

Jerusalem

Religious Power and Judaism

Moses Mendelssohn

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[Brackets] enclose editorial explanations. Small ·dots· enclose material that has been added, but can be read as though it were part of the original text. Occasional •bullets, and also indenting of passages that are not quotations, are meant as aids to grasping the structure of a sentence or a thought. Every four-point ellipsis indicates the omission of a brief passage that seems to present more difficulty than it is worth. Longer omissions are reported between brackets in normal-sized type. – When a sentence (like this one) is preceded by – followed by a space, that is supplied by Mendelssohn, who uses it as a kind of quasi-paragraph-break. The division into subsections with titles is added in this version. So are the titles of the two Sections, though they are obviously what Mendelssohn intended. Many occurrences of italics are added in this version, to aid comprehension; but a remarkable number of them are Mendelssohn's.

First launched: June 2011

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Glossary

beliefs: This is usually a translation of *Gesinnungen*. See also **thoughts** and **frames of mind**. The choice among these three translations is dictated by context.

benevolence: Most occurrences of this in the present version would go better with 'beneficence' (i.e. *doing* good rather than merely *wanting to do* good); but if this is a mistake it is Mendelssohn's, because there's no other possible translation of his *Wohlwollen*.

Children of Israel: The Jewish people.

eternal: See entry on 'temporal'.

frames of mind: This translates *Gesinnungen*. See also **beliefs** and **thoughts**. On page 5 all three translations of the word occur within a couple of consecutive paragraphs.

House of Jacob: The Jewish people.

luxury: This meant something like: *extreme* or *inordinate* indulgence in sensual pleasures. A 'luxurious' person was someone wholly given to the pleasures of the senses—mostly but not exclusively the pleasures of eating and drinking.

moral person: An entity that counts as a person in the context of rights, wrongs, blame, and so on.

science: In early modern times this word applied to any body of knowledge or theory that is (perhaps) axiomatised and (certainly) conceptually highly organised. That is what lies behind Mendelssohn's implying on page 40 that Maimonides wanted religion to be one of the 'sciences'.

Sitten: A plural noun that can be translated by a variety of English words, which boil down to something like 'a people's morality, basic customs, ingrained attitudes and expectations about how people will behave, ideas about what is decent etc. or any subset of those'. It is left untranslated here because no good English word does that job.

temporal: It means 'having to do with this world as distinct from the heavenly world of the after-life'. The underlying thought is that this world is in time ('temporal') whereas the after-life is **eternal** in some way that puts it outside time. These English words had those meanings at the time when Mendelssohn wrote, and they are inevitable translations of his *zeitlich* and *ewig*. Note that on page 4 Mendelssohn clearly implies that what is eternal *is* in time.

thoughts: This is usually a translation of *Gesinnungen*, a word with a very broad meaning. See also **beliefs** and **frames of mind**.

SECTION I: RELIGIOUS POWER

1. Some history of our problem

One of the most difficult tasks of political theory concerns:

- state and religion,
- civil and ecclesiastical constitution,
- secular and churchly authority.

The task is to relate these pillars of social life to one another in such a way that they are in balance, rather than becoming burdens on social life or weighing down its foundations more than they help to uphold it. Men have struggled with this for centuries, occasionally getting somewhere with it—but only in practical settlements rather than any theoretical solution. Some thought it right to separate these different relations of social man into two moral entities—one for the items on the left, the other for those on the right—and to assign to each its own province, specific rights, duties, powers, and properties. But the extent of these provinces and the boundary dividing them haven't yet been accurately fixed. [Mendelssohn writes 'boundaries', but the singular seems better because he is evidently thinking in terms of only two 'provinces'.] Sometimes we see •the church moving the boundary-marker deep into the territory of the state; sometimes we see •the state allowing itself encroachments that seem equally violent. . . . Immeasurable evils have already arisen, and threaten to arise again, from the quarrel between these 'moral entities'. When they go to battle against each other, mankind is the loser; when they are in agreement, the jewel in the crown of human happiness is lost; for when they agree on something it is usually on banishing from their realms a third moral entity, *freedom of conscience*, which knows how to get some benefit from their disunity.

Despotism has the advantage of being consistent. However oppressive its demands may look from a common-sense point of view, they are coherent and systematic. For every question it has its settled answer: 'Stop worrying about borders—he who has everything no longer asks "How much?"'. Similarly with ecclesiastical government on Roman Catholic principles: it can deal with every detail in every state of affairs, and yet it is as it were all of a piece. Grant all its demands, and you'll at least know where you stand. Your structure is completely built, and perfect calm reigns throughout. Admittedly it's only the dreadful calm which, as Montesquieu says, prevails during the evening in a fortress that will be taken by storm during the night. Yet anyone for whom happiness is tranquility in doctrine and life won't find a better guarantee of it than under •a Roman Catholic despot (or rather under •the despotic rule of the church itself, because with any other despot, even a Roman Catholic one, there will still be issues about the secular/ecclesiastical borderline). [The parenthetical part of that sentence expands an extremely compressed clause of Mendelssohn's.]

But as soon as freedom dares to move any of the pieces in this systematic structure, ruin immediately threatens on all sides; and it's no longer clear what is going to survive all this. Hence the extraordinary confusion—the civil disturbances as well as ecclesiastical ones—during the early years of the Reformation, and the conspicuous *embarrassment* of the teachers and reformers themselves whenever they had to face up to the *How far?* question in matters of legal rights and privileges. Not only was it hard in •practice to keep the multitude within proper bounds after its chains had come off, but even in •theory the writings of those times are

full of vague and shifting concepts whenever they address the question of *fixing* ecclesiastical power. The despotism of the Roman church was abolished—but what other form is to take its place? – Even now in our more enlightened times, the textbooks of ecclesiastical law can't get rid of this vagueness. The clerical side won't or can't give up all claims to a constitution, but *what* should it be? [This 'refers, no doubt, to Collegialism', a doctrine which 'defended the right of the church as a corporation, to administer its affairs in complete independence from the state' (A. Altmann, in the Brandeis U.P. edition of this work, pages 148, 147).] No-one knows! Here's one who wants to settle doctrinal differences without recognising a supreme judge. Here's another who goes on talking about an 'independent church', without knowing where it is to be found. Here's yet another who defends 'power' and 'rights' but can't say who should exercise them.

Thomas Hobbes lived at a time when fanaticism, linked with a disorderly sense of freedom, lost all sense of *limits* and was all set to—and eventually *did*—stamp on royal authority and destroy the entire constitution of the realm. Fed up with civil strife, and naturally inclined towards a quiet life of scholarly thought, he put the highest price on tranquility and security—never mind how they were to be achieved—and he thought the only way to have them was through a unified and indestructible supreme power in the state. So he thought that the public welfare would be best served if the supreme power of the civil authority were put in command of *everything*, even our judgments of right and wrong. To find an account of how this could happen more legitimately, he postulated that nature gives man a right to anything it has made it possible for him to get. The state of nature is a state of universal uproar, a war of all against all, in which each person is *entitled to do anything that he can do*; might makes right! This miserable state of affairs lasted

until men agreed to put an end to it by renouncing •right and •might as far as public safety was concerned, placing •both in the hands of an established authority. From then on, whatever that authority ordered was right.

Perhaps Hobbes had no taste for political freedom; or perhaps ·he valued it but· preferred to see it destroyed rather than have it thus abused. But in order to keep his own freedom of thought, of which he made more use than anyone else, he resorted to a subtle twist. According to his system, all right is based on power, and all obligation on fear; God is infinitely more powerful than any civil authority, so God's *right* is also infinitely superior to the right of any such authority; and the *fear* of God obliges us to perform duties that mustn't yield to any fear of the civil authority. But this applies only to inward religion, which was all Hobbes cared about. External worship he put wholly under the command of •the civil authority; any change in church procedures without •its permission is not only high treason but also blasphemy. He deployed the subtlest distinctions in an attempt to prevent the inevitable collisions between inward and external worship; and although there are still many gaps ·in this theoretical structure·, making the weakness of the reconciliation quite evident, one can't help admiring the ingenuity with which he sought to make his system coherent.

There is basically a lot of truth in all Hobbes's assertions. They do lead to absurd consequences, but those are due solely to the extravagance of his formulations (Why the extravagance? Perhaps it was just because he loved paradox, or perhaps he was trying to make his doctrines fit with the needs of his time.) Moreover, his contemporaries' concepts of natural law were rather muddy; and Hobbes did the same service in moral philosophy as Spinoza did in metaphysics: his ingenious errors set other thinkers to work! The ideas of right and duty, of power and obligation, have been better

developed since then; philosophers have learned to draw a more accurately placed line between •physical and •moral ability, between •might and •right. These distinctions have worked their way so intimately into our •everyday• language that the refutation of Hobbes's system seems, *now*, to be a matter of common sense—to be accomplished by language itself, so to speak. It's like that with all moral truths:

As soon as they are brought to light, they become so much a part of ordinary speech, and so connected with our everyday notions, that even people with quite ordinary minds find them obvious—and *now* we wonder how anyone could have stumbled on such a smooth road.

But we're overlooking the work that had to be done clear this path through the wilderness.

