

5. RESPONSIBILITY FOR THE FUTURE

JOEL FEINBERG

UNIVERSITY OF ARIZONA

ABSTRACT. *Prospective* ascription of responsibility is hypothetical, commonly noting or setting conditions for critical judgment or liability *if* some event occurs or fails to occur, thus determining vulnerability to *retrospective* judgments. Prospective liabilities can be classified by source, by type or degree (if any) of accompanying control, and by structure or stages.

But not all prospective responsibility can be understood in terms of liability. Actual or *de facto* control over *X* and/or responsibility for *Y* (persons, animals, inanimate things, etc.), though they may involve prospective liabilities, may not be responsibilities to any person in particular. Such responsibilities may be called *responsibilities in rem* and distinguished from those assignable to persons (*responsibilities in personam*).

Though prospective responsibility judgments often provide the most important grounds for retrospective judgments, if the concern is with the *meaning* of responsibility judgments, retrospective responsibility judgments are more basic. For, while we can understand retrospective judgments even though we know nothing of prospective ones, the opposite is not true

1. Prospective and Retrospective Judgments

Responsibility is sometimes ascribed before the fact by persons whose eyes are on the future, and sometimes after the fact by critics and judges looking to the past. Prospective ascriptions of responsibility are hypothetical pronouncements about the future, often to the effect that if some event occurs (or fails to occur), the person now judged responsible for it will then be the proper subject of certain other judgments—for example, those ascribing credit or blame, or liability to punishment or reward. Those further judgments will, of course, be made retrospectively, for they will be about an event that has already occurred or failed to occur. Thus, if George is the one who is responsible for seeing to it that *X* happens, and then *X* fails to happen,

George will be the party subject to blame. To say that he is (now) responsible for the event in question is to say that he carries this burden of vulnerability on his shoulders now; when the failure occurs, however, and he is judged (retrospectively) responsible for it, that to which he was liable becomes real.

Many of the terms we use to describe or bring about responsibility relations have an essentially prospective reference. Thus we usually look to the future when we *abdicate, accept, assign, delegate, disclaim, take on, transfer, and undertake* responsibilities. Other terms are invariably used in a retrospective way, as when we speak of *fixing* the responsibility, *breaching* it, and *exempting* from it; or *laying* it to the door of someone; or *pinning* it on a person; or *pinpointing* it, or *nullifying* it. Still other responsibility-relating verbs are ambiguous out of context. It is possible, for example, to *assume, take, evade, and escape* responsibility either prospectively or retrospectively; and the same is true of *holding* someone responsible, and *placing* (but not *locating* which is usually retrospective), *acknowledging*, and *shouldering* responsibility for something. Rarely are these ambiguous terms confusing, however, when they occur in living contexts.¹

2. Prospective Liabilities

Prospective ascriptions can be divided into two classes: those asserting that a person has actual power or control over the future in some way, and those that attribute to their subjects some sort of liability for what will happen. Judgments of the former kind assert simply that some contingency is causally dependent on what the subject does or omits doing. Judgments ascribing liability, on the other hand, assert that the subject will be properly susceptible to some sort of responsive conduct from others if the future turns out one way rather than another. Often we mean to ascribe both control and liability when we judge a person responsible before the fact; but there are many occasions when one is ascribed without the other.

a. Classified by Source

Perhaps the most familiar examples of prospective liability judgments are those made in the commercial or political *mise en scene* in which executives, designers, engineers, salesmen, clerks, and laborers find their daily employment. The institutions of modern nations are sprawling and complex; and whereas moralists of an earlier age could find their main interest in the "duties of one's station,"² our present moral concern, if it is to have much relevance to the everyday affairs of life, must focus on the responsibilities of one's job, business, or office.

Large organizations often keep on file so-called "job-descriptions" which list the official responsibilities corresponding to each position in the company's "organization chart." These responsibilities in a proper sense *define* the various jobs, for they tell precisely that in which the job consists:

The Western Sales Manager is responsible for sales in the eleven state area bounded by the Rocky Mountains and the Pacific Coast [a

job description might say]. It is his responsibility to divide this region into smaller areas and to assign salesmen to each. He is responsible for seeing to it that each salesman promptly receives advertising materials and memos from the Central Office, that sales meetings are held frequently, that each retail store is visited at least every six weeks, that customer grievances are made known and satisfied, that activities of competing companies are reported to the Central Office. Above all, he is responsible for seeing to it that the company's products are presented to customers in the most effective and intelligent way possible, and for ever improving the company's competitive sales position in his region.

When one undertakes the job of Western Sales Manager, he steps into the responsibilities defining his office. Those responsibilities are no longer merely those of the job; they now become *his* personal responsibilities. He becomes burdened with problems that must be solved on pain of transfer or demotion. On his judgment rides success or failure. His is the risk and the opportunity.

Not only job-descriptions but special *task-assignments* are the sources of prospective responsibility judgments in institutions. "Trouble-shooters," for example, are assigned special jobs or "missions" whose descriptions define no standing office. The making of the task assignment by a person with the requisite authority *ipso facto* creates the assigned responsibility, and constitutes the basis for the truth of subsequent prospective judgments reporting that the assignee has the responsibility in question.

To assume a new responsibility, either by occupying an office, or by receiving and accepting a task assignment, is typically to inherit problems to be solved and goals to be achieved. When these have a fairly high degree of complexity, one has no chance of success in coping with them unless one is given a good deal of latitude for the exercise of his own free judgment, and also, in many cases, the authority to requisition instruments and assign sub-responsibilities to others. It is this discretion and authority, as well as a near unconditional liability to blame for failure, that distinguishes the responsibilities of difficult jobs and responsible positions from the mere duties (to obey, to try one's best) of children, menial laborers, and soldiers. Prospective assignments of responsibility, then, ascribe not only liability to future retrospective judgments and responses from others (praise, promotion, blame, demotion); they usually grant discretion and often authority as well, and therefore might well be described compendiously, as *discretionary liabilities*.

Other familiar examples of prospective responsibility judgments come from less formally structured institutions like the family, and from roles played in less clearly defined social groups, like one's class, or indeed like "society" itself. In clearly structured hierarchical institutions like commercial companies, lists of responsibilities define various offices, and are often unambiguously specified in job descriptions and rule books; but discretionary liabilities also "go with" more general or widely shared roles under social customs and conventions that are nowhere clearly recorded, and yet are well enough understood.

