

CHAPTER VI

"JUSTICE BETWEEN GENERATIONS" AND THE ORIGINAL POSITION

Following the brief introductory chapter, the work of this dissertation has been, in turn, analytic (in Chapter II and III), and expository (in Chapter IV and V). In Chapter II, the analytic tasks included explication of the concepts of *obligation*, *duty*, and *rights*, and an examination of the logical connection (i.e., "correlativity") between rights and duties. In Chapter III, we assessed the intelligibility of the notions of "rights of posterity," "duties to posterity," and "the rights of potential future persons to exist." We concluded that the first two notions were intelligible but that the third was not. The following two chapters outlined Rawls's general theory of justice (Chapter IV) and his views concerning the particular question of "justice between generations" (Chapter V).

In the concluding chapters of this dissertation, these heretofore separate analytic and expository presentations will be brought together. First, I shall examine the intelligibility of Rawls's position concerning the duty to posterity (§35). Next, I will consider and dismiss a few objections to Rawls's treatment of "just savings" (§§36-37). Following that, I will scrutinize the conditions in the original position that bear upon the posterity question (§§38-39) and a rule of "just savings" that results therefrom (§40). I will conclude that these conditions appear to be arbitrary, weakly defended, and contrary to some "considered moral judgments." I will close the chapter by showing that these findings weaken Rawls's conclusions concerning the savings principle.

In the following and final chapter, I will suggest that Rawls has, in the later portions of his book, the undeveloped resources for a forceful defense of a duty to future generations, both near and remote. Even so, I will indicate that some important issues and dimensions of the posterity question remain undeveloped in the theory of justice as fairness.

In these final chapters I will be referring to the concept of the duty to posterity in several distinct senses. Clarity would therefore be served by a few terminological stipulations (most of which have, in fact, been anticipated by earlier usage in this dissertation). First of all, I shall assume that Rawls's term, "justice between generations" entails the notion of "the duty to posterity." Two interpretations of this concept of justice between generations will be of particular concern to us. The first is Rawls's own position, which will retain his preferred designation of "just savings." The other interpretation, which I will call "just provision," claims a broader scope of application than just savings. Unlike Rawls's position, just provision applies both to near and remote posterity. In addition, while it is responsive to Rawls's concern for the savings of capital and resources and the maintenance of just institutions, the principle of just provision also stresses the duty of the living (a) to anticipate the short- and long-term consequences of their policies, and (b) to refrain from any plans, projects, or activities that are likely to cause harm to future persons of *any* generation. I will explicate these points later in the next and final chapter (§41). Until then, suffice it to note that "just provision" encompasses "just savings" and is broader, both in time prospect and in scope of responsibility.

35. "Justice Between Generations:" Conceptual Parameters

Soon enough, we will be asking whether or not Rawls's views on "justice between generations" are well-argued and valid. However, before we examine these questions, we must ask if his position concerning the duty to posterity falls within the bounds of intelligibility. In other words, we must ask whether or not it makes sense even to talk about such a duty either as a duty in general or as a duty in the context of Rawls's theory of justice.

Is "justice between generations" an intelligible concept? For the moment, let us give this question a broad interpretation beyond the confines of Rawls's normative theory. Thus interpreted, an equivalent question might be: does it make sense to talk of the rights of, or duties to, future generations? Fortunately, I have already examined the question at length in Chapter III and have come to an affirmative conclusion. There is no need, therefore, to repeat the arguments. I have posed this now-familiar question in order to recapitulate some earlier findings of the dissertation and, following that, to assess the adequacy of Rawls's position concerning the duty to posterity in the light of these findings. Here are some of those earlier conclusions:

(1) Some formal criteria of moral duties and rights: in the second chapter, we concluded that moral duties and rights (a) involve acts and circumstances that are within the range of deliberate and voluntary control of the duty-bearers (i.e., those acts which fall between the limits of impossibility and inevitability), and (b) involve acts and circumstances which have bearing upon the liberties and well-being of the rights holders (in the case of "correlated" duties) or beneficiaries (in the case of "uncorrelated" duties) (Cf. pp. 50-51 and §18, above).

(2) The inapplicability of the concept of *obligation* to future persons: obligations, we determined, are a class of moral responsibilities engaged in (a) voluntarily, (b) with determinate individuals or associations, (c) for mutual advantage, and (d) based upon explicit and mutually accepted conditions (p. 28 above). Clearly, these conditions do not apply in the case of moral responsibility to the unborn (p. 74 above).

(3) Formal conditions of the duty to posterity: if we assume the future existence of (a) morally responsible beings (i.e., beings that are autonomous, sentient, and rational) (Cf. pp. 67-68, 76 above), (b) for whom our voluntary acts have foreseeable consequences, then (c) because of the rule of no time preference (p. 96 above), (d) there is a *prima facie* assumption of duty to these beings, (e) in the absence of any apparent contrary indication, e.g., due to such factors as contingency, time-lag, indeterminacy, non-actuality, and other such arguments considered and dismissed in Chapter III (see §19, above).

(4) Rights of posterity and correlative duties of the living: if (for whatever reason) we affirm that future persons have rights-claims upon their predecessors, this entails *prima facie* duties of these predecessors to their successors if (a) the predecessors have the available knowledge to foresee results of their actions that will either secure or deny these rights, and (b) the predecessors have the ability voluntarily to engage in or forbear from, such acts (pp. 67-68 above).

(5) Conditions of *uncorrelated* duties to posterity: not all duties must entail corresponding rights. We have found that such uncorrelated duties generally have the following characteristics: (a) they are derived from, and closely identified with, abstract moral principles; (b) they are directed to unidentified members of general classes of persons; (c) they are not based upon contracts and agreements, and (d) they are non-reciprocal; that is, they do not engender duties on the part of the beneficiaries that are, in turn, directed back to the original duty-bearers (p. 65, above). Clearly, these features describe the relationship of a living generation to its posterity (p. 66 above). (Of course, all this by no means implies that *correlated* duties may not also obtain between a generation and its posterity; see item 4, above).

"Just savings" and the formal constraints on the duty to Posterity. The foregoing summaries scarcely exhaust the list of conclusions of our analyses in Chapters II and III. Still, they indicate some of the recognizable limits upon what will and will not count as "duties to posterity." With these conceptual guidelines thus explicated we turn to the next question: do Rawls's rules of "just savings" fall within the formal conceptual limits of the notion of the duty to posterity? As I review Rawls's principles of just savings, I can perceive no clear violation of these constraints. Indeed, his views concerning justice between generations may well be too far within these conceptual limits; i.e., while they are formally correct as far as they go, they may exclude significant categories of just provision for the future. (This last clause, however, suggests a *substantive* rather than a *formal* criticism, and thus is out of place in this section. I will have much more to say about this later.)

Let us now assess a few of Rawls's concepts against the formal constraints presented above. First, consider the "moral personalities" that, according to Rawls, possess "natural rights" and are entitled to "natural duties." These personalities, we will recall (a) possess a sense of justice, and (b) have a conception of their personal *goods* (i.e., "rational life plans") (Cf. Rawls, p. 250). Earlier, (item 3, above), we described "morally responsible beings" as being "autonomous, sentient, and rational." These criteria are broader than, and thus encompass, those of Rawls. His account of "moral personalities" is thus, according to our criteria, formally acceptable.

Rawls's concept of "duties of just savings" is also well within our formal bounds of the concept of the "duty to posterity," in that the formal criteria allow both *correlated* and *uncorrelated* duties, while Rawls's formulation is confined to *correlated* duties. This follows, of course, from Rawls's conclusion that the rules of just savings would result from the hypothetical agreement of the parties in the original position. This "agreement" entails a moral *reciprocity* in these rules (albeit hypothetical), and thus a correlation of rights and duties. Both the formal parameters and Rawls's conception exclude *obligations* to posterity. Furthermore, neither account allows "pure time preference."

Finally, as indicated earlier (§29, above), with one significant exception, Rawls's account of "duties" is in fundamental agreement with the explication of this concept developed in Chapter II (see p. 15, above). The exception deserves some attention. We will recall that in justice as fairness, "natural duties" (and reciprocally, "natural rights"), are derived from principles that would be accepted in the original position. Obviously, our general account of the concept of duty has no such reference. Does

this extend Rawls's concept beyond the acceptable formal bounds? Not necessarily. This depends upon whether Rawls intends to make the reference to the original position a defining characteristic of the concept of duty, or if instead he proposes to treat this reference to the original position as an accompanying quality; that is, as a non-defining attribute or circumstance of moral duties. In the former case, he would be engaged in *conceptual analysis*, whereas in the latter case he would be involved in *normative ethics*. Rawls has repeatedly indicated that, in general, his work belongs to the second category. But what of the particular case of his account of duty? A brief thought-experiment might settle this question. Consider the context in which Rawls discusses and develops his account of "the natural duties." In this context, suppose that a critic were to confront Rawls with a particular putative "duty" which (a) fit the formal criteria outlined above in item (1) (i.e., voluntary, deliberate, affecting liberties and well-being of others), (b) was strongly and widely endorsed by the moral sense and considered moral judgments, and yet (c) clearly would not be chosen in the original position under conditions described therein by Rawls.

Faced with this counter-example, what might Rawls do? If he were to treat "adoption in the original position" as a defining characteristic of "duty," his concept of duty would be in question, requiring either a revision of the *concept* (e.g., by discarding the "original position criterion"), or a rejection ("by definition") of the alleged counter-example as a case of a "duty." I do not believe, however, that this is what Rawls would do. If faced with a compelling case of an otherwise bonafide "duty" unacceptable to the parties in the original position, he would, by "reflective equilibrium," examine the condition in the original position which led to the rejection of the alleged duty, then review the moral reflection that led to the contrary "considered judgment" and, through mutual adjustments, seek a resolution. Throughout, his concept of "duty" would remain unaffected, while he subjected his normative theory to refinement, re-evaluation, and revision in search of a resolution. To return to the original question: if Rawls's feature of "agreement with the principles accepted in the original position" is taken as a defining characteristic of his concept of *duty*, this concept exceeds the formal constraints of the general concept of *duty* as developed in Chapter II (§6). If, however, this characteristic is a claim within his normative theory (as I believe it is), Rawls's concept of duty, as well as his correlated concept of right, fall within the range of the formal criteria.

Is the original position an intelligible device for deriving principles of justice? This is a vast question which has brought forth scores of scholarly papers in the four years since the publication of *A Theory of Justice*. Obviously, I cannot even begin to attempt an adequate response. However, I can make a few cautionary remarks with regard to the use and interpretation of the original position. Furthermore, I might suggest that several commentators, and at times Rawls himself, have run into unwarranted difficulties through a careless treatment of this hypothetical device.

First of all, and most crucially, we must remember that the original position is, as Rawls calls it, "an expository device" (Rawls, p. 21), the function of which is to display the principles of justice resulting from: (a) availability of all morally relevant information, (b) the exclusion of all morally irrelevant and biased information, (c) rules and procedures of rational choice, (d) formal constraints upon resulting concepts, (e) descriptions of applicable circumstances, (f) a list of ends to be maximized. (g) The resulting deductions from this body of information and rules of procedure are

then to be balanced with the contents of reflective moral experience. Notice, however, that I have just paraphrased Rawls's conditions of the original position with no reference whatever to an hypothetical group of "persons" or parties" engaged in choosing "the fundamental terms of their association" (p. 11).¹ It is quite conceivable that the essential work of the "original position" could be carried out on a level of high abstraction and logical rigidity. However, such a task is beyond the comprehension of ordinary citizens, and just possibly beyond the capability of many moral philosophers. Furthermore, such a scheme might issue forth pronouncements regulating human conduct having little if any involvement with human feeling (save in the "input program"). Logic, for all its purity, is not without its hazards.

Thankfully, Rawls has placed the whole enterprise within reach of both philosophers and laymen with his ingenious device of the "original position." Herein is a vivid and productive theoretical model whereby the complicated processes of moral deliberation might be incorporated and rules of just association worked out. (The rules of parliamentary debate and the processes of criminal trials perform similar functions.) In the original position, the abstract components and processes of ethical reasoning are fleshed out and given quasi-human content as "the veil of ignorance," "the primary goods," and so forth. Clearly, the original position is a marvelous and instructive servant for employment in moral deliberation.

But it can also be a deceptive master. How so? By our taking it too literally and by expecting it to be more than an "expository device"; in short, by our expecting and requiring it to be believable and free of outlandish (if irrelevant) ramifications. And so, lest we forget: (a) there never *was*, in fact, an original position; (b) furthermore, there never *can*, in fact, be an original position; (c) the *parties* of the original position cannot properly be thought of as "persons,"² since they are aware of no particular personal characteristics; (d) accordingly, the parties (plural?) are in no sense "separate" except perhaps in the space they may be said to occupy (where?); (e.) the parties have no motivation except to maximize for *themselves* (?) the expectations of their (explicitly stated) "primary goods" in the circumstances of actual life. As a rational embodiment of separately identifiable and justifiable rules and procedures of fair and informed moral deliberation, the original position appears to be an intelligible and acceptable hypothetical construct. Furthermore, Rawls's theory has the additional merit of requiring the resulting principles of the original position to seek accommodation with "considered moral judgments," thus insuring coordination with practical moral experience. However, like a computer output that is no better than the program and design, the validity of the findings of the original position rests upon its assumptions ("input program") and procedures ("software").