Hobbes himself must have been aware of some of the inadmissible results that followed directly from his extravagant propositions. If men aren't bound by nature to any duty, then they aren't under a duty to keep their contracts. If the only binding obligation in the state of nature is the one based on fear and weakness, contracts will remain valid only as long as they are supported by fear and weakness. So men's contracts won't have brought them an inch closer to security; they'll still be back in the primitive state of universal warfare. But if contracts are to remain valid, men must by nature—not through contracts and deals—lack the moral ability to act against compacts that they have voluntarily made; that is, they mustn't •be permitted to do so even when they •can; they must lack the moral ability even if they have the physical ability. So might and right are different things; and even in the state of nature they were—or rather the conceptions of them were—different concepts. – Moreover, Hobbes lays down strict laws forbidding the highest power in the state to command anything that would be contrary to its

subjects' welfare. For although that power isn't answerable to any man, it does (according to Hobbes) have to answer to the Supreme Judge; although it isn't constrained by a fear of any human power, it is still bound by fear of the Omnipotent, who has been clear enough about what he wants in this matter. Hobbes is very explicit about this, and is in fact less indulgent to the gods of the earth [meaning 'the supreme powers in the various states'] than his system would lead one to expect. But this same fear of the Omnipotent, which should hold kings and princes to certain duties towards their subjects, can create obligations for everyone in the state of nature. So we come around to it again: a solemn law of nature, which Hobbes doesn't want to admit. – That's how these days a student of natural law can win a victory over Thomas Hobbes—to whom, basically, he owes this victory!

Locke, who lived during the same period of deep confusion, tried to protect the freedom of conscience in a different way. In his *Letter on Toleration* he works from the basic definition: *A state is a society of men who unite for the purpose of collectively promoting their temporal* [see Glossary] *welfare*. From this it naturally follows that the state shouldn't concern itself at all with the citizens' beliefs regarding their eternal [see Glossary] happiness, and should tolerate everyone who conducts himself well as a citizen—i.e. doesn't interfere with the temporal happiness of his fellow-citizens. The state should be blind to differences of religion, because religion has no •necessary influence on temporal matters, and is linked to them solely through measures that men have •chosen to institute.

Very well! If the dispute could have been settled by a verbal definition, I don't know of a better one than Locke's for that purpose; and if the agitated minds of his time could have been talked out of their intolerance by means of it, the good Locke wouldn't have needed to go into exile as often as

he did! But ·that's not what happened. Instead we hear the agitated minds asking·:

What prevents us from seeking to promote collectively our •eternal welfare as well? Indeed, what reason do we have to restrict the purpose of society solely to the •temporal? If men can promote their eternal happiness by public measures, it's their natural duty to do so—their rational obligation to join forces and to enter into social relations for this purpose.

But if that is right, and the state as such is be concerned solely with temporal matters, a question arises: To whom are we to entrust the care for the eternal? – To the church? Now we are once again, back at our starting point:

- state and church,
- concern for the temporal and concern for the eternal,
- civil and ecclesiastical authority.

The relative importances of •state and •church mirror the relative importances of the •temporal and the •eternal. So the state is subordinate to religion, and must give way whenever they collide. ·If you go that far, then· resist if you can Cardinal Bellarmine and his arguments for the frightful conclusion •that the person who heads the church on behalf of the Eternal ought ·also· to have command over everything temporal, and therefore possesses, at least indirectly,¹ sovereign authority over all goods and frames of mind in the world; •that all secular realms are indirectly under spiritual monarch's command, and must take their orders from him if they have to alter their form of government, replacing their kings by others. . . . And so on, according to the maxims of his order which Bellarmine propounds so ably in his work *De Romano pontifice*. All the objections that poured out against the cardinal's flawed arguments seem to

miss their mark as soon as the state completely abandons the care for eternity.

On the other hand, it is, in the strictest sense, neither in keeping with the truth nor advantageous to man's welfare to mark the temporal off so sharply from the eternal. The rock-bottom truth is that man will never partake of eternity; for him, eternalness is merely unending temporality. His temporality never ends, so it is an essential and inseparable part of his permanency [= 'of his never going out of existence']. To contrast his •temporal welfare with his •eternal happiness is to create a conceptual confusion—and one that has practical consequences. It shifts the borders of the realm within which man can act in accordance with his capacities, and it has him straining his powers to get beyond the goal that Providence has so wisely set for him. Let me quote from something I wrote in an earlier work [he gives the reference]: 'On the dark path that man has to walk here, he is granted just as much light as he needs for the next steps he has to take. More would only dazzle him, and light from the side would only confuse him.' Every man needs to be constantly reminded that •he won't end when •this life does; that he has ahead of him an endless future for which his life here below is a preparation, just as throughout all creation every present is a preparation for the future. This life, say the rabbis, is a vestibule in which one must conduct oneself in the way one wants to appear in the inner chamber. But you mustn't go on opposing •this life to •the future, leading men to think

- that their true welfare in this life isn't one and the same as their eternal happiness in the future; and
- that it's one thing to care for their temporal, and another to care for their eternal well-being, and they can preserve one while neglecting the other.

¹ Bellarmine was nearly declared a heretic by Pope Sixtus V for ascribing to him only *indirect* power over temporal matters of kings and princes!.

A weak-sighted man who has to walk a narrow path is harmed by delusions of this kind: they shift his viewpoint and his horizon, so that he risks becoming dizzy and stumbling on a level road. Many a man doesn't dare to enjoy the benefits Providence has given him in the here and now for fear of losing an equal portion in the after-life; many a man has become a bad citizen on earth in the hope that this will make him a better citizen of heaven.

2. State and religion: general points

The following considerations are presented as my attempt to clarify the concepts of state and religion—especially of their limits and their influence on •one another as well as on •happiness in civil life. As soon as man comes to realize that outside of society he can't fulfill his duties towards •himself and •the Author of his existence any more than he can his duties towards •his neighbour, and is led by this to realize also that he can't go on in this solitary condition without feeling wretched, he has to get out of that condition and enter into social relations with others who are situated as he is, so that he and they can •satisfy their needs through mutual aid and •adopt common measures to promote their common good. That includes their future as well as their present common good—it involves the spiritual as well as the earthly. [In the original, 'future' and 'present' are reversed—an obvious slip.] The two are inseparable. If we don't fulfill our obligations we can't expect to be happy here or there, on earth or in heaven. Now, the true fulfillment of our duties has two elements: the •physical action and the •frame of mind [see Glossary] in which it is performed. [The original has *Handlung* and *Gesinnung*—with a verbal overlap that can't be reproduced in English.] The •action

accomplishes what duty demands, and the •frame of mind secures that the action comes from the proper source, i.e. from pure motives.

So human perfection involves both actions and thoughts [see Glossary], and society should do its best to take care of both through its collective efforts, i.e. it should direct its members' actions towards the common good, and bring it about that they have frames of mind that will lead to such actions. The former is the government of societal man, the latter is his education. One is led to both by reasons: to actions by •reasons for doing, and to beliefs [see Glossary] by •reasons for believing. So society should establish both of these through public institutions, in such a way that they'll square with the common good.

The reasons that lead men to rational actions and frames of mind have to do partly with how men relate to one another and partly with how they relate to their Creator and Keeper. The former are the province of the state, the latter that of religion. To the extent that men's actions and thoughts can be made to serve the public welfare through reasons arising from their relations to each other, they—those actions and thoughts—are a matter for the civil constitution; but to the extent that the relations between man and God can be seen as their source, they belong to the church, the synagogue, or the mosque. In a good many textbooks of so-called *ecclesiastical law* there are solemn inquiries relating to •Jews, •outrightly defiant• heretics and •merely muddled• wrong-believers, the question being. . .

how Mendelssohn goes on: . . . ob auch sie eine Kirche haben können. Nach den unermesslichen Vorrechten, die die sogenannte Kirche sich anzumaßen plegt, ist die Frage so ungereimt nicht, als sie einem ungefangenen Leser scheinen muß.

literally translated: . . . whether they can also have a church. Given the immeasurable privileges that the so-called *church* regularly grabs for itself, the question isn't as absurd as it must seem to a reader who hasn't been previously informed.

what he seems to have been getting at: . . . whether what they have can rightly be called a 'church'. When you remember the immeasurable privileges that anything called a 'church' grabs for itself, the question isn't as absurd (trivial, merely verbal) as it must seem to a reader who looks at it without knowing anything about its setting.

But you won't be surprised that to me the difference of *name* doesn't matter. 'Church' is my name for any public institution for the shaping men in their relations with God; and 'state' is my name for any public institution for the shaping men in their relations with one another. By the 'shaping' of men I mean the effort to steer both •actions and •thoughts in such a way that they make for human happiness—the effort to •govern men and to •educate them.

I salute any state that manages to govern the nation *by* educating it, i.e. by infusing it with *Sitten* [see Glossary] and frames of mind that will lead to actions favourable to the public good—doing this *by themselves*, with no need for constant digs by the spur of the law. – To live in a society a man must renounce some of his rights for the sake of the common good; or we might put it by saying that he must very often sacrifice his own benefits to benevolence [see Glossary]. If this sacrifice is strictly voluntary, and if on each occasion he realizes that he has acted solely for the sake of benevolence, that will be *excellent for him*. Basically, benevolence makes us happier than selfishness does; but we must have a sense of our benevolence as an expression of *ourselves* and *our* powers. I am not relying here on the view that some sophists have advanced, that self-love is the only human motivation.

My point is just that if benevolence doesn't flow from the free impulse of the benevolent individual, it isn't benevolence after all and has neither value and no merit.

