neither hath Samaria committed half of thy sins; but thou hast multiplied thine abominations more than they, and hast justified thy sisters in all thine abominations which thou hast done.

[161–472] [1817 Nov^r 30]

‘52. Thou also, which hast judged thy sisters, bear thine own shame for thy sins that thou hast committed more abominable then they; they are more righteous than thou: yea, be thou confounded also, and bear thy shame, in that thou hast justified thy sisters.

‘53. When I shall bring again their captivity, the captivity of Sodom and her daughters, and the captivity of Samaria and her

³⁷ King James Bible ‘her’.

³⁸ King James Bible ‘thine’.

³⁹ MS ‘40.’

⁴⁰ MS ‘41.’

daughters, then {will I bring again} the captivity of thy captives in the midst of them.

‘54. That thou mayest bear thine own shame, and mayest be confounded in all that thou hast done, in that thou art a comfort to⁴¹ them.

‘55. When thy sisters, Sodom and her daughters, shall return to their former estate, and Samaria and her daughters shall return to their former estate, then thou and thy daughters shall return to your former estate.

‘56. For thy sister Sodom was not mentioned by thy mouth in the day of thy pride.

‘57. Before thy wickedness was discovered, as at the time of {thy} reproach of the daughters of Syria, [and]⁴² all {that are} round about her, the daughters of the Philistines, which despise thee round about.

‘[58.]⁴³ Thou hast borne thy lewdness and thy⁴⁴ abominations, saith the Lord.

‘[59.]⁴⁵ For thus saith the Lord God, I will even deal with thee as thou hast done, which hast despised the oath in breaking the covenant.’

[161–473] [1817 Nov 30]

6. Next comes the prophet Amos, Ch. iv. v. 11.

‘I (i.e. the Lord) have overthrown {some} of you, as God overthrew Sodom and Gomorrah, and ye were as a firebrand plucked⁴⁶ out of the burning: yet have ye not returned to⁴⁷ me, saith the Lord.

‘12. Therefore thus will I do unto thee, O Israel: {and} because I will do this unto thee, prepare to meet thy God, O Israel.’

[161–474] [1817 Nov. 30]

7. Seventhly and lastly behold Zephaniah, Ch. ii. v. 8. 9.

⁴¹ King James Bible ‘unto’.

⁴² MS ‘all’.

⁴³ MS ‘59.’

⁴⁴ King James Bible ‘thine’.

⁴⁵ MS ‘60.’

⁴⁶ King James Bible ‘plucked’.

⁴⁷ King James Bible ‘unto’.

‘I have heard the reproach of Moab, and the revilings of the children of Ammon, whereby they have reproached my people, and magnified {themselves} against their border.

‘9. Therefore as I live, saith the Lord of hosts and⁴⁸ God of Israel, surely Moab shall be as Sodom, and the children of Ammon as Gomorrah, {even} the breeding of nettles, and salt-pits,⁴⁹ and a perpetual desolation: the residue of my people shall spoil them, and the remnant of my people shall possess them.

‘10. This they shall⁵⁰ have for their pride, because they have reproached and magnified {themselves} against the people of the Lord of hosts.

‘11. The Lord {will be} terrible unto them: for he will famish all the gods of the earth, and {men} shall worship him, every one from his place, {even} all the isles of the heathen.

‘12 Ye Ethiopians also, ye shall be slain by the⁵¹ sword.

‘13. And he will stretch out his hand against the north and destroy Assyria, and will make Ninevah a desolation, and dry like a wilderness.’—Thereupon follows the picture of the wilderness in detail.

In all the preceding passages, the object of the prophet’s vituperation is his own country: in this last, the neighbouring countries come in for a share in it.

⁴⁸ King James Bible ‘hosts, the’.

⁴⁹ King James Bible ‘salt pits’.

⁵⁰ King James Bible ‘shall they’.

⁵¹ King James Bible ‘my’.

CHAPTER 13. THE ECCENTRIC PLEASURES OF THE BED, WHETHER PARTAKEN OF BY JESUS?

§1. *Introduction*

[161–475] [1817 Nov 20]

We¹ now come to a ground of extreme delicacy. Taste and self-regarding prudence [call]² upon the enquirer to turn aside from it: regard for the comfort of mankind and the sound principles of penal justice [compel]³ him to go over it.

In the following passages will be seen every thing which, in the history of Jesus as delivered in the four Gospels, presents itself as bearing upon the point in question, and affording any thing of a ground for an inference too obvious to need being expressed.

All those in which Saint John has any concern are taken from the Gospel which bears the name of that same Saint. Justice calls here for the observation, that among the believers in the religion of Jesus there are some in whose eyes the whole of that Gospel is, not only in this or that part, but in the whole, spurious.⁴

¹ This paragraph has been marked by Bentham for deletion.

² MS ‘calls’.

³ MS ‘compels’.

⁴ According to Epiphanius of Salamis, the Gospel of John was rejected by some Christian heretics, for instance the *Alogi*, who are thought to have originated in Asia Minor in the latter part of the second century. See *Panarion* (i.e. ‘Medicine chest’), li. iii. 3: ‘Now these Alogi ... accept neither John’s Gospel nor his Revelation’. For eighteenth century discussions see William Berriman, *An Historical Account of the Controversies That have been in the Church, Concerning the Doctrine of the Holy and Everblessed Trinity*, London, 1725, p. 82; Lewis-Sebastian Le Nain De Tillemont, *Ecclesiastical Memoirs of the Six First Centuries, made good by Citations from Original Authors*, 2 vols., London, 1733–5 (first published in 16 vols. at Paris in 1693–1712), ii. 350; Nathaniel Lardner, *The Historie of the Heretics of the two first centuries after Christ*, London, 1780, pp. 444–8. For a rejection of the authenticity of John’s Gospel at the time of Bentham’s writing, though not by a believer in the religion of Jesus, see [Paul Henri Thiry, baron d’Holbach], *Ecce Homo! or a critical inquiry into the History of Jesus Christ, being a rational analysis of the Gospels*, London, 1799 (first published in French at Amsterdam in 1770), p. 267: ‘We will only remark, that it is difficult to persuade one’s self, without faith, that the gospel of St John especially, filled with Platonic notions, could be composed by the son of Zebedee, a poor fisherman,

