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978-1-107-67110-2 - Law and Politics: The Henry Sidgwick Memorial Lecture

Delivered at Newnham College Cambridge 9 November 1935

The Right Hon. Lord Macmillan

Excerpt

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LAW AND POLITICS

There is much to commend the institution of an annual namesake Lecture as a means of keeping fresh among us the memory of our departed masters. It ensures that each year one person at least, the chosen lecturer, shall give some thought to the life and work of the great man under whose auspices he is to speak; and his audience, too, if he is fortunate enough to have one, will for a passing hour recall the merits of him who is gone if only to compare them with the shortcomings of the speaker on whom his nominal mantle has fallen. Many such memorials have been founded in our Universities but in no instance more fittingly than in that of Henry Sidgwick, for it was in the lecture room that his incomparable gift of exposition found its most congenial atmosphere. In his case the appropriateness of this annual commemoration is enhanced by its association with Newnham College, itself an imperishable monument to his chivalrous crusade and under

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whose roof he spent the last and happiest years of his life.

Already the generation which knew Sidgwick has passed away in the thirty-five years which have elapsed since his death. The lecturer of to-day belongs to the next generation. But as in pious duty bound I have not failed to read the admirable Memoir of his life which we owe to his brother and his wife. I read it not only in order to be able to picture what manner of man he was, as he appeared to those who knew him best, but also in order to recapture, if I could, the intellectual mood of his day, to appreciate the nature of the problems which then confronted the thinker, and to estimate the measure of success which he achieved in their solution.

Fortunately we have still with us one of those who knew Sidgwick intimately. In his altogether delightful volume of reminiscences entitled *For my Grandson*, Sir Frederick Pollock tells us that "Henry Sidgwick was a born philosopher, ardent in the pursuit of truth, capable of sacrificing worldly advantage to his conscience, yet always judicious and abhorring

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dogmatism to the point of enjoying suspense of judgment for its own sake. . . . In speculation he was sceptical, in action cautious but not timid." In a later passage he says of Sidgwick and Jackson, whom he describes as "the leading captains of modern and ancient philosophy" during his residence at Cambridge, that "they taught younger men to seek for themselves and to seek with an exacting conscience". And then he adds these words, so characteristic of the learned expositor of Spinoza: "Even if you consider philosophy merely as an intellectual game, there is no fun in playing with people (including yourself) who fudge their conclusions."

This is the testimony of one who saw and heard Sidgwick. But we, who are unhappily confined to the written record, can well confirm it, for it is just this spirit of conscientious candour and courageous diffidence which is exhaled not only from his more intimate diaries and letters but also from his published writings. In describing, in a moment of self-examination at the age of twenty-six "that particular aggregate of psychological phenomena" which he

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called himself, he exclaimed: "For my part, I have determined to love the Ideal only." To that dedication of his spirit he remained true to his last breath.

Now it may seem more than a little odd after this preamble that in choosing a topic for this year's lecture I should have selected a subject so arid and so apparently alien to Sidgwick's genius as *Law and Politics*. What right have lawyers and politicians, those noisy and mercenary persons, to invade these quiet cloisters? But in truth I have ample justification, for Sidgwick all his days was intensely pre-occupied with this very theme of my choice, as those can best testify who, like myself, have studied his great work on *The Science of Politics*, that "heavy book" as he not unjustly characterises it. Let there be no mistake, however. I do not use the word "politics" in the sense in which it is so often used by chairmen of public meetings who reassure their audiences by informing them that the cause they are met to promote has nothing to do with politics. It is remarkable, by the way, how invariably this announcement is greeted with applause when

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one reflects how vitally the happiness and prosperity of everyone of us are concerned in the conduct of our government. But of course the disclaimer is always understood to refer to party politics in the sinister and derogatory sense of that expression and this aspect of politics, which Sidgwick once described as a “blind free fight”, was as distasteful to him as it would be out of place for a person in my judicial position to discuss it.

No. What interested Sidgwick supremely, and what must always be of interest to every thinking citizen, was politics in the sense of the science of associated humanity. He was essentially a moral, rather than a metaphysical philosopher. Hence he treated politics as a branch, indeed as the main branch, of ethics. There are no doubt problems of ethics which affect the individual and the individual only and which would exercise the mind of the solitary denizen of a desert island in the conduct of his daily life. But most of the problems of ethics, and certainly the most vexed ones, concern our relations with our fellow men. Few of the moral virtues could be practised by us if there

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were no other human beings towards whom they could be exhibited.