Perhaps we can now give a satisfactory answer to the famous question: *Which form of government is the best?* This question has until now received contradictory answers, all of them plausible. Really the question is too vague to be decently answered, almost as vague as a similar one in medicine: *Which food is the most wholesome?* The answer differs depending on physiological condition, climate, age, sex, mode of life, and so on. It's like that with regard to our politico-philosophical problem. What form of government is best will be different for each population, no matter what its level of culture is. Many despotically ruled nations would be extremely miserable if they were left to govern themselves, as miserable as many free-spirited republics would be if they were subjected to the rule of a monarch. Indeed, many a nation will alter its form of government to match changes that occur in its culture, way of life, and patterns of thinking; so that in the course of centuries it goes through the whole cycle of forms of government, in all their shades and combinations, from anarchy to despotism; yet it will always have chosen the form of government that was *best for it* under existing circumstances.

But under all circumstances and conditions the infallible measure of the quality of a form of government is the degree to which it achieves its purposes by *Sitten* and ways of thinking—i.e. the extent to which it governs by educating. In other words, in the extent to which the citizen is enabled to take in—to 'get the picture'—

- that it's purely for the common good that he has to renounce some of his rights;
- that it's only for the sake of benevolence that he has to sacrifice some of his own self-interest;

- that he therefore gains as much through a display of benevolence as he loses by his sacrifice; and indeed
- that by means of •that sacrifice itself he greatly adds to his own inner happiness, because •it increases the merit and the worth of the benevolent act and therefore also the true perfection of the benevolent individual.

It would be unwise (for example) for a state to take on all the duties of love for our fellow-man down to the distribution of alms, and to transform them into public institutions. A man feels his own worth when he performs charitable acts, when he really takes in how he is alleviating the distress of his fellow-man by his gift; when he gives because he *wants to*. But if he gives because he *must*, all he feels are his chains.

Hence, one of the state's principal efforts must be to govern men through *Sitten* and thoughts. Now, the only way to improving people's thoughts and thereby their *Sitten* is by •*convincing* them •of the things you want them to believe•. Laws don't alter thoughts; arbitrary punishments and rewards don't produce any principles, don't improve any *Sitten*. Fear and hope are not criteria of truth. Knowledge, reasoning, and •conviction are the only things that can come up with principles which will find their way into *Sitten* with the help of authority and example. And *this* is where religion should come to the aid of the state, and the church should become a pillar of civic happiness. It's the church's business to convince people, in a vividly emphatic way, of the truth of •certain• noble principles and thoughts; to show them

- that their duties towards men are also duties towards God,
- that violating them is in itself the greatest misery,
- that serving the state is true service of God, honesty and justice are God's command and benevolence his holy will, and

- that true knowledge of the Creator can't leave any residue of hatred for men in the soul.

Teaching this is religion's job, and also its duty and vocation; preaching it is the job and duty and vocation of its ministers. How could men ever have come to allow religion to teach and its ministers to preach the exact opposite?

But it can become impossible to govern a nation through thoughts alone, because of

- the nation's character,
- the level of culture it has reached,
- the increase in population that came with prosperity,
- the greater complexity of relations and connections,
- excessive luxury; [see Glossary]

and in that case the state will have to resort to public measures, coercive laws, punishments of crime and rewards for merit. If a citizen isn't willing to defend the fatherland from an inner sense of duty, let him be drawn by rewards or compelled by force. If men lose all sense of the intrinsic value of justice, if they no longer realize that honesty in trade and traffic is true happiness, let injustice and fraud be punished! It's true that by these measures the state only half-achieves the ultimate aim of •coming together in a society. External motivations don't make the man they affect *happy*. The man who avoids deception because he •loves honesty is happier than one who •is merely afraid of the punishments that the state has chosen to impose for fraud. But it doesn't matter to his fellow-citizens what motives cause his law-abiding conduct, i.e. *why* their rights and property are safeguarded. Whether the citizens happily fight out of love of their country, or unhappily fight for it because they're afraid of being punished if they don't, either way *the fatherland is defended*. If *the society's inner happiness* can't entirely be preserved, at least let *outward peace and security* be obtained—through coercion if necessary.

So the state will—if it has to—settle for •mechanical deeds, •works without spirit, •conformity of action without conformity in thought. Once the laws have been officially enacted, even the man who doesn't *believe in* laws must *obey* them. The state can allow the individual citizen the right to •pass judgment on the laws, but not to the right to •act in accordance with his judgment. The latter right is something he had to give up as a member of the society, because without such a renunciation ·on the part of its members· civil society is an impossibility [*ein Unding* = 'a non-thing']. – Not so with religion! It doesn't recognise

- any act without conviction,
- any work without spirit,
- any conformity in behaviour without conformity in the mind.

Religious actions without religious thoughts [see Glossary] are mere puppetry, not service of God. ·Genuinely God-serving· **religious** actions must come from the spirit, and can't be purchased by reward or compelled by punishment. But religion withdraws its support also from **civil** actions that are produced not by beliefs but by force. And as soon as the state has to operate only through rewards and punishments, that's the end of any help it can expect from religion, because with that mode of operation man's duties towards God drop out of the picture, and man's relations with his Creator are without effect. The only way religion can help the state is by **(1)** teaching and **(2)** comforting—i.e. **(1)** using its divine doctrines to get the citizens into a public-spirited frame of mind, and **(2)** uplifting with its otherworldly comforts the poor wretch who has been condemned to death as a sacrifice for the common good. [Mendelssohn writes *Opfer für das gemeine Beste*, which is the language of ritual sacrifice, e.g. slaughtering sheep so as to win the favour of Zeus.]

So now we see an essential difference between state and religion.

- The state commands and coerces; religion teaches and persuades.
- The state issues laws; religion issues commandments.
- The state has at its disposal physical force, which it uses; the power of religion is love and beneficence.
- The state abandons the disobedient and expels him ·from the land of the living·; religion embraces him and tries to teach or at least to comfort him in the last moments of his earthly life. . . .

·Civil society has *rights*; you might think that only a person can have rights, but· I am now looking at civil society as a moral person [see Glossary]. So civil society as a moral person •can have the right to coerce its members; and it actually •does have this right, which it obtained through the social contract. Religious society lays no claim to the right of coercion, and can't obtain it through any possible contract. The state has perfect rights, the church only imperfect ones. In order to place this in a proper light, let me go up to the level of first principles and examine more closely [this display is Mendelssohn's]

the origin of •the rights of coercion and •the validity of contracts among men.

I'm risking making this too high-flown and theoretical for some readers; but you are free to skip anything that isn't to your taste. The friends of natural law won't object to seeing how I try to lay bare its first principles. ·The starting theme of church and state will be returned to in subsection 10 on page 16·.

3. What rights are

The authority—the moral ability—to use something as a means for promoting one’s happiness is called a *right*. This ability is called ‘moral’ if it is consistent with the laws of wisdom and goodness. And the things that can be used in this way are called *goods*. So man has a right to certain goods, i.e. certain means of happiness, so long as this right doesn’t contradict the laws of wisdom and goodness. [Don’t think of ‘goods’ purely in terms of (say) ‘Leave the goods in the truck; I’ll unload them later’, but also in terms of (say) ‘For any man, sound health and a happy family are great goods’.]

If the laws of wisdom and goodness say that *x must* be done—or if not doing *x* would be contrary to the laws of wisdom or goodness—then *x* is called *morally necessary*. The moral necessity (obligation) to act in a certain way is a *duty*.

The laws of wisdom and goodness can’t contradict each other. Thus, if have a right to do something, no-one can have the right to block me from doing it; otherwise, a single action would be morally possible and morally impossible at the same time. For every right, therefore, there’s a corresponding duty. For the right to act there’s a duty to allow the action; for the right to demand there’s a duty to obey, etc.²

[In this next paragraph, the names ‘Richard’ and ‘Duncan’ are reminders of ‘right’ and ‘duty’ respectively; they aren’t in the work as Mendelssohn wrote it.] Wisdom combined with goodness is called *justice*. – When Richard has a right, this will be because of some law of justice; and there are •two ways in which that law may relate to the right, and correspondingly

•two kinds of rights: **(a)** If the relevant law applies to Richard just in himself, without bringing in facts about anyone else, what he has is a **perfect right**. **(b)** If the law gives Richard a right only on condition that certain things are the case about the knowledge and conscience of Duncan, the person who has the corresponding duty, then what Richard has is an **imperfect right**. In the case of **(a)** Duncan is perfectly bound to perform the duty corresponding to Richard’s right; in the case of **(b)** he is bound only imperfectly. •Richard’s right depends in part of Duncan’s state of mind; and so does Duncan’s duty.

[The rest of this paragraph is displayed with asterisks for ease reference a little later.]

* * * * *

There are perfect and imperfect duties as well as rights.

•The first are called **enforceable rights** and **enforceable duties**; the rights are ‘enforceable’ in precisely the sense that the corresponding duties are enforceable; the failure to perform an enforceable duty is an offence, an injustice; •it is outright *wrong*. These rights and duties are external.

•The others—the imperfect ones—have different names. Imperfect rights are called **claims (petitions)**, and imperfect duties are called **duties of conscience**. Petitions can’t be enforced; they may be denied; and if you deny one, thus not performing some duty of conscience, that •is not outright wrong, but merely •mean. These rights and duties are internal.