For the idea of a relation between this subject and the story of the youth in loose attire as represented in the Gospel according to Saint Mark, the acknowledgment may perhaps be deemed no more than needful, that the author stands indebted for it to the *Monthly Magazine*. In the miscellanea which for several years used to be inserted in that periodical work under the head of ‘Extracts from the Portfolio of a man of Letters’, some six or eight years ago made its appearance a short suggestion, that the profession of the youth thus spoken of was of a nature to have a bearing upon this point.⁵

[161–476] [1817 Nov 28]

If the love which, in and by these passages, Jesus was intended to be represented as bearing towards this John was not the same sort of love as that which appears to have had place between King David and Jonathan, the son of Saul,^a it seems not easy to conceive what can have been the object in bringing it to view in so pointed a manner, accompanied with such circumstances of fondness. That the sort of love of which, in the bosom of Jesus, Saint John is here meant to be represented as the object was of a different sort from any of which any other of the Apostles was the object is altogether incontestable: for of this sort of love, whatsoever it was, he and he alone is, in these so frequently recurring terms, mentioned as being the object.⁶

^a II. [Samuel]⁷ i. 19–26.

II. [Samuel]⁸ i. 17. ‘And David lamented with this lamentation over Saul, and over Jonathan his son ... 19. The beauty of Israel is slain upon thy high places ... 26. I am distressed for thee, my brother Jonathan: very pleasant hast thou been unto me: thy love to me was wonderful, passing the love of women.’

who, perhaps, incapable of writing, and even reading, could not be acquainted with the philosophy of Plato.’

⁵ See *Monthly Magazine*, vol. 32/2, no. 217 (1 September 1811), p. 143, where the youth is referred to as a *cinaedus*, i.e. a sodomite.

⁶ See John 13: 23; 19: 26; 20: 2; 21: 7, 20.

⁷ MS ‘Kings’.

⁸ MS ‘Kings’.

David and Jonathan were accordingly to appearance what in Grecian history were to each other Harmodius and Aristogiton,⁹ and in Grecian fable Achilles and Patroclus,¹⁰ Nisus and Euryalus.¹¹

[161–477] [1817 Nov 28]

Sense of any superiority of value in his services in relation to the preaching of the Gospel—no such foundation as this could the distinction have had: for of this, nothing is to be found in Saint John by which he can stand in comparison with Saint Peter—and on no occasion is the rough fisherman to be seen ‘leaning on the bosom of Jesus’¹² or ‘lying on his breast.’¹³

But is the supposition endurable, it may be asked, [that] any tokens of an attachment of this kind should have been regarded as endurable in and by such a company? a sort of attachment the demonstration of which was, by the law of the land, regarded by them as in a more especial manner the law of God, ranked among capital offences? a sort of attachment the fruits of which had drawn down upon the heads of the guilty that supernatural punishment which, in that its character, Jesus himself is so often spoken of as having brought publickly to view?¹⁴

[161–478] [1817 Nov 28]

To these several observations, several answers may be seen to be requisite.

1. As to the law of Moses—to him who has resolution enough to keep his eyes open to it, nothing can be more manifest than that, in the eyes of Jesus, the law of Moses was but a mere human law, and a law so ill-adapted to the welfare of society, that on no occasion is it ever spoken of as coming under his cognizance without being taken

⁹ See Ch. 12 fn14 [p.165] above

¹⁰ In Homer’s *Iliad*, Patroclus was the friend and companion of Achilles. While Homer does not specify that the pair were lovers, Plato, *Symposium*, 179e–180b, states that they were.

¹¹ See Ch. 12 fn13 [p.165] above.

¹² John 13: 23.

¹³ John 21: 20.

¹⁴ See Ch. 10 §. 1 [p.125] above.

by him more or less explicitly for the declared object of that scorn with which he ceased not to regard it.

‘Think not (says he) that I am come to destroy the law, or the prophets. I am not come to destroy, but to fulfill.’¹⁵ ^b To destroy the law? to destroy the prophets? No: here they are both, law and prophets, undestroyed even to this day.—But to fulfill? how? even by producing the compleat accomplishment of those objects to which, with so imperfect an aim and so unsteady a hand, that same law was directed. In this text is comprized every thing which, being represented as coming from the mouth of Jesus, will be found susceptible of a construction importing either a recognition of the supernatural origin of the Mosaic law or an approbation of the contents and principles of it.¹⁶

^b Mat. v. 17. Sermon on the Mount.

[161–479] [1817 Nov. 28]

2. As to the devoted cities. To a mind to which the whole system of the Mosaic law, with all its pretences to have been written as it were every tittle of it with the finger of God himself, had presented itself in no more respectable a character than that of a human composition teeming with imperfections, and from the dominion of which it was the effect, as well as the manifested aim, of its labours to withdraw so large a portion of its influence, it would surely be not a little extraordinary if, in his estimation, the history in which it stood, and stands still incorporated, possessed any thing to distinguish it from those histories in which a small number of real incidents are drowned as it were in a mass of artificial colouring, pinned on to them by the hands by the labours and for the private purposes of which they were fabricated.

The Lord—the Almighty—taking Abraham into his confidence^c—hesitating what to do in regard to the administering or not administering of the meditated punishment—hearing a report (20) respecting the behaviour of the people in question, and unable

¹⁵ King James Bible ‘fulfil’.

¹⁶ See Ch. 8 [p.84] above.

without further enquiry (21) to determine with himself what degree of credit to give to it—stationed at a particular spot in the vicinity of which Abraham was standing, (22) and thereupon drew near, (23) and after the conversation was ended going one way, while Abraham went another (33)—is it to be believed that, in an eye such as Jesus's, the statements above brought to view could have presented themselves as containing the language of plain and exact truth?

