



## The Quality of Freedom

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## Sources of Unfreedom

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### Abstract and Keywords

The U Postulate, which specifies the necessary and sufficient conditions for the existence of any particular unfreedom, requires us to distinguish between the constraints on the freedom of any person *P* that are due partly to other people's actions and the constraints on the freedom of *P* that are due solely to natural forces and to *P*'s own conduct. One's fleshing out of that basic distinction must consist in the elaboration of criteria that will enable the attribution of causal responsibility for freedom-impairing states of affairs. Those criteria separate unfreedoms from mere inabilities, and thereby significantly influence one's calculations of people's levels of overall liberty. Comes up with a comprehensively applicable test for the ascription of causal responsibility.

**Keywords:** act/omission distinction, causation, freedom, liberty, natural inabilities, omissions, unfreedom

Since the presentation of the U Postulate in Chapter 1, this book has differentiated between unfreedoms and mere inabilities (that is, the inabilities of any person that are not caused by actions of other people). As has been made clear, such a distinction hinges on the sources of the various constraints that limit the freedom of individuals. Thus, if that distinction is to be incorporated effectively into my general project of determining how to measure the overall liberty of each individual and each society—that is, if it is to serve as an operationalizable component of that project—we shall need some criteria for discriminating germanely among the sources of constraints. Precisely the task of providing such criteria is what the current chapter will aim to carry out.

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Let us begin by looking afresh at the U Postulate:

U Postulate: A person is unfree to  $\phi$  if and only if both of the following conditions obtain: (1) he would be able to  $\phi$  in the absence of the second of these conditions; and (2) irrespective of whether he actually endeavours to  $\phi$ , he is directly or indirectly prevented from  $\phi$ -ing by some action(s) or some disposition(s)-to-perform-some-action(s) on the part of some other person(s).

Whereas my opening chapter's F Postulate equates freedoms with abilities or possibilities, there is no corresponding equation (under the U Postulate) between unfreedoms and inability or impossibilities. Every unfreedom is an inability of a person, but not every inability of a person is an unfreedom. In other words, as we have seen, 'free' and 'unfree' are not bivalent. In that respect, those predicates differ fundamentally from 'able' and 'unable' or 'possible' and 'impossible'. In regard to many activities and states and processes, any number of people are neither free nor unfree; instead, in regard to those activities **(p. 273)** and states and processes, they are simply not free. To lack the freedom-to- $\phi$  is not perforce to be unfree-to- $\phi$ .

As has been explained in Chapter 2, my reason for insisting on the non-bivalence of 'free' and 'unfree' is that the appropriate formula for measuring each person's overall freedom will prove unworkable unless 'not free' and 'unfree'—and 'not unfree' and 'free'—are distinct. If we count mere inability as freedoms, we shall render infinitely large both the numerator and the denominator of the fraction that constitutes the aforementioned formula. If alternatively we count mere inability as unfreedoms, we shall render infinitely large the denominator of that fraction. In either case, the whole enterprise of measuring liberty will have come undone. To sustain that enterprise, then, we have to maintain that not every absence of a particular freedom is an unfreedom. In respect of countless such absences, the predicate 'not free' rather than 'unfree' is applicable to the person involved.

Of course, someone who recognizes the need for a denial of the bivalence of 'free' and 'unfree' might nonetheless contend that my way of drawing the distinction between unfreedoms and mere inability is inapposite. Instead of following the U Postulate in singling out other people's actions as the preventive factor that gives rise to instances of unfreedom, someone might argue that the distinctive source of unfreedoms is a preventive factor of a different type. Nothing said in my preceding paragraph has indicated why the U Postulate is correct in its specific focus. Although certain discussions in the past few chapters have gone some way towards justifying that focus, and although some remarks in the present chapter will likewise be suggestive of a justification, a full defence of the U Postulate's explication of unfreedom must await Chapter 5's investigation of the measurement of liberty. This postponement is warranted

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because my defence of the U Postulate's explication is bound up with my account of the general ratio that defines the extent of each person's overall freedom. In light of the intimate connection between those two matters, a thorough consideration of the former can best emerge in the chapter that concentrates squarely and sustainedly on the latter.

Nevertheless, even if the U Postulate's specific way of distinguishing between unfreedoms and mere inabilities has not yet been fully vindicated, *some* pertinent division between them is essential. Without such a division, the measurement of freedom would be an arrant non-starter not just in practice but also in principle. We shall do well to remember as much throughout this chapter, for certain causal issues can best be addressed by reference to the underlying reasons for discriminating among preventive factors in the first place. As will be observed, the **(p.274)** requirements that must be satisfied for the measurability of freedom are a consideration that bears importantly on one's handling of some troublesome causal cruxes.