"It is a moral rule in some societies that chastity is the girl's responsibility," reports one observer.³ This means, of course, that when a girl becomes unchaste, she is not allowed to put the blame on the boy, and also (presumably) that she is authorized (prospectively) to offer resistance to blandishments, to secure assistance when threatened, and so on. Yet preserving one's virginity, in all but the most extraordinary circumstances, could hardly be described as a "discretionary liability." It is not a problem to be solved, not a goal to be achieved, not a "job" of women in the way dishwashing and diaper changing are in most societies. It is hardly illuminating therefore to compare the responsibility to keep chaste with the responsibilities (say) of the Western Sales Manager. Why then call it a "responsibility" at all? Presumably to give emphasis to the element of liability present in all prospective responsibility judgments, here even in the absence of the element of rational discretion, which is usually, though not always, also present. The assigned liability here, moreover, is considerably stricter than that of duties (compare the duty to be careful or to be firm). "I tried my best to resist temptation," even if true, will hardly exonerate from blame in case of failure. Saying who is prospectively responsible, then, in this example, is saying little more than who will be to blame if . . . This liability is put, in a relatively unconditional way, on the girl's shoulders and not the boy's; but preserving virginity, while her charge and liability, is hardly her "line of work."

In contrast, consider some of the responsibilities that our own post-Victorian society places on a wife. The title of a recent paperback once found in most drugstores is *The Sexual Responsibility of Woman*.⁴ The book spends several hundred pages describing the many kinds of situations in married life that call for the exercise of intelligence, judgment, and adaptability on the part of the wife. Solving these problems really is part of the "job" of a wife. (In fact, a handy test generally, for the presence, in noninstitutional settings, of discretionary liabilities, may be whether the notion of a "job" seems an appropriate metaphor.) On the other hand, there could be no doubt what would be meant by a book, published (say) in Victorian England, with the title *The Sexual Duty of Woman*; for the "sexual duty" of a wife, if there could be such a thing, could only be to submit. There could rarely be any point in speaking of a "responsibility to submit." Assigned liabilities to blame for disobedience are invariably called *duties*.

The notion of one's "business," like that of one's "job," is often applied metaphorically to our social responsibilities outside of formal institutional settings. A rug merchant is a person whose business is making, mending, buying, and selling rugs. When he works on his books, instructs his employees, or waits on his customers, he is tending to his business. On the other hand, when he advises the employees of a neighboring furniture merchant, or adds his own unsolicited sales pitch to his neighbor's customers, he is no longer "minding his own business," but rather meddling in that of another. One can "establish" this judgment by citing legal documents—deeds, licenses, store rentals, payrolls, contracts, and so on. Similarly, it is obvious that a person mowing his lawn or repairing his hedge-clippers is minding his own "business," whereas gossipers, officious counselors, eavesdroppers, and peeping-toms are not. But how does one establish whether it is a person's "business" to report suspected tax-cheaters to the Internal Revenue Service? Or to intervene in fist-fights when one combatant seems in danger of being hurt? Or to help a stranger in distress? Here

one must cite not only legal documents and moral rules but also customs and prevailing practice. But these are often unclear, or in rapid flux, or the subject of controversy. Thus to state what is a person's business, in these doubtful cases, is usually not simply to report on usage but to take a stand: to speak as a moral legislator or reformer urging people to *make* certain matters their business. In such a way practice becomes infused with moral precept and custom gets made over.

Other examples of prospective judgments are those made in consequence of voluntary assumptions of responsibility. Persons take on responsibility quite of their own accord, and when they do, they are committed by their responsibilities quite as much as debtors are by their obligations. Examples are legion. To create a child is to incur responsibility for its care and education. To undertake a job is to assume responsibility for its successful completion. To contract to sell goods is (usually) to take responsibility for their safe delivery.

Other prospective judgments derive from explicit prior disclaimers of responsibility. An interesting subset of these consists of what might be called *pure ascriptions* of liability, as opposed both to "mere duties" and to "discretionary" and "controlling" liabilities. A sample comes with application forms for new state automobile licenses:

Returns by mail are very convenient and quickly handled. Please use a check, registered check, or money order, and make it payable to the Registry of Motor Vehicles. *The responsibility is yours if you send cash through the mails.*

The italicized disclaimer becomes a ground for prospective ascriptions of liability of an irreducibly distinct kind. The liability in question is surely not the same as that which goes with duty, for the responses to which it makes a cash sender subject are not *sanctions*, such as fines, punishments, and reprimands. The state does not require, on pain of penalty, that drivers send checks, nor would it be morally or legally wrong to send cash. Mention of payments by check is not intended by the state to be "taken seriously as a standard of behavior,"⁵ but rather only as a warning about the consequences of loss. The explicit disclaimer makes it clear, in case there might otherwise be any doubt, that the message-sender is not assuming contractual liability to compensate the receiver for possible losses.

Neither do applicants, as a result of the disclaimer, take on the responsibility of "seeing to it that nothing goes wrong" if or when they send cash through the mails. Once the letter is dispatched, of course, its fate is completely out of the sender's hands. Hence, the responsibility here cannot be a "controlling liability" like the responsibility of girls, in some societies, for their chastity. *A fortiori*, it cannot be a "discretionary liability," for, lacking control, the sender cannot have it as his job or problem to "see to it" that the dispatched letter makes its way safely through the mails. *That* responsibility belongs to the Post Office. We have here, therefore, a case in which a person has the (prospective) responsibility for *X* even though *X* is not "one of his responsibilities."⁶ The prior disclaimer is a ground for only one kind of responsibility ascription. The sender is responsible for his mailed cash only in the sense that

if, for whatever reason, the cash is lost before arriving at the recipient, the loss will be the sender's, which is to say that the liability to that loss is right now the sender's. The causes of possible loss are many; the fault could be anywhere; but the *risk* is his alone.

b. Classified by Type or Degree (If Any) of Accompanying Control

Four types of prospective liability have thus far been distinguished.