It is easy to see the pathway by which Sidgwick was led from ethics to politics. Most of us have traversed it, though some of us in the opposite direction. For politics in the scientific sense is the art of organising and managing human beings in the associations into which they are brought by their common membership of a city, a nation, or some larger social unit. This art, inasmuch as it has to deal with human beings endowed with moral consciences, cannot confine itself merely to economic or disciplinary regulations. It must ultimately concern itself with the fundamental considerations of ethics.

The very first sentence of Aristotle's *Politics* takes one at once into the moral sphere. "Seeing", he says, "that every State is a sort of association and every association is formed for the attainment of some Good—for some presumed Good is the end of all action—it is evident that as some Good is the object of all associations, so in the highest degree is the supreme Good the object of that association

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which is supreme and embraces all the rest, in other words of the State or political association." Observe that the word "Good", the key word of ethics, occurs no less than four times in that opening paragraph.

Thus the moral philosopher sooner or later cannot escape from the consideration of political science. The human being who is the subject of his study is a social being, whose activities for good or for evil are in large measure determined for him by the society in which he lives, and that society in turn derives its character from its political constitution. True, politics may be said to deal rather with the setting than with the substance of the moral life, with the conditions under which the citizen lives rather than with the ethical quality of his individual life. But the interaction between the citizen and the political medium in which he lives is so close and constant as to affect his moral nature profoundly. And so the moral philosopher finds himself discussing politics—in their ethical aspect, no doubt, but with a full appreciation of the truth that the extent to which the individual can attain the

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ideal of the moral life is deeply affected by the character of the social organisation, in other words, of the political system, under which he lives. It is difficult, as Sidgwick indicates, to sort out the elements in social life which may properly be called political because they are so intimately combined with the other elements. Still, it is possible to make at least a theoretical analysis of our social life and to isolate for special study its political components.

What Sidgwick sought was to give precision to our political concepts as a contribution to the art of moral government, and he defined the scope of his study as being “concerned primarily with constructing, on the basis of certain psychological premises, the system of relations which ought to be established among the persons governing, and between them and the governed, in a society composed of civilised men as we know them”. While not a few of the questions to which he addressed himself in pursuing this study now seem to us somewhat dimmed by the distance which we have so swiftly travelled since his day, Sidgwick’s discussion of the proper functions of Government

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remains still full of instruction and guidance for us. To his treatment of this topic Professor Marshall paid the tribute of saying that it was admitted to be by far the best thing in any language. For us to-day it has a special value for it furnishes us with the wisdom of a singularly balanced mind on what has become the cardinal problem of political science, which when Sidgwick wrote was already beginning to come into prominence; I mean the conflict which has since grown so acute between Individualism and State Socialism—to use his own terms—as rival theories of civil government. The economic doctrine of *laissez-faire*, the doctrine that enlightened self-interest if left to itself best conduces to the social well-being of the community, had held sway in this country since the time of Adam Smith and was still cherished by many adherents of one of the great political parties with almost religious fervour. With them it was a far greater achievement to secure the repeal than to secure the enactment of a statute. But already there were ominous signs of change and presumptuous hands were already being laid on the ark of the

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covenant. "It is universally recognised", says Sidgwick, "that the present drift of opinion and practice is in the direction of increasing the range and volume of the interferences of government in the affairs of individuals." So he wrote some forty years ago. I wonder what would have been his comment on our legislation of the past two decades! In the ninety-second chapter of his great work on the American Commonwealth Bryce describes the inception of a similar process in the United States. More and more the main issue in political science has come to be—not whether the State should intervene at all in the regulation of our daily lives but where the frontier line ought most wisely to be drawn between the province of State activity and that of individual enterprise. On all hands it is now recognised that the policy of *laissez-faire* which gave us no doubt our industrial and commercial supremacy but also gave us our slums and many other attendant evils, must give place to a new regime. The contest has now shifted to a new ground on which those who are all for State regimentation do battle with those who defend what they