The goods to which a man has an exclusive right are **(1)** his own capacities, **(2)** products of his efforts, i.e. anything that

² You may want to object that in time of war a soldier has the right to kill the enemy though the enemy has no duty to put up with being killed. But the soldier has this right not •as a man but •as a member or employee of the state engaged in war. That state is or claims to be offended, and •claims that it can’t get satisfaction except by using force. So this is a fight not between man and man but between state and state, and obviously only one of the two warring states has right on its side. The offender certainly has a duty to give satisfaction to the offended, and to put up with anything that the offended state needs to regain its injured rights.

he produces—or cultivates, tends, protects, improves—by means of those capacities, and **(3)** goods of nature that he has made *his* by connecting them with the products of his efforts in such a way that they can't be separated without being destroyed. These three classes of goods constitute his **natural** property. In the state of nature, before any contract had been enacted among men, there was common ownership of goods produced by nature; but only of ones produced *solely* by nature without any input from man's efforts and care; so the common ownership did not extend to the three classes of natural property that I have listed. – *Not all individual ownership is conventional.*

4. Benevolence and beneficence

A man can't be happy without •receiving beneficence, but he also can't be happy without •giving beneficence. He can't become—in the sense that he can't become *complete*—except through •mutual assistance, •exchanges of service and reciprocal service, •active and passive connection with his fellow-man.

So if a man owns goods (i.e. has control of means to happiness) that he can spare, i.e. that aren't essential to his existence or to improving his condition, he has a duty to employ part of them in benevolence [see Glossary], for the benefit of his fellow-man; because the improvement of one's own condition is inseparable from benevolence.

But for similar reasons, he has a right to get benevolence from his fellow-man. He can expect and claim the help of others through goods that they can spare and that will move him along to his perfection [= 'completeness']. In all this, don't forget what we mean by 'goods', namely all of man's *inner* and *external* capacities, insofar as they can become means to someone's happiness—his or someone else's. Thus,

everything the man possesses in the state of nature in the way of effort, capacity, and powers—everything he can call *his*—is devoted partly to his own use (his own benefit), partly to benevolence.

But a man's capacity is limited and therefore exhaustible, so it may sometimes happen that the same capacity or goods can't serve both me and my neighbour. Also, I can't employ the same capacity or goods for the benefit of all my fellow-men, or at all times, or under all circumstances. So my duty to make the best possible use of my powers requires me to *choose* the details of my benevolence: how much of my possessions should I devote to it? for which beneficiaries? when? under what circumstances?

It's I who have to make these decisions, and also decisions about how to handle cases where there is a conflict of moral demands. – It can't be left to anyone else, because no-one knows as I do all the facts on the basis of which the conflict has to be resolved. And in any case, if •someone other than me could decide then •anyone other than me could do so; each would probably decide in a way that favoured him, and we would have an inextricable tangle.

5. Rights and duties in the state of nature

In the state of nature, therefore, it is for me and me alone to decide

- whether,
- to what extent,
- when,
- for whose benefit, and
- under what conditions

I am obliged to exercise beneficence; and in the state of nature there's no way to force me to act beneficently at all, let alone doing so in one way rather than another. [The rest of

this paragraph has to be understood in terms of the passage displayed beneath asterisks on page 9.] My duty to be beneficent is only a **duty of conscience**, concerning which I don't have to render an account to any external authority; just as my right to the beneficence of others is only a **right to petition**, which may be refused. – In the state of nature, all of men's *positive* duties towards each other are only imperfect duties (·the ones I have called 'duties of conscience'·), that one can't be forced to perform; just as their *positive* rights against one another are only imperfect rights (·the kind I have called 'petitions'·), and force can't be used to get them satisfied. – The only perfect duties and rights in the state of nature are ·*negative* ones, i.e.· ones relating to *omissions*. I am perfectly obliged not to harm anyone, and I have a perfect right to prevent anyone from harming me. We all know, of course, that to 'harm' someone means to act against his perfect right.

You might think that the duty to provide compensation for harm is a positive duty that a man has even in the state of nature. If I have harmed my neighbour, I am externally obliged—without any contract, and solely by the laws of natural justice—compensate him for the harm inflicted, and he can compel me by force to do so.

It's true that providing compensation is a •positive act, but the obligation to provide it basically comes from the duty of •omission: *Do not offend!* For the harm that I have inflicted upon my neighbour must be regarded as an *ongoing offence* for as long as its effects are not undone. Strictly speaking, therefore, as long as I don't provide compensation I am continuing to offend, and therefore infringing a negative duty—·namely, the one that says *do not offend*·. So the duty to provide compensation is not an exception to the rule that in the state of nature a man is *independent*, i.e. under no positive obligation to anyone. No-one has an enforceable right to prescribe to me *how much* of my powers I should

employ for the good of others and *who* the beneficiaries should be. It's solely up to me to decide how to resolve any conflicts ·between moral pulls· that arise.

6. Parents and children

The natural relationship between parents and children isn't in conflict with this universal law of nature. It isn't hard to get the idea that in a state of nature the only people who are independent are those who can be relied on to make rational decisions when conflicts arise. Until they reach the age at which they can be relied on to use their reason, therefore, children have no claim to independence, and must let others decide how and for what purposes they are to employ their powers and capacities. The parents have a duty •to train their children, step by step, in *the art of making rational decisions in cases of conflict*, and as their reason grows •to allow them gradually to make free and independent use of their powers.

It's true that even in the state of nature parents are *externally* obliged to do certain things for their children; and you might see this as a positive duty that can be enforced under the eternal laws of wisdom and goodness, without any contract coming into it. But I think not. I believe that in the state of nature the right to compel the education of children belongs solely to the parents themselves, *vis-à-vis* each other; ·that is, each parent has a right to compel *the other parent* to help in getting the children educated·. No third party has any right to intervene to look after the children's interests by forcing their parents to educate them. . . . The parents' right to compel each other to educate the children follows from the agreement that they are presumed to have made, if not in words then through their behaviour.

Whoever helps to bring into existence a being capable of happiness is obliged by the laws of nature to promote its happiness as long as it can't yet provide for its own advancement. This is the natural duty of education. It is indeed only a duty of conscience; but by their behaviour the parents have tacitly agreed to help each other in this, i.e. to discharge together their duty of conscience. In short, by their cohabitation the parents have entered into a state of matrimony. They have made a tacit contract regarding the happiness-destined being whom they are bringing into the world, namely to make the child capable of happiness, i.e. to *educate* him. [The relevant German verb, which Mendelssohn italicises, could be translated 'to bring him up'.]

7. Marriage

All the duties and rights of the married state flow quite naturally from this principle. There's no need for the two principles that the law-professors invoke, one for all the duties of marriage and another for duties of the household. The duty to educate follows from the agreement to beget children; and the obligation to set up a shared household follows from the shared duty of education. So marriage is basically nothing but an *agreement* between two persons of different sexes to bring children into the world; the entire system of their mutual duties and rights comes from this.

•START OF A THREE-COLUMN FOOTNOTE•

When individuals of different religions enter into a state of matrimony, their marriage contract will include an agreement about the principles on which they will conduct their household and educate their children. But what if the husband or wife changes his or her principles after marriage and converts to another religion? Does this give the other party the right to press for a divorce? In a small treatise

entitled *The Search for Light and Right*. . . it is reported that just such a case is now pending in Vienna, where the book is said to have been written. A Jew who converted to the Christian religion expressed his desire to retain his wife, who has remained Jewish, and legal proceedings have been initiated. The author I have mentioned decides the case on the basis of the system of freedom:

'It is right to hold that a difference of religion can't be recognized as a valid cause for divorce. According to the principles of the wise Joseph, difference of opinion in church-related matters can't stand in the way of social ties.' [That is a reference to Joseph II, Emperor of the Holy Roman Empire at that time; he *was* wise in many ways.]

Not so fast! I hope an emperor who is as just as he is wise will also listen to the counterarguments, and not permit the system of freedom to be misused to inflict oppression and violence. – If marriage is merely a civil contract (and it can't be anything else between a Jew and a Jewess, even on Catholic principles), the wording and the conditions of the contract must be interpreted and explained on the basis of the intentions of the contracting parties, not those of a legislator or judge. If. . . it is certain that the contracting parties must have understood certain words in *this* way and no other, and that that's how they would have explained them had they been asked, then this morally certain explanation counts as a tacit and implied condition of the contract, and must be as valid in law as if it had been explicitly agreed upon. Now since both partners still professed the Jewish religion, at least outwardly, when they entered into the contract, it's obvious that they intended to manage their household according to Jewish rules of life and to bring up their children according to Jewish principles. . . . Look at it from the point of view of the partner who took her religion seriously: . . . If at the time of the contract it was known

that she fully expected the marriage and the household to run along Jewish lines, and if the difference between Jew and Christian was important to her, the contract should be interpreted according to her notions and beliefs. Even if the entire state had different views on this matter, that wouldn't affect the meaning of the contract. The husband has changed his principles and adopted another religion. If the wife is now forced to enter into a household that is contrary to her conscience and to bring up her children on principles that aren't hers—*compelled* to accept conditions of a marriage contract to which she never agreed—that would obviously be unjust; it would be obviously be a case of pleading *freedom* of conscience in defence of the most preposterous *coercion* of conscience. The husband by changing his principles brought it about that the conditions of the contract can't now be fulfilled; he may not have meant to, but he *did*. Must the wife allow her conscience to be coerced so that her husband's can be free? When did she agree—when *could* she have agreed—to that? Shouldn't her conscience also be free, and shouldn't the party who •caused the change also •answer for its consequences, compensate the other party, and reinstate her as far as possible in her former status? Nothing could be simpler, it seems to me—the thing speaks for itself. No-one can be compelled to accept the conditions of a contract to which he couldn't have agreed without violating his own principles.