Perhaps all this warning may seem obvious and superfluous. And yet, all too many commentators, and occasionally Rawls himself, have become so bewitched by the elegant apparatus of the original position that they have lost sight of the point of it all; i.e., to facilitate our moral deliberations and to illuminate our moral insights. We will very shortly encounter vivid examples of this bewitchment, first in some critics of Rawls, and later in Rawls's own development of the principles of "justice between generations."

To answer, then, the topical question: yes, the original position is an intelligible and even a useful device for deriving the principles of justice, provided: (a) its coordination ("reflective equilibrium") with practical moral experience is kept intact, (b) its component assumptions and procedures are separately identified and validated, and (c) one never loses sight of the fact that it is, simply, an *expository device*.

Earlier (§12, above), I suggested that the concept of the duty to posterity raises some troubling questions of meaning and intelligibility. Throughout the subsequent analysis of this concept (in Chapter III), we encountered vivid examples of these difficulties and of unsuccessful attempts to articulate and to solve the issue. If my assessment of the notion of the duty to posterity has been sound, and if my account of Rawls's conception thereof has been accurate, then Rawls's approach to the issue of "justice between generations" appears to be intelligible, despite an array of logical snares that seems to have invalidated other approaches to this troublesome question. This, in itself, is no small accomplishment on the part of Rawls. However, by no means does it settle the issue. For if Rawls's analysis of the question of "justice between generations" is basically intelligible, we have yet to determine whether the parties in the original position, as described by Rawls, are suitable and persuasive moral legislators of the duty to posterity.

36. Justice to Possible Persons

The objection. Rawls quite clearly stipulates that the parties in the original position understand that they *will*, in fact, live under the conditions agreed to in the original position, whatever these conditions might be (p. 166). But isn't this knowledge of personal existence outside of the original position an unwarranted exception to the veil of ignorance, an exception with significant bearing upon the claims of principles of justice to be chosen by the parties? Would it not be more "fair" to characterize the parties as "possible persons" who *might* come into existence, depending, in part, upon the principles chosen? R. M. Hare (July, 1973, pp. 244-255) and Gregory Kavka (1975, pp. 237-253) have both presented this objection to the "actuality assumption." In Rawls's theory, Hare reports:

(Merely) possible people, as opposed to actual people, are to be blackballed [Rawls, p. 139]; later it is explicitly stated that the [parties] 'know that they already hold a place in some particular society' [p. 166]-- though of course they do not know what place in which society. This means that in Rawls's system the interests of possible people are simply not going to be taken account of. This would seem to be crucial for questions about population policy and abortion, for example. This person that the foetus would turn into if not aborted, and the people who will be born if contraception is not practised, get no say if they are not actual people-- i.e., if it is actually the case that abortion and contraception are practised. (Hare, pp. 244-245)

Kavka's argument is quite similar:

Although the principles of justice chosen might well profoundly affect societal population policies and thus determine whether or not certain persons will or will not come into existence at all, the parties in the original position are allowed knowledge that they will exist under the chosen rules. Hence, one might say that Rawls's conception of the original position involves a (possibly justifiable) bias in favor of those already existing in the sense that it favors the interests of existing persons over the interests which would exist if certain persons who might or might not exist were brought into existence.

What this suggests is that it might be illuminating to extend the veil of ignorance to shroud the question of existence and to think of the parties in the original position as rational and self-interested possible persons choosing principles for governing the fundamental institutions of the society whose population policies will affect whether or not they will exist and in which they will live. If they come into existence we can easily show that rational self-interested possible persons in the original position would choose those principles expected to lead to the highest total utility for the society in question in preference to principles expected to lead to a higher average but lower total utility. (Kavka, pp. 240-241)

To support his contention that possible persons would prefer the principle of *total* utility to that of *average* utility, Kavka has devised a complicated and ingenious quasi-mathematical demonstration based upon five explicit premises (one of which I reject, and with it, his argument).³ However, Hare makes essentially the same point with much less formal fuss:

Consider a possible person P whose birth would have lowered average utility but raised total utility, because his own happiness would have been less than the previous average, but more than the combined losses suffered by the others owing to his arrival. If a [party] might, for all he knows, be P, he will find the classical principles more attractive; but if he knows that he cannot be P, he will prefer the average principle. This is because the classical principle would require population policies which allowed P to be born, whereas the average principle would require policies which debarred him from existence. By excluding P from the committee, and allowing this to be known, Rawls makes sure that it will disregard P's interests and thus bring it about that, from the [parties'] point of view, the average utility principle is a stronger candidate against which to pit his own principles of justice than the classical utility principle. (p. 245)

In other words, a "possible" party would, by choosing the average utility principle, be taking a greater "chance" on his own nonexistence. Furthermore (though not mentioned above), Rawls's principles (of "justice as fairness"), would likewise be a worse choice for a possible person than would the total utility principle.

In defense of the exclusion of possible persons. Hare and Kavka, it seems, are charging that Rawls is discriminating against the interests and rights of possible persons. My reply is quite simple: "*whose* interests and rights?" The only answer seems to be: "the rights and interests of the multitudes

who *would* be brought into existence as a result of the adaptation of the total utility principle." But need the interests and rights of these potential multitudes be served? If they are not, who is to be deprived? Clearly, those who *would* have existed *if* the total utility principle were adopted. But if the principle is not adopted then, *qua hypothesis*, there will be no deprived persons, and thus no injustice. But, this is a mere reiteration of an earlier argument (in §16, "The Right to Exist," above).

But doesn't Rawls's original position introduce more difficulties? After all, if Hare and Kavka are right, then these "possibles" can be identified; namely, as members of the original position (i.e., as hypothetical persons with interests). However, if we make such an "identification," I suggest that we will have fallen directly into the trap that I warned against in the previous section: namely, taking the original position *literally*-- as something more than an "expository device." Remember, there never *was* and never *can be* an actual "original position." Accordingly, there never *were*, and never *can be* any parties thereof to be deprived, or benefited, or whatever. We need waste no pity upon either the excluded possible persons, or upon parties of the original position who might be facing upon adjournment an hypothetical oblivion.

But this doesn't help us much to settle the question of whether or not "possible persons" should be admitted to the original position. Now Kavka challenges that "it seems incumbent upon Rawls to explain why it is not appropriate to extend the veil of ignorance" to include "possibles" (p. 248). Are such reasons available? I believe that they are both available and conclusive.

To begin, it would seem fair that the parties in the original position choose principles that *they* will live under. (Rawls is quite explicit about this, pp. 118-119.) Very well, it is acknowledged that only *actual* persons are to live under these rules. "Might-have-beens" will, of course, be "unaffected" (:) thereby. Accordingly, only to-be-affected persons need apply for membership in the original position. Now if these to-be-actual parties mandate policies of population control for the benefit of all actual persons, no "possible persons" will be deprived of their "right to exist," since, due to this policy, there are to be no such persons (i.e., they are no longer "possible"). "Those who are not to exist" because of a policy of population control have no interests or rights, simply because they are non-entities, a null class. (Indeed, the phrase "those who are not to exist" is a logical absurdity, since the pronoun "those," by stipulation, has no referent.) However, I am beginning here to repeat my earlier argument against "the right to exist" (§16).

But haven't I shifted the focus of the argument from "possible persons" to "non-existent persons" (perhaps to lean upon my earlier conclusion concerning "the right to exist")? Do not "possible persons" (as against non-existent persons) have interests and rights? The clear answer, I suggest, is that "possible persons" have "possible interests" and "possible rights" (both represented in the original position), and that these interests and rights are absolutely correlative with and contingent upon their actualization as persons. Unless and until possible persons *become* actual, they have no actual interests or rights. This includes no "right to become actual," which is equivalent to the "right to exist," which was previously refuted (§16, above).

Thus, to Hare's and Kavka's implied question: "would *possible* persons be affected by the principles chosen in the original position?" I can only reply "*possibly*." This "possibility" is totally contingent upon their becoming *actual*, and thus fully accountable to the principles of justice chosen in the original position.

37. The First and Last Generations

Rawls, we will recall, believes that a continuous policy of "just savings" might be thought to be unjust to the first and last generations in the historical sequence. The first would be required to save without enjoying the benefits of prior savings, while the last would receive without being required to save in turn (Rawls, pp. 288, 290-291; cf. also p. 156, above). Rawls sees the resolution to these apparent injustices in the unalterable fact that there must be a beginning and an end to the sequence. Since the circumstance is inevitable, there is no moral issue involved. Rawls's tone, however, is uncertain, as if he expects that the problem might crop up again to trouble his theory. It does just that in the hands of Brian Barry (1973).

Barry argues that the first generation problem might be even more difficult than Rawls supposed, in that, along with the difference principle, the "first generation problem" threatens to undermine the justice of any savings between any generation. (Note that, in the following, Barry chooses *incorrectly* to refer to the "difference principle" as "maximin.")⁴

The maximization of the income of the worst-off section of the population might entail spending nothing on investment, and this would make the next generation worse off than the current one. A rule is therefore needed for intergenerational equity. Maximin might look like a candidate but if we assume that saving is a cost to the generation who carry it out and a benefit to subsequent ones this would entail no saving at all, because the first generation would have to act in conflict with maximin if they were to save, and each successive generation is then a 'first generation' in the sense that it comes into a situation where there has been no prior saving. (Barry, p. 43; cf. also p. 272, above)

Thus the difference principle acquits the first generation of the responsibility of saving at the expense of that generation's least endowed members. And since the next generation does not receive, it becomes the "first," and thus, like a line of toppling dominoes, no generation need stand to accept the responsibility of providing just savings for its successors.

Now Rawls's principle of just savings faces some difficulty with the problem of requiring the least favored of *any* generation to sacrifice for the good of the least favored, yet better endowed, successors. However, since, as stated, this problem makes no reference to a "first generation," I will set it aside for the moment (cf. §§38-39, below).

I believe that both Rawls's qualms and Barry's criticism can be dismissed by defending the seemingly audacious pronouncement that "there never *was* a "first generation." But surely, if generations

succeed one another in time, must there not be a first member of this sequence? I submit that there is no more reason to accept an affirmative answer to this challenge than to accept either alternative to the ancient schoolboy puzzle: "which came first, the chicken or the egg?" We can, with but a minimal understanding of organic evolution, comprehend that chickens and eggs *evolved concomitantly* from more primitive origins: i.e., proto-fowls, reptiles, fish, and so on back to the protozoa. So too with human communities. Advanced contemporary civilizations, presently in conditions of "moderate scarcity" (and thus subject to the "special conception of justice"), were preceded by communities facing "acute scarcity" (under the "general conception of justice"). Before that, presumably, there was a state of barbarism, preceded by savagery, preceded by . . . by *what*? At what identifiable moment in history do we locate a "first generation?" Among the *Australopithicines*? Among the first settled agricultural villages? Before or after the invention of writing? I submit that "the circumstances of justice" evolve continuously out of more primitive conditions, and that, while we might well identify their absence (in a pre-historic hunting band), or their presence (in a modern city), we are hard-pressed to locate their emergence in any given generation. The case is analogous with individual development. Most persons are capable, by the age of (say) thirty, to assume the responsibilities of citizenship. Few five year olds have this ability. At what particular time does a given individual acquire civic responsibility? The answer? At no particular time: Only because of social and legal convenience (or necessity?) do we fix the age, by law, at eighteen.