^c Genesis. xviii.

[161–480] [1817 Nov^r 28]

But upon the face of it—and taking the whole account for a correct account of what passed—what bearing will it be seen to have upon the sort of connection which, according to the interpretation here in question, had place between Jesus and his favourite disciple?—None whatever: at least to any but the most superficial view.

As Lot is sitting in the gate of the city, two persons called Angels make their appearance:^d he gives them an invitation to a supper and night's lodging at his house: the offer is accepted. After supper, and before they lay down, comes a mixt multitude, old and young, and calling to Lot, insist upon it that these two male beings, whatever they were,^e shall be given up to be *known*, as the phrase is, by force. Rather than be consenting to so atrocious a breach of the laws of hospitality—laws which, in the early stages of society, possess a degree of importance and influence such as it is difficult, in a state of society such as ours, to form a conception—he offers to abandon to their outrage his own two virgin daughters: these two virgin daughters of his own who soon after become the heroines [in] so very different an occurrence.¹⁷ This will not satisfy them. Advantageous as it might seem to us in our days, the succedaneum does not satisfy them: they persist, but in vain. In their human capacity, the Angels, having pulled their host in and shut the door, in their superhuman capacity they smite with blindness the atrocious multitude both small and great.

¹⁷ See Genesis 19: 30–8, and Ch. 11 §§. 1 ¶34 [p.159] above.

^d Genesis xix. 1 to | |.

^e In verse 1 Angels: in verses 10. 11. 12, ‘the men.’

[161–481] [1817 Nov^f 28]

After passing the night within the hospitable mansion, and declaring their resolution to destroy the place, the angels, alias men, prevail upon their host to leave the city, whereupon (v. 24) this city, in which this incident had happened, together with another city in which no such incident is stated as having happened, are consumed together by brimstone and fire rained by the Lord out of heaven.^f

^f Gen. xix. 24.

The act—if it were for any species of enormity in particular that, in the shape of punishment, supernatural punishment—the destruction in question—was meant to be represented as inflicted, what is it? Is it the act of those who, by mutual consent, partake of the sort of gratification in question, such as it is—for such it can not be denied to be—in the eyes of those who make themselves partakers of it? Was it the physical act when performed by consent? No: it was as different from that act by at least as wide a distance as, in the scale of morality, where the opposite sexes are concerned, separates rape from simple fornication. It was not only a rape, but a rape attended with the aggravated circumstance of being, supposing so vast a multitude [of] partakers in it, productive of murder by a painful death—and both these enormities having for their aggravation a breach of the laws of hospitality—of hospitality at any rate, and, instead of messengers from the Almighty, suppose those men, for so they are called, to have been messengers from an earthly potentate, a violation of international law.

[161–482] [1817 Nov^f 28]

Supposing, then, this story to have had any foundation at all in truth—what does it seem reasonable to suppose may have been the truth? At a point of time impossible to fix, in the country in question, it happened [to] two neighbouring towns, as in different countries,

in different ages, it has happened to so many other towns, to be destroyed by fire: and if so it was that it was exactly at the same time that these two towns experienced the same catastrophe, it seems more probable that the fire in each received its commencement from lightning than from any other source. Taking advantage of a calamity which, in the character of an effect, would naturally be so extensively known and so long remembered, the priest by whom this portion of history was penned took advantage of it as usual, and found for it such a cause as happened to present itself either to his imagination, or to his judgment as well as his imagination, as being adapted to some particular purpose which at that time it happened to him to have in view.

§2. *Intercourse of Jesus with the Apostle John*

[161–483] [1817 Nov. 27]

John xiii. 21. to 26. ‘When Jesus had thus said, he was troubled in spirit, and testified, and said, Verily, verily, I say unto you, that one of you shall betray me. Then the disciples looked one on another, doubting of whom he spake. Now there was *leaning on Jesus’ bosom one of his disciples, whom Jesus loved.*’^{18 g}

^g In the Greek ὄν, by which one alone, and not all the disciples together, is spoken of as being the object of this love.

23. ἦν ἀνακείμενος εἰς ἐκ τῶν μαθητῶν αὐτοῦ ἐν τῷ κόλπῳ τοῦ ἰησοῦ, ὃν ἠγάπα ὁ ἰησοῦς.

‘Simon Peter therefore beckoned to him, that he should ask who it should be of whom he spake.

‘He then *lying on Jesus’ breast* saith unto him, Lord, who is it?

‘Jesus answered, He it is to whom I shall give a sop, when I have dipped it. And when he had dipped the sop he gave it to Judas Iscariot, the *Son of Simon.*’

¹⁸ The italics in the following passages are Bentham’s.

John xix. 25. 26. 27. ‘Now there stood by the cross of Jesus his mother and his mother’s sister, Mary the wife of Cleophas, and Mary Magdalene.

‘When Jesus therefore saw his mother, and the disciple standing by, *whom he loved*, he saith unto his mother, Woman, behold thy Son!

‘Then saith he to the disciple, Behold thy mother! And from that hour that disciple took her unto his own home.’

John xix. 34. 35. ‘But one of the soldiers with a spear pierced his side, and forthwith came there out blood and water.

‘And *he that saw it bare record*, and his record is true: *and he knoweth that he saith true, that ye might believe.*’

John xx. 1 to 10. ‘The first {day} of the week cometh Mary Magdalene early, when it was yet dark, unto the sepulchre, and seeth the stone taken away from the sepulchre.

‘Then she runneth and cometh to Simon Peter, and to the other disciple, whom *Jesus loved*, and saith unto them, They have taken away the Lord out of the sepulchre, and we know not where they have laid him.

‘Peter therefore went forth, and *that other disciple*, and came to the sepulchre.¹⁹

‘And he stooping down, and looking in, [saw]²⁰ the linen clothes lying; yet went he not in.