As regards the education of their children, the two parties have an equal right. In a disputed case like this, the children should be educated in secular schools until they reach the age of reason and can make religious choices for themselves—if we had any secular schools! But we don't; all our schools are connected with one or another positive religion; so it's obvious that the education of the children should be decided by the party who has remained true to

the principles that they at first shared. . . . An emperor as just and wise as Joseph will surely not permit such violent misuse of the power of the church in his states.

·END OF THE LONG FOOTNOTE·

I'll show later on that men *by agreement* leave the state of nature and enter into the state of society. Consequently, parents' duty to educate their children, although it can in some respects be called an enforceable duty, isn't an exception to the previously mentioned *law of nature*: that man in the state of nature is independent, and that he alone has the right to settle cases of conflict between what's good for him and what would be good for others.

8. Transfer of goods

This right constitutes man's natural freedom, which makes up a good part of his happiness. So his independence is included among the personal goods that he is entitled to use as a means towards his own happiness. Whoever disturbs him in the use of this right commits an offence against him—commits an external act of injustice. Man in the state of nature is the master of all that is *his*—

- the free use of his powers and capacities,
- the free use of whatever he has produced by exercising his powers (i.e. the fruits of his industry), and
- whatever he has inseparably connected with the fruits of his industry.

It's purely up to him to decide how much, when, and for the benefit of which of his fellow-men he will dispense with some of the goods he can spare. His fellow-men have only an imperfect right to his surplus goods, a **right to petition**; and he, the absolute master, has a **duty of conscience** to devote a part of his goods to benevolence. Indeed he is even obliged sometimes to sacrifice his own convenience to benevolence,

because the practice of benevolence makes a man happier than selfishness does. But this sacrifice must proceed from his own will and his own free impulse. All this seems to be settled beyond any doubt. But I'll take it a step further.

Once this independent man has passed a judgment, that judgment must be valid. If in the state of nature I have decided to whom, when, and how much I want to give up of what belongs to me; if I have sufficiently declared this free decision of mine, and my neighbour for whose benefit this declaration was made has received the property; the property stops being •mine and becomes •his. If that isn't so, my declaration is ineffective—nothing has happened in consequence of my supposedly benevolent act. So my neighbour's previously imperfect right becomes through this transaction a perfect right, just as my formerly perfect right has been transformed into an imperfect right—meaning that I have a right to *ask* for it back. If my decision didn't have that consequence it would be null and void. . . .

This holds true of material, *movable* goods that can be passed from hand to hand, as well as of *immovable* or even *spiritual* goods, the right to which can be given and received merely by a sufficient declaration of will. Actually, everything comes down to this declaration of will, and even the transfer of movable goods is valid only if taken to be a sign of a sufficient declaration of will. The mere transfer doesn't in itself either give or take away any right if this intent isn't connected with it. If I put something in my neighbour's hand, that doesn't constitute my *handing it over* to him; if I take into my hand something belonging to him, that doesn't mean that I have rightfully *taken it over* unless I indicate that that's why I did this. The transfer itself may be a valid sign •of the intention of both parties•; and in cases where the actual delivery of goods doesn't occur, other significant signs may be substituted for it. So it is possible, by means of

sufficiently intelligible signs •of one's intention•, to pass over to others one's right to goods that are immovable, including ones that aren't physical.

This is how property can pass from person to person. Whatever I have made my own through my own efforts becomes through my gift the property of someone else; and I can't *take* it back from him without committing an injustice.

Now we need to take only one more step, and the validity of contracts will be placed on a sure footing. The right to resolve conflicts •between moral pulls• is, we have seen, a *non-physical* good of the independent man—a 'good' to the extent that it can become a means to happiness. In the state of nature every man has a perfect right, and his neighbour has an imperfect right, to the unhindered use of this means towards happiness. But in many cases, at least, having this right isn't absolutely necessary for survival; so it is a dispensable good, which (as we have seen) can be passed over to someone else through a sufficient declaration of will. An act by which this is done is called a *promise*, and if. . . .the other party sufficiently indicates his consent to this transfer of rights, a *contract* comes into being. Thus, a contract •of the kind I am concerned with here• is simply one person's •giving over and another's •receiving the right to decide cases of conflict involving certain goods that the maker of the promise can spare.

Such a contract must be kept, as we have seen. The right to decide, which was a part of my goods, i.e. was *mine*, has become through this transfer a good of my neighbour's, i.e. has become *his*; and I can't take it back from him again without committing an offence. Before the transfer, he or anyone else could petition for the use of •this aspect of• my independence, insofar as it isn't needed for my survival; but after the transfer the recipient has a perfect right to the good in question—a right that he is entitled to back up by force.

[This paragraph was a footnote.] I was led to this very plausible analysis of ideas by my very worthy friend Ernst Ferdinand Klein, the philosophical jurist, with whom I have had the pleasure of discussing this matter. This theory of contracts strikes me as simple and fruitful. Ferguson in his *Moral Philosophy*, and the excellent translator of that work, base the necessity of keeping promises on •the expectation aroused in the person to whom the promise is made, and on •the immorality of deception. But all you can get from this, it seems, is a duty of conscience, •not an enforceable duty. Some part of my goods that I was formerly conscience-bound to give up for the benefit of my fellow-men in general I am now conscience-bound to grant to this individual in particular because of the expectations I have aroused in him. But what has transformed this •duty of conscience into an •enforceable duty? To explain this, it seems to me, you *have to* bring in the principles relating to •gifts in general and to •the rights of deciding conflicts in particular.

9. An analysis of promising

Before leaving my speculative considerations and returning to my former track, I must apply the principles outlined above in laying down the conditions under which a contract is valid and must be kept.

* * * * *

- (i) Caius possesses a good (some means to happiness: the use of his natural abilities, or the right to the fruits of his efforts and to the goods of nature connected with them, or whatever else has become his by right, whether it be physical or non-physical—such as privileges, liberties and the like).
- (ii) This good is not absolutely essential for his survival; so it can be employed for the sake of benevolence, i.e. for the use of others.

(iii) Everyone else has an imperfect right to this property, but we'll take the special case of Sempronius: he can *petition* Caius to use this good for his (Sempronius's) benefit. The right to decide •whether to do this• belongs to Caius—it's *his*—and mustn't be taken away from him by force.

(iv) Caius now makes use of his perfect right by deciding in favour of Sempronius •as his chosen beneficiary•, and makes this decision known by sufficient signs; that is, Caius *promises*.

(v) Sempronius *accepts*, also indicating his consent in a significant manner.

Thus, Caius's declaration takes effect and comes into force; i.e. the good that was a property of Caius's, was *his*, has become a good of Sempronius's. Caius's perfect right has turned into an imperfect right, just as Sempronius's imperfect right has been transformed into a perfect, enforceable one.

Caius must keep his legally binding promise; if he refuses, Sempronius can use force to compel him to do so.

* * * * *

It is by agreements of this kind that man leaves the state of nature and enters into the state of social relations; and his own nature drives him to enter into many kinds of associations in order to transform his fluctuating rights and duties into something definite. Only the savage, like an animal, clings to the enjoyment of the •present moment. A civilized man lives also for the •future, and wants to be able to count on something certain also in the next moment. We have seen that even the urge to procreate, when it's not merely animal instinct, compels man to enter into a social contract, to which we find something analogous even among many animals.

10. Nonsense about duties towards God

Let us now begin to apply this theory of rights, duties, and contracts to the difference between state and church, the topic I started with. State and church are both concerned with •actions as well as •thoughts—

- the state with actions and thoughts concerning relations between ·man and man and between· man and nature,
- the church with actions and thoughts concerning relations between man and God.

[•The addition of ‘and between man and man’ is based on the comparable passage near the start of section 15 on page 23; it is clearly an improvement. •In the second item, ‘between man and God’ replaces Mendelssohn’s ‘between nature and God’; this is obviously a slip, which doesn’t occur in the comparable later passage.] Men need each other; they hope for, promise, expect from, and render to each other services and return services. The mixture of

- abundance and want,
- power and need,
- selfishness and benevolence

given them by nature drives them to enter into societal relations so as to have a wider field of action for their capacities and needs. Every individual is obliged to use a part of his capacities and of the rights acquired through them for the benefit of the society he belongs to. But which part? when? and for what purpose? – On the face of it, all this ought to be answered solely by the person whose beneficence is in question. But it may be thought proper to renounce this right of independence by means of a *social contract* and to transform these imperfect duties into perfect ones by the enactment of laws drawn up and imposed by people ·as distinct from natural laws that are somehow inherent in the nature of things·. The proposal here is that men will agree

about how much of his rights each member of the society is to use for the benefit of society, this being enforced by laws. The state or its representative is viewed as a moral person who has the power to manage these rights. So the state has rights and prerogatives with regard to men’s goods and actions. It can give and take, prescribe and prohibit, according to law; and because it is also concerned with actions, it may *punish* and *reward*. The duty towards my neighbour is externally satisfied if I give him his due, irrespective of whether my action be enforced or voluntary. If the state can’t achieve its ends by means of interior motives,. . . it at least operates by external ones and helps my neighbour to get what is *his*.