This developmental response to the "chicken-egg problem," which I have adopted from C. S. Peirce, has some profound philosophical implications and is of sufficient important to merit elaboration. Consider, for instance, a traditional issue in the philosophy of knowledge. Many philosophers, from Descartes and Locke on down to Russell and Ayer, have assumed that "there must be" basic data, or "simple impressions," or "clear and distinct ideas," or "first principles," etc., which are the primary constituents of knowledge. Not so, replied Peirce. In an early (1868) and brilliant paper, "Questions Concerning Certain Faculties Claimed for Man," Peirce stated flatly that "all thinking pre-supposes prior thought," a theme reiterated throughout his career. Routine philosophical analysis might quickly dismiss this as a careless fall into the logical trap of "the infinite regress." Peirce recognizes the objection, yet persists in his point placing it, quite appropriately, in a *developmental* context. I will not repeat Peirce's complicated argument nor quote his often difficult prose. I will, however, repeat W. B. Gallie's excellent summary. Gallie observed that Peirce, in arguing that all cognitions presuppose cognition, was not saying that there was *no* time in life before thinking began. What Peirce *was* saying is that:

It may be impossible *in principle*-- not simply because of our lack of observational or experimental or imaginative skill -- to 'pinpoint' the origins of thought, or of intellectual life, in any given individual. And should the reader feel a strong disinclination to accept this suggestion, then let him put the following question to himself. Does he really believe that, given ideal conditions of observation, he would be able to 'pinpoint' the exact moment at which a child can be said to have begun to talk, or to have become able *to follow a story*, or to have begun *to understand a foreign language*, or begun *to enjoy music*? . . . Has the mental life of every individual a definite beginning in time? Common sense has no difficulty

about accepting the suggestion that in all these cases capacity to think, to speak, to understand or what not, depends, at any mentionable state, on the exercise of a previously formed capacity. It is only the necessary conclusion from this suggestion-- namely that, in a sense which does no violence to the known facts, our thinking life has no definitely assignable beginning in time-- that common sense finds unpalatable. (Gallie, pp. 72-73)

I will freely acknowledge that Peirce's bold attack upon "the doctrine of the first thought" has encouraged me to propose that Rawls's best response to "the first generation problem" is simply to recognize that *there is no such generation*, and therefore no problem.

Summing up: there are in human history generations so primitive and savage that "just savings" are inconceivable, impossible, and thus (of course) not required. In contradistinction, under most extant circumstances in civilized societies, moral personalities feel and act upon a duty to provide for future persons. However, it is neither possible, nor necessary, to identify a specific state of development at which a rule of "just savings" at once applies in a hypothetical "first generation."⁵

The problem of "the last generation." Is there injustice in the occasion of a "last generation" receiving "just savings" if, by definition, it need not in turn make provision for its successors? As noted earlier, the question is ambiguous, in that the generation in question may be "final" in three distinct senses. Two of these senses are suggested by T. S. Eliot's oft-quoted lines:

This is the way the world ends . . .
Not with a bang but a whimper. (1924)

The third possibility is that there will be a "last generation" to be required to save, but many unproviding generations thereafter. Let's consider first the ending "with a bang." In this case (say, by nuclear catastrophe or an exploding sun), we are speaking of the last generation *to exist*.

(a) *"The Bang Scenario"*. Suppose the end were to come suddenly, without warning. In that case, the inability to bestow "just savings" would be totally accidental. But the possibility of unforeseen accident does not acquit persons or communities of their moral responsibilities. The possibility that his children may not survive does not relieve a father of his responsibility to insure himself or otherwise provide for the well-being of his family. Healthy, functioning, morally responsible persons make plans and provisions, assume obligations, and perform duties in the expectation that they will continue to be a part of these enterprises, yet knowledgeable that at any moment they might meet an untimely end. The *likelihood* of their continued existence is sufficient for moral accountability. *Certainty* is not required. So too with communities and generations.

But what if mankind faces the situation described at the beginning of this dissertation: a certain knowledge that in two hundred years the sun will become a nova and destroy all life and traces of civilization? As I suggested earlier, such a terrible awareness would radically alter the moral sense of humanity. The question offers the temptation for prolonged speculation, to which I will not yield. Suffice it to say that we do not face the question in the practical moral circumstances of our lives,

and I must fervently hope that it shall never be faced in the future course of human civilization. And so, while the question is not without theoretical interest, I suggest that I need not expend the space and time required to pursue it further,

(b) The Whimper Scenario. Several "doomsday ecologists" have warned that if human population continues to increase, if natural resources continue to be extracted and wasted with no regard for future needs, the human race will soon collide with the physical and ecological limits of the earth and civilization will crest, fall, and subside into perpetual savagery (Cf. Meadows, et al., 1972). Such a dismal sequence would reverse the order described in our discussion of the "first generation." From the condition of moderate scarcity (and the circumstances of the "special conception of justice"), civilization would move toward privation (and "the general conception") to circumstances "beneath" justice. In this interpretation, "the last generation question" reads: "if the last generation before the state of barbarism need make no provision for its successors, can it justly receive the savings of its predecessors?" On its face, the question seems absurd. First of all, under these conditions the "savings" received would be minuscule to the point of virtual non-existence and vastly offset by the manifestly dreadful results of the "poor saving" and provision of the predecessors. Secondly, it would be the duty of this generation to see to it that it was not the "last generation" in this sense, albeit it might fail in the attempt. There is, however, a better answer than either of these, an answer suggested by our response to the "first generation" question. It may be illustrated by the following "paradigm of the aging super-star." As is well-known, if an accident or a movie contract do not first interfere, even the most outstanding professional athlete must face retirement as his reflexes slowly but inexorably decline with age. At his prime, the athlete need not and should not quit. Thirty years later, he may be totally incapable of performing on the playing field. At which moment does he cease to be effective? The answer: at no specific *moment* in time. So too with generations. Just as there was no identifiable "moment" in human history when the "circumstances of justice" sprang into being, if the civilized condition steadily and inevitably declines, there may be no specific moment at which the burden of just savings will suddenly and forever be banished. Even if the predictions of human decline prove accurate, no person possessing a sense of justice and capable of just acts will know with full certainty that his efforts will be futile. So long as there is knowledge, foresight, and capability to live justly, there is an opportunity and thus a duty to attempt to preserve in at least some small community, "the circumstances of justice."

(c) The Utopian scenario. Happily, we can now leave these dismal prognostications and turn to the much more cheerful prospects suggested by Rawls. According to Rawls, the "last generation" is neither the last generation to live under the circumstances of justice, or the last generation to exist at all. Rather, he perceives this generation has having attained sufficient material wellbeing and institutional justice that no further saving is required to advance the circumstances of justice. While Rawls is quite explicit about this point in *A Theory of Justice* (pp. 287, 290), a fuller expression thereof appears in his recent paper "Fairness to Goodness":

The target of the savings process is said to be a sufficient material base for making the equal liberties effective. Beyond this point justice requires no further accumulation of wealth and net savings may drop to zero. Of course, it is still necessary that social capital be preserved

and the difference principle satisfied. But this principle can be met statically; that is, it does not enjoin a continual increase in the general level of wealth by only that the existing (and possibly constant) social product be distributed in a certain way Here it suffices to note that the just savings principle does not enjoin an unending accumulation process. (Rawls, 1975, p. 545)

While human civilization might well achieve a point of affluence such that no further accumulation should be required, I cannot agree that this would terminate the requirement for future generations to make "just savings." Indeed, I will argue that, with such an attainment, savings would have to continue to *increase*, just to *maintain* this adequate minimum "well-ordered" state of society.

It might be useful, at this point, to remind ourselves just what it is that Rawls believes should be "saved" for future generations. There are, he says, three basic sorts of entities to be "saved":

Each generation must not only preserve the gains of culture and civilization, and maintain intact those just institutions that have been established, but it must also put aside in each period of time a suitable amount of real capital accumulation. Thus savings may take various forms from net investment in machinery and other means of production to investment in learning and education. (Rawls, 1971, p. 285)

Rawls does not suggest then that the "last generation" is totally relieved of the responsibility to "save." He asserts only that the further amassing of material wealth drops off the list of duties to future generations. Says Rawls, "Eventually once just institutions are firmly established, the net accumulation required falls to zero. At this point a society meets its duty of justice by maintaining just institutions and preserving their material base" (p. 287).

I submit that the "last generation" to receive "just savings" of material wealth will, in its duty to preserve and maintain its just institutions, its level of culture and civilization, and the given level of material well-being, face a burden of "just savings" no less heavy than that of its predecessors. Furthermore, it is a burden that would continue, and perhaps increase, in perpetuity.

If my contention is correct, Rawls has erred in suggesting that there is a "last generation," beyond which "no further saving is enjoined" (p. 290). What is the basis of this error? It is, I suggest, a disregard of two fundamental and unalterable physical facts: (a) the human race lives on a finite planet and is sustained by diminishing resources, and (b) human societies, like all complex systems, are subject to the thermodynamic principle of *entropy* -- the tendency of systems to move from states of low to high probability, from complexity to simplicity, from high to low potentiality. Let's turn first to the problem of resources.

Consider again Rawls's suggestion that "net savings may drop to zero" once a "sufficient material base" is achieved to maintain just institutions (Rawls, October, 1975, p. 545; also 1971, p. 287). But what, ultimately, supplies "the material base?" The economy of the community? Or is it the Earth itself? Rawls quite correctly acknowledges (implicitly at least), that for the circumstance of

"moderate scarcity" to obtain, some degree of civilized technology must be available-- e.g., metallurgy, agricultural implements, and an energy surplus sufficient to free enough persons from food production to support complex institutions of government, distribution, research, education, etc.⁶ Unfortunately, the energy and material resources required to sustain civilized life are constantly being depleted, leaving less concentrated and less accessible deposits. Furthermore, the consumption of resources and energy involves the dispersion of heat and materials from a concentrated (useful) state to a diffuse (useless) state; i.e., toward a state of *entropy*. (I will have more to say about this shortly.) The increased cost of resource development can be offset by improved technologies, but this in turn requires greater investments in education, research, and development. The prospect may *not*, however, be ultimately dismal if civilization moves toward what Kenneth Boulding calls a "spaceship economy" based upon a recycling of material resources (Boulding, 1965, Chapter VII; 1970, pp. 96-101). However, even this will require a perpetual import into the economy of abundant and cheap energy.

I will not prolong what could be an extensive discussion of this point. Suffice it to say that, even if a "well-ordered society" is attained, the problem of "maintaining the material base," so casually treated by Rawls, will require constant, determined, and *generous* investment for the foreseeable future, if the interests of future generations are to be met. (I will have more to say about this in §40.)

But haven't I given myself away with that phrase "for the foreseeable future"? May there not, in fact, be a time, however remote, when *some* generation will inherit a well-functioning "spaceship economy" based upon zero population growth, a recycling of resources and nutrients, and an inexhaustible supply of solar and fusion energy? Would this not be a "last generation" in Rawls's sense: a generation no longer required to make material provision for its successors? I would reply that this generation (and its successors) might no longer be required to "save" material resources, *only* if it continued to make considerable investments in maintaining the necessarily complex social and technological organizations requisite for such a "steady-state economy." This perpetual investment in maintenance (for the sake of future generations:) would be considerable. Why? This leads us to the concept and the issue of *entropy*.

It has long been recognized by social and moral philosophers that justice is a fragile condition that requires constant effort to maintain. Thus, in *The Republic* (Books VIII and IX), Plato described the "inevitable" downfall of the just state. (I do not wish, by this example, to minimize the vast differences between Rawls's and Plato's conceptions of justice.) Jefferson, in a commonly quoted remark once said that "eternal vigilance is the price of liberty." This ancient insight was given scientific foundation by Norbert Wiener in his brilliant little book, *The Human Use of Human Beings* (1954). In the book, Wiener explains that, according to the second law of thermodynamics, viable and growing living organisms and communities are capable of maintaining and increasing their organizational complexity by drawing energy from their environments and thus swimming against the universal stream of entropy (Chapter II). Organization is maintained by "regulative feedback" whereby "effector organs (or institutions) advise "controlling organs" (e.g., the nervous system, or governments) of the success or failure of control ("executive") messages. Of particular interest to us is the fundamental rule that the more complex the system, the more proportional energy is

required for "regulative feedback" and control mechanisms to maintain the growth, or homeostasis, of the system (i.e., to counteract entropy— the universal tendency toward disorder decay and low potentiality).⁷

The relevance of all this to the issue of the stability and preservation of Rawls's "well ordered society" is obvious. (Indeed, this relevance is manifested in the very term "well-ordered.") Due to the fundamental laws of thermodynamics, there can in principle be no time at which "no further savings" will be required. But is this fair to Rawls? Hasn't he granted that *organization* (in "just institutions" and in civilization and culture) must be maintained, but only that; beyond a certain point, further *accumulation* of wealth need not be developed? Indeed he has. But he has further suggested that this point in human history marks a watershed at which a presumed drop in investments for future generations will be such that one might raise the question of the "justice" of this "last generation" receiving, without giving, "just savings." I contend that there never shall be such a generation. As civilization moves toward an utopian "well-ordered" stage, based upon an adequate minimum wealth for all (according to the difference principle), capital investments for increasing future per capita wealth will, of course, decrease in stages to zero. However, as this occurs, an *offsetting* investment must be made in governmental, technological, educational, and other institutional means for *maintaining* the order for subsequent generations. If resources continue to be drawn from depletable sources, these "savings" will necessarily increase and eventually no savings will be sufficient to forestall forever a final depletion and the collapse of civilization. However, if human civilization utilizes the few remaining decades of raw resource availability to establish a "steady state" cyclical economy, such an economy will likely require a quantum increase in organization and consequently a still heavier investment in institutions, technology, and education for "regulative feedback." In *neither* case is there any prospect for an end to "just savings." Furthermore, it could be very dangerous ever to believe otherwise!

