

As I have already remarked its full significance cannot be understood apart from the history and spirit of the nation whose law it is. Moreover, it has a real relation to the obligations even of conscience, as well as to something else which I shall presently refer to as the general will of society. In short, if its full significance is to be appreciated, larger conceptions than those of the mere lawyer are essential; conceptions which come to us from the moralist and the sociologist, and without which we cannot see fully how the genesis of law has come about. That is where writers like Bentham and Austin are deficient. One cannot read a great book like the "*Esprit des Lois*" without seeing that Montesquieu had a deeper insight than Bentham or Austin, and that he had already grasped a truth which, in Great Britain at all events, was to be forgotten for a time.

Besides the rules and sanctions which belong to law and legality, there are other rules with a different kind of sanction which also influence conduct. I have spoken of conscience, and conscience, in the strict sense of the word, has its own court. But the tribunal of conscience is a private one and its jurisdiction is limited to the individual whose conscience it is. The moral rules enjoined by the private conscience may be the very highest of all. But they are enforced only by an inward and private tribunal. Their sanction is subjective and not binding in the same way on all men. The very loftiness of the motive which makes a man love his neighbour more than himself, or sell all his goods in order that he may obey a great and inward call, renders that motive in the highest cases incapable of being made a rule of universal application in any positive form. And so it was that the foundation on which one of the greatest of modern moralists, Immanuel Kant, sought to base his ethical system, had to be revised by his successors. For it was found to reduce itself to little more than a negative and therefore barren obligation to act at all times from maxims fit for law universal; maxims which, because merely negative, turned out to be inadequate as guides through the field of daily conduct. In point of fact, that field is covered in the case of the citizen only to a small extent by law and legality on the one hand, and by the dictates of the