1. *Duties.* We have duties *to do* or *omit* actions or *to be* in certain states (alert, obedient); but we never are said to have duties *for* results, or *to see to it that* certain results come about. Moreover, the actions which are said to be our duties are typically expressed in what Gilbert Ryle called "task words," rather than "achievement words."⁷ Typically our duties are to obey rules or authoritative commands, and we have satisfied the requirement when we have tried our best. When goals are difficult or problems complex, we are unlikely to speak of our duties to achieve or solve them. Thirdly, duties are "meant to be taken seriously as standards of behavior." Statements of duty are not mere warnings of liability or "price-tags" put on undesirable behavior. Hence dereliction of duty is morally or legally wrong, not merely imprudent or expensive. Fourth, the liability associated with duty is vulnerability to "sanctions"—punishment, blame, or condemnation. Fifth, the actions that are our duties are typically so simple, that assignments of duty need carry little discretion or authority with them. Performance of duty does not generally call for great skill or independent judgment. Finally the liability for failure to do one's duty tends to be highly "defeasible"; that is, many kinds of excuses will force withdrawal of the charge that one has been derelict; for example, accident, mistake, duress, illness, lack of control.

The liabilities associated with prospective responsibility judgments are quite different in these respects. We are responsible for results and not mere trial-actions.⁸ Very commonly we are responsible for achieving various goals. Sometimes the liability we shoulder in these cases is to sanctions and moral judgments, but more typically it is to judgments of (nonmoral) blame or credit, or to such responses as promotion, demotion, citation, reprimand, praise, blame, civil law suit, loss, or injury.

2. *Discretionary liabilities.* The responsibility that goes with institutional offices, jobs, task assignments, businesses, and some less formal social roles differ in two further respect from mere duties. In the first place, the liability, while rarely totally unconditional, is nevertheless considerably stricter. "I tried my level best and worked day and night to the limit of my energy," even if true, would not relieve the Western Sales Manager of responsibility for failing to outsell the competitor in his territory; whereas he would no doubt be excused if he could convince his superiors that he did as well as could have been expected given the competitor's advantages—larger sales staff or superior product. Secondly, to compensate the office-holder for this stricter liability, he is usually granted considerable discretion to use his own independent judgment in solving problems as they arise, and also the authority to issue commands and requisition instruments.

3. *Controlling liabilities* are responsibilities differing from assigned jobs, tasks, and missions, in only one respect. Responsibility is assigned for seeing to it that

some state of affairs is achieved (or preserved inviolate), but this task involves few problems to be solved, and few occasions for judgment or the exercise of special talents, and hence no need of elaborate means and instruments, discretion, and authority. Trustworthiness, not ingenuity, is the virtue required for its successful exercise. That for which such responsibility is assigned is and remains something squarely within the control of the assignee; failure, therefore, often is a ground for moral criticism and the imposition of sanctions. In these respects controlling liabilities are very much like duties; but unlike duties they are *for* something and their liability tends to be strict. Moreover, in the absence of explicit prospective judgment, it may be impossible to determine where liabilities lie, because often more than one person has some actual control (as two different night watchmen with overlapping territories). Hence the main point of judgments of this kind is to assign, distribute, or locate liability, in advance, among those whose conduct has causal bearing on desired results. Mere judgments of duty do not have the required precision to do this job.

4. *Pure liabilities* differ from controlling liabilities in that they are assigned even to persons who lack any control whatever over that for which they are responsible. Rules which make parents unconditionally liable for property damage caused by their children do not quite provide clear examples of this kind of liability, for the law also puts parents in control of their children, and confers on them the discretion to train them as they will, and the authority to command and punish. The sender's liability for articles lost in the mails, however, is a case in point; and so is the householder's responsibility for earthquake damage to his home, if he lacks the appropriate insurance.

c. Classified by Structure (Stages)

(i) Direct (Single-Staged) Liability

The simplest forms of prospective liability are single-staged vulnerabilities to direct consequences. In the normal case—in the absence of any legally or morally interesting special features or any contractual understandings—personal losses and injuries are left to "lie where they fall." Since I have no insurance policy of the appropriate kind, if I slip in my own bath tub and break a leg, *I* must pay the medical bills. Hence, every time I take a bath the prospective liability to pecuniary loss for physical injury lies on my shoulders. Such liabilities are "single-staged" in the sense that the loss (or gain) follows immediately on the occurrence of a given contingency. No further conditions must be met; no implicit "unless . . ." clause is understood; no possibility exists of shifting the losses to other shoulders.

Other direct liabilities derive from contracts or quasi-contractual understandings. If I am hit by a baseball while watching a professional baseball game as a paid spectator, the pecuniary loss will be mine because of a tacit or "implied" agreement I entered into when I purchased the ticket to assume the risk of such injuries myself. This category also includes examples of those "pure liabilities" (discussed above) in which I voluntarily consent to a risk even where I have no control whatever over what happens.

Other examples of direct liability come from rules that make certain responses from others not merely "proper" or "permissible," but mandatory. In these cases, if some sort of failure occurs, the subject is not merely at the mercy of an authority who *may* respond unfavorably at his pleasure; rather the unhappy responses are directly forthcoming as necessary consequences of the failure. Thus some rules impose automatic fines on violators, whatever their excuses or justifications, and give the imposing authority no discretion to suspend or modify the sentence. Such strict liability to sanctions is *direct* when it is derived from a rule that imposes an inflexible duty on a judge to execute the penalty. Hence the liability is single-staged; infraction of the rule leads directly to automatic and necessary fine.

Sometimes direct liability is neither to loss nor to responsive treatment from others but to an entry on some sort of record. Thus we are sometimes liable, in the appropriate institutional settings, to debits and credits, to credit and fault, to merits and demerits, to points and gigs, and so on. Sometimes our malperformances or our successes are neither punished nor rewarded but instead simply recorded, or taken official notice of. In some contexts rules make such recording automatic and mandatory. Thus a baseball player who fails to make a hit has his "batting average" in the official records automatically lowered, and liability to such lowering is on his shoulders every time he takes his turn at bat.

(ii) Liability to Liability

Where other persons have a right but not a duty to treat us in (usually) unfavorable ways as a result of what we have done, our liability is double-staged. Prospective liability in such cases is a kind of "liability to liability," and as such is one step further removed from actual responses, judgments, and undesirable contingencies, than the liability that can come after the fact. Put another way, prospective liability, as a present vulnerability to future liability, is *double hypothetical*. To call George liable now for seeing to it that *X* occurs is to imply that *if X* does not occur (first hypothetical) then George will be liable to blame (or censure, or punishment, or civil liability, etc.). And to say after *X*'s nonoccurrence that George is now liable for it, is to imply that *if* certain parties wish to blame (censure, punish, impose damages, etc.) him (second hypothetical), they may do so. After the fact of *X*'s nonoccurrence, of course, George stands in much greater danger than when he merely shouldered the risk, one stage removed, of his present exposure to undesirable consequences. After the fact, he is actually "at the mercy" of others.