‘Then cometh Simon Peter following him, and went into the sepulchre, and seeth the linen clothes lie.

‘And the napkin, that was about his head, not lying with the linen clothes, but wrapped together in a place by itself.

‘Then went in also *that other disciple*, which came first to the sepulchre, and he saw and believed.

‘For as yet they knew not the scripture, that he must rise again from the dead.

‘Then the disciples went away again unto their own home.’

¹⁹ Bentham’s copyist has, presumably inadvertently, omitted verse 4: ‘So they ran both together: and the other disciple did outrun Peter, and came first to the sepulchre.’

²⁰ MS ‘say’.

[161–484] [1817 Nov. 27]

John xxi. 1. to 7. ‘After these things Jesus shewed himself again to the disciples at the Sea of Tiberias; and on this wise shewed he himself.

‘There were together Simon Peter, and Thomas called Didymus, and Nathanael of Cana in Galilee, and the Sons of Zebedee, and *two other of his disciples*.

‘Simon Peter saith unto them, I go a fishing. They say unto him, We also go with thee. They went forth, and entered into a ship immediately; and that night they caught nothing.

‘But when the morning was now come, Jesus stood on the shore; but the disciples knew not that it was Jesus.

‘Then Jesus saith unto them, Children, have ye any meat? They answered him, No.

‘And he saith²¹ unto them, Cast the net on the right side of the ship, and ye shall find. They cast therefore, and now they were not able to draw it for the multitude of fishes.

‘Therefore *that disciple whom Jesus loved* saith unto Peter, It is the Lord. Now when Simon Peter heard that it was the Lord, he girt his fisher’s coat *unto him* (for he was naked) and did cast himself into the sea.’

John xxi. 20 to 24. ‘Then Peter turning about, seeth *the disciple whom Jesus loved* following; *which also leaned on his breast at supper*, and said, Lord, which is he that betrayeth thee?^h

^h ὁς καὶ ἀνέπεσεν ἐν τῷ δείπνῳ ἐπὶ τὸ στῆθος αὐτοῦ.

‘Peter seeing him saith to Jesus, Lord, and what shall this man do?’

‘Jesus saith unto him, if I will that he tarry till I come, what is that to thee? follow thou me.

²¹ King James Bible ‘said’.

‘Then went this saying abroad amongst²² the brethren, that *that disciple should not die*: yet Jesus said not unto him, He shall not die: but, If I will that he tarry till I come, what {is that} to thee?

‘*This is the disciple which testifieth of these things, and wrote these things: and we know that his testimony is true.*’

Mark xiv. 46. ‘And they (Judas with his multitude) laid their hands on him and took him. 47. And one of them that stood by, drew a sword, and smote a servant of the high priest, and cut off his ear ... v. 50. And they all forsook him, and fled. v. 51. And there followed him a certain young man, having a linen cloth cast about his naked body; and the young men laid hold on him. 52. And he left the linen cloth, and fled from him²³ naked.’

[161–485] [1817 Dec 5]

We have three Epistles ascribed to this habitual occupant of the bosom of Jesus: three several Epistles, and in no one of them any the least hint of an ascetic cast. Not so much as a single phrase in which, in terms even the most indistinct and inefficient, pleasure, whether in a sexual or any other sensual shape, even when rendered mischievous by excess, is marked out as an object of censure.

His disciples warned, as might be expected, though in the most general terms, against the *love of the world*—and the lust of the flesh, the lust of the eyes, and the pride of life—expressions in which rather more of rhetoric than of logic is to be found—represented as being the three component branches of the seductive pursuit there indicated.¹

¹ I John ii. 15. 16.

Of that love which has ‘the brethren’ for its object, more is to be found in these three short letters, than in all Paul, or even in all Peter: the sexual kind, as might well be supposed, is not specially mentioned, but neither is it excluded, for the purpose of commendation; but as little is it for the purpose of censure.

²² King James Bible ‘among’.

²³ King James Bible ‘them’.

From a man at that time of life at which all appetites are damped and some extinguished, exhortations to abstinence, were they ever so urgent, would prove very little on that side: but in such a situation as that of this declared favourite disciple of Jesus, the utter absence of all such cheaply purchased titles to the reputation of sanctity is an evidence that speaks, surely, with no small degree of probative force on the other.

[161–486] [1817 Dec. 5]

In the fragment which we have of a Latin work intituled *Petronii Arbitri Satyricon*,²⁴ and which consists of a history, true or feigned, of the adventures of a knot of idlers, among whom the propensity in question formed the bond of union, Encolpius is the name given to one of the characters. Encolpius ὁ ἐν κόλπῳ—he whose situation is in the bosom of another: the phrase, and with it the physical image presented by the expression, used in that novel is exactly the same as that which is presented by the expression employed by the evangelist.²⁵

§3. *Intercourse of Jesus with the stripling in the loose attire*

[161–487] [1818 Jan^y 9]

To the conclusion drawn, as above, the account given of the dancing of David in honour of the ark, coupled with that of the observation made thereon by one of his wives, viz. Michal, daughter of Saul,^j may have at least contributed.

²⁴ Petronius Arbitr, *Satyricon*.

²⁵ The Greek phrase appears at John 13: 23: see note ^h [p.185] above. Petronius wrote in Latin, while the Vulgate renders the Greek words for breast in John 13: 23, ‘κόλπῳ’, and 21: 20, ‘στῆθος’, as ‘sinus’ and ‘pectus’ respectively. While no passage in Petronius has been located which describes Encolpius as one ‘whose situation is in the bosom of another’, Bentham may have in mind the description at *Satyricon*, ci., of his lover Giton: *Nam Giton quidem super pectus meum positus diu animam egit*; i.e. ‘For Giton also spent a long time laid breathing upon my breast’.

Bentham has noted at the head of the folio: ‘Examine Pretronius to see what part this Encolpius plays: whether any where that of the patient?’ Encolpius plays the passive role twice, both times under duress: see Petronius Arbitr, *Satyricon*, xxi, cxxxviii.