Equally, throughout this chapter we should keep in mind the precise wording of the U Postulate. As will become apparent, the formulations in the two prongs of that postulate enable us to skirt some formidable problems even while they confront us with an array of other problems. Albeit this chapter will be treating of the nature of causation generally, it will always be concerned with the specific set of difficulties that arise from the U Postulate's stipulations. Knotty though those difficulties may be, they are hardly exhaustive of the range of issues to which a full-scale philosophical theory of causation must address itself. We can safely opt to leave aside some of the complications that preoccupy theorists whose enquiries are not bounded by anything comparable to the U Postulate.

Indeed, the limitedness of my exploration of causality should be emphasized at the outset. One aspect of that limitedness has just been noted: the fact that the U Postulate's formulations enable us to pretermitt certain topics that would have to be addressed in a less narrowly focused effort to lay down criteria for arriving at causal judgements. In addition, and even more important, my objective in this chapter is indeed to come up with such criteria rather than to plumb the metaphysical fundaments of causation. Though philosophical issues will of course figure saliently in my discussions, the aim herein is to set forth tests or guidelines that will yield the causal ascriptions which are necessary for discriminating between unfreedoms and mere inabilities. One can accomplish such an aim without investigating in great depth the metaphysical underpinnings of those tests or guidelines.

Thus, for example, we can confine our attention to the actual world and to closely similar worlds. We do not have to try to take account of possible worlds that would be bewilderingly divergent from what is actual: worlds, if any, in which the temporal asymmetries or other elementary features of the actual

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world would not obtain. Likewise, this chapter for its purposes can legitimately invoke some key notions without attempting to explicate them fully. For instance, while virtually any plausible tests for causal connections must appeal in some way to the existence of causal laws (or laws of nature)—and while my tests are certainly no exception—we shall not have to probe the metaphysical status of those laws. What would have to be pondered in a metaphysical treatise can be left largely unanalysed in a book of political philosophy. Nor will this chapter enter at all into debates between realists and reductionists over the ultimate status of causal relations. **(p.275)** That is, we shall not endeavour to apprehend whether those relations are fundamentally reducible to non-causal states of affairs or not. Central though that question is for any comprehensive philosophical treatment of causation, it does not have a bearing on the topics to which this chapter is addressed.

In short, notwithstanding that this chapter will be tackling philosophical issues and using techniques of philosophical analysis persistently, it will generally remain agnostic on the deep metaphysical problems that pertain to causation. To some extent, its orientation will resemble that of legal theorists who seek to distil general principles of causation in the law. As the footnotes in this chapter will attest, my approach to causation is informed as much by the legal-theoretical literature as by the broader philosophical literature. Like the legal theorists who strive to delineate general causal principles, this chapter takes as its basic aim the elaboration of criteria that can guide causal judgements. Given such an aim, many of the concerns of metaphysicians are quite peripheral. Nevertheless, this point of affinity between the present chapter and the various accounts of causation in the law should not obscure some far-reaching dissimilarities.

Most notable among those dissimilarities is a difference in the upshot or the practical implications. Legal theorists who propound criteria for the resolution of causal problems are engaged in a project with a direct practical import. Those criteria are meant to be accepted not only by other theorists but also by official decision-makers such as judges. The endorsement of any criteria by such people is, of course, more than a scholarly development; it is a development that will palpably affect the outcomes of quite a few cases that come before the courts and agencies on which the decision-makers sit. When officials deem the misconduct of some person *P* to be causally responsible for harm suffered by somebody else, they have taken a crucial step toward holding *P* legally liable for the harm. The tests or guidelines that lead to their determinations on any such causal issues are thus of major practical importance. Exactly because those causal tests are so closely linked to decisions about punishment and compensation, they are typically combined with other criteria which are often designated as 'causal' but which in fact are concerned with questions of morality and political wisdom. For example, even when a court has found that *P*'s misconduct was causally responsible for an injury to someone else, a final

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judgement against *P* will hinge also on the foreseeability of the type of injury and on the proximity between the misconduct and the harm. Requirements of foreseeability and proximity, which involve considerations of fairness and of public policy rather than of causality, **(p.276)** are nonetheless very often designated by courts and commentators as 'causal' requirements (under such labels as 'proximate causation' or 'legal causation'). Hence, the 'causal' determinations in legal cases are usually hybrid, with a focus both on genuine factual issues of causation and on moral-political issues of reasonable accountability.<sup>1</sup>

