

of the spectator were not as 'perfectly inflexible' as those which ought to regulate justice⁵³.

We thus come to the last feature of justice that, according to Hume, is entirely vindicated by his own theory of the artificiality of this virtue, namely the social stability to which the inflexible rules ought solely to aim. In writing the section of the *Second enquiry* that treated of justice, Hume thought it was expedient to show the necessary connection that there is between this and the material and psychological conditions of mankind by expounding the counterfactual arguments which he had already briefly discussed in the *Treatise*. Since it was his conviction that both the partial selfishness of men and the relative scarcity of goods were the specific conditions on which justice depended, he imagined four correlative situations in which either the material or psychological elements of human life were in turn taken to their extremes. He portrayed the several scenes which would result from these thought-experiments: taking humanity at its most generous; considering it wholly deceitful; giving unlimited abundance of goods; finally producing a situation of extreme lack of all necessities. In each of these conditions justice, or so Hume held, would be either unthinkable or unnecessary; a conclusion which he believed wholly confirmed his theory that justice is the immediate, direct product of the social conditions in which man is placed in real life.

The hypotheses that Hume had used, and that he had also substantiated by referring to comparable examples in common life, were however part of a casuistry with which the natural lawyers were familiar. Besides having some similarity with the conjecture of the state of nature – a fact that Hume himself remarked –, these experiments touched upon real juristic problems such as dominion over the sea or the limit of the right of property in times of extreme need. Yet, Hume's contention that in such cases there was no need for justice did not agree with the natural lawyers' tenets. For, as Balfour for instance remarked, these examples

53. Smith gave great importance to man's *natural* tendency to establish *general* rules. He held that this constituted the difference between the actual and the impartial spectator; cf. *The theory* cit., III, iv; and VII, iv. It is interesting to compare what Hume said in the *Treatise* (III, ii, vi, the third point), where he argued that, since the rules of justice are perfectly inflexible, the hypothesis that they may arise from a natural principle is untenable: 'if on some occasions we extend our motives beyond those very circumstances which give rise to them, and form something like *general* rules for our conduct, it is easy to observe that those rules are not perfectly inflexible, but allow of many exceptions'. This, Hume added, would produce infinite confusion within human society.