Other forms of "liability to liability" are still more complex. Sometimes what we are directly liable to, for our failures, is a kind of grilling or cross-examination. This kind of liability (often called "accountability" or "answerability") is triply hypothetical before the fact. *If X* does not occur, then George is properly subject to questioning (he may have to "answer" for it); and *if* he fails to give a satisfactory accounting for *X*'s nonoccurrence, he is then properly subject (say) to a sacking or demotion, which is to say that *if* his boss wishes to sack or demote him, he may properly do so.

Triple-staged liabilities present the analyst with a puzzling option. On the one hand, judgments of answerability (or accountability), like judgments of dou-

ble-staged liability, may be analyzed in terms of the responses of others. Thus, to say of a person that she is answerable may be to say that she is properly subject to a certain kind of response from someone in authority over her, namely the response of *being called upon to respond* (to answer, or give an accounting). On the other hand (and this is perhaps the more plausible rendering) judgments of answerability may be analyzed in terms of the subject's own responses. Thus to say that someone is answerable may mean that she, the subject, is *properly the one to be made to respond* (answer, give an accounting). These two ways of analyzing triple-staged liabilities are clearly equivalent, however, and no issue of substance hinges on which we adopt.

Often triple-staged liabilities are governed by rules of great complexity which define various offices, roles, moves and countermoves. Rules of courtroom procedure, for example, specify who is to prove what, and in what order, how the burdens shift, what may be appealed, and so on. Most criminal and civil liability, under the common law, is triple-staged (or more). An action or omission of the defendant occasions a trial at which he must "answer"; the trial leads to a decision as to his guilt or civil liability; that verdict in turn requires a decision as to whether certain responsive actions, permitted by the rules, will be taken. Systems of administrative law, and various non-legal institutional rules, which use "investigative" or "inquisitorial" rather than "adversarial" techniques for locating responsibility, may be less complicated; but insofar as they distinguish between the *prima facie* case against the accused that occasions the inquiry and the official judgment of fault or guilt that may be its end-product, and insofar as they allow the accused, in some fashion or other, to defend himself, and let the final judgment depend on how well he does this, they too must involve at least three stages. An event happens that permits or requires an investigation; the investigation may lead to a judgment of liability; that judgment permits (but doesn't require) an authority to respond to the subject in certain unfavorable ways. Before the fact, the subject is liable (1) to the investigation (*if* the occasioning event occurs), (2) to the retrospective liability (*if* the investigation does not clear him), and (3) to the authoritative responses themselves (*if* the authority so chooses).

3. Responsibility as *De Facto* Control

Some of our talk about responsibility before the fact resists translation into the language of liability. There are times when we become aware—and the awareness can be poignant and harrowing—that a great deal depends on what we do. At such moments we realize that it is within our power to determine the future in some way that matters, and the burden of this causal capacity weighs heavily on us. It weighs heavier still when it is conjoined, as it often is, with the awareness that we will be liable to credit or blame, or some overt responses from others, depending on how we act. The burden of liability is felt as a kind of nervousness about oneself and the reaction of others to oneself; but the feeling of responsibility can be entirely unself-conscious—a kind of nervousness on behalf of the results themselves. It can be a powerful independent source of anxiety to realize that depending on what one does, or how one does it, this or that of great moment to someone or other, will happen; and we characteristically give voice to that anxiety in the language of responsibility. Alternatively we can say, "The outcome is up to me," "The outcome is in my power," "The

responsibility for it is mine," or "I have the responsibility for it." (It would be misleading, however, to say that "I am responsible for *X*" or that "*X* is one of my jobs, assigned tasks, or discretionary liabilities," and this need not be the case). In short, there appears to be a purely causal kind of prospective responsibility judgment.

Causal capacity to control the future in some respect is not just the ability to produce an effect; rather it is both the ability to produce it and the ability not to produce it, depending on what one does. Control, therefore, is not to be identified *simpliciter* with the *power* of producing results. Control of *X* is *power over X*—the preposition is all important. If I have the power of affecting *X* in respect *Y* but I lack the power of not so affecting *X* (i.e. I cannot fail to affect *X* in that way) then I don't have power *over X* in the relevant respect.

Some writers have interpreted "power over" as the ability to produce or not produce some *intended* or *desired* result.⁹ There may in fact be such a sense of 'power', but it is not the sense intended here. I have power over the future in the present sense when what I do controls what will happen, regardless of what I intend. Thus the fate of a certain blade of grass may depend on where I step at the next moment even though I am at present totally unaware of its existence. I have the power in question—

- (i) whether or not I know that I have the power, and
- (ii) whether or not I want the power; and

I may be exercising the power—

- (i) even when I don't know that I am exercising it, and
- (ii) even when I don't intend to exercise it, and
- (iii) even when I don't want to exercise it, and
- (iv) even when I'm trying not to exercise it.

Certain kinds of control over the future, therefore, can be quite unavoidable; and such power can even seem to its possessor to be a severe limitation on his freedom. This is the kind of responsibility—the burden of one's powers—that people may try to avoid in advance by putting themselves in positions of relative isolation where thankless powers are not likely to fall on them.

There is a distinction whose recognition can be useful in grasping this point, that between "having control over . . ." and "being in control of . . ." It may well be that one cannot be *in* control of events unless he is consciously exercising control over them; but nevertheless one can in fact *have* control over those events whether one knows it or not. It is the responsibility of having control over things that so many find harrowing and inescapable.

It should be noted at this point that causal responsibility (*de facto* control or "power over . . .") is a matter of degree. If the nature of the powers being compared is specified clearly enough, it is often possible to make comparative judgments in a straightforward quantitative sense. Gil, on a golf course, has control over more blades

of grass, for example, than Sam, who lives in an unirrigated stretch of Western badlands. It is always possible, however, to find some respect in which even the relatively impotent may have great powers. Sam, for example, has more power over tumbleweed than Gil, and even the prisoner in his dungeon cell may have power over lice that few free men can rival. Is it possible then to speak in a purely quantitative way of one's "total amount of power all told" and to compare individuals in that respect? Very likely relative control is a function of numerous dimensions—number of persons affected, number of respects in which they are affected, degree of permanence of the control, and so on, and these various dimensions are mutually incommensurable, hence incapable of being combined on a single scale.¹⁰ If this is the case, then while it may be possible that some persons have more power in almost every respect than some others (compare the President of the United States with a penniless pauper in the last stages of an incurable disease), still, of two persons whose powers are great measured on different scales, there may be no purely quantitative way of comparing them "all-told."