By contrast, the criteria to be expounded in this chapter are oriented toward strictly factual matters of causation. On the one hand, as has been remarked at the outset of Chapter 3, the basic objective of this book—the objective of clarifying and sharpening the concept of freedom in a manner most conducive to establishing the measurability of each person's overall liberty—is endowed with considerable practical significance. Accordingly the discussions in this chapter, which contribute to the achievement of that underlying objective, are endowed with practical significance. On the other hand, as my third chapter has indicated, the practical significance is at a very high level of generality and abstraction. Whereas the causal standards followed by judges and other officials in their resolutions of legal controversies are directly formative of decisions that weightily impinge on people's lives, the criteria advanced in this chapter are of interest primarily to philosophers. Like this book's general project, these criteria are not meant to favour any specific set of political principles or concrete decisions. They are designed to be serviceable for political disputation generally, without any special benefits for some particular ideological camp. Even more plainly, they are not designed to lead to certain concrete practical decisions within legal or governmental institutions. The judgements which they guide are theoretical judgements that occur in philosophical argumentation. Only in a tenuously indirect and open-ended fashion do my causal tests contribute to the sorts of determinations that are reached by adjudicative officials.

Because of this detachment from pressing practical concerns, the analysis of causation in the present chapter can remain aloof from the moral-political considerations that inflect legal decisions. We can **(p.277)** altogether forgo a striving for fairness, expressed in requirements such as foreseeability and proximity. Any such striving would be out of place in this chapter, since my standards for ascribing causal responsibility will not here be associated with standards for ascribing moral or legal liability. At least for the purposes of this chapter, tracing someone's lack of freedom to the actions of somebody else does not form any part of a process of holding the latter person legally or morally accountable. Therefore, non-causal touchstones apposite for such a legal or moral process of rectification/condemnation will be disregarded here.

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In short, although my investigation of causal issues will in some respects resemble the endeavours of metaphysicians and legal theorists to grapple with such issues, it is less abstractly reflective than the metaphysicians' discourses and less engagedly practical than the legal theorists' ventures. The end pursued herein is not that of stark contemplation nor that of institutional guidance, but something in between (albeit closer to stark contemplation). That complex end, indeed, is the lodestar of this book as a whole. Uppermost among the aims of this chapter is the attainment of clarity, precision, and capaciousness in the elaboration of causal criteria that will amount to a key step in the realization of that abiding end.

### 1. *The NESS and But-For Tests*

The basic criterion for causal responsibility drawn upon in this chapter is to be found both in the writings of metaphysicians and in the writings of legal theorists.<sup>2</sup> For a careful statement of that criterion, known acronymically as the 'NESS' test (Necessary Element of a Sufficient Set), we may turn to the work of Richard Wright: '[A] condition contributed to some consequence if and only if it was necessary for the sufficiency of a set of existing antecedent conditions that was sufficient for the occurrence of the consequence.'<sup>3</sup> For reasons that will become apparent later, the confines of this chapter will enable **(p.278)** and oblige us to simplify the NESS test into what is known among jurists as the 'but-for' test. That is, given the actuality and logical distinctness of two events or states of affairs *C* and *E*, we shall have to ask whether the occurrence of *C* was necessary in the prevailing circumstances for the occurrence of *E*. Under the prevailing circumstances and the applicable causal laws, would the non-occurrence of *C* have entailed the non-occurrence of *E*? Such is the question which the but-for test poses, and such is therefore the question which this chapter will be raising about potential sources of unfreedom. Still, the concept of sufficiency will have figured implicitly in the but-for test as well as explicitly in the NESS test. Furthermore, we need to understand the NESS criterion if we are to grasp why the simpler but-for standard will be a substitute for it in the context of this chapter. Thus, let us initially concentrate at least as much on the NESS test as on the but-for approach.

Both the NESS standard and the but-for standard apply only to events or states of affairs that have in fact come about. Neither test is concerned with gauging the causal efficacy of something that has not arisen, and neither test is concerned with ascertaining the causes of an unactualized effect. The purely hypothetical is not either test's domain; each criterion is designed to determine whether something was a cause of something else, rather than to determine whether something would have been a cause of something else if it had materialized.