Not so the church! Its concern is with relationship between God and man. God is *not* a being who

- needs our benevolence,
- requires our assistance,
- claims any of our rights for his own use, or
- has rights that could clash or be confused with ours.

These erroneous notions ·about God’s needs and rights· must have come from a division—one that has many things wrong with it—between •duties towards God and •duties towards man. They have been seen as parallel:

- towards man—
- towards God—

and this thought has been taken too far. From a sense of duty towards our neighbour we sacrifice and hand over something of our own, so—the thought goes—we should do likewise from a sense of duty towards God. Men require service; so does God. The duty towards myself may come into conflict with the duty towards my neighbour; likewise, the duty towards myself may clash with the duty towards God. – No-one will explicitly agree with these absurd propositions if they’re put to him in plain language, yet everyone has soaked them up, as it were, and infected his blood with

them. This is the source of all the unjust presumptions that the so-called ‘ministers of religion’ have always allowed themselves to make in the name of the church.

- All the violence and persecution that they have perpetrated,
- all the discord and strife, mutiny and sedition, that they have plotted, and
- all the evils that have been perpetrated down the centuries under the cloak of religion by its fiercest enemies, hypocrisy and hatred of mankind,

are purely and simply the fruits of this pathetic sophistry of an illusory conflict between God and man, the Deity’s rights and man’s.

11. Church and state: actions

Duties towards God are not one special division of human duties. Rather, *all* of men’s duties are obligations towards God. Some of them concern ourselves, others our fellow-men. We ought from love of God to love ourselves in a rational manner, to love ·all· his creatures; just as from rational love of ourselves we are bound to love our fellow-men.

The system of our duties rests on a twofold principle: the relation between man and nature, and the relation between creature and Creator. The former is moral philosophy, the latter *religion*; and for anyone who is convinced of the truth that the relations obtaining in nature are nothing but expressions of the divine will those two principles coalesce, and the moral teachings of reason are sacred, like religion. And religion, i.e. the relation between God and man, doesn’t

demand any other duties; it only gives those same duties and obligations—the ones taught by reason—a more exalted *sanction*. God doesn’t need our help. He doesn’t want any service from us,³ any sacrifice of our rights for his benefit, any renunciation of our independence for his advantage. His rights can never come into conflict or confusion with ours. He wants only what is best for us, what is best for every single individual; and this must be self-consistent, and can’t contradict itself.

All these commonplaces are so trite that sound common sense wonders how people could ever have thought differently. And yet from time immemorial men have acted in opposition to these self-evident principles, and will probably go on doing so for centuries to come.

The immediate conclusion to be drawn from all this is—*obviously*, it seems to me—that

- the church has no right to goods and property, no claim to contributions and renunciations;
- its prerogatives can’t ever get tangled up with ours; and hence
- there can’t ever be a conflict ·of duty· between the church and its citizens.

From this it further follows that there can’t be any contract between the church and the citizens, for all contracts presuppose cases of conflict that are to be decided. Where no imperfect rights exist, no conflicts of claims arise; and where there’s no need for a decision between one set of claims and another, a contract would be an absurdity.

It follows that no human contract can give the church a right to goods and property, because by its very nature

³ The words ‘service’, ‘honour’, etc. have an entirely different meaning when used in reference to God from what they have when used in reference to man. *Divine service* is not a service that I render to God, the honour of God is not an honour which I do God. In order to keep the words, writers changed their meaning. But the common man still clings to the meaning that he is used to, while also sticking with his usual way of speaking; and this has given rise to much confusion in religious matters.

the church can't •make a claim on any of these or •have an imperfect right to them. So it can never acquire an enforceable right, and its members can never have an enforceable duty towards it. The church's only rights are to scold, to instruct, to fortify, and to comfort; and the duties of the citizens towards the church are an *attentive ear* and a *willing heart*. So the church has no right to reward or punish actions. •Civil actions are the concern of the state; specifically •religious actions, by their very nature, can't be produced by force or bribery. They flow from the free impulse of the soul—or if they don't they are an empty show and contrary to the true spirit of religion.

But if the church has no property, who will to pay the teachers of religion? Who is to remunerate those who preach the fear of God? These notions—

- religion and pay,
- teaching virtue and salary,
- preaching the fear of God and remuneration

—seem to shun one another! What influence can the teacher of wisdom and virtue hope to have when he teaches for pay and is for sale to the highest bidder? What impression can the preacher of the fear of God expect to make when he seeks remuneration? – 'Behold, I have taught you laws and ordinances, as the Eternal, my God taught me' (*Deuteronomy* 4:5). The rabbis interpret 'as my God taught me' as meaning: 'Just as He taught me without •exacting• payment, so do I teach you •free•, and so should you teach those in your care'. Payment is so contrary to the nature of this exalted occupation, so out of tune with the way of life it demands, that the slightest interest in *income* seem to degrade the profession. The desire for wealth, freely condoned in any •other profession, **strikes us as** avarice and greed in •this one. Or in the men who dedicate themselves to this noble work it may actually **become** avarice and greed, •getting this

power over them• because it is so contrary to the nature of their calling. The most they can be granted is compensation for their loss of time; and calculating that and paying it is the business of the state, not the church. What concern does the church have with things that are for sale, fixed by contract and paid for? Time constitutes a part of our property, and the man who uses it for the common good may hope for compensation from the public purse. The church doesn't remunerate; religion doesn't buy anything, doesn't pay anything, and allots no wages.

12. Church and state: thoughts

These are, in my opinion, the boundaries between state and church in relation to their influence upon men's •actions. With regard to •thoughts, state and church come a bit closer to each other, because here the state doesn't have any effective means that the church doesn't have too. Both must teach, instruct, encourage, motivate. But neither may reward or punish •thoughts•, compel or bribe; for the state can't have acquired through any contract the slightest enforceable right over our thoughts, any more than the church can. Quite generally, men's thoughts aren't touched by benevolence or by coercion. I can't renounce any of my thoughts [here = 'beliefs'] out of love for my neighbour; nor can I out of benevolence pass over to him any part of my own power of judgment. . . . The right to our own thoughts [= beliefs] is inalienable, and can't pass from person to person. . . . So the tiniest privilege that you publicly grant to those who share your religion and beliefs is to be called an *indirect bribe*, and the smallest liberty you withhold from dissidents counts as an *indirect punishment*. Basically they have the same effect as a direct reward for agreement, and a direct punishment for opposition. Some text books of ecclesiastical

law go on and on about how •reward differs from •privilege, and •punishment differs from •restriction—this hocus-pocus is *pathetic*! The linguist may have some interest in these distinctions; but to the poor wretch who must do without his human rights because he

- can't say 'I believe' when he doesn't believe, or
- refuses to be a Moslem with his lips and a Christian at heart,

it will be a poor consolation ·to be told that he is only being restricted, not punished·. And what are the limits of privilege and of restriction? It has taken only a moderate gift for logic-chopping for these concepts to be broadened, and then broadened again, until privilege becomes civic happiness and restriction becomes oppression, exile, and misery. . . .

Fear and hope act on the drives of men's desires; rational arguments act on their cognitive faculty. When you use fear and hope to induce men to accept or reject certain propositions, you've picked up the wrong tools for the job. Indeed, even if that isn't at all what you are aiming at, your better purpose—whatever it is—will still be impeded if you don't work to keep fear and hope out of view as much as you can. If you believe this:

- Testing for truth can continue, and freedom of inquiry won't be harmed, if what is waiting for the inquirer is
- status and dignity if he reaches one conclusion and
 - contempt and poverty if he reaches the other,

then either you are bribing and deceiving your own heart or it has deceived you. Notions of good and evil are instruments for ·directing· the will, those of truth and untruth for ·directing· the intellect. If you want to act on someone's intellect, *put down* the former tools (·the notions of good and evil·); otherwise you risk thwarting your own intention—smoothing over where you should cut right through, and gluing back in place something that should be ripped out.

13. Church government. Oaths

[The bold type in this next paragraph is not Mendelssohn's. It is used here just because what he is saying is so striking and radical.] Then what form of government is advisable for the church? – None! – If disputes arise over religious matters, who is to settle them? – **He to whom God has given the ability to convince others.** For what can be the use of

- a government, where there's nothing to govern?
- authorities, where no-one is to be a subject?
- a judiciary, where there are no rights and claims to be adjudicated?

Neither state nor church is authorized to judge in religious matters, because the members of society can't have granted them that right by any contract whatsoever. The state, to be sure, is to ensure from a distance that no doctrines are propagated that are inconsistent with the public welfare—doctrines which, like atheism and Epicureanism, undermine the foundation on which the happiness of social life is based. Let Plutarch and Bayle go on for ever asking whether a state mightn't be better off with •atheism than with •superstition. Let them go on for ever comparing the afflictions that these two sources of misery have brought (and threaten to go on bringing) down on the human race. Basically this amounts to inquiring whether a slow fever is more fatal than a sudden one! No-one would wish either upon his friends. So every civil society would do well to let neither fanaticism nor atheism take root and spread. The body politic becomes sick and miserable, whether it is worn down by cancer or consumed by fever.