In the world of practical affairs, however, where overall comparisons of power are most commonly made, such comparisons are never "purely quantitative." When we say that one person has more control over events all-told than another, we mean that *more of importance* depends on what he does or omits doing; that he has greater power for *good or evil*; that he is capable of affecting things in *ways that matter*. When we normally speak of powers, in short, we have in mind control over objects of interest, that is, things of value.

Causal responsibility for the future often is a consequence of one's job, task, role, business, or voluntary agreement. In such cases, causal responsibility (actual control over what happens) goes hand in hand with some form of liability, but nevertheless, these two elements can be analytically distinguished. The editor of a journal bears some responsibility for (has power over) what gets published and read, also for the tone, style, and preoccupation of public discussion generally, for the degree to which certain kinds of information are disseminated, perhaps even for the formation of public opinion on certain questions. He has this responsibility simply in virtue of the discretionary powers that go with his office; and even if he has nothing to fear from critics or judges, he may well be sobered by the purely causal element in his responsibilities. Or consider the responsibility attaching to theatrical roles. One part in a play may be so important that the play as a whole cannot succeed unless *it* is acted well, whereas this may not be true of a minor role. Hence, the one role is "more responsible" than the other, and one actor carries more responsibility on his shoulders than the other. This may or may not entail that the one actor is more liable to praise or blame, applause or jeering than the other. Critics and audiences can be mistaken in their assessments of relative causal importance; and the scope of one's causal responsibility, therefore, can exceed the scope of one's liabilities.

Not all capacity widely to affect outcomes, however, derives from jobs, roles, and offices; and neither is all power authority. Sometimes causal responsibility devolves on a person simply because he is—even quite by accident—in a certain place at a certain time. Suppose that Henry, alone in an unfrequented woodland, discovers a kitten trapped in a well—or better, suppose the kitten in some similar difficulty on

public land far from the city crowds. In this sense the cat's life is in Henry's hands: he and he alone, simple in virtue of his being there on the spot, has the power of saving it. Thus we are entitled to say that the responsibility for the cat is squarely on Henry's shoulders, even though he is not in the kitten-saving business, saving cats is not his job, he did not volunteer, etc.

Does a person, in acquiring causal control *per accidens*, by that very fact assume liability for what happens? Sometimes, but not necessarily. This all depends on prevailing practice and on matters of moral judgment. A person could admit, I think, that the responsibility for the kitten's life was Henry's alone, yet refuse to blame him if he failed to exercise it, simply because it was not "his business." We are not expected, he might add, to do everything beneficial that is within our power to do. Such a stand is surely an intelligible one, however we are to evaluate it morally. It does no damage to the concepts employed to ascribe causal responsibility while withholding the corresponding judgments of liability.

Still there is probably some liability (or something like liability) wherever there is actual control over events. When judgments of causal responsibility were appropriate before the fact, then actors are liable after the fact to judgments about how wisely or foolishly they made their decisions to use (or not use) their power, and also to purely causal judgments citing their actions or omissions as *causes* (with or without blame) of what happened. We can say (after the fact) of George's failure to save the cat that it caused the cat's death, only if he had both the opportunity and ability to make the rescue yet failed to do so. The cat's death is George's *fault*, however, only if his omission, in addition to being the cause of the cat's death, was also somehow faulty (unwise or cruel). At any rate, possible liability even to purely causal judgments may be enough to make a powerholder think twice before deciding if or how to exercise his power.

There is another more subtle way in which causal capacity and liability may be related. The actual power over events that goes with a role or office may re-fashion and extend the liabilities that form part of the office's definition. Thus, we read of activist presidents who, by enlarging the *de facto* powers of the presidency, by the same token re-shape the office itself. As the president's ability to do more increases, so does the scope of his liability to praise and blame for events that fall within the enlarged area of his control.

Another example is the changing role of the newspaper correspondent. A reviewer of two books about the Viet Nam "quagmire" writes—

... it seems to me that each writer has ducked or missed the important question: in a combat theatre or hot war diplomacy, what is the true role of a newspaper correspondent? Is he simply a reporter? He cannot be only this, since in our day of swift communications, the impact of one item of news creates a new and different chain of events. Is he a monitor and critic of his country's policies? If he claims to be so, then in what detail has he assessed his qualifications for the role? It is a fact of our times that the man who reports the

news is also a man who makes it, and his responsibility is no less than that of a soldier and diplomat. In fact, a war correspondent shares both roles. He lives at a risk like the soldier. His voice can echo louder in chanceries than that of an ambassador.¹¹

A century ago and more, a newspaper reporter was a "correspondent"—a person who wrote informative letters to his newspaper. His responsibility was to provide information and his liability stopped there. But with changing technological and political conditions, the influence of the reporter's work extended increasingly beyond the liabilities circumscribing his office, so that now the boundaries of the office itself have begun to enlarge and catch up. A reporter is no longer simply a person who reports. Now he is also a person who—by reporting news—influences the course of events; and he is becoming accountable for how wisely and well he performs this larger task.

4. Responsibility for What?

For what sorts of things can a person be said to be responsible in advance? There seems hardly any limit to the kinds of words that can follow the preposition 'for' in prospective judgments. We can have, assume, take, or be assigned responsibility

for *persons*—

Each parent is responsible for his children.

for *animals*—

A cowboy is responsible for the animals in his herd.

for *inanimate things*—

The bank assumes responsibility for your jewelry.

for *processes*—

This school bears responsibility for the education of five hundred children.

for *actions*—

(1) Each student is to be strictly accountable for his behavior while on school grounds.

(2) An employer is responsible for the actions of his employees during the course of their employment.

for *achieving goals*—

The responsibility for turning back the Union armies was Lee's alone.

for *obligations*—

A husband is responsible for the debts of his wife.

for *a person's or thing's future* ("fate")—

His future was in my hands and the responsibility weighed heavily on me.