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Nevertheless, one should not erroneously infer that the NESS and but-for tests will blind us to the causal role of dispositions or inclinations. If such an inference were correct, it would be dismaying. After all, my third chapter has explored at length the ways in which people's dispositions can limit the freedom of other people; hence, if a causal criterion could not take account of dispositions as sources of unfreedom, it would be unacceptably blinkered. (As was remarked in Chapter 3, the term 'disposition' is used narrowly throughout this book. It denotes the all-things-considered preparedness of a person to perform some action under certain circumstances, coupled with the ability to perform that action under those circumstances.) Fortunately, the NESS and but-for tests can perfectly well ascribe causal efficacy to dispositions. Any particular disposition is a property that may or may not be actual. It may or may not be the case that some person is inclined to do *X* whenever a certain type of situation arises. If an inclination of that sort is actual, then it is something on which the NESS and but-for tests can be brought to bear. It is something to which the status of a cause can be attributed. Of course, what might remain purely hypothetical despite the actuality of a disposition is any manifestation **(p.279)** thereof in the form of some action. As was noted in Chapter 3, somebody inclined to behave in a certain fashion might never actually behave in that fashion, if the contexts that confront him do not activate his disposition. All the same, the disposition that he harbours is itself actual—which means that that disposition can qualify as a cause under the NESS criterion or the but-for criterion.

In the quotation from Wright above, we are told that something which causes a consequence is an element in 'a set of existing antecedent conditions that was sufficient for the occurrence of the consequence'. What is the operative conception of sufficiency here? When we say that the occurrence of *C* in combination with other requisite circumstances was sufficient for the occurrence of *E*, we are saying that *C* and the other requisite circumstances in conjunction with the applicable causal laws necessitated the occurrence of *E*; they made the occurrence of *E* inevitable. In other words, if it had not been the case that *E* was going to come about, then *C* or some other element(s) in each minimally sufficient set of conditions for *E* would not have come about.<sup>4</sup> (A 'minimally sufficient' set of conditions is a set containing no redundant elements. Every one of those conditions is necessary for the set's sufficiency.)

Although an ascription of causal efficacy to the occurrence of *C* presupposes the status of *C* as an element in a set of actual conditions minimally sufficient for the occurrence of *E*, we very seldom if ever advert to all the conditions in that set when we engage in such an ascription. Typically some of the conditions are unknown and might remain unknown, and even the conditions of which we have knowledge are frequently taken for granted rather than consciously or explicitly noted. Except in a quite unusual situation, for example, a report on the causes of a fire would not make reference to the oxygen in the atmosphere that was essential for the ignition and burning. Nevertheless, although the singling out of

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*C* as a cause of *E* will hardly require an exhaustive specification of the other NESS conditions and the precise causal laws that together with *C* entail the occurrence of *E*, it does presuppose the actuality of those conditions and the sway of those laws.

Both the NESS criterion and the but-for test draw our attention to the role of any cause *C* as a necessary element in a set of conditions sufficient for the occurrence of *E*. What is the operative conception of necessity invoked by those tests? That conception has been adumbrated by my references to *minimally* sufficient sets of conditions. **(p.280)** Every element in any such set is necessary for the sufficiency thereof, because such a set contains no redundant elements. If any element *C* had been removed while everything else was retained, the set of conditions would no longer have been sufficient for the occurrence of *E*. This conception of necessity as non-redundancy is what underlies each of the two aforementioned tests for causation. If some state of affairs or some event is not an integral part of any set of actual conditions that is minimally sufficient for the occurrence of *E*, then that state of affairs or event cannot properly be classified as a cause of *E*. In regard to the bringing about of *E*, the state of affairs or event is redundant in that its occurrence makes no difference to the occurrence of *E*. It contributes nothing and is thus devoid of causal efficacy, in respect of *E*'s coming about.

Although causation is best explicated by reference to the concepts of necessity and sufficiency, we should distinguish causal connections from constitutive connections. If a state of affairs *S*<sub>1</sub> and a state of affairs *S*<sub>2</sub> are linked constitutively rather than causally, then the very existence of either of them is not logically distinct from the coeval existence of the other. Their relationship thus contrasts with that between any cause and its effect(s), which are linked via laws of nature rather than by dint of instantiation or identity or mereology. For example, consider the fact that I run briskly for 30 minutes every morning and the fact that I exercise vigorously for 30 minutes every morning. These two facts are constitutively rather than causally connected. It is not the case that my running causes my vigorous exercising; rather, the running *is* the vigorous exercising. If a state of affairs *S*<sub>1</sub> is an instance of a state of affairs *S*<sub>2</sub>, then the connection between them is constitutive rather than causal. As a conceptual matter, rather than merely as a matter of some empirically ascertainable laws of nature, the actuality of *S*<sub>1</sub> entails the concurrent actuality of *S*<sub>2</sub>. Likewise, if *S*<sub>1</sub> amounts to *S*<sub>2</sub>, then again the ties between them are constitutive rather than causal. *S*<sub>1</sub> amounts to *S*<sub>2</sub> if *S*<sub>2</sub> is entailed by the combination of *S*<sub>1</sub> and some aspect(s) of the prevailing circumstances other than any causal laws. Jonathan Bennett offers an apt example in which David extends his arm and in which Betsy has expected David to extend his arm. His stretching out of his arm 'relates non-causally to a state of affairs which it makes obtain, namely the fulfilment of Betsy's expectation. David's extending his arm may have the causal consequence that Betsy thinks he has done what she expected; but the mere fact