But the state should oversee this only *from a distance*, and it should use wise moderation in favouring any doctrines, even ones on which its true happiness is based. It should not interfere directly in any dispute, trying to use its authority

to settle it; for if it directly forbids inquiry or allows disputes to be decided by anything other than by rational arguments, it will obviously be defeating its own purpose. Nor need the state concern itself to know all the principles that a given faith—whether dominant or merely tolerated—accepts or rejects. All that matters are the fundamental principles on which all religions agree, and without which happiness is a dream and virtue ceases to be virtue. Without God, providence, and a future life, love of our fellow-man is merely a congenital weakness, and benevolence is little more than a fancy form of showing off into which we try to lure one another so that the simpleton will toil while the clever man enjoys laughing at him.

You hardly need me to go into the further question of whether it is permissible to have teachers and priests affirm certain doctrines of the faith on oath. What doctrines should be affirmed in this way? The three fundamental articles of all religions, mentioned above, can't be confirmed by any oath. You must take the swearer's word for it that he accepts them; if he doesn't, his oath is an empty sound, words that he tosses into the air at no greater cost to himself than is required by a simple assurance. That is because all trust in oaths . . . rests solely on those three fundamental doctrines of morality. Well, then, might I be required to affirm under oath some more particular articles of one or another religion, ones that aren't necessary for virtue and prosperity to endure among men? Even if the persons who represent the state believe that these doctrinal items are utterly necessary for my eternal salvation, I still want to ask: what right does the state have to pry into men's souls and force them to make avowals that won't bring any comfort or profit to society? This right couldn't have been conceded to it by a contract because the conditions for a contract that I have laid out are absent here. In this context, no question arises about

- my relinquishing to my neighbour any of my dispensable goods,
- any object of benevolence, or.
- any conflicts of moral pulls.

And how can the state claim for itself an authority that can't be conceded by any contract, can't pass from one person to another by any declaration of intent? But let's press this further by asking: Is there a real concept of *affirmation under oath*? Are men's opinions, their stands relating to rational propositions, a kind of thing on which they can be sworn?

Oaths don't give rise to any new duties. Solemnly calling on God to be a witness of the truth of what one is saying doesn't give or take away any right that didn't already exist without it, and it doesn't lay on the man who does it any obligation that he didn't have anyway. An oath merely serves to awaken the man's conscience if it has fallen asleep, and to draw his attention to what the God's will has already demanded of him. So oaths are really not designed for the conscientious man, who doesn't need them, or for the confirmed good-for-nothing, who won't be affected by them. . . .

Oaths are therefore only for the ordinary, middling sort of man, which basically means that they are for all of us! They are for men who

- are weak, indecisive, and vacillating,
- have principles but don't always follow them.
- are lazy and slack regarding the good they know and understand,
- give in to their moods in order to indulge a weakness,
- procrastinate, extenuate, look for excuses and usually think they have found them.

They want to remain true to their intent, but lack the firmness to do so. These are the people whose will must be steeled and whose conscience must be aroused. Here's a case:

A man testifying in court is suppressing information. It's about property of someone else's that he has had in his possession; he has now used it up, or has let it slip out of his hands; but he doesn't want to deal with the situation by doing anything absolutely wrong. All he wants to do through his tactic of repeatedly stalling the courts is to buy time, hoping that the sheer passage of time may help. Throughout all this the good inclination that is fighting within him to get him to do the right thing is put off from day to day until finally it gets tired and succumbs!

So he needs help: •first, the legal proceeding must be protected from tactical delays and endless excuses by being made final and decisive *now*; and then •secondly, he must be made to swear under a solemn oath, which will with great force and emphasis remind him of God, the all-righteous avenger and punisher.

That's what oaths are for. And something that follows from this—follows *obviously*, it seems to me—is that men can be made to take oaths only about •things that affect their **external senses**, •things they can maintain the truth of with the conviction that the evidentness of the external senses carries, •things about which they can say: 'This I something that I *heard, saw, said, received, gave*', or '...that I *did not hear*' etc. But we're putting their conscience to a cruel torture when we ask them about things that are solely a matter of the **internal sense**:

'Do you believe? Are you convinced? Persuaded? Do you think so? If there's still some doubt in any corner of your mind or heart, tell us about it or God will avenge the abuse of his name.'

For Heaven's sake, spare the tender and honest innocent! If all that he had to testify to was a simple proposition of geometry, he would under this bullying hesitate and suffer

inexpressible torment.

Most of the perceptions of the internal sense are in themselves so hard to get a grip on that the mind can't securely retain them and express them on demand. They sometimes slip away just when the mind thinks it has taken hold of them. I feel sure of something right now, but a moment later some slight doubt as to its certainty sneaks into a corner of my soul and lurks there, without my realising it. Many things that I would go to the stake for today may strike me as problematic tomorrow. If in addition to this intrinsic uncertainty I must also put these internal perceptions into words and signs, or swear to words and signs that others lay before me, the uncertainty will be still greater. My neighbour and I can't possibly connect the same words with the same internal sensations, for we can't *except in words* set his sensations and mine side by side, to compare and correct them. . . . How much confusion and unclarity are bound to remain in the meanings of words, and how different must be the ideas differ that different men at different times connect with the same external signs and words!

14. Beliefs as requirements for office

Whoever you are, dear reader, don't accuse me of scepticism or of trying through evil tricks to turn you into a sceptic! I may be one of •the very furthest removed from that disease of the soul, of •those who most ardently wish they could cure all their fellow-men of it. But precisely because I have so often •performed this cure on myself, and •tried it on others, I have become aware of how hard it is, and far one is from being sure of success. With my best friend, whose thinking I believed to be utterly in tune with mine, I often failed to reach agreement about certain truths of philosophy and religion. It sometimes turned out, after a long

and disputatious to-and-fro, that we had each connected different ideas with the same words. Pretty often we thought alike but expressed ourselves differently; but equally often we thought we were in agreement, because of some agreement in *words*, when we were still very far apart in our *thoughts*. Yet we were practised, experienced thinkers, accustomed to dealing with abstract ideas, and it seemed to us both that we were earnestly seeking the truth for its own sake rather than for the sake of *being right* about something. Despite which our ideas had to rub against each other for a long time before they could be made to fit themselves to one another, i.e. before we could say with any assurance 'Here we agree!' Anyone who has ever had this experience and can still be intolerant—can still hate his neighbour because he does not think or express himself on religious matters in the same way as *he* does—is someone I wouldn't want for a friend because he has divested himself of all humanity.

And you, my fellow-men! You take a man with whom you may have never discussed such matters, and

- you put before him the subtlest propositions of metaphysics and religion, clothed in the same words—the so-called symbols—as they wore centuries ago;
- you make him affirm, swearing by the holiest of names, that he means by these words precisely what you mean; and that you and he mean the same thing as the person who wrote them down centuries ago;
- make him affirm that he subscribes to these propositions with all his heart, and has no lingering doubt concerning any of them.

With this sworn agreement you then connect office and honour, power and influence—enticements that can easily remove many a contradiction and suppress many a doubt. And if it eventually turns out that the man's convictions are not what he claimed them to be, you accuse him of the worst

of all crimes; you charge him with *lying under oath*, and you let happen what must happen in the case of such an outrage. Now, to put it mildly, isn't there an equal measure of guilt on both sides?

'Indeed,' say the most fair-minded among you, 'we don't make anyone swear to his faith. We allow the conscience its freedom. It's only when we appoint a fellow-citizen to a certain governmental or administrative office that is entrusted to him on the condition of conformity of belief that we make him swear that he accepts this condition. This is a *contract* that we have with him. If he should later have doubts that clash with the contract, he can simply resign the office and thus remain true to his conscience. What "freedom of conscience" or "rights of man" permit him to violate a contract?'

Oh, all right then! I shan't bring against this *semblance* of justice the counter-arguments that can be derived from the self-evident principles that I have presented. What's the point of unnecessary repetitions? But for humanity's sake! consider what the results of this procedure have been among the most civilized people. Count all the occupants of your academic chairs and pulpits who have their doubts about many a proposition to which they swore when they took office; take all the bishops who sit in the House of Lords, all the truly great men who hold high office in England and can no longer accept the Thirty-nine Articles as unconditionally as they did when they were first set before them. *Count them!* and then still say that my oppressed nation can't be granted civil liberty because so many of its members think little of an oath! – God keep my heart free from misanthropic thoughts! These sad reflections could easily give them the upper hand in me.

No! Out of respect for mankind I'm more inclined to think that the perjury these men are accused of is something

they don't recognize as perjury. [The German words for 'oath' and 'perjury' are linked: *Eid* and *Meineid*.] Perhaps sound reason tells them that no-one—neither state nor church—had any right •to make them swear in matters of faith; •to connect office, honours, and dignity with the belief in certain propositions and a willingness to swear to them, i.e. to make the belief in certain propositions a condition on having these benefits. Perhaps they think that such a condition is in itself null and void, because no-one's interests are served by its being kept and no-one's rights and possessions are harmed if it is broken.⁴ So if a wrong was committed (and they are in no position to deny that this is the case), it happened back at the time when the promised advantages tempted them to take that inadmissible oath. It's too late *now* to remedy this evil—least of all by resigning the office they have obtained in this way. Back then they invoked God's most holy name in a manner that he would certainly regard as intolerable, in order to obtain permissible earthly advantages. But what they did can't be undone by now renouncing the benefits they got from it. In fact, if they resigned their posts and publicly said why, the confusion, scandal and other bad results that would probably ensue would only make things worse. So it would be much better for them and their near and dear—and also for their fellow-men—if they let the matter rest and went on giving the state and church the services for that Providence has made them able and willing to render. They have a vocation for public service, but it consists in their ability and willingness to do it, *not* in their convictions about eternal truths and rational propositions which basically concern only themselves and are none of their fellow-men's business. – Although some men are too scrupulous to owe their fortune to such intricate excuses, the

others who are weak enough to resort to them shouldn't be condemned outright. I wouldn't accuse men of their calibre of perjury, but only of human weakness.