To be sure, the term "regulative feedback" has an ominous ring to it, and raises the ever-present problem of liberty vs. control. After all, the organization and control needed to sustain the economy and the just institutions of Rawls's "well-ordered society" could evolve into another sort of "order" quite as complex-- an order of a Fascistic "Brave New World" such as that described by Huxley. To avoid this eventuality, considerable investments would be required to maintain just controls and regulations. Such investments would include the establishment and maintenance of institutional "checks and balances" (e.g., courts and legal systems), social monitoring (to detect developing threats upon individual liberties and rights), behavioral and educational research, and an expansion of the content and efficacy of citizenship education.

In conclusion. The "problems" of the justice, to the "first" and "last" generations, of a continuous policy of just savings, problems which have caused Rawls some concern and a few of his critics some apparent opportunities, turn out not to be problems at all. These issues, of themselves, offer no threat to Rawls's principle of just savings. However, the fact that Rawls was so troubled by the question may be of some significance. First of all, it may display in Rawls an excessive concern for avoiding logical traps at the expense of accommodating social realities. But even more, it may

betray an inadequate awareness of ecological concepts and imperatives. We will encounter still more grounds for this suspicion.⁸

38. Non-Reciprocity and "The Present Time of Entry Interpretation"

For the first three sections of this chapter, I have argued in favor of the general conceptual intelligibility of Rawls's quest for principles of justice between generations, and I have defended him from some critics and even his own misgivings. For the remainder of this chapter, however, I will assume the role of critic. In particular, I will question the suitability of two conditions in the original position that have direct bearing upon the derivation of the principles of just savings, yet little if any bearing upon any other principle of justice. In addition, I will challenge a conclusion concerning savings that Rawls believes might be adopted in the original position on the basis of these special conditions. If my criticisms are valid, this will leave Rawls's explicit case for "justice between generations" severely impaired. However, as I will suggest in the concluding chapter, justice as fairness may contain resources for more than a full recovery.

A recapitulation. While Rawls admits that we might construe the original position to contain parties drawn "from all actual generations" (p. 291) (hereafter "the atemporal condition"-- a term borrowed from Gregory Kavka, 1975), he prefers what he calls "the present time of entry interpretation," whereby all parties are, and know they are, contemporaries. This qualification, he believes, will significantly affect the motivation of the parties (cf. p. 148, above). Of at least equal importance, however, is the fact that the parties do *not* know the generation to which they collectively belong (p. 287). (I have called this the "generational ignorance condition.") Thus, since "they must choose principles the consequences of which they are prepared to live with whatever generation they turn out to belong to" (p. 137), "there is no reason for the parties to give any weight to mere position in time. They have to choose a rate of saving for each level of civilization" (p. 294). Accordingly, claims Rawls, "all generations are virtually represented in the original position, since the same principle would always be chosen. An ideally democratic decision will result, one that is fairly adjusted to the claims of each generation and therefore satisfying the precept that what touches one concerns all" (p. 288; cf. p. 147, above).

So far, this seems clear enough. However, beyond this, all is confusion: As I have remarked earlier, it is difficult and perhaps impossible to find in Rawls's book any clarification of, or support for, "the present time of entry interpretation." Once again, I can cite concurring opinions by Barry, (1973, p. 131), Hare, (July 1972, p. 243), and Kavka (1975, p. 252). For instance, in his second mention of the interpretation, Rawls states: "As we noted earlier (§24) it is better to take the present time of entry interpretation" (p. 292). *Was* it noted earlier? Yes it was (on p. 140, quoted on pp. 148, above). But was it *defended* or even *explicated* earlier? No it was not: Later in the same passage (p. 292), Rawls says: "It seems best to preserve the present time of entry interpretation and therefore to adjust the motivation condition." *Again*, no reason is offered as to why this should "seem best." Indeed, Rawls seems more ready to offer reasons *not* to accept this interpretation. For example, in this same crucial paragraph, he admits that under an "atemporal" interpretation "the veil of ignorance would

make it unnecessary to change the motivation assumption" (i.e., by adding the "heads of families" condition) (pp. 291-292). But surely, a facile altering of assumptions is *not* conducive to theoretical consistency, simplicity, and elegance. Furthermore, he admits, knowing that they are contemporaries, the parties may be less inclined to save at all. "So unless they care at least for their immediate successors, there is no reason for them to agree to undertake any saving whatever Either earlier generations have saved or they have not; there is nothing the parties can do to affect it" (p. 292). (The reader may wish to examine this closely scrutinized paragraph in sequence. If so, turn to pp. 148-9, above.)

Not only is it difficult to find any *justification* for the present time of entry interpretation, it is as difficult to perceive any theoretical or heuristic *advantage* to be gained by introducing it. Earlier, I cited Kavka's suggestion that this condition might establish closer practical and imaginary connections between the original position and the actual world (Kavka, p. 249). (See also p. 149, above.) Quite frankly, I find this suggestion unconvincing and the supposed advantage to be of scant importance. Surely, then, an adoption of this interpretation is not worth the cost in theoretical simplicity to Rawls's system. Why, then, was Rawls prompted to include it? My best guess (and it is only that) is rather unflattering: I suspect that he carelessly concocted this device to lend credence to the similarly unsubstantiated "heads of families" condition (which I will examine in the following section). However, neither my hunches nor Rawls's unstated motives are appropriate topics of this analysis, so I'll let this matter pass.

We are left, then, with little more than a fairly clear, if undefended, stipulation concerning the condition of the parties in the original position; namely, that they all belong to the same generation ("the present time of entry interpretation"). In addition, we understand that the parties have no idea whatever *which* generation this is. (This second assumption appears to be perfectly consistent with Rawls's general ban on particular personal knowledge.) Our remaining task is to determine: (a) what difference the "present time of entry interpretation" makes to Rawls's theory and to his principles of just savings, and (b) whether we can find any justification for retaining this condition in the original position.

Non-reciprocity and the stability problem. All moral philosophers who deal with the posterity question must face the inevitable and immutable condition of *non-reciprocity*; namely that while early generations can deliberately affect the life conditions of their non-concurrent successors, these later generations cannot reciprocate in kind. Voluntary action between non-contemporaneous generations is thus uni-directional. As we have seen in Chapter III, this circumstance raises troublesome questions of "fair return for favors" (i.e., "what has posterity ever done for me?").

Unfortunately, not only does the present time of entry condition fail to answer the "reciprocity problem"; according to Rawls it *compounds* the difficulties. For, we might suppose, with an atemporal approach, one party might not know if a proposed rule of "savings" might entail a gain or a loss for him *vis a vis* his colleagues in the original position. Accordingly, the accepted rule of savings would maximize the prospects and minimize the risks of each party in the original position. In contradistinction, says Rawls, present time of entry puts this neat solution in jeopardy:

Those in the original position know, then, that they are contemporaries, so unless they care at least for their immediate successors, there is no reason for them to agree to undertake any saving whatever. To be sure, they do not know to which generation they belong, but this does not matter. Either earlier generations have saved or they have not; there is nothing the parties can do to affect it. (p. 292)⁹ And so, since the past is fixed and immutable, the parties "can favor their generation by refusing to make any sacrifices at all for their successors; they simply acknowledge the principle that no one has a duty to save for posterity" (p. 140).

Although he does not say so directly, Rawls seems here to be applying his rule of "stability." The rule, we will recall, states that the parties "cannot enter into agreements that may have consequences they cannot accept. They will avoid those that they can adhere to only with great difficulty" (p. 176). He seems to suggest that under the present time of entry interpretation the "strains of commitment" will, in actual life, undo a policy of just savings *unless* additional motivation is found, in the original position, to secure adherence to the policy. Rawls has identified a serious problem here. His response, as we will see, is to add the "heads of families" condition to provide the needed motivation for saving. However, rather than seek a solution, perhaps a better course would be to disallow the problem (in Wittgenstein's terms: not to *solve* the problem, but to *dissolve* it).

This is the suggestion of R. M. Hare, who feels that Rawls's difficulties with non-reciprocity result not only from the gratuitous complication of the present time of entry interpretation but also from his tendency to take the original position too seriously and from his disregard of his own "formal constraints on the concept of right." With less regard for the intricacies and workings of his conceptual model, says Hare, and with more attention to the formal requirement of *generality*, most of Rawls's problems with non-reciprocity might vanish. Hare explains:

[Rawls] writes as if the [parties] were not prescribing universally (or as he would put it, 'generally') in choosing their principles of justice, but only prescribing for their own behaviors (and possibly also for that of subsequent generations). From this it follows that (in default of the ad hoc restriction [to one generation?] which he imposes) they can happily say 'Let our generation, whichever it is, consume all the world's resources and leave none for succeeding generations.' If, on the contrary, they were prescribing universally for all men at whatever time, and did not know at what time they were to be in the world, they could not happily universalize this prescription; for they would then be prescribing equally for their own predecessors. Thus Rawls has (characteristically, and as a consequence of his contempt for such logical tools) failed to avail himself of one of the 'formal constraints of the concept of right' to which he himself has earlier drawn attention. If the [parties] do not know to what generation they all belong, and are prescribing universally for the conduct of all generations, they will have (if they are rational) to adopt principles of justice which maintain impartiality between the interests of all generations. We can say that they are either prescribing for the past as well as the present and future, or choosing the principles by which they want society to be governed in the future, and hope that it has been governed in the past Any difficulties which attend these modifications to the scene arise from the creakings of the stage machinery and not from the logic of the argument That the [parties] cannot

affect the past is strictly irrelevant; Rawls thinks it relevant only because he takes his machinery too seriously. (Hare, July 1973, pp. 243-244).

This appears to be a telling passage. First of all, as I will suggest, Rawls may in fact have been enticed by the complexities of his conceptual apparatus (the original position) into perceiving between the present time of entry and atemporal interpretations, "a difference that makes no difference." Secondly, Rawls may have imprudently placed more importance upon the deliberations *within* the original position than the formal constraints upon it (in particular, the constraints of *generality* and *universality*). Finally, Rawls may have lost sight of the prevailing significance of the condition of generational ignorance; i.e., even if all the parties belong to the same generation, they do *not*, let us recall, know *which* generation this is. In other words, they do not know which generations are "past." Thus, for *any* generation X, to which the parties might belong and during which term they might choose to "use up the resources," there are *prior* generations which, through an adoption of the same policy, would diminish the prospects of generation X. (The point is untouched by the "infinite regress" argument if, as I have suggested, there is no "first generation.") There is no one policy of savings which can assure the parties that they will belong to a generation that gains at the expense of another. Perhaps Rawls has too quickly forgotten his own conclusion that "all generations are virtually represented" in the original position (p. 288).

However, while he has criticized Rawls for neglecting his own formal constraints of *generality* and *universality*, Hare has himself forgotten one of Rawls's basic criteria: the *stability* rule. Recall that the parties will *not* accept principles that cannot withstand the "strains of commitment" in actual life. Without the stability factor, the parties of the original position, in their condition of abstract, self-serving rationality, may be attracted to policies of just savings that will, in fact, turn out to be untenable in the real world where, for instance, generations *can* cheat the future with apparently no concern whatever of punishment from either the past or the future.

The stability problem challenges *both* the present time of entry and the atemporal interpretations. In the former case, as Rawls puts it, *all* the parties will find themselves in circumstances in which "either past generations have saved or they have not," and nothing can be done about it. In the atemporal condition, a single party will find, in real life, that *some* of his colleagues in the original position (which?) may have, in their time, kept their part of the bargain to set aside "just savings." In both cases the past is fixed. In both cases the question remains: Why should the parties in their lifetimes (whenever that may be) be motivated to save? Why indeed, even if past generations have fully met their duties?

From the perspective of the original position, and detached from the compliance question, the rule of just savings truly seems to be rational and in the interest of each party. But Rawls's essential challenge remains unanswered: What assurance will the parties have that, once their time arrives, their predecessors will have kept their part of the bargain? No more assurance than that they *themselves* will be motivated to make just provision for the future. In the case both of forebearers and of contemporaries, the assurance that just savings will be made rests upon the assumptions concerning the motivations of actual persons. The parties of the original position, whether

contemporaries or from all generations, will agree to a principle of just savings only if they have some assurance that human nature (as they know it from their allowed fund of general information) is equipped to uphold the principle.

Hare has launched his neat attack upon Rawls's argument for just savings by ignoring the burdensome question of *stability*. Rawls, on the other hand, has forthrightly recognized the stability problem. In particular, he has been unwilling to assume that the parties would accept a principle of savings without assurance of the motivation of all persons at all times to do so in actual life. In searching for this motivation, however, he has encountered some grave complications. (I will have much more to say about this in the final two sections of this chapter.)