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that her expectation *has* been fulfilled is a non-causal consequence of David's behaviour'.<sup>5</sup>

**(p.281)** When referring to causal relata—that is, the things between which causal relations obtain—my discussion so far has sometimes designated them as facts or states of affairs and has at other times designated them as events.<sup>6</sup> My subsequent discussions will similarly designate causal relata sometimes as facts and sometimes as events, since the purposes of most of those discussions do not require a rigid adherence to one side or the other of a sharp fact/event demarcation. In the absence of substantive considerations that would call for such an inflexible adherence, my characterizations of causal relata will be determined chiefly by the aim of facilitating the smoothness and clarity of my exposition. What John Mackie stated about his own major study of causation is by and large applicable to my present chapter:

The distinction between these two kinds of cause [facts and events] is, then, clear and useful. But there are still very close relations between them...These close systematic connections between events, their features, event-types, and facts make it legitimate to move freely and without excessive caution between them...For some purposes we need to attend to these distinctions, but for most of our investigation of causal regularities and our ways of discovering them we do not.<sup>7</sup>

Nevertheless, we are well advised to note that we can generally attain greater precision when we designate causal relata as facts. When we do so characterize them, we can thereby single out the causally relevant aspects of the events that we are scrutinizing. Quite often, indeed, the sharper focus made available in this fashion is indispensable for the adequacy of a causal explanation or analysis.

Consider, for example, a situation in which a ship's officer navigates his vessel through a body of water despite lacking the formal certificate required by law for anyone who serves as a navigator. During the ship's journey, a collision occurs. If we ask whether the officer's navigation of the vessel was a cause of the collision, the answer is clearly 'yes'. The **(p.282)** former event (the navigation) was an integral element in a set of actual conditions that was minimally sufficient for the latter event (the collision). What will probably be of greater interest, however, is the role of the officer's lack of a certificate. Yet, if we seek to address that question with event-descriptions, we shall meet with frustration. The question posed with such descriptions would be whether an uncertificated officer's navigation of the ship was a cause of the collision. The answer to that question is plainly affirmative, since the description 'an uncertificated officer's navigation of the ship' will have designated exactly the same event as the description 'the officer's navigation of the ship', even though it highlights different features of that event. Thus, since the causal question articulated with the latter description is clearly to be answered affirmatively, the

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same must be true for such a question articulated with the former description. Yet, when we inquire about the role of the absence of a certificate, we are almost certainly intending to raise a query to which the answer should not be preordained in this manner. Accordingly, we must reformulate the question with a fact as the relevant relatum. For example, we can ask whether the fact that the officer lacked a certificate was a cause of the collision. That is, we would be asking whether that fact contributed to the collision. Another question with a fact as the antecedent causal relatum—a question subtly different from the one just posed, though manifestly related to it—is whether the fact that an uncertificated officer navigated the ship was a cause of the collision. Did that fact contribute to the collision? Either of these reformulated questions, about the officer's lacking a certificate or about an uncertificated officer's navigating the ship, is undoubtedly of great interest to a legal tribunal; yet neither of those questions can be satisfactorily posed unless we designate the antecedent causal relatum as a fact.

A further distinction of some importance for any study of causation, a distinction mentioned in the quotation from Mackie above, is that between event-types and event-tokens. (We have encountered an offshoot of this distinction in Chapter 3's discussion of act-types and act-tokens. Act-types are a subset of the class of event-types, and act-tokens are a subset of the class of event-tokens.) An event-type is a property or set of properties shared by all the particular occurrences that are comprised by some class of events. An event-token is a particular occurrence that instantiates the property or set of properties by dint of which it is an event of some specific type *T*. Now, when we apply the NESS criterion or the but-for test, and when we designate the relevant causal relata as events rather than as facts, we are focused on the relationship between two or more event-tokens. We are asking if **(p.283)** some actual occurrence was a NESS condition or a but-for condition for some other actual occurrence. Nevertheless, we are asking about those occurrences as events of certain types. We are inquiring about them by seeking to apply causal generalizations—incomplete formulations of causal laws—which fix on causal relations between event-types. When all the types encompassed in such a generalization are instantiated together, and when no special circumstances are present to defeat the inferences that can normally be drawn, the relation between the instances of the generalization's specified preconditions and the instances of the generalization's specified consequences is causal. That relation obtains between event-tokens, but we ascertain it by reference to the types which those tokens instantiate. (In the rigorous and highly self-reflective discourses of law and philosophy, the references to event-types are oft-times explicit. In everyday thought and discourse, the references are usually implicit.) Let us suppose, for example, that we are inquiring whether some damage to a house on a particular occasion was wrought by a fire that was present. Although such a NESS or but-for inquiry is focused on two event-tokens, it is concerned with the general properties which