^j II. Sam. vi. 14. 20

The importance attached to that consecrated receptacle is well known: to secure to himself the custody of it had become one of the objects of King David's policy. Little more than three months before this time, the liberty taken with it by Uzzah, by whom the cart in which it was conveyed had just been driven, cost him his life.^k To save it, or on pretence of saving it from receiving damage from the oxen that were treading out corn on a threshing-floor on which it had just been deposited, Uzzah, one of the sons of Aminadab,²⁶ out of whose house, probably not altogether with his good liking, it had just been taken, 'put forth his hand, and took hold of it. The anger of the Lord was thereupon kindled against Uzzah, and God smote him for his error, and there he died by the ark of God.' The anxiety produced in the royal mind by the apprehension of the failure of the plan he had formed for gaining and securing possession of this pretious chattel may be seen in the text. The interpretation of the story belongs not to the present purpose: suffice it to say that no sooner did he regard it as accomplished, such was his exultation, that he fell a dancing, and that in a manner which, in the eyes of the lady, was to such a degree indecorous, as to render him in her eyes an object of

[161–488] [1818 Jan^y 9]

contempt. 'And David (says the text) danced before the Lord with all {his} might, and (continues it) David {was} girded with a linen ephod.'²¹ The sort of napkin with which he was thus girded was, it should seem, the only covering that remained for those parts of the body of which decency, even among that people and at that time, required the concealment. For upon his return to his house, running out to meet him, she exclaimed: 'How glorious was the King of Israel to day, [who uncovered himself to day] in the eyes of the handmaids of his servants, as one of the vain fellows shamelessly uncovereth himself.'²⁷

²⁶ Actually Abinadab.

²⁷ II Samuel 6: 20.

^k II. Sam. vi. 6. 7

^l II. Sam. vi. [14].²⁸

Distance in respect of time allowed for, it will be for the reader to judge whether the stripling, the character of whose attire was thus deemed worthy to be laid in remembrance, may not have been one of the vain fellows which the princess had in view.

[161–489] [1817 Nov 29]

In the account given of it by Mark, the only one of the four Evangelists in which any the least mention of it is to be found, this incident of the stripling in the loose attire (*stripling*, *νεανίσκος*, is the proper word—young man, as in the authoritative translation, makes him too old) is a perfect riddle. From a suggestion in the *Monthly Magazine* of some 6 or 8 years ago—neither month nor year are recollected, but the division is that which used to have for its title *The Portfolio of a Man of Letters*—did the author of these pages derive the idea that, upon the supposition that the interpretation here suggested for the love borne to Saint John was correct, this stripling may have been meant by the Evangelist to be represented as being, if not a rival, a candidate for the situation of rival, to the Apostle.²⁹ From what source the notion was derived by the anonymous essayist is not mentioned by him, whether from his own judgment or imagination merely, or whether it was in any one or more of the commentators that he found it. That it should have presented itself to a commentator, how grave and pious so ever his complexion, in this there is nothing that need surprize us: for supposing his errand to have been to make an offer of his services in the way of the obsequious profession in question, it follows not that those services had, or were ever likely to have, found acceptance.

[161–490] [1817 Nov 29]

Be this as it may, there the anecdote is: and it being there, some interpretation must be found for it. Curious as it is, the incident,

²⁸ MS '13'.

²⁹ See Ch. 13 fn5 [p.178] above.

at any rate as here related, is not in itself of essential importance: accordingly, it is only in the work of this one of the four biographers of Jesus that any mention of it is to be found. Altogether destitute of importance—altogether destitute of special meaning—and that of no light nature, it however could not have been: if it had been, never, in the account of a transaction of such vital importance as the arrestation which ended in the death of Jesus, could the mention of it have found admittance into any one of those four momentous histories.

Since, then, it can not but have had a meaning, and that a meaning by no means destitute of importance, the only question that can remain is—what that meaning was.

[161–491] [1817 Nov 29]

Let this be the interpretation—the manners of those times considered, every thing will be natural and intelligible.

If the profession in question were not meant to be represented as that of this faithful stripling in question, why the mention thus made of the quality and looseness of his attire? By the sparingness of his cloathing, his person exposed to view in a manner which constituted in his instance a mark of distinction: the garment at once fine and costly: *σινδόνα* says the Greek original: for we are not to imagine that, because linen is the word in our translation, linen was in that age and nation as cheap an article as in ours. In a single piece of cloth, and *that* of linen, was comprized all the clothing that he wore. In this our climate, decency out of the question, never is the state of the temperature such as to admitt of the employing so thin and incompleat an attire as a sign of the profession in either sex: but widely different in this respect is, and doubtless then was, the temperature of Palestine.

[161–492] [1817 Nov 29]

The multitude, by which on this occasion Jesus was invested was (Mark xiv. 43) ‘a great multitude’: headed by the traitor Judas, it came from the constituted authorities—‘from the chief priests, and the scribes, and the elders’—but no one of those functionaries made a part of it.

Seeing the stripling in this attire and in this company, some of the striplings or ‘young men’, who, in order to partake of the sport or

fun, as the phrase is, whatever it might prove, had joined themselves to the multitude, regarded him, as it should seem—cloathing and the wearer together, as a sort of prize: without incurring any such guilt as that of inhospitality, and perhaps without need of violence, the design formed by them on the person of the wearer might in one sense be not unnaturally of the same complexion as that formed by the inhabitants of the devoted city upon the two mysterious beings who were at once men and angels.³⁰

Be this as it may, so far as concerned the garment, it seems to have succeeded: so far as regarded the wearer, not: ‘he left the linen cloth and fled from them naked:’^m those among whom this part of the prize would have been to be shared were, it may well be imagined, not of the class of those among whom a customer might have been expected to be found.ⁿ

^m Mark xiv. 52.