Abstract justice and practical justice. The contrast between the approaches of Rawls and Hare is fundamental and should be identified and labeled for further use. Hare seems to suggest that we derive rules of justice entirely from "formal constraints of the concept of right" (e.g., generality, universality, publicity, priority, finality, time neutrality, etc.), and general criteria of conceptual intelligibility, *apart* from the practical question of *stability*; i.e., the possibility of compliance in the conditions of ordinary life. Hare's preferred approach to moral philosophy is analytical rather than contractarian. Even so, a contractarian "original position" can readily be devised to produce principles of justice that take no account whatever of the stability question. (For example, one might stipulate the condition that the parties are able, and know they are able, to legislate that human nature be so designed to assure full compliance with the principles at all times and places in human history). Such principles I will henceforth call "principles of *abstract* justice." Hare is quite correct to assert that such *abstract* principles of provision for the future follow directly from the general criteria of the concept of right, and that these principles, being unaffected by the stability question, are likewise unaffected by the circumstance of non-reciprocity (Hare, p. 244).

In contradistinction, Rawls believes that no principle of justice need be agreed to that has unacceptable consequences and with which the parties cannot expect compliance (p. 176). This qualification of stability, added to the general conditions of "abstract justice" noted above, yields what I call "principles of practical justice." It follows that "the principles of practical justice" constitute a subset of the class of "the principles of abstract justice." Accordingly, membership in the *genus* of abstract justice does not directly imply membership in the *species* of practical justice. Thus, as we have seen, principles of savings that would clearly be entailed in a system of "abstract justice" may become very problematic when the "practical" question of compliance is raised. (The distinction between "abstract justice" and "practical justice," will prove to be of considerable importance in forthcoming analyses.)

Does the present time of entry interpretation make any difference? In the foregoing analysis, I have assumed, with Rawls, that there is a discernable difference between the present time of entry and the atemporal interpretations. Superficially, the claim may seem unarguable. After all, it makes clear sense, for example, to distinguish between the claim that a certain group of children all belong to one religion, and a different claim that they belong to several religions. What difficulty is there, then, in distinguishing the stipulation that the parties in the original position all belong to one generation

from the qualification that they each belong to *distinct* generations? The answer, quite simply, is that the parties are, in a most fundamental logical sense, like no collection of identifiable persons. The difference is so substantial that I have refused heretofore even to adopt Rawls's convention of referring to the parties as "persons.." Indeed, even using the word "parties" in the plural begs a controversial point. And so we arrive at the essential issue: Does it make any sense, logically speaking, to treat the members of the original position as an *assembly*? In what sense are they plural? What are the distinguishing marks upon these parties (plural?) who, by definition, have no individual personal knowledge? To be sure, some general facts about themselves are allowed, e.g., that they will live in a society under the principles chosen, and that they are "heads of families." However, all of this admissible personal information is known equivalently by all. There are no *distinguishing* physical, emotional, conative, cognitive characteristics whatever.

Rawls admits that, under such conditions, the results of the deliberations would be unanimous. My question, however, is even more basic: In what sense could "they" be said to *deliberate* at all? In what practical, identifiable sense would the "deliberations" in the original position be distinguishable from the private contemplation and decision-making of a *single* individual, under the conditions described by Rawls as "the original position?" To such a singular "original party," the distinction between the present time of entry and atemporal interpretations, if any, collapses into equivalence. All that might be said is that the party knows that he will be a member of *some* generation, which may be any *one* of *all* generations. The implications are the same for this "single party interpretation" as for the present time of entry and atemporal interpretations: *all* generations are virtually represented. Furthermore, the principles of just savings contemplated by "the original party" raise the same questions of non-reciprocity, compliance, and stability.

Perhaps the same point might be made from a slightly different approach. Rawls is postulating that *all* the parties are members of a single but unknown generation. The atemporal interpretations assume that *each* party belongs to a different generation. But according to Rawls's fundamental rules of the original position, it makes no sense to speak either of distinguishable individuals ("each-ness") or of a plurality of parties ("all-ness"). Perhaps about all that can be said is that principles of justice *between* generations should be chosen from the point of view of *all* generations; i.e., from the perspective of a generalized moral agent who does not know in which generation he must live under conditions resulting from his chosen principle. This, I suggest, contains most (but not all) of the rudiments of Rawls's theory of justice as applied to intergenerational justice.

Why then all the complications concerning the "present time of entry interpretation" and non-reciprocity? To this question Hare has supplied a suggestive answer: Rawls has become so entranced by the "machinery" of his conceptual model that he has lost sight of the purposes for which it was assembled or the basic moral sense that it was designed to serve. Before such components as "the constraints of the concept of right" (i.e., generality, universality, order, publicity, and finality), and the irrelevance of personal bias ("the veil of ignorance"), the import of such matters as the "eachness" and the "all-ness" of the parties and their assembly pales in insignificance. Perhaps, in discussing the "present time of entry interpretation," Rawls has momentarily forgotten that the device of the

original position, while a marvelous conceptual tool, can be a troublesome distraction to the incautious (Hare, July 1973, p. 224).

The present time of entry interpretation: An unwarranted complication. Perhaps, at this point, the reader is becoming somewhat impatient. If there is, in fact, no discernable difference between the present time of entry and atemporal interpretations, why didn't I say so at the beginning of this section and thus save a considerable amount of space? I can offer two points in my defense. First, Rawls perceives a difference, and the fact that he does is of no small importance. I wanted to meet him on his terms and to examine a few significant issues that were raised in reference to his perception of the "time of entry" condition (e.g., such issues as non-reciprocity, stability, universality, abstract and practical justice, etc.). Second, I am not entirely convinced, even yet, of my own contention that there is no difference between the competing interpretations. I am more convinced that Rawls's present time of entry interpretation is unsupported by Rawls, serves no purpose in his theory, and is capable of causing considerable mischief. Accordingly, I have argued that (a) the present time of entry interpretation seems not to make any difference; and (hedging my bets), (b) if perchance it does, it should not be adopted.

In summary, the present time of entry interpretation is not defended by Rawls, nor does he ever clearly indicate the *problem* that prompts it or the function that it is supposed to serve in his theory. Furthermore, on close examination, no discernable difference can be found between this interpretation and the atemporal interpretation which Rawls claims is less acceptable. Rawls's treatment of the "time of entry" question has dramatized, once again, the hazards of taking the conceptual model of the original position too literally. It has also directed our attention to the important issues of *non-reciprocity*, *stability*, and *motivation* for "just savings." The present time of entry interpretation can, I suggest, be permanently discarded from the rule book of the original position. However, the problems of *non-reciprocity*, *stability*, and *motivation* remain undiminished in the search for principles of justice between generations, as we shall see in the next section.^a

^aMy perplexities with Rawls's "present time of entry interpretation" ("PTE"), shared by many capable philosophers, continue to this day. About ten years after completing the dissertation I was inclined to "accept" the interpretation, albeit still without a clear idea of what I was accepting. Now (in 2001) I believe I had it right the first time. My inclination to accept PTE followed an appreciation that if, as Rawls stipulates (pp. 4-5), the "parties" were adopting rules of *their association*, it seems reasonable to stipulate further that they belong to the same generation. But this concession falls apart when we further reflect that since the parties have no distinguishing personal qualities behind the veil of ignorance, they can not be said to be "plural," and thus the PTE collapses into equivalence with Hare's "atemporal interpretation"—as I have just argued in the preceding section.

39. "The Heads of Families" Condition

In our examination of the "present time of entry interpretation" we have, inevitably, encountered the "heads of families condition." Rawls believes (incorrectly, I have argued) that, if the parties in the original position know that they are contemporaries, they will have "no reason . . . to agree to undertake any saving whatever" unless a motivating condition is added to the original position (p. 292). Rawls's answer, we will recall, is readily at hand: "The parties are regarded as representing family lines, say, with ties of sentiment between successive generations" (p. 292). "This "heads of families" condition first appears on pp. 128-129 in *A Theory of Justice*, (in a passage quoted on page 150 of this dissertation.) Knowing this item of information about themselves and their colleagues, the parties of the original position would, says Rawls, be assured that a rule of savings would be complied with in the conditions of actual life. With the parties thus assured of the stability of the principle of just savings, it would be adopted in the original position.

In the previous section, I concluded that there was no effective difference between the "present time of entry interpretation" and its "rival," the "atemporal interpretation." Does this finding entail no need to identify a "motivating condition" for just savings? I do not believe that this conclusion follows. Even if Rawls's "time of entry" position is found to be untenable or equivalent to the "atemporal" condition, the question remains: Why, beyond the veil, would the parties be inclined to keep their bargain to make provision for the future? With or without a "present time of entry" assumption, the problems of *non-reciprocity* and *stability* persist; the living will neither suffer punishment nor enjoy rewards, from the deceased and the unborn, for their policies toward posterity. Why then should the living make present sacrifices for a future that they shall never see? Rawls is quite correct in saying that, without some general motivating conditions, the parties cannot be expected to save when in actual life. With no expectations, the parties will adopt no ("practical") principles of just savings. Thus, if "justice between generations" is to be served, some motivation conditions must be found, conditions basic to human nature and universal in their manifestations. Otherwise, the conditions will reflect a *particular* good excluded by the veil of ignorance, rather than a primary good acknowledged in the original position. (I will have much more to say about this qualification shortly). In short, compliance and stability must be assured or, at the very least, be feasible. To this degree, I concur with Rawls. However, I strongly disagree with his suggestion that the sought-for motivation is to be found in the desire of "heads of families" to care for the well-being of identifiable persons in the next generation (pp. 128-129). In this section I will argue against the *grounds* for this condition and will point out some of its inconsistencies with other parts of Rawls's theory. In the next and final section of this chapter, I will dispute one of the most significant *results* of the "heads of families" condition (i.e., the limitation in the temporal "span of responsibility") and thus, indirectly, continue my criticism of the condition itself.

The problem of consistency. The careful and sensitive reader may find something jarring and discordant in Rawls's heads of families condition. Small wonder. It violates a number of basic assumptions about the general conditions in the original position that Rawls has labored diligently to defend, explicate, and assemble into a coherent pattern. The inconsistencies raised by the heads of families condition are numerous: too numerous to allow me to pursue more than a few in detail.

To begin, it may be useful simply to enumerate some samples. Kenneth Arrow can get us off to an excellent start. The heads of families assumption, he says:

(1) . . . Introduces an element of altruism into the original position; if we introduce family sentiments, why not others (nation, tribal)? And why not elements of envy? (2) One might like a theory of justice in which the role of the family was derived rather than primitive. In a re-examination of social institutions, why should the family remain above scrutiny, its role being locked into the original assumptions? (3) Anyway, the family argument for saving has an implication that should be displayed and might be questioned Presumably the burden of saving should fall only on those with children and perhaps in proportion to the number of children. Since education and public construction are essentially forms of saving, taxes to support them should fall only on those with children. In the original position, this is just the sort of contract that would be arrived at if the concern for the future were based solely on family ties. (Arrow, pp. 261-262)

Consider next some strange juxtapositions of remarks by Rawls himself, remarks which appear within the space of three consecutive paragraphs (on pp. 128-130 of *A Theory of Justice*). First, in his most careful and extensive account of the heads of families condition, Rawls states:

What is essential is that each person in the original position should care about the well-being of some of those in the next generation, it being presumed that their concern is for different individuals in each case. Moreover for anyone in the next generation, there is someone who cares about him in the present generation. (pp. 128-129)

Yet, in the following paragraph Rawls writes: "A conception of justice should not presuppose. . . extensive ties of natural sentiment. At the basis of the theory, one tries to assume as little as possible" (p. 129). And in the paragraph following that, he states that the circumstances of justice involve "no particular theory of human motivation" (p. 130). But, of course, the heads of families condition is just that.

Perhaps these bits are enough to suggest that Rawls is in considerable difficulty here. Let's leave the samples now and turn to a more thorough examination.

"Heads of families" and universality. Rawls is concerned that the conditions in the original position, as well as the resulting principles of justice, be coordinated (in "reflective equilibrium") with "considered moral judgments" of ordinary practical life. It would therefore, I think, be fair to assume that Rawls's desire that the parties in the original position establish rules of just savings is responsive to his correct recognition of a widespread moral consensus that the needs of future generations should be provided for. In other words, faced with this "considered moral judgment" that the living have duties to posterity, Rawls has attempted to fashion the conditions of the original position so that congruent principles of justice will be chosen therein. As we have seen, part of his solution is an introduction of the "heads of families" condition into the original position. Unfortunately, in his attempt to incorporate a principle of justice reflective of a widespread moral judgment, Rawls has

chosen a motivating condition that is neither universal, representative, nor reliably productive of the desired motive. I will consider these points in reverse order.