The diversity, however, is not as great as it seems. The vast majority of these prospective judgments are understood to be elliptical. In these cases the words omitted can readily be provided. What we are, strictly (non-elliptically) speaking, respon-

sible for is *seeing to it* that such and such is the case. Parents are responsible for seeing to it that their children are kept fed, clothed, and healthy, and that they learn manners. Cowboys are responsible for seeing to it that their animals don't starve, freeze, or get lost. Lee was responsible for seeing to it that the Union armies were repelled. The responsibilities of offices, jobs, task assignments, and businesses are all expressible in the language of "seeing to it that . . ." In these roles, we must see to it that competitions are won and goals achieved; that things be produced, destroyed, or preserved; that problems be solved; and so on.

There are, however, at least three classes of exceptions to the rule that prospective judgments can be paraphrased in terms of "seeing to it that . . ." First of all, and most obviously, the "seeing to it" idiom does not capture the sense of the example of "responsibility for another's future." This example differs from the others in that the acknowledgment of responsibility does not imply any particular expectation about how one's control over the future is to be used. One is not expected, in virtue of such responsibility, to see to it that the future turn out one way rather than another. The point of this kind of judgment is to claim *de facto* control, that is, that the upshot—whatever it may be and however desirable it may be—causally depends on what one will do or omit doing. To say that I am responsible for some future contingency, in the present sense, is not to say that it is my business to see to it that it turns out one way rather than another, but rather to say that how it turns out is *up to me*.

For quite a different kind of reason the "seeing to it" idiom does not quite render the sense of a second class of prospective ascriptions, namely those general statements that assign or report *areas of responsibility*. This failure is accounted for by the fact that however the ellipsis following "for seeing to it that" is filled in, the result is likely to be more precise than the sense intended, for ascriptions of responsibility-areas merely circumscribe the general region within which one's specific responsibilities are located, without implying much about the content or nature of those responsibilities—

It may be the case [wrote Austin Duncan-Jones] that there is some individual in the Foreign Office of whom we can say 'He is responsible . . . for Ruritania'¹²

Without question, the man who is responsible for Ruritania is responsible for *seeing to it that* various kinds of specific events occur, but the bare statement that he *is* responsible for Ruritania tells hardly anything about those specific events—no more than we would learn from the information that he is in charge of the Ruritanian desk.

The third sort of example that fails to fit the "seeing to it that . . ." pattern are judgments of *vicarious liability*. One way of being accountable for the actions of others (i.e. properly held accountable in advance for what others may do) is to occupy a given role, to which a set of rules or customs clearly assigns such liability, for example, the liability of masters for the acts of their servants, under the Common Law of Agency. An extreme form of vicarious liability is the *collective liability* of a whole group for the wrongful actions of each of its members. Rules imposing collective liability were commonplace throughout the world at an earlier period of history. Under

the "Frankpledge System" of the Anglo-Saxons, persons connected through kinship, and in other ways, were compelled to share responsibility for their individual wrongdoings.¹³ When Achen sins, the Old Testament reports, his innocent children were also killed.¹⁴ In ancient China, the individual "was first of all a member of a family and a passing unit in a stream of life between his ancestors and his posterity; by law and custom he was responsible for the acts of the others of his household, and they were responsible for his . . ."¹⁵ In Japan—"until 1721 it was the custom . . . to hold the entire family responsible for the . . . behavior of each member, and in most localities, to charge each family in a group of five with responsibility for all."¹⁶ Punishing hostages for acts of sabotage committed by their countrymen, a particularly savage and desperate version of collective criminal liability, was explicitly outlawed in the Twentieth Century by the Hague Convention, yet was practiced by German conquerors in both World Wars.¹⁷ In none of these cases do we speak of the actual agency passing from one person to another, or being shared by several. If *A* is vicariously liable for the wrongful acts of *B*, and *B* then acts wrongfully, it remains true that it was *B* and *B* alone who did it; but it is *A* who must answer for it, or repair its damage, or be punished for it (as the case may be) just as if he were its actual doer.

Another way of assuming liability for the actions of another is by means of free contractual agreement. *A* may authorize *B* to speak for him, in which case *A* assumes responsibility in advance for what *B* says or does. Depending on the offices of the persons involved, or the details of their agreement, *B* might be *A*'s agent, stand-in, proxy, representative, vicar, attorney or deputy.¹⁸ Sometimes both agency and liability are understood—by a kind of fiction—to transfer, as when "the people" are said to make the laws their parliamentary representatives pass. More commonly, only the liability is vicarious: an art dealer's agent may win a painting for him at an auction, but only the dealer must pay for it, and when an attorney pleads guilty on behalf of his client, only the latter goes to prison. To be responsible in advance, then, for another person's actions may be to bear the liability for them just as if one were their actual author; and especially in those cases where a principal has no actual control over his agent, this vicarious liability is clearly another thing than responsibility "for seeing to it that" another act in a certain way.

The preposition "for" is exceptionally likely to be ambiguous when we speak of responsibility for other persons. In some prospective judgments responsibility for other persons clearly is vicarious liability for their actions. The legal responsibility imposed on masters for their servants and principals for their agents under the ancient maxim *Respondeat Superior*,¹⁹ for example, can only be interpreted in this way. On the other hand, one person may be responsible for another in the same sense in which he may be responsible for animals, buildings, furniture, and other items "in his charge." He may be responsible for their welfare and safety, for seeing to it that they are properly protected and cared for. To be responsible for another, in this sense, is to have what can be called *custodial responsibility* for him. Some occurrences of the phrase 'responsible for' are such that without further specification it is impossible to tell whether it is custodial responsibility, or vicarious liability, or both, that is being ascribed. Perhaps the most frequent source and background for these ambiguous judgments are relatively rigid hierarchical organizations, where officers of higher rank are

commonly held liable vicariously for the misdoings of the people "under" them. Consider—

Each noncommissioned officer is responsible for the men under him.

Responsible for what? *For* seeing to it that the men get proper training, and sufficient food, exercise, and rest? Or answerability to still higher rank *for* failures of nerve, judgment, and self-control on the part of each private soldier? The answers to these questions are not obvious if all one has to go on is the responsibility assignment quoted above.

5. Responsibility to Whom?

Other ambiguities derive from the preposition 'to' as it appears in prospective judgments of responsibility. 'Having a responsibility to so-and-so', sometimes 'but not always means the same as 'being responsible to so-and-so.' The latter locution is usually free of confusion. To *be* responsible to so-and-so is to be properly subject to certain responses from him in case of failure. If I am responsible to Jones for seeing to it that *X* happens, and *X* fails to happen, then Jones can "call me on the carpet," demand an explanation, or perhaps scold me, fire me, or jail me. Jones is entitled to respond in these ways in virtue of the authority of his office or his higher rank in my organization.