ⁿ Mark xiv. v. 50. καὶ ἀφέντες αὐτὸν πάντες ἔφυγον. v. 51. Καὶ εἰς τις νεανίσκος ἠκολούθει αὐτῷ περιβεβλημένος σινδόνα ἐπὶ γυμνοῦ, καὶ κρατοῦσιν αὐτόν οἱ νεανσκοί. 52. ὁ δὲ καταλιπὼν τὴν σινδόνα γυμνὸς ἔφυγεν ἀπ’ αὐτῶν.³¹

‘And there followed him’ says the authoritative translation: ‘And there was following him’ would have been a more literal and unambiguous one: the Greek being in the imperfect tense. By the indefinite *there followed*, room is left for the supposition that the stripling had not been originally of the number of Jesus’s followers, but had joined him not till after the rest were fled.

[161–493] [1817 Nov 29]

Remains still the question, what application could an incident of this sort be regarded as having to an history so awful as that of the cruel death of Jesus?

³⁰ See the Editorial Appendix to Ch. 10, §. 2 ¶4 [p.147].

³¹ There are some discrepancies in the reproduction of the Greek text of these verses, which should read as follows: καὶ ἀφέντες αὐτὸν ἔφυγον πάντες. καὶ νεανίσκος τις συνηκολούθει αὐτῷ περιβεβλημένος σινδόνα ἐπὶ γυμνοῦ, καὶ κρατοῦσιν αὐτόν. ὁ δὲ καταλιπὼν τὴν σινδόνα γυμνὸς ἔφυγεν.

The answer seems not very difficult to find. The timidity and consequent mendacity of Saint Peter, the earliest chosen and most confidential of Jesus's twelve selected servants, is not only one of the most remarkable features in the history, but one the details of which are, with every mark of a correspondent sense of its extraordinariness, particularized.³² With this timidity and backsliding, the fond and unexampled attachment of the nameless stripling forms a most striking contrast.

At the conjuncture in question, the traitor excepted by whom were led on the multitude by which he was apprehended, Jesus was found by the traitor encompassed by all the rest of his disciples. At the first onset, one of them, according to all the four evangelists, being provided with a sword, stood for a moment on the defensive and, aiming a strike at the head of an officer of the police, struck off one of his ears:³³ according to Saint John, this one was Saint Peter. Whoever it was, this boldness neither continued beyond the moment, nor found any one to second it. Peter and the rest 'all forsook him and fled':—Mark xiv. [50]:³⁴ this is what is written of the disciples.

[161–494] [1817 Nov 29]

Followed him this one only of all his attendants—the loosely attired stripling: like *Milton's Abdiel*:

'Among the faithless, faithful only he.'³⁵

On the supposition in question, what was there that, in the unperverted sense of the epithet, could be termed *unnatural*?—any more so than that, on an occasion of peril, Socrates, instead [of] affording, as he is said to have, safety to, should have derived it from the attachment of, Alcibiades.³⁶

³² The three denials of Jesus by Peter are recounted in Matthew 26: 69–75; Mark 14: 66–72; Luke 22: 56–62; and John 18: 17, 25–7.

³³ See Matthew 26: 51; Mark 14: 47; Luke 22: 50; and John 18: 10.

³⁴ MS '51'.

³⁵ John Milton (1608–74), *Paradise Lost* v. 897. The seraph Abdiel rejected Lucifer's enticements to join in revolt against God, and instead fought against the rebellious angels.

³⁶ At the battle of Potidaea in 432 bc, Socrates is said to have saved the life of the Athenian general and politician Alcibiades (451/0–404/3 bc) whilst in 424 bc, as the defeated Athenians withdrew from the battle of Delium, Alcibiades saved the life of Socrates: see Plato, *Symposium*, 220d; Plutarch, *Life of Alcibiades*, vii. 2–4.

There stands the matter upon the face of the Gospel history. If, in the unperverted sense of the word *natural*, any one there be that can find a more *natural*—or in a word, a more *probable*—interpretation, let him declare it.

[161–495] [1817 Nov^r 30]

Yes, says somebody—on this occasion, so far as regards steadiness, the strength of the attachment of this stripling, who ever he was, as towards Jesus, in comparison of that of the Apostles, is unhappily out of doubt: and, for argument sake, the fact of his having appertained to the profession in question may be admitted. But as to any countenance shewn him by Jesus—to go no further, where is the proof? or as to his continuing at the time in the exercise of that profession, where is the proof? May it not have been that, at this time, he was a penitent, and that it was in that character he address[ed] himself to Jesus? May not this have been the very first time of his presenting himself?

The answer is—to the supposition that this was his first appearance in the presence of Jesus, the circumstance of his staying by Jesus after he had been deserted by all his apostles in a body, the oldest, most familiar and most confidential among them included, appears as affording a decided negative. If, being among them, he had fled with them, yes: but the fact as reported is—that notwithstanding they had fled, he stayed.

[161–496] [1817 Nov 30]

As to the supposition of repentance on his part—this is as much as to say that he had quitted the exercise [of], and all endeavour to exercise, this obnoxious profession. But the fact could not have been so: the badge of the profession—the sign and invitation it hung out—was at that very time on his back. Had it not been his wish to have it understood that he had not given up [his] profession, he would not have thus continued with the badge of it on his back. He would have substituted to it a garment of ordinary appearance, had it been ever so coarse: sackcloth rather than fine linen would have been the substance of it. Poverty, how abject so ever, could not have stood in the way of a change which every regard for decency and consistency so imperatively called for: the sale of this cloathing, conspicuous

enough as it was thus to be held up to everlasting [...?], could not have been insufficient for the change.