First of all, Rawls suggests that persons who have the status of "heads of families" can reliably be expected to have a "desire to further the welfare of their nearest descendants" (p. 128). To be perfectly fair, Rawls does not insist that the person *must* be a family head, but he does require that he have at least a quasi-parental concern for "well-being of some of those in the *next* generation, it being presumed that their concern is for *different individuals* in each case" (pp. 128-129; my italics). Does Rawls mean to suggest here that the circumstances of being a parent (or parent-surrogate) *invariably* results in care for the well-being of "some of those in the next generation?" In most cases, I will agree, this is so. But what of the lamentably all-too-common cases of persons who find themselves trapped, by accident, miscalculation, or thoughtlessness, in a parental role that they do not care for but cannot escape? The heads of families condition, says Rawls, assumes that "for anyone in the next generation, there is someone who cares about him in the present generation" (p. 129). One of the great social tragedies of our time is that this clearly is *not* the case in the conditions of actual life.

Even if the status of family head has the desired effect of instilling care and concern for definite individuals in the next generation, surely it falls far short of the scope of application called for in the "considered moral judgment" of concern for future persons. Would our moral sense condone a land baron's acquisition of vast holdings for the perpetual and exclusive use of his progeny, to the total exclusion of anyone else? (Imagine, for example, Yellowstone Park as a forbidden and private family enclave.) "Considered judgment," not to mention the laws of eminent domain, proscribe such personal aggrandizement. Yet this would seem to be the sort of savings policy that would follow from an importation of the motivation of family heads into the original position. Do we wish, then, to adopt conditions in the original position that would lead to a savings principle that favors beneficiaries in the next generation on the basis of blood ties or personal affection? Such bias might well be defended on the grounds of particular personal life plans (i.e., "the full theory of the good"), but surely not on grounds of universal *justice*. And *justice* is the concern of the original position. (There is an additional bias attached to the heads of families condition; namely, the bias in favor of the immediately succeeding generation over all the following generations. This bias is the topic of §40.)

Still another question: What of those who are *not* "heads of families?" Are they presumed *not* to "care about the well-being of some of those in the next generation"—or in generations beyond? (p. 128). Surely this would be an unfair presumption. These days, many persons have chosen *not* to become family heads precisely *because* they are concerned about the living conditions of future generations. For example, some are aware that they are carriers of genetic defects, while others act upon their perceived duty not to aggravate the problem of over-population. (In contradistinction, some individuals willingly become heads of large families in deliberate disregard of their duty not to burden future generations with the problems of over-population.)

This leads to still another problem: What of the *interests* of the childless adults? Don't they count? Are these individuals to be morally disenfranchised? If they are not represented in the original position, are they morally obligated to comply with the principles of justice adopted therein? Will they be required to contribute just savings (e.g., in taxes) to individuals in the next generation with whom they have no acquaintance and for whom they have no personal concern?

At this point I would reiterate that there does, in fact, appear to be a widespread "considered moral judgment" that the needs of the future should be provided for and that future persons should not suffer avoidable harm. (Once again, I would refer to a random sample of newspaper editorials, political speeches, and commencement addresses.) Furthermore, Rawls is aware of this judgment and wishes to have it reflected in the original position. However, my fundamental question is this: Does the heads of families condition perform its intended function? I suggest that it does not. In the first place, it severely limits the temporal scope of concern for the future (a point which I shall pursue in the next section). Similarly, it focuses concern upon a few persons in the next generation to which the agent is tied by familial or quasi-familial attachments, to the exclusion of virtually all other members of that generation. Furthermore, the heads of families condition is based upon a status that cannot be reliably expected to provide the desired motivation. Finally, and perhaps most seriously, the condition is *not* universal, and *not* general, and thus it violates two basic formal constraints of the concept of right (Rawls, §23).

These formal constraints are applied to the original position in the rule that "no one is able to formulate principles especially designed to advance his own cause" (p. 140). The "cause" of being a family head *is* a particular interest exclusive of, and perhaps in conflict with, the interests of those who, either for selfish or altruistic reasons, choose *not* to assume this role. Since the savings principle adopted in the original position is clearly "designed to advance . . . [the] cause" of the heads of families, the principle, and by implication the condition, is disallowed by Rawls's own basic rules for the original position. Accordingly, I suggest, the "considered moral judgment" that the interests of posterity should be provided for will have to be derived from some other combination of rules, motivating assumptions, and admissible data in the original position.

Is the "heads of families condition" an ad hoc assumption? As the previous sentence clearly indicates, I am strongly inclined to suggest that the heads of families condition be dropped from the original position. However, before I do so, we should explore the consequences of this decision, if any, to Rawls's general theory. If the condition plays a significant role in justice as fairness, its removal might entail theoretical consequences so serious that its manifest disadvantages are small in comparison. On the other hand, if the condition can be discarded with little effect upon the larger theoretical system, there may be no remaining arguments for its inclusion.

It happens that Rawls *does* believe that the heads of families condition serves an additional purpose in his system; namely, the condition figures in the argument for the principle of equal liberty:

One might say that [the parties] regard themselves as having moral or religious obligations which they must keep themselves free to honor. Of course, from the standpoint of justice as

fairness, these obligations are self-imposed; they are not bonds laid down by this conception of justice. The point is rather that the persons in the original position are not to view themselves as single isolated individuals. To the contrary, they assume that they have interests which they must protect as best they can and that they have ties with certain members of the next generation who will also make similar claims. (p. 206)

The point is reiterated in a nearby discussion of "paternalism":

Those who care for others must choose for them in the light of what they will want whatever else they want once they reach maturity. Therefore following the account of primary goods, the parties presume that their descendants will want their liberty protected

Thus the father can say that he would be irresponsible if he were not to guarantee the rights of his descendants by adopting the principle of equal liberty. From the perspective of the original position, he must assume that this is what they will come to recognize as for their good. (pp. 208-209)

Finally, the heads of families condition *might* be construed to apply to the following remarks concerning risk-aversion, in which Rawls refers to "the desire to have ones decision appear responsible to one's descendants who will be affected by it. We are more reluctant to take great risks for them than for ourselves" (p. 169). ("The context of this quotation has bearing upon the decision to accept a "maximin" strategy or risk, which in turn leads to an acceptance of the difference principle.) Aside from these instances, I am not aware that Rawls has attempted to show any additional function of the heads of families condition in his system of justice.

What, then, are we to say concerning the *systematic* import of the heads of families condition, in particular its role in supporting the principle of liberty and a maximin strategy of risk taking? In the first place, both the principle of liberty and the maximin strategy can be strongly defended from the point of view of the advantages to the parties themselves, with no reference to their bonds of personal concern for determinate individuals in the next generation. The heads of families condition plays only a minor role in Rawls's argument for both conclusions. (See especially Rawls, §32.) However, this is hardly a telling point, for if the heads of families condition lends *any* support to several separate components of the theory, it thereby gains theoretical warrant.

A second, more serious question is whether the support offered to the system is *specific* to the heads of families condition. In other words, might not *another* motivation assumption do as well, and perhaps even better? I believe so, and suggest as replacement the "regard of general posterity" condition. This broader motivation assumption requires no reference to particular, determinate individuals of one's direct acquaintance. Furthermore, this broader assumption, like the heads of families condition, would motivate the parties to endorse both the principle of just savings and the maximin strategy, with the additional advantage that it would extend to *several* generations (which is not the case with the heads of families condition). The "regard of posterity" assumption offers still another advantage; namely, it has a more extensive application. Thus a politician, author, artist, or scientist,

wishing through his work to leave a "legacy for posterity," and thus to earn its esteem, generally has more than his lineal descendants in mind. Indeed, though the benefactor may be childless, his motivation is no less valid. For these, and other reasons, I suggest that a motivation assumption of "regard of posterity" accomplishes all (and probably more) than the heads of families condition can in defense of the principle of equal liberty and the maximin strategy. For that matter, I suspect that the same might be said concerning its support of the savings principle.

The third question is clearly suggested by the second: Is a defense of equal liberty and the maximin strategy by means of the heads of families condition consistent with the formal constraints of right, particularly the criteria of *universality* and *generality*? If the heads of families condition plays a part in the decision to accept these principles in the original position-- indeed, if the parties in the original position know themselves to *be* family heads -- what then of those in actual life who are *not* heads of families? Are they then any *less* entitled to equal liberty? Are they any less protected by the maximin strategy of risk-taking (and, by extension, the difference principle)? The introduction of particular, exclusive, personal factors into the original position may result in principles that are less than general and universal. Whatever else such principles are, they cannot, according to the constraints of the right, be considered principles of *justice*.

In summary: The heads of families condition serves no function for Rawls's general theory, apart from the derivation of the savings principle, that cannot better be served by a more general motivational assumption: e.g., the "regard of posterity" motive. (Later I will argue that there are still better ways to derive a practical principle of justice between generations.) In addition, the heads of families condition raises, in regard to its other functions (i.e., in defense of the principle of equal liberty and maximin risk strategy), the same problems of exclusivity and particularity that it presents to the defense of the principle of just savings.

It follows, then, that the heads of families assumption has no independent warrant and serves no function in Rawls's theory except to introduce into the original position the understanding that the parties *will* (in actual life) acquire a concern for the well-being of identifiable individuals in the next generation. The assumption, then, apparently reduces to an *ad hoc* adjustment, serving no other purpose than to inject into the original position a motive for adopting a savings principle consonant with a widespread "considered moral judgment" that just provision should be taken for future generations. An ethical theory, says Charles Harris, should be able "to deal with novel moral problems without ad hoc modifications" (1974, p. 142). Clearly, the heads of families condition fails this test. Even worse, it violates the basic formal criteria of generality and universality (Rawls, pp. 131-132), and suggests a "moral disenfranchisement" of those who are *not* heads of families, some of whom voluntarily accept this status *in response* to their perception of their personal duty to posterity. For these reasons, I would suggest that the heads of families condition not be allowed into the original position. In other words, consistent with the *general* concept of the veil of ignorance, the parties are *not* to know of their family circumstances in actual life.

What motives for just savings? At the close of the last section, I suggested that the present time of entry interpretation could be discarded without discernable effect upon Rawls's theory. Surely the

same *cannot* be said for a rejection of the heads of families condition. As Hare properly suggests, "justice between generations" (in some form) appears to be secure as a principle of *abstract* justice. In other words, if the parties in the original position could be assured (for whatever reason) of perfect compliance in the actual world, it would surely be to their advantage to adopt such a principle (since they would almost certainly be beneficiaries thereof). The problem emerges when, in seeking principles of *practical* justice, we must additionally have warranted assurance that the proposed principles will be complied with in the real world. We will recall that Rawls proposed the heads of families assumption as a solution to the stability (or "compliance") problem specifically entailed by the issue of just savings; namely, the fact that in actual life the violation of the savings principle results in no effective accusation of, or retaliation upon, the violators ("the non-reciprocity factor"). With the rejection of the heads of families condition, this troublesome problem of *stability* remains very much with us. Later I will suggest that Rawls has, undeveloped within his theory, the resources to effect a rescue, and even an enhancement and enlargement, of the savings principle. Be that as it may, at the moment Rawls's defense of the interests of future generations appears to be seriously compromised.

In summary. The "heads of families condition" is unacceptable as a "motivating assumption" in the original position on the following grounds:

- (a) The condition adds particularity and exclusivity into the original position in violation of the formal criteria of generality and universality;
- (b) this in turn threatens the "moral franchise" of childless persons;
- (c) the condition presumes motives which many family heads may not have; and
- (d) it is an *ad hoc* assumption serving no other effective function in Rawls's theory but to add a motive for savings into the original position. However,
- (e) with the rejection of this condition from the original position, the stability of the savings principle becomes doubtful and problematical.

40. The Span of Responsibility

The responsibility of any given generation to the future, says Rawls, extends directly to the succeeding generation, or possibly one beyond that. Toward remote generations, however, there is little direct moral responsibility. Provision to these generations is accomplished cumulatively through the just savings of adjacent generations. (I call this the "chain link theory" of duty to posterity.) This limited "span of responsibility," says Rawls, would be adopted in the original position as part of the "principle of just savings." Thus, he claims, if just savings between consecutive generations is accomplished, "no generation can find fault with any other no matter how far removed in time" (pp. 228-289). (See also §32, above.)

The span of responsibility and the heads of families condition. The connection between the "heads of families condition" and the limited span of responsibility should now be clear. If a savings principle is to be accepted in the original position, the parties must be assured that it will be stable; i.e., that it is to be complied with in actual life. To secure this confidence, Rawls added a "motivation assumption" that the parties understand that they are "heads of families." As such, they will each be inclined, in actual life, to make provision for identifiable members of the immediately succeeding generation (and, perhaps, for grandchildren as well). But this motivation assumption serves both to *extend* and to *limit* the reach of justice. It does, in fact, lead to a principle of providing for the near future. However, it limits application to future members of the parties own families and, as noted, it has no bearing upon future generations far removed from one's own.

But if the limited span of responsibility follows from the heads of families condition, and if I have just discarded the latter, what need is there to give further attention to the span of responsibility? In the first place, I have considerable respect for Rawls's philosophical abilities, and will not be so bold as to claim final and complete victory on this point. Additional weight to my argument against the heads of families condition *through* criticism of the span of responsibility might therefore prove to be quite useful to my argument. Furthermore, a successful refutation of the heads of families condition by no means assures that a brief span of responsibility might not be defended on other grounds. It would thus seem wise to criticize Rawls's position on the span of responsibility on independent grounds that bear directly upon this position, and not exclusively through the heads of families condition.