15. Summary of Section I

To conclude this section I will recapitulate the results to which my reflections have led me.

State and church have for their aim the promotion by public measures of human happiness in this life and in the future life.

Both act on men's convictions and actions, on principles and their application; the state by means involving the relations between man and man, or between man and nature; and the church, the state's religion, by means involving the relations between man and God. The state treats man as *the immortal son of the earth*; religion treats him as *the image of his Creator*.

Principles are free. Convictions by their very nature can't be affected by coercion or bribery. They have to do with man's faculty for thinking and judging, and must be decided by the criterion of truth or untruth. Good and evil have to do with man's faculty for approving and disapproving. Fear and hope guide his impulses. Reward and punishment direct his will, spur his energy, encourage, entice, or deter him.

But if principles—i.e. convictions—are to make man happy, he mustn't be scared or wheedled into adopting them. Only the judgment reached by his intellect can be accepted as valid. To let ideas of good and evil interfere with his thoughts is to put an unauthorized judge in charge.

Thus, neither church nor state has any right to coerce men's principles and convictions in any way whatsoever.

⁴ A condition is a valid part of a contract only if it's conceivable that it might have an influence on deciding cases of conflict. But it's only through an erroneous conscience that opinions can be linked with external advantages, and I doubt that they can *ever* constitute a legally valid condition.

Neither church nor state is authorized to connect principles and convictions with •privileges, •rights, •claims on persons and •claims to things, thus weakening through outside interference the influence of the power of truth on men's thoughts and beliefs. Not even the social contract could give state or church any such right. For a contract concerning things whose very nature makes them *inalienable* [= 'incapable of being transferred'] is intrinsically invalid and rules itself out.

Not even the most sacred oath can change the nature of things. Oaths don't create new duties; they are merely solemn confirmations of something to that is already our duty by nature or through a contract. If there isn't already such a duty, the oath is an empty invocation of God that may be blasphemous but can't create an obligation.

Men can swear only to what they know through their external senses—to what they saw, heard, touched. Perceptions of the internal senses can't be confirmed by oath. . . . If a man has taken such an oath, all it obliges him to is regret that he is to blame for a thoughtless action. If at this moment I affirm an opinion under oath, I'm free to disavow it a moment later. The misdeed of taking a vain oath [*Eid*] has been committed even if I retain the opinion; and I don't commit perjury [*Meineid*] if I repudiate it.

Bear in mind that according to my principles the state isn't authorized to connect any doctrinal opinions with income, offices of honour, or privilege. As regards the teaching profession: the state has a duty to appoint people who are able •to teach wisdom and virtue and •to spread the useful truths that human society's happiness directly rests on. All the details must be left to the best of the teacher's knowledge [*Wissen*] and conscience [*Gewissen*]; otherwise, endless confusion and conflicts of duties will arise that will often lead even virtuous people into hypocrisy and unscrupulousness. No offence against the dictates of reason remains unavenged!

What if the harm has already been done? Suppose the state appoints and pays a teacher for propounding certain fixed doctrinal opinions, and the man later discovers that these doctrines are baseless. What is he to do? How can he extricate his foot from the trap that his erroneous conscience led him into?

Three routes are open to him here. **(a)** He keeps the truth to himself and continues to teach untruth against his better judgment. **(b)** He resigns from his position without declaring why. **(c)** He openly testifies to the truth, and leaves it to the state to settle his position and salary, or whatever else he is to suffer because of his resolute love of truth.

None of these routes, it seems to me, is to be blocked off under all circumstances—not even **(a)** the first of them. I can conceive of a state of mind a teacher might be in that would lead the all-righteous Judge to pardon him for continuing to mix into his mainly healthy and helpful teaching some untruth that the state has endorsed because of an error of *its* conscience. At least I would be careful not to accuse such an otherwise honest teacher of 'hypocrisy' or 'Jesuitry' unless I thoroughly knew his circumstances and state of mind—more thoroughly perhaps than any man ever *can* know his neighbour's state of mind. Anyone who boasts of having *never* spoken on such matters differently from what he thought either •hasn't ever thought at all, or •finds it advantageous right now to strut about with an untruth that his own heart contradicts.

When it comes to *convictions and principles*, then, religion and state are on a par: *both* must avoid any semblance of coercion or bribery, and confine themselves to teaching, scolding, persuading, and reprimanding. It's different with *actions*. The relations between God and man require actions only insofar as they lead to convictions; the relations between man and man require actions *period*. An action brought

about by coercion can still be •beneficial to the public; but an action is •religious only to the extent to which it is performed voluntarily and with the right intention.

So the state can compel actions beneficial to the public; it can reward and punish, distribute offices and honours, disgrace and banishment, in order to get men to act in ways whose intrinsic value doesn't have a strong enough effect on their minds. That is why the social contract *could* and *had to* grant to the state the most perfect •right to do this as well as the •ability to do it. So the state is a moral person [see Glossary] that has its own goods and prerogatives, which it can dispose of as it pleases.

16. Excommunication

Divine religion is far from all this. It relates to actions in the same way that it relates to convictions, because it commands actions only as signs of convictions. It is a moral person, but **the rest of the clause, literally:** its rights don't know any force.

which may mean: its rights don't include any right to use force.

or it may mean: it can't use force to back up any of its rights.

It doesn't •drive men with an iron rod; it •leads them with a halter of love. It draws no avenging sword, distributes no temporal [see Glossary] goods, assumes no right to any earthly goods, and claims no external power over the mind. Its weapons are reason and persuasion; its strength is the divine power of truth. The punishments it threatens, just like the rewards it promises, are *effects of love*—improving and beneficial for the person to whom they come. These are the signs by which I recognize you, daughter of God! Religion! You who alone grant bliss on earth as in heaven.

Excommunication and the right to banish, which the state may sometimes permit itself to exercise, are flatly opposed to the spirit of religion. To banish, to exclude, to turn away the brother who wants share in my spiritual uplift and raise up his heart to God in union with me! – If religion doesn't allow itself any imposed punishments, it should least of all allow this torture of the soul that is felt only by a person who truly has religion. Think of all the wretches who from time immemorial were supposed to be improved by being excommunicated and condemned. Reader! Whatever visible church, synagogue, or mosque you belong to, see if you don't find more true religion among the host of the excommunicated than among the far greater host of those who excommunicated them! – Now, excommunication either **(i)** does or **(ii)** doesn't have civil consequences. **(i)** If it does produce civil misery, that burden will fall only on the noble-minded man who believes that he owes this sacrifice to divine truth. Someone who has no religion would have to be *mad* to expose himself to the least danger for the sake of an imaginary truth. **(ii)** If the consequences of excommunication are only of a spiritual kind, as some people like to believe, then again they'll afflict only the man who is still susceptible to this kind of feeling. The irreligious man laughs at such things and remains impenitent.

But how is it possible to separate excommunication from all civil consequences? I have said this before, and I think I was right: to grant the church disciplinary power without injuring civil happiness is like what the supreme Judge said to the prosecutor [this refers to *Job* 2:6]: I place him in your hands, but spare his life! The commentators add: 'Break the barrel, but don't let the wine run out!' Every ecclesiastical excommunication or ban has some civil consequences for the person who is expelled—minimally an effect on his civil reputation and his good name, and he needs *those* if he is to

pursue his occupation and be useful to his fellow-men, i.e. to be civilly happy.

Some people appeal to the law of nature. Every society, they say, has the right of exclusion. Why shouldn't a religious society have it too?

I reply: this is precisely where a religious society constitutes an exception. By virtue of a higher law—higher than the law of nature—no society can exercise a right that is flatly opposite to the primary purpose of the society itself. As a worthy clergyman of this city has said: To expel a dissident from the church is like forbidding a sick person to enter a pharmacy. The fact is that the most essential purpose of religious society is *mutual spiritual help*. It works by transferring truth from the mind to the heart by the magic power of sympathy, aiming to animate the sometimes lifeless

concepts of reason, turning them into soaring sensations. [In this context, 'sympathy' means 'echoing the feelings of others in one's own feelings'.] When the heart clings too strongly to sensual pleasures to listen to the voice of reason, when it is on the verge of drawing reason itself into its tangle, then let it be seized here with a thrill of pious enthusiasm, burning with the fire of devotion and bringing joys of a higher order that outweigh, even in this life, the joys of the senses. And would you turn away from the door the sick man who most needs this medicine? (If he doesn't feel this need, and in his delirium imagines that he is healthy, that is a sign of the intensity of his need.) Shouldn't your first concern be to restore this sensation to him, calling back to life the part of his soul that is, so to speak, threatened with gangrene? . . .