[161–497] [1817 Nov 30]

In the acts or discourses of Jesus, had any such marks of reprobation towards the mode of sexuality in question been to be found as may be seen in such abundance in the epistles of Paul—in a word, had any one decided mark of reprobation been so to be found as pronounced upon it by Jesus, in the eyes [of] no believer in Jesus could any such body of evidence as hath here been seen [to] present itself be considered as worth regarding. But when the utter absence of all such mark of reprobation is considered, coupled with the urgency of the demand for the most pointed and decided marks of reprobation in a new system of religion promulgated by supernatural authority and by supernatural means, the practice in question being universally spread not only in all the vast regions of the East in which Judaea formed a part, but in the metropolis of the empire and in and about the throne, evidence of this sort, thus standing not only [not] opposed but corroborated, seemed to have that claim to attention which the reader is now in a condition to bestow or withhold, as to him seems reasonable.

[161–498] [1817 Nov 30]

One circumstance there is which surely can scarce fail to present itself as affording a presumptive evidence of a very impressive nature.

The zeal, energy and perseverance with which Paul inculcated the ascetic doctrines are notorious: the circumstances which rendered that doctrine subservient to his system of worldly ambition will presently be brought to view.³⁷ Yet no where has he had the presumption to attempt finding any support for any such doctrine in Jesus's particular sayings [or] particular acts—or so much as in the known character of Jesus. Why? because at that time of day, his character in this respect was too generally well known: the groundlessness of any such pretence would have been too notorious.

[161–499] [1817 Nov 28]

³⁷ In the event, Bentham discussed this topic in 'Not Paul, but Jesus', Volume II.

Under the impression produced by the laws of which Paul, with his revelation and his asceticism, may be regarded as the prime author, by any believer in Jesus, in whose eyes the species of gratification in question wears the colours of immorality, scarcely would the act in question, be the evidence ever so strong, be regarded as having received the sanction of his practice. But can any reason be found for the supposition that, by Jesus himself, it was regarded in that light? Upon the face of the considerations brought to view in the preceding section, the answer, it is believed, can not be any other than a negative.

It is from the statute of Henry the eighth³⁸ that the notions entertained by an Englishman at this time of day have been derived. But Jesus was not an Englishman: but he had not read any such statute as that of Henry the eighth. What he had read was the statute of Moses³⁹—of that Moses whom he so justly scorned: what he had seen—what he had been accustomed to see—were the practices under and notwithstanding the act. The persons by whom, whether partakers of the practice or not, he had doubtless been accustomed to see and to hear outrageous vituperation of it were the Pharisees—the hypocrite Stoicks of that nation in [...?] [...?]: those hypocrites whom the system of reform he was occupied in the preaching of had found such violent and unrelenting adversaries.

§4. *Jesus and Socrates compared in this respect*

[161–500] [1817 Dec 29]

Between Jesus and Socrates not unfrequently has a comparison been made.⁴⁰ Character, situation and exit taken together, points of resemblance are certainly not altogether wanting. Whether that which is here in question be to be added to the number, it is for the reader to determine.

As to Socrates—that in the breast of Socrates the propensity had place is beyond dispute. By his two disciples, biographers and

³⁸ The Buggery Act of 1533 (25 Hen. 8, c. 6).

³⁹ Leviticus 18: 22; 20: 13.

⁴⁰ See, for example, Joseph Priestley, *Socrates and Jesus compared*, London, 1803.

worshippers, Xenophon and Plato, [one] or both, it is clearly stated: in the account of one of his conversations, the confession is put into his mouth. It is to do him honour that it is there brought to view: the propensity itself is what he acknowledges: what he professes is—that on particular occasions he knows how to impose restraint upon it. Lest by the claims of love in this shape his liberty should be put in peril, and his pedagogic and philosophic pride thereby wounded.

When a beauty in this sex comes within his reach, to imprint a kiss—a kiss which custom would warrant—is to him, as to all around him, an object of desire.

By them, this desire is gratified without scruple. Why? because to them, what might ensue is not an object of apprehension.

By his prudence in respect even of this preliminary gratification, a restraint is put upon this desire: why? because, in his instance, were indulgence to venture thus far, at this point peradventure he might not find it in his power to stop.⁴¹

[161–502] [1817 Dec^r 29]

That there were occasions on which this prudential reserve maintained its ground—the chains thus imposed upon appetite in this form were kept on—thus much he is made to say: that on no occasion they ever dropped off—this is what he is not made to say, nor does any one say for him. That the reverse was true is the persuasion, the expression of which may be seen in abundance in the writers of succeeding times.⁴²

⁴¹ See Xenophon, *Memorabilia*, I. iii. 8–14.

⁴² In the margin, Bentham has noted at this point: ‘Juvenal. Martial. Petronius.’ Decimus Iunius Iuvenalis, Roman satirist.

The following fragment, with the alternative section titles ‘The Epicureans the only philosophers deserving of the name’ and ‘Jesus an Epicurean: the Pharisees, Stoicks’, but which appears to have been abandoned by Bentham, is at UC clxi. 501 (1 January 1818):

‘From the days of their founder to the present, Epicurus and those who have discoursed and acted as he is said to have acted, or at least to have discoursed, constitute a standing but to the invectives of hypocrisy and imbecillity, whether clothed in the mantle of philosophy or that of religion.

‘They have, in a word, been so many utilitarians, or rather non-ascetics: no where have they looked for happiness but where it was to be found: they did not, by pretending to be greater, render themselves less than men: they did never take merit to themselves for an abuse of words: for attaching to a word a sense different from or opposite to every sense

that they found annexed to it by other people, and giving, as a discovery of their own—a discovery in the principles of morals—this their voluntary blunder.’

In the text, Bentham has noted at this point: ‘☞ Concluding sentence.

‘From sophistry to plain sense—from imagination to reason—from prejudice to free enquiry—from Paul to Jesus—the appeal is now before the world, and it will judge.’

For the followers of Epicurus (341–270 bc), Greek philosopher, the purpose of philosophy was to secure a happy life.