On the other hand, when I say that I have a responsibility to my wife or child, or to my dog or my cattle, or to my aged or crippled neighbor, I may not mean that I *am* responsible to them. They may quite clearly lack the authority to call me on the carpet or dress me down in case I fail to treat them with special care. In that case, the preposition 'to' indicates the direction in which my conscientious efforts are to proceed, the identity of their recipients or beneficiaries. Sometimes the preposition 'toward' does this job, as when I speak of my responsibilities toward my mother-in-law, for example. 'Toward' is much less likely to be ambiguous than 'to', for we would never refer to our responsibilities of citizenship (say) as responsibilities *toward* policemen and judges, or to the responsibilities of our jobs as *toward* our bosses; yet policemen, judges, and bosses are often the ones *to* whom we are answerable for our failures.

To be sure, all prospective responsibility judgments (except the purely causal ones) imply—when they do not explicitly state—that in certain contingencies *someone or other* may "respond" in certain ways to, or make certain judgments about, the responsible party. Often, of course, these ascriptions are vague about *who* may so respond and *how*; but if my "responsibility for seeing to it that *X*" carried with it no liability to hypothetical responses from others, it would not deserve the name "responsibility."

Presumably I am responsible (prospectively) for keeping myself reasonably clean, tidy, and if not courteous, at least generally civil. To whom am I responsible for

these things? The answer, I think, is "to no one in particular, but everyone in general." Just as a landowner has, in the legal phrase, "a right against the whole world" to the private enjoyment of his property (*no one* can enter without his consent), so some of our social responsibilities are, in a similar sense, *to* "the whole world." The right to blame or snub me for being dirty or impolite is too diffusely distributed to constitute "authority"; I am liable to these responses from anyone at all who happens to come within my range. Borrowing the legal phrase for "rights against the whole world," we can call these liabilities to universal but informal social responses *responsibilities in rem*.²⁰ Liabilities to authoritative responses from definite assignable persons can be called (still following the model of legal talk about rights) *responsibilities in personam*. Any person's responsibility for keeping his fingernails clean is a responsibility *in rem*; whereas the Western Sales Manager's responsibility to the Company's Sales Director to outsell the competition is a responsibility *in personam*. The responsibility of a boss for keeping his secretarial staff happy is a responsibility *in rem* (anyone can blame or resent him for mistreating them) unless he is, by prior agreement, responsible to a specific labor union leader, or to a still higher boss, in which case it is a responsibility *in personam*. Liabilities to authoritative responses such as sacking and reprimanding are always responsibilities *in personam*, and the same is true of liabilities to official responses (e.g. strikes) from people who stand in special relations to the responsible person. Many or most of these *in personam* liabilities, however, also have a public dimension; and insofar as they also involve liability to such informal and unofficial responses as praise and blame, they are also characterizable as responsibilities *in rem*.

6. The Primacy of Retrospective Liability Judgments

Leaving the purely causal judgments aside, which of the two types of responsibility judgments—those made before or those made after the fact—is the more fundamental to an understanding of responsibility? Prospective judgments have priority in one respect; for often they provide the most important grounds for subsequent retrospective judgments. Often, indeed, we can't tell whom to hold responsible for some event that has already occurred until we know who had the responsibility, prospectively speaking, for producing or preventing events of that type. Nevertheless, if we are concerned with the *meaning* of responsibility judgments, and not simply with one kind of grounds for them, we must hold that the retrospective judgments are the more basic; for while we can *understand* retrospective judgments even though we know nothing of prospective ones, the opposite is not true. Essential reference to future retrospective judgments must be made in the very account of what a prospective judgment is: A prospective judgment is one that specifies which retrospective judgments can properly be made in certain future contingencies.

The second syllable in the word 'responsibility' is derived from the Latin '*spondere*', to promise or pledge;²¹ and if this notion still has a role in our understanding of responsibility, it may be in connection with that bond between the present and the future that makes for liability: prospective ascriptions of responsibility promise (or threaten) future retrospective ones.

Excursus on Retrospective Responsibility.

In an essay of greater length than the present one, I have attempted an analysis of retrospective responsibility—"Responsibility for the Present and Past." Most of the contents of that essay have already been published in my papers "Action and Responsibility" and "Sua Culpa" in *Doing and Deserving* (Princeton: Princeton University Press, 1970). For that reason, I have not tried to have it published as an independent paper. Were it to be so published, it would form a connecting link between the present essay and my forthcoming paper, "Responsibility *Tout Court*," which is about the idea of a responsible person. It would thus complete this account of the language of responsibility. In what follows, I present a very brief summary of the analysis of retrospective responsibility.

The word 'responsible', as it occurs in retrospective ascriptions, is highly ambiguous. To say of a person, after the fact, that he is responsible for something may mean either:

- (i) He caused it;
- (ii) He did it;
- (iii) It is a durable attribute of his, and hence the ground of various liabilities for its care and "use"; or else it is something truly representative or characteristic of him;
- (iv) It was his fault (or to his credit);
- (v) He is liable (properly subject) to some further response (overt blame, punishment, civil suit, praise, reward, etc.) for it.

Often (i) and (ii) are perfectly equivalent. Thus "closing a door" is precisely the same thing as "causing a door to be closed." There are, however, exceptional cases. Simple actions like smiling, for example, are cases of doing without causing; and some cases of interpersonal causation provide examples of causing *X* to happen without "doing *X*."

By and large, talk of responsibility is restricted to actions and consequences, but there are rather special occasions when we can speak, as in (iii), of responsibility for one's own states and dispositions. When such talk resists analysis in terms of actions, causes, or faults, it seems to constitute a distinct type of responsibility ascription. When a person takes or disavows responsibility for one of his own attributes, he may be simply asserting (or denying) in an emphatic way that it is truly his, in a sense analogous to that in which his property is his, and that therefore he has (or has not) liabilities analogous to the responsibilities of ownership for its upkeep and employment; or he may be asserting or denying that the attribute in question reveals some more fundamental aspect of his character.