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they instantiate. Even if our inquiry adverts to the fire's precise spatio-temporal coordinates and its precise level of intensity, and thus even if we are seeking to determine whether a fire of that precise location and magnitude was causally responsible for the damage to the house, our investigation is governed tacitly or explicitly by some causal generalization concerning the damage-inflicting properties of a fire with that intensity and that position vis-à-vis the damaged area. Usually, of course, our descriptions of event-tokens as causal relata are not so fine-grained; even when they are, however, we are understanding those tokens by reference to some of the types which they instantiate. No application of the NESS test or the but-for criterion can proceed without some such reference, be it express or implicit.

Now, before we go on to explore some complications that must be tackled by any account of causation, we should note that the account provided here has borne out what was said in my opening remarks about the moral-political neutrality of my analyses. The categories that inform the but-for and NESS tests are those of necessity and sufficiency, which can be invoked and applied without any moral judgements. To be sure, the application of either of those tests will require counter-factual judgements whereby we ponder what would have been the case if some element of an actual state of affairs had not obtained. Yet, although the difficulties of pinning down truth-conditions for counter-factuals are well known among philosophers, few people **(p.284)** would dispute that myriad counter-factuals (such as those that underlie ordinary causal judgements) are perfectly straightforward. Admittedly, many other counter-factuals are more problematic, and some are deeply conjectural. Still, we scarcely should infer that our causal ascriptions will collapse into moral-political assessments or into dogmatic hand-waving. In the first place, the speculative character of many counter-factuals can be overtly acknowledged and defused through the attachment of probabilistic qualifications to any judgements about their truth-values. Moreover, and perhaps even more important, the vast majority of the causal attributions that distinguish unfreedoms from mere inabilityties are gratifyingly straightforward. Most such attributions deal with occurrences whose statuses under the but-for test or the NESS test, in relation to various specified outcomes, are evident and uncontroversial—partly because most occurrences that limit people's freedom can be classified as causes without fiendish snags or complexities, and partly because some patterns of conduct that cannot be so smoothly classified as causes of restrictions on freedom are removed from consideration by my approach to omissions. Furthermore, the causal ascriptions that stake off unfreedoms from mere inabilityties are concerned primarily with two broad classes of freedom-constraining factors (the class of those factors that arise from the actions of other people, and the class of those factors that arise from one's own conduct or from natural forces), rather than with the isolation of particular factors within each class. If we can establish that some inability of a person *P* is directly or indirectly due to the actions of a person or a group of people other

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than *P*, we do not have to worry about assigning causal responsibility for the matter to some identified individual(s). The purposes of this chapter and of this book do not require any such identification. Accordingly, when we tacitly or explicitly make the counter-factual judgements which underlie the causal ascriptions that are needed for the fulfilment of this chapter's purposes, we are arriving at judgements that are even more likely to be clear-cut than are counter-factual propositions generally.

## 2. *Two Complications*

Any plausible theory of causation has to confront two knotty problems: collateral effects and causal priority. The first of these cruxes pertains to the possibility that the NESS and but-for tests will lead us incorrectly to posit a causal connection between two events or facts that are not causally related. The second crux pertains to the possibility that the **(p.285)** NESS and but-for tests will disable us from knowing which of two causal relata is to be classified as a cause and which is to be classified as an effect. Thus, given that this chapter relies on the but-for criterion (and to some degree also on the NESS test) as the core of its approach to causation, we plainly have to grapple with each of these problems.

### 2.1. *The Problem of Collateral Effects*

When two events or facts  $E_1$  and  $E_2$  are direct causal products of the same occurrence  $C$ , we might be led to conclude that in the prevailing circumstances each of those products was a NESS condition for the emergence of the other. After all,  $C$  satisfies the NESS test for each of those effects. What its satisfaction of the NESS test means (in part) is that  $C$  in combination with the prevailing circumstances and the applicable laws of nature was sufficient for the emergence of  $E_1$  and  $E_2$ —which in turn means that, in the prevailing circumstances,  $E_1$  and  $E_2$  followed ineluctably from the occurrence of  $C$ . Hence, we might be tempted to infer, each of those effects was necessary for the other in the wake of  $C$  and the prevailing circumstances; in that wake, neither  $E_1$  nor  $E_2$  would have materialized if the other had not materialized. We thus seem to be driven to the conclusion that each of those effects was a cause of the other. Each was a necessary element of a set of actual conditions that was sufficient for the emergence of the other.