CHAPTER 14. HOW ASCETICISM,
NOT BEING PART OF THE RELIGION
OF JESUS, CAME TO BE RECEIVED
AS SUCH—NON ASCETIC SECTS
EXTINGUISHED BY THE ASCETIC

[161–503] [1817 Dec^f 30]

Since asceticism forms no part—never formed any part—of the religion taught by Jesus, how comes it (it will naturally be asked)—how comes it from that day to this hour, through a succession of almost eighteen centuries—how comes it to have been regarded—so universally regarded—regarded in all nations and by all sects without exception, as being contained [in] the religion of Jesus?

Answer 1. When a certain state of things has really had place, be the difficulty of accounting for it ever so great, it is not in the power of any such difficulty to cause it not to have had place.

2. But if by accounting for the state of things in question be understood the shewing its analogy to other states of things the existence of which is out of dispute and beyond dispute, in the present instance the difficulty of accounting for the state of things in question has nothing in it that presents itself as singularly formidable.

[161–504] [1817 Dec 30]

It is from Paul that, by all Gentiles—i.e. by all men other than Jews—by all those from whom the European Nations of this day have derived it—that the religion called all along and to this day by the name of *Jesus* have been deriving it. Were it only by means of the name, of this system which he delivered, the system of Jesus is not the less the foundation, howsoever mismatched this part of the superstructure.

In the case of this as of other religions, whatsoever has been the original state of the religion, men, in the rude state of the human mind at the time in which new religions made their appearance—in every instance long before the use of the letter-press—long before the existence of any such art as the art of criticism—were always ready, so long as the name was preserved, to receive amendments of all sorts and suffer them to be added to the original draught, as if

from the first they had constituted a part of it. Original draught and amendments—foundation and superstructure—text and comment—being thus presented as constituting one whole, were received as such: to identify the one with the other—to bind both together into one whole—a tie of so cobweb a texture as the Conversion Vision¹ was sufficient: to attempt to draw between the one and the other a line of separation was a task to which neither hearts nor heads were found competent: by the same terrors by which the one was protected from the eye of scrutiny, so likewise was the other.

[161–505] [1817 Dec 30]

By whom soever observation is made, how easy, in the instance of the Church of England religion as delivered in the Church-of-England Catechism, not to mention any other—how easy to them who have in their hands the powers of government—to substitute to any one form of religion any other at pleasure, so as the name is but preserved—how easily in this case diversity to any degree may be effected, so long as identity is professed^a—by whom soever it is seen what changes of this sort have been effected, what corruptions have been introduced, even since the presence of the press opened the door to the light of criticism—in a word, even in so much more mature a state of the human mind as that which stands exemplified in these latter times—by who[m]soever the matter is considered in this point of view, whatsoever demand for notice may be recognized, no great cause of wonder will be descried.

^a See *Church - of - Englandism and its Catechism examined*.²

If, in these comparatively inquisitive and discerning times, doctrines which are neither Jesus's, nor yet Paul's, may to so great an extent be seen to have been so easily added and even substituted to both, no wonder that, in a region in which Paul was sole ruler—a religion in which it was only through Paul that any part of the religion of Jesus, or so much as the name of Jesus in the character of a founder of a new religion, was known, doctrines which were not

¹ i.e. Paul's conversion on the road to Damascus, recounted in Acts 9: 3–9.

² *Church-of-Englandism and its Catechism examined*, ed. J.E. Crimmins and C. Fuller, Oxford, 2011 (*CW*), esp. pp. 56–87.

Jesus's should, by this same paramount and unrivalled teacher, be caused to be received as Jesus's.

[161–506] [1817 Dec 30]

Of the exploits of the Apostles among the Gentiles, stories indeed are not wanting: and notwithstanding the assurance derived—not only from the positive account in the Acts, but from the indisputable circumstances of their character and situation as reported in the Gospels—that at any rate for a considerable time after the death of Jesus, and even when all his other disciples and their disciples had been dispersed, they continued at Jerusalem or its vicinity, still by the inventive industry of the Christian writers of succeeding ages, death suffered for having professed belief in any religion being regarded as conclusive evidence of the truth of it, they have been scattered over the face of the known world for the purpose of being supposed to have delivered that conclusive evidence.

If Peter, for example, had not visited Rome, his successor would not at present have reigned over the Christian world—over so large a part of the modern half-spiritual, half-temporal kingdom of Jesus: and so the unlettered fisherman was sent on his posthumous visit to Rome. In the Acts, setting aside a few super-induced decorations, we have seen what appears to have been the real history of the result of his missionary labours among the Gentiles within a circle of some forty or fifty miles radius³ round Jerusalem. Whether, after doing so little in a country the language and laws and manners of which were his own, this chief of the Apostles would have been likely to find adequate motives (not to speak of means) for any such hopeless enterprize as that of making war upon the established religion of the country with his own unsupported hand in the vast universal metropolis, the language, laws and customs of which were so compleatly strange to him, may be left to be imagined.

[161–507] [1817 Dec^r 30]

From this Peter, in reality or in name, as likewise from James and John and Jude, we possess indeed Epistles bearing the title of *Epistles General*. Epistles General? Yes, but to whom addressed? to those, and to those alone, who were at once able to understand

³ In the margin, Bentham has noted at this point: ‘☞ Measure the distance.’

them and prepared to receive them: in a word, to a set of men who—howsoever encompassed by heathens—were themselves but Jews.

Thus it is, that, it being through the hands of Paul—of Paul alone—that those men of former times, by whom what we have of the religion of Jesus has been transmitted to us, it depended upon those same hands to add to it whatsoever it suited their purpose to annex to it: to add to it accordingly that which is to this day considered as forming part and parcel of the same whole.

In a word, by whomsoever, in any one of the varying editions of it, the story told of Paul's conversion obtained credence, by that man, not only the addition in question, but any and every other amendment—addition, defalcation or substitution—that it could have happened to Paul to make in that religion as contained in the Gospel history, could not but be regarded as warrantably made, and every article so added or substituted as forming part and parcel of it.⁴

⁴ In the text, Bentham has noted at this point: ‘☞ For men's proneness to regard asceticism as prescribed by God, make reference to the Chapter which states Paul's motives for preaching it.’