Counterexamples: "The fossil fuel subsidy" and the limits to growth. It should not be too difficult to point out that there may be something intuitively discomfoting about Rawls's limit upon the span of responsibility. (In other words, the notion may violate widespread "considered moral judgments.") It is easy, during these days of technological and scientific advancement, to identify policies which will yield clear advantages during the next generation or so and cause unrelieved catastrophes thereafter. Earlier I cited the cases of ozone depletion and the disposal of nuclear wastes (pp. 91-95). Consider now another case: the problem of the "fossil fuel subsidy."

In the United States today, less than seven percent of the population feeds the other ninety-three percent, plus millions of individuals abroad. At the same time, prime agricultural land is being taken out of production. How is this possible? This is accomplished by the fact that for each unit of food energy produced, many units of energy are expended, in the form of fossil fuels, to produce the food. For example, petroleum is used to produce and transport fertilizers, and to produce and operate heavy farm implements. Ecologist Kenneth Watt estimates that in the last quarter century, eleven million horses have been retired from agricultural work. If all their pasturage had been converted to growing crops for human consumption (as it has not), this would produce food for about forty-four million persons (Watt, 1970, p. 9). In India there is a corresponding conversion from bullock-power to tractor power, all this thanks to the "fossil-fuel subsidy." Virtually all informed geologists agree that, at present rates of use, petroleum reserves will be depleted in the twenty-first century. (The estimates range from thirty to one-hundred years (Commoner, 1976). The implications are sobering in the extreme. Says Watt:

Mankind is embarked on an absolutely immense gamble

. . . . The world can probably support between one and four billion people at the absolute outside without a fossil-fuel energy subsidy. My guess is that the number is closer to one billion. By the time we run out of this fossil fuel energy subsidy, there will be 10 to 20 billion people in the world. Now suppose we run out of fossil fuel and it turns out we don't have nuclear energy. What's going to happen during the period when we drop very suddenly, in about three years from between 10 and 20 billion people down to between one and four. I'll let your imagination handle that problem. (Watt, pp. 10-11)

Mankind, at this moment, should be investing enormous resources in research and development in a determined and sustained effort to win this "gamble." At this moment, mankind is not. And in 1975, world population increased at a rate of 1.8 percent (Population Reference Bureau, 1976).

For our purposes, the interesting point here is that the catastrophe predicted by Watt might not affect us or our loved ones in the next generation. And, according to Rawls's principle of just savings, we should take for ourselves and our immediate successors the advantages won by the fossil fuel subsidy and leave it to later generations to find a solution to this catastrophic emergency that we will have knowingly created and left to them, an emergency that they will likely have neither the time nor the resources to solve.

The problem of the fossil fuel subsidy is but one of the many technological-ecological policy dilemmas outlined in the Club of Rome's influential and controversial study, *The Limits to Growth* (Meadows, et al., 1972). Using computer modeling techniques, the project examined the interaction of five general factors of the "world system"; i.e., population, pollution, per capita food consumption, per capita industrial output, and available natural resources. By introducing into the program a number of alternate policy assumptions (e.g., concerning capital investment, technological development, birth control, etc.), the computer simulated a number of "world models"; i.e., scenarios of future prospects for the human race to the year 2100 A.D.

The methods and findings of the study are too complex and broad to be cited in detail. However, virtually all the findings converge upon this stark conclusion: unless the current generation and its immediate successor (a) institute a series of radical political and economic reforms, (b) accept stringent curtailments upon prevailing consumption habits, (c) adopt policies of technological caution and forbearance, and (d) adopt values consonant with ecological laws and planetary finitude, persons living three and four generations hence will face catastrophes of unimaginable magnitude and severity. (Several models in the study show the time of collapse to be near the coming turn of the century, and well within the lifetime of the next generation. Provision against *these* contingencies falls within the scope of Rawls's principle of just savings. It is the class of those models *beyond* the next generation that cause difficulty for Rawls's principles.

I submit that the findings of the Club of Rome study, as well as the cases cited earlier (i.e., the fossil fuel subsidy, the aerosols, and nuclear wastes), clearly indicate that an optimum course of long-term

policy is *not* accomplished by splicing together a series of short-term advantages. In other words, a "caring" for adjacent generation does not "add up" to justice to *all* generations. I therefore suggest that these counterexamples are sufficiently severe and probable as to constitute a refutation of Rawls's limited span of responsibility and his "chain-link theory" of provision for the future.

"Abstract justice" and the span of responsibility. The Club of Rome study and the ozone, nuclear waste, and fossil fuel cases suggest plausible scenarios of how careless and callous disregard of present trends and practices might have devastating results *beyond* the lifetime of the next two generations.⁹ In each case, these disasters might be prevented or minimized with sacrifices to the present and the next generation that are relatively minuscule alongside the predicted catastrophes. Rawls has advised us that when putative principles of justice sufficiently violate "considered moral judgments," a review of these principles, and the conditions in the original position which produced them, may be in order. I suggest that these projections outlined above are sufficiently grave to require a re-assessment of Rawls's limitation of responsibility to the future to immediately adjacent generations.

We might begin our analysis by asking where the issue of the span of responsibility might stand in Rawls's system *without* the support of the heads of families condition. By removing the apparently sole motivational support for a savings principle from the original position, we face again the problem of the *stability* of the principle (i.e., the willingness of the parties to *comply* therewith in actual life). We can deal with this problem in two ways. First, we might search either for a new motivating assumption or an assumption already contained within the accepted list of primary goods. That is to say, we might, like Rawls, treat the issue of the span of responsibility as a problem of practical justice (cf. p. 182, above). Thus, as new motivation assumptions are suggested, we can at that time determine what spans of responsibility are entailed thereby. I will adopt this strategy in the final chapter.

For the moment, I would like to "bracket" the stability question, and thus to treat the issue of the span of responsibility as a problem of *abstract* justice. In other words, if we drop the heads of families condition and stipulate full compliance, what then would be the temporal extent of a principle of justice between generations? Recall that, as a principle of *abstract* justice, such a principle of savings would be based upon general criteria of conceptual intelligibility, the rule of no time preference, and the five "formal constraints of the concept of right" (Rawls, §23). I would add to this the "*possibility* rule," derived earlier (pp. 50-51, above); namely, that the principle applies to conditions which fall between the extremes of impossibility and inevitability and which can be affected by the agent's own powers and foresight.¹⁰

⁹Since the completion of this dissertation, another "time-lapse phenomenon" has taken the center stage of public policy debates: global climate change and the greenhouse effect. President George W. Bush has clearly proposed to place the cost of the continuing high consumption of fossil fuels upon future generations, who will face the consequences of global warming.

Deliberating under such rules of *abstract* justice (i.e., assuming "full compliance"), I believe that the parties of the original position would adopt rules of just provision for posterity that would extend as far as both the available sciences can foresee and technologies can affect, for better or worse, the condition of future life.

Why this vast extension of the span of responsibility? First of all, with the dropping of the heads of families condition and the bracketing of the stability question, we are no longer limited in time to the lifetime of cherished individuals in the next generation. Furthermore, Rawls himself offers strong argument in favor of the extension of our moral horizons. To begin, there is his well-stated argument against "pure time preference": "the mere difference of location in time, of something's being earlier or later, is not," he insists, "in itself a rational ground for having more regard for it" (p. 293).^a In addition, Rawls's "natural duties" to preserve just institutions (p. 334) and the "rights of moral personalities" to equal justice (p. 505) make no distinction between present, near, and remote time, nor does Rawls offer any reason to expect them to make such a distinction. (See also §29, above). Finally, the parties of the original position, properly ignorant of their personal family circumstances and assured (by stipulation) of the good faith and fair savings of their predecessors, would surely choose an (abstract) principle of "just provision" whereby each generation would do all that was necessary, within the bounds of fair and reasonable sacrifice, to enhance the well-being of any future generations within the scope of available foresight and capability.

While a determination of *abstract* principle of savings might be helpful, we should not lose sight of the fact that Rawls wishes to formulate a principle to which compliance might reasonably be expected; not by "stipulation," but on the basis of sound evidence. After all, the parties have all general knowledge of human nature at their disposal (which, for our purposes, means all our present knowledge). On this basis, they would be most inclined to accept principles of savings that can survive "the strains of commitment" (p. 176). They seek, in a word, principles of *practical* justice. Our formulation of the *abstract* principle of "just provision" has, I think, achieved this much: it has presented an ideal case which the parties would most want to see adopted. Perhaps the limitations of human nature and society (known to the parties) would not permit so broad and inclusive a principle.

I suggest, then, that we should look once again for a "motivation assumption" which will allow us to place some confidence in compliance in actual life with a rule of justice between generations. Our analysis of the now-rejected heads of families condition has, I believe, furnished us with some criteria to be kept in mind as we conduct this search. Among these criteria are the following: (a) the motivation assumption must be neutral with respect to time (i.e., it should have equal *prima facie* application to all generations); (b) the motivating assumption should be applicable to all moral personalities (i.e., "universal"); (c) it should be no respecter of persons identifiable by proper names or "rigged definite descriptions" (i.e., it should be "general") (Rawls, p. 131); (d) the motivating assumption should not represent an exclusive conception of the good, but should be based upon, or derivable from, a *primary* good.

^aSee the Addendum to this Chapter.

We will resume this search in the next chapter.

Grounds for favoring near posterity. I have argued that, from the general perspective of "abstract justice," all generations containing "moral personalities" are due equal justice. Having said this much, I hasten to add that, once we shift our perspective from that of abstract justice to the practical and particular circumstances of ordinary life, we encounter a myriad of reasons, applicable to specific cases, for favoring the interests of near generations.

In the first place, those who *do*, in fact, become "heads of families" have "contracted" to care and provide for individuals in the next generation. Usually (and quite fortunately), the assumption of the *obligations* (not "duties") of parenthood are accompanied by bonds of love and concern which add assurance ("stability") that the responsibilities of this status will be fulfilled. Of course, the more thoughtfully and carefully these obligations of parenthood are assumed, the more likely that they will be responsibly carried out and prove fulfilling to the affected members of both generations. However, we must understand that the status and responsibilities of heads of families, being voluntary, fall under the category of *obligations* and thus under the special rule of "the principle of fairness." In excluding the heads of families condition from the original position, I am by no means suggesting that family responsibilities do not properly place high priority moral claims upon us, or that parents do not properly devote a large portion of their time, attention, and resources to those particular persons in the next generation who happen to be their children. I *do* deny that these proper moral *obligations* of those who choose to become heads of families, and the motivations that accompany this status can, in addition, validly serve as grounds for a general and universal principle of provision for future generations.

There are further reasons why, in particular cases, the interests of near generations might correctly be favored. (Most of these reasons are, by now, familiar). First of all, it is generally easier to forecast the interests and needs of generations closer to us in time. In the second place, we are usually better able to provide for the needs and interests of near posterity. Third, efforts to provide for the near future can be monitored and adjusted *in process* (i.e., can benefit from "regulative feedback"), while projects in behalf of remote persons may be "long shots in the dark." Finally, "just savings" for the near future may, in many cases, involve little more than a maintenance and moderate improvement of existing institutions and technologies, which yield benefit for the present as well as the future.

It is important, however, that we not lose sight of the fact that all these reasons for favoring near posterity to remote generations are *contingent* and attach to the circumstances of particular cases.^a There is no general, logically compelling, *a priori* reason to favor the near future. (Rawls calls this the rule of "no time preference" (§45).) Indeed, it is possible to cite cases in which certain policies will effect remote generations more probably and more significantly than it will proximate

^aDerek Parfit has argued this point forcefully in his *Reasons and Persons* (Oxford, 1984). See the Addendum to this Chapter.

generations. I have, on several occasions, cited examples of such policies and thus need not elaborate further. (Cf. p. 192, above).

At this point I am tempted to extend this analysis by asking the obvious next question: "How far into the future might our responsibilities extend?" I will yield to the temptation only enough to make a couple of brief suggestions, after which I will (reluctantly) close the matter. Following Rawls's implied suggestion, I would propose that "posterity" extends *at least* to the point in time where we can, with moderate assurance, project the continued existence of moral personalities; i.e., personalities with (a) a sense of justice, and (b) with a personal conception of the good and a rational plan of life. I would, however, extend responsibilities far beyond the time suggested by Rawls, in that I feel that we should preserve on the earth a viable, well-integrated and diverse ecosystem from which *other* forms of intelligent rational life might evolve, should the particular life-experiment of which we are a part ultimately fail. I would suggest, in short, a loyalty and moral responsibility not only to our human species, but also to the planet and life community which has produced, nourished, and sustained it. (I shall have more to say along these lines in §42.)¹¹

Interlude: Where are we? At the beginning of this chapter I affirmed the intelligibility of the question of "justice between generations" and of Rawls's approach thereto. I then proceeded to defend Rawls's decision to exclude "possible persons" from the original position, and dismissed the pseudo-problems of "the first and last generations." Beyond that, I examined several other aspects of Rawls's argument for just savings which I found to be defective. First, I found his treatment of the "present time of entry" interpretation to be cryptic, undefended, and pointless. Next, the heads of families condition was rejected on the grounds that it violated Rawls's own general criteria of justice. Finally, the limited span of responsibility advocated by Rawls was rejected, largely on the grounds that it violates principles of "abstract justice" and is contrary to "considered moral judgments."