Mackie furnished a helpful illustration of the problem of collateral effects: 'Labour's defeat at the election pleases James but saddens John, who, as it happens, are quite unknown to each other. Then James's being pleased does not cause John's being sad, and yet we might well say that in the circumstances John would not have been sad if James had not been pleased.'<sup>8</sup> We can add that likewise, in the circumstances, James would not have been pleased if John had not been sad. Do we have to accept, then, that John's distress was a cause of James's gratification and vice versa?

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To overcome the problem of collateral effects, we have to recall with precision the conception of necessity that is operative in the NESS and but-for tests. Nothing ever qualifies as a NESS cause or a but-for cause of some effect *E* simply by virtue of having followed perforce from the set of actual conditions that was minimally sufficient for the occurrence of *E*. Rather, the relevant conception of necessity is that of non-redundancy. As Wright pertinently states in his formulation of the NESS criterion that was quoted at the outset of my last section, **(p.286)** something gets classified as a cause of *E* under the NESS test by virtue of having been *necessary for the sufficiency* of a set of actual conditions that was minimally sufficient for the occurrence of *E*. That is, if *C* is a cause of *E* under the NESS standard, then a set of conditions including *C* is minimally sufficient for the occurrence of *E* and would not have been sufficient for that occurrence if *C* had not been present as an element of that set.

Once we remember that the relevant conception of necessity under the NESS and but-for tests is non-redundancy, we can readily perceive that collateral effects would not qualify (under those tests) as causes of each other. *E*<sub>1</sub> was not essential for the sufficiency of any set of conditions that was minimally sufficient for the occurrence of *E*<sub>2</sub>, and *E*<sub>2</sub> was likewise not essential for the sufficiency of any set of conditions that was minimally sufficient for the occurrence of *E*<sub>1</sub>. As Wright has remarked: 'The set of actual antecedent conditions containing the collateral effect is not sufficient for the occurrence of the [other collateral effect] unless the common cause is also included, but if the common cause is included the collateral effect is not necessary for the set's sufficiency.'<sup>9</sup> This point becomes plain when we look again at the example supplied by Mackie. If we altogether leave out of consideration the fact that John was saddened by the defeat of the Labour Party, and if (while disregarding that fact) we ask whether the aforementioned defeat was in the circumstances sufficient to please James, the answer to our question will manifestly be affirmative. The existence or non-existence of John's displeasure had no bearing on the sufficiency of the Labour defeat in the circumstances to produce the effect of pleasing James. Neither the existence nor the non-existence of John's displeasure would contribute anything to the production of that effect, since neither the existence nor the non-existence of his displeasure would render sufficient any set of conditions that was otherwise insufficient for the gratification of James in the circumstances. Much the same can be said (*mutatis mutandis*), of course, if we contemplate the contribution of James's gratification to John's distress. In the circumstances, that gratification was not an element in any set of actual conditions that was minimally sufficient for the occurrence of the distress. To be such an element, the gratification would have had to be necessary for the sufficiency of the set; but in fact it contributed nothing whatsoever to that sufficiency.

In short, the problem of collateral effects does not pose any difficulties at all for my exposition of causal relations. Given that every **(p.287)** genuine cause *C* will have contributed non-redundantly to a set of conditions sufficient for an effect *E*

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—that is, given that every  $C$  will have been an integral element in some set of conditions minimally sufficient for the emergence of  $E$ —the collateral products of a common cause,  $E_1$  and  $E_2$ , cannot correctly be classified as causes of each other. Though we can rightly say that in the prevailing circumstances neither  $E_1$  nor  $E_2$  would have occurred if the other had not occurred, we are not thereby saying that either of them was necessary for the other's existence in any way that would qualify it as a cause thereof. The sense of necessity that would be operative in such a statement about  $E_1$  and  $E_2$  is not the sense that would be operative in a causal ascription.

## 2.2. Causal Priority

If something  $C$  was a cause of something else  $E$ , then  $C$  in conjunction with other NESS conditions and the applicable laws of nature was sufficient for the occurrence of  $E$ . Given those other NESS conditions, if it had not been the case that  $E$  was going to arise, then  $C$  would not have arisen. In the presence of those other NESS conditions, that is, the occurrence of  $E$  was a necessary condition for the occurrence of  $C$ .