It is a necessary condition of something being someone's fault, that he was "at fault" in doing or omitting to do something and also that there was some sort of causal tie between his faulty act or omission and the result that is "his fault." Normally, it is a necessary condition for liability to various unfavorable responses from others for some result that the result in question be one's fault. Hence, to establish liability, normally one must first establish both a causal judgment and an "at fault" judgment. This is not true in virtue of some sort of logical or conceptual tie between fault and liability, however, as is shown by the many clear and intelligible (if not always defensible) examples of liability without fault. Under some rules, a person can be held liable for something he faultlessly caused. Under other rules, persons are held liable for results even though in no way did they cause them. For there to be liability without fault after the fact, however, it is necessary for there to have been some sort of prospective liability in the first place. Otherwise, retrospective responsibility sheds completely its character as the fulfillment of a pledge, and, like a plague, can fall unpredictably on the just and unjust alike. □

ENDNOTES

¹ The various forms of the phrase "to be responsible," on the other hand, are far more likely to cause misunderstanding and confusion. Consider the following news item from *Newsweek* (February, 1966):

Though the Commons has yet to do so, the Lords last week passed the committee stage of a bill to legalize abortion, following a debate that produced this exchange between two of England's most distinguished peers:

The Rev. Lord Soper:	I am at this moment responsible for fourteen pregnant girls . . .
Viscount Barrington:	Unlike the noble lord, Lord Soper, I am not responsible for fourteen illegitimate girls.
The Rev. Lord Soper:	I mean that I visit them.
Viscount Barrington:	I beg the noble lord's pardon.

² See for example, F. H. Bradley, "My Station and its Duties" in his *Ethical Studies* (Oxford: Oxford University Press, 1962), 160-213.

³ J. L. Mackie, "Responsibility and Language," *Australasian Journal of Philosophy*, Vol. 33 (1955), 155.

⁴ Maxine Davis, *The Sexual Responsibility of Woman* (New York: Pocket Books, 1965).

⁵ The phrase is H. L. A. Hart's who uses to distinguish legal punishments from mere taxation. See *The Concept of Law* (Oxford: The Clarendon Press, 1961), 39.

⁶ Cf. Austin Farrer, *The Freedom of the Will* (London: Adam and Charles Black, 1958), 256: "If I shot my landlord willfully, I am responsible; not because I have a responsibility for seeing that he moves about his land unmurdered, but because he has a right to do so. It is axiomatic that I am responsible for respecting all my neighbor's rights; we may call this . . . my responsibility, but no one would call it *a* responsibility of mine. A responsibility is particular and defined . . . for example, to keep up the bridge." (Note that the American Secret Service *does* have *a* responsibility for seeing that the president "moves about his land unmurdered"; but no one else does.)

⁷ Gilbert Ryle, *The Concept of Mind* (New York: Barnes & Noble, 1949), 149-53 *et passim*.

⁸ This account of our responsibilities is similar to W. D. Ross's account of our duties in *The Right and the Good* (Oxford: Clarendon Press, 1930), 42-47. Ross' account would have gained in clarity and accuracy, and also would have avoided paradox, had he distinguished between duties and responsibilities as above. His problem in the famous discussion here cited is whether a book-borrower has discharged his duty to the book owner when he dispatches the borrowed book in the mails or only when the book actually returns to its owner's hands. "If I have promised to return the book to my friend, I obviously do not fulfill my promise and do my duty merely by aiming at his receiving the book," Ross argues; "I must see that he actually receives it." (p. 43) But this leads to what Ross calls "the curious consequence" that "however carelessly I pack or dispatch the book, if it comes to hand I have done my duty, and however carelessly I have acted, if the book does not come to hand I have not done my duty. Success and failure are the only test, and a sufficient test, of the performance of duty." (p. 45) In the terminology I have suggested we should say that most promises impose responsibilities and not mere duties, and that Ross's book-borrower had not only a duty to mail the book back to his friend, (or otherwise "aim" at his receiving it) but also a responsibility to see to it that the owner receive it or—in case of loss—its equivalent.

⁹ Cf. Bertrand Russell, *Power, A New Social Analysis* (London: Allen and Unwin, 1938), 35—"Power may be defined as the production of intended effects." Russell's definition is criticized by Felix Oppenheim in *Dimensions of Freedom* (New York: St. Martin's, 1961), 106.

¹⁰ Cf. Oppenheim, *op. cit.*, 13 and 200-207.

¹¹ Morris West, "Two Front Row Seats to a Bitter Tragedy," book review of *The Making of a Quagmire*, by David Halberstam, and *Mission in Torment*, by John Mecklin, *Life*, May 7, 1965.

¹² Austin Duncan-Jones, "Intention, Motive, and Responsibility," *Proceedings of the Aristotelian Society*, Suppl. Vol. XIX, 1945, 282.

¹³ See Pollack and Maitland, *History of English Law* (2nd ed.), II, 578 ff.

¹⁴ Joshua 7:1, 18:20, 24, 22:20.

¹⁵ Will Durant, *Our Oriental Heritage* (New York: Simon and Schuster, 1935), 796.

¹⁶ *Ibid.*, 850.

¹⁷ See Barbara W. Tuchman, *The Guns of August* (New York: MacMillan, 1962) for an account of German policy in occupied Belgium in 1914—"In summary the proclamations concluded: 'For all acts of hostility the following principles will be applied: All punishments will be executed without mercy, the whole community will be regarded as responsible, hostages will be taken in large numbers.' This practice of the principle of collective responsibility, having been expressly outlawed by the Hague Convention, shocked the world of 1914 which had believed in progress."(p. 227)

¹⁸ Cf. Thomas Hobbes, *The Leviathan*, Book I, Chapter XVI.

¹⁹ "Let the master answer." Under this maxim employers are liable for the harmful consequences of their employees' negligent acts provided those acts occurred "in the course of the servant's employment."

²⁰ For an account of the distinction between rights *in rem* and rights *in personam*, see *Salmond on Jurisprudence*, (11th ed.) edited by Glanville Williams (London: Sweet & Maxwell, 1957), 284-9.

²¹ See George Crabb, *English Synonyms* (New York: Harper and Brothers, 1917), who says that "responsible" and "answerable" express "the idea of a pledge given in performance of some act, or the fulfillment of some engagement . . ." Quoted by J. Roland Pennock, "The Problem of Responsibility," *Nomos III: Responsibility*, edited by C. J. Friedrich (New York: Liberal Arts Press, 1960), 6. See also Eric Partridge, *Origins* (New York: MacMillan, 1958), 149. The Latin verb *respondere*, according to Partridge, bore the sense "to perform one's part in a solemn engagement."