Despite these adverse findings, I hasten to point out, there is much of Rawls's account of justice between generations that I find to be valuable and worth keeping. In particular, I would endorse his suggestion that a savings principle should be fair to all generations and that the rate of savings should be adjusted to the ability of each generation to save. Both of these pronouncements remain intuitively attractive and congruent with considered moral judgment. I would also concur with Rawls's insistence that adopted principles of just savings carry *some* assurance of compliance. Furthermore, I have not dismantled the general theoretical framework from which Rawls argues for justice between generations. I have chosen, rather, to determine whether a just provision for the future can, consistently and coherently, be derived from the circumstances of justice, the constraints of right, the fund of admissible knowledge, the veil of ignorance, and all other conditions described in his model of rational decision-making, "the original position." My conclusion, at this point, is that Rawls has not done so. By no means am I prepared to conclude that practical principles of just provision for posterity *cannot* be derived from Rawls's theoretical system. On the contrary, my examination indicates that the *abstract* grounds within Rawls's theory for justice between generations are strong and compelling.

With the conclusion of this chapter, my most damaging criticism of Rawls's account of justice between generations is behind us. If my analyses have been correct, we are left now with a partial and faulty argument, on Rawls's part, for "practical" principles of just savings, a sound "abstract" case for justice between generations, and an undiminished intuitive inclination (i.e., "considered moral judgment") to continue a search for practical principles of just provision for posterity. What is needed is a new "motivation assumption" consistent with the general conditions which define the original position and constrain the concept of the right. Moreover, it must be an assumption which will provide some measure of confidence that the chosen principles of savings will, in fact, be adhered to in actual life. In the following and concluding chapter, I will propose, in what I call "the need for self transcendence," such a motivation assumption.¹² "Self transcendence," I will suggest, qualifies as a primary good, and is consistent with (perhaps even implicit in) Rawls's theory of justice. If so, this motive may provide grounds for compliance with a principle of just savings in the circumstances of actual life, thus restoring to justice as fairness a defensible account of justice between generations.

ADDENDUM

The Problem of “Pure Time Preference”

*From “In Search of Sustainable Values,” Presented at an International Conference, “Reflections on Discounting” Vilm Island, University of Greifswald, Germany, May 28, 1999. Forthcoming in **The Journal of Sustainable Development**, (2001).*

A six year old girl wanders from the campsite while her parents set up camp and prepare dinner. About a hundred meters from the site, she falls through some underbrush into an abandoned mineshaft, and is killed instantly. The fact that the mine owner is criminally responsible for failing to cover the mine is no comfort to the grief-stricken parents.

A dreadful tragedy! But I neglected to identify the date of this accident. Does it matter? Is it any less a tragedy if it happened last week? Or if it is to take place in ten years? Or one-hundred or a thousand years?

Insurance companies and tort law are required to measure the value of a human life in monetary terms. Thus, since the value of money is necessarily discounted through time, it follows that according to insurance and tort law, not to mention the presuppositions of economics-based policy analysis, at a discount rate of 5%, one child’s life today is worth two lives in fourteen years, one hundred and thirty-one lives in one hundred years, and more than a thousand lives in two hundred years.

Laws aside, if a mine owner could be absolutely certain that his unattended shaft would cause no injury in two hundred years, then even a modest cost of sealing the shaft would be far greater than any imaginable *discounted* damage costs that might result from an open shaft after two hundred years. After that, the “disvalue” of a child’s accidental death would count, from the perspective of time present, less than a thousandth of the disvalue of that death next week.

This scenario of *safe-now and hazardous in the future* is more than a fanciful thought-experiment. It describes the actual conditions with ozone depletion, the greenhouse effect, and the “storage” of radioactive waste. In each of these cases, the misery and loss of life more than two-hundred years in the future “matters” less, by three orders of magnitude than the lives and utilities of our contemporaries.

Surely there is something wrong with this moral arithmetic. And yet, once we put a cash-value on human life, or any other value for that matter, and if we accept the universal economic premise that monetary value depreciates through time, then these conclusions are inescapable.

And yet, a failure to discount the future also appears to lead to absurd conclusions. For if we must share equally all non-renewable resources with all future persons, then we will each be personally

entitled to less than a cup of petroleum and a lump of coal. Neither our resources nor our moral attention can or should be equally divided among all future persons and all future time.

Under close examination, it appears that it is not the passage of “pure time” itself that inclines us to discount the future; rather it is a number of contingencies that attend the passage of time that leads to the devaluation of the future. So argues Derek Parfit, and I find his case persuasive. (See the note on Parfit, following).

However, it is an indisputable fact that money depreciates through time. Thus cash-in-hand can only be saved or invested through a promise and expectation of “return on investment” or “interest income” in the future sufficient to offset the “discounted” future value of the present cash. If future values and disvalues are discounted at normal rates of cash-depreciation, it is clear that the value of the natural environment and of human life just two-hundred years hence – approximately the current span of United States history – will be insignificant from the perspective of time-present. And there is scarcely any imaginable amount of human suffering or planetary devastation a thousand years hence that can not, at normal discount rates, be justified as an acceptable cost of trivial advantages to the present generation.

If such indifference to the remote future is to be avoided, then clearly our policies must be based upon values that do not share the properties of money. We must, in short, detach *values* from *prices*.

(The remainder of this paper is devoted to that task.)

More on “*Pure Time Preference*.” Derek Parfit presents and then refutes six arguments commonly proposed in defense of discounting. They are arguments from *democracy*, *probability*, *opportunity costs*, “*better-off*” *successors*, *excessive sacrifice*, and *special relations* (e.g., with friends and family). To these I would add two: *Psychological discounting* (implicit in “the argument from democracy”) and *epistemic discounting* (due to declining knowledge, through time, of the future). “Psychological discounting” refers to the commonplace fact that people generally prefer earlier gratifications to later, and later pains to earlier – “all else equal.” But this is a condition of human psychology, not of “pure time” itself. Moreover, far from a universal trait, exceptions to this rule are commonplace. For example, *love* and *parental duty* will dictate that a child’s future education counts more than an indulgence today – quite apart from any inducements of “return on investment.” And both the probability and our knowledge of future consequences can, in some noteworthy cases, be greater in the remote future than in the near future – thus reversing the usual decline of both probability and knowledge through time. Ozone depletion, global warming and the release of radwaste, noted above, are cases-in-point. (Derek Parfit, *Reasons and Persons*, Oxford: Clarendon Press, 1984, p. 486).

NOTES

1. Rawls's terms (and sources) are, in order: (a) "admissible knowledge" (§24), (b) "the veil of ignorance" (§24), (c) rules of deliberation (cf. "the rationality of the parties" §25), (d) "the formal constraints of the concept of right" (§23), (e) "the circumstances of justice" (§22), (f) "the primary goods" (§15).
2. Hence my deliberate choice, throughout this dissertation, is to use the term "parties in the original position," even though Rawls repeatedly refers to them as "persons."
3. As far as I can see, Kavka's argument is *valid*, but *unsound*; that is to say, his logic is technically correct, but, since at least one of his premises is untenable, his conclusion is unacceptable. The troublesome premise reads as follows: "Personal utilities are quantitatively representable on a scale of (positive and negative) real numbers with '0' representing the utility of not existing at all Placing the utility of non-existence at the crossover point between net positive utility and net negative utility seems entirely natural since not existing entails experiencing neither happiness nor unhappiness" (241). I contend that this premise is nonsense. By assigning a utility value of '0' to non-being, Kavka is placing non-being upon a continuum of happiness-misery and, by implication, making non-being the same, *in kind*, as a life miserable-on-balance and a life worthwhile-all-things-considered. (On p. 245 Kavka quite explicitly states that non-being may be given the same interpretation as life with a zero-net-sum utility.) Thus, according to this conception, coming-into-being either adds to or subtracts from the "crossover utility" of zero. But the stubborn question persists: "Adding" or "subtracting" the utility for *whom*? Answer: for *no one*. (Qua hypothesis). In fact, non-being is *off* the utility scale, and thus can be assigned *no* utility value whatever; not minus, not plus, and *not zero*. (I concur here with the position of Jan Narveson, 1967, p. 67, quoted earlier, p. 101-, note 13, above).
4. Barry is so determined in this course that he even substitutes "maximin" (in brackets) for "difference" in extended quotations from Rawls. (For example, see Barry, p. 131.) Rawls, however, has drawn a basic distinction between "the maximin strategy" (a device for minimizing risk in forced choices in conditions of ignorance), and "the difference principle" (a principle of just distributions of inequalities). While Rawls employs the former in support of the latter, the concepts are not bound by strict implication, much less by equivalence. Barry's equation of the "maximin rule" with the "difference principle" severely compromises his criticism of Rawls's second principle of justice. (See also Bedau, 1975, pp. 602-603).
5. Even if my rejection of "the first generation problem" fails, difficulties raised thereby might be resolved by demonstrating, as Rawls puts it, that the first generation can, in fact, "share in the fruits of [its] provision." Later (in §46), I will argue that *all* generations may benefit in the *giving* of just savings, as well as in the receiving.

6. I take it as axiomatic that civilization, and the condition of *moderate* (as against acute) scarcity, *requires* the availability of surplus energy. (That is to say, energy surplus is a *necessary*, but by no means *sufficient*, condition for a well-ordered society.) I suggest that few could doubt this axiom after a careful reading of Fred Cottrell's *Energy and Society* (1955).
7. It is difficult to overstate the significance of the Second Law of Thermodynamics (and the corollary concept of *entropy*) to social and moral philosophy. Yet it is nowhere mentioned or hinted at in *A Theory of Justice*. In this regard I am reminded of a passage in C. P. Snow's *The Two Cultures*.

"A good many times I have been present at gatherings of people who, by the standards of the traditional culture, are thought highly educated and who have with considerable gusto been expressing their incredulity at the illiteracy of scientists. Once or twice I have been provoked and have asked the company how many of them could describe the Second Law of Thermodynamics. The response was cold: it was also negative. Yet I was asking something which is about the scientific equivalent of: *Have you read a work of Shakespeare's?*" (Snow, p. 20)

My embarrassment upon first reading these words led me to some independent study that I have never since regretted.

8. Note the exasperation of John Passmore: "[Rawls] does not so much as mention the saving of natural resources. (How rare it is for moral philosophers to pay any attention to the world around them:)" (Passmore, p. 86). In point of fact, on p. 137, Rawls does "mention" natural resources; but that's about all he does. I can endorse the spirit, if not the letter, of Passmore's complaint.
9. The sentence which immediately follows this is: "It seems best to preserve the present time of entry interpretation and therefore to adjust the motivation condition" (p. 292). For the life of me I cannot see how Rawls can escape a contrary conclusion: *it seems best to preserve the established motivation conditions (and thus preserve the coherence and simplicity of the theory) and to adjust, even better discard, the present time of entry interpretation (as an arbitrary, ad hoc complication)*. But perhaps I've repeated this objection often enough. Be that as it may, I will have more to say concerning the altering "motivation assumption" in question (the "heads of families condition") in the following section.
10. "Just a moment," the alert critic might protest, "you state here that the rules present the agent with a condition that is less than inevitable, and yet for 'abstract justice,' you stipulate 'full compliance.'" The point is well taken and calls for some clarification. The "possibility rule" deals primarily with the non-moral factors of *knowledge* (of future contingencies) and *means* (physical and technical, etc.) to bring about certain results. The "stability rule" refers to the moral factor of *willingness* to comply with a principle in the

conditions of actual life. Admittedly, a *stipulation*, in *abstract* justice, of full compliance entails an assumption that, when knowledge and ability permit, a principle of justice will be obeyed. However, I should point out that the concept of *abstract* justice is being used here as an analytic device to indicate what may, or may not be missing in the search for *practical* principles of justice. I quite agree with Rawls that the parties in the original position would, and should, accept only stable ("practical") principles of justice.

11. For some thoughtful examination of the question of "the extent of posterity," see Golding, 1972; Golding and Golding, 1971; and Passmore, 1974, (Chapter IV).
12. As will be apparent in the next chapter, I interpret "self transcendence" naturalistically. No connotation of mysticism is intended in this term.