If  $C$  was a cause of  $E$ , then  $C$  was an element in a set of conditions that was minimally sufficient for the emergence of  $E$ . As an element in a *minimally* sufficient set of conditions,  $C$  was necessary for the set's sufficiency. If there were no other sets of actual conditions that were minimally sufficient for the occurrence of  $E$ —or if  $C$  was an element in every such set—then, in the circumstances,  $C$  was necessary for  $E$ 's occurrence. Accordingly, given the presence of those circumstances, the emergence of  $E$  was sufficient for the emergence of  $C$ .

Thus, in any situation where some effect  $E$  is not overdetermined—that is, in any situation where only one set of actual conditions is minimally sufficient to give rise to  $E$ —the occurrence of  $E$  is in the circumstances both necessary and sufficient for the occurrence of any of its causes. In other words, the relationship between  $E$  and each of its causes in such circumstances would seem to be wholly symmetrical. Each cause  $C$  in conjunction with the other causes is necessary and sufficient for the emergence of  $E$ , and  $E$  in conjunction with those other causes is necessary and sufficient for the emergence of  $C$ . (Even if there is more than one set of actual conditions minimally sufficient for the emergence of  $E$ , the symmetrical pattern just described will obtain in respect of any cause that is an element of every such set.) In light of this symmetry, how can we distinguish between causes and effects by recourse to the categories of necessity and sufficiency—the central **(p.288)** categories in the NESS and but-for tests? Does not a reliance on those categories disable us from telling whether  $C$  is a cause of  $E$  or whether  $E$  is instead a cause of  $C$ ?

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Plainly, we cannot dodge this crux by adverting to the fact that the respective statuses of *C* and *E* will be unproblematically ascertainable in any situation where more than one set of conditions is minimally sufficient for the emergence of *E* and where not every such set contains *C* as a member. After all, a situation with only one set of actual conditions minimally sufficient for some specified effect is far from uncommon. Moreover, even in a situation with more than one such set, the puzzle outlined here will arise in connection with any cause that is contained in every set. Some causes (such as the continued presence of oxygen in the atmosphere) will very likely be in every such set, at least within the realm of human affairs. Hence, the problem of establishing the priority of a cause over its effect will confront us even in regard to most situations of over-determination.

The most tempting path for someone wrestling with the problem of causal priority is to maintain that every cause temporally antecedes its effect. Someone taking such a position will perceive causal priority as a species of temporal priority. If *C* in conjunction with all relevant circumstances and applicable laws of nature was necessary and sufficient for *E* while *E* was likewise necessary and sufficient for *C*, we can tell that *C* was a cause of *E* (rather than vice versa) if we find that *C* occurred earlier than *E*. Such an abrupt and tidy solution to the puzzle of causal priority is obviously enticing, especially since it trades on a common-sense view of causality.

The conception of causal priority as a species of temporal priority should not be dismissed too quickly. After all, countless causes do precede their effects in time. Moreover, some of the stock illustrations of simultaneous causation (that is, temporal simultaneity between causes and their effects) are quite unpersuasive. Consider, for instance, a famous observation by Kant: 'If I view as a cause a ball which impresses a hollow as it lies on a stuffed cushion, the cause is simultaneous with the effect.'<sup>10</sup> Kant's example—like his further example involving a stove that warms a room—is manifestly inapposite. Let us suppose first that the cushion mentioned by Kant is not resilient. **(p.289)** That is, if the ball is removed, the surface of the cushion will not spring back to its original position. Instead, the surface will remain in its current position. In that case, the ball's lying on the cushion at some particular moment  $t_2$  is not a cause of the impression-in-the-cushion-at- $t_2$ . Rather, the original placement of the ball on the cushion at an earlier moment  $t_1$  was a cause of the impression-at- $t_2$ . Obviously, that instance of causation involved temporal priority.

Suppose now that the cushion in Kant's scenario is resilient. If the ball is removed, the surface of the cushion will return to its original shape. Nevertheless, it is still not the case that the ball's lying on the cushion at  $t_3$  is a cause of the impression-in-the-cushion-at- $t_3$ . However brief is the span of time during which the surface of the cushion will spring back to its original shape, it is indeed a span of time greater than nothing. Hence, whereas the ball's lying on

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the cushion at  $t_3$  is not a cause of the indentation-in-the-cushion-at- $t_3$ , the ball's lying on the cushion at a moment  $t_2$  slightly earlier than  $t_3$  was just such a cause. Had the ball been removed from the cushion at  $t_3$ , the surface would not have sprung back until a slightly later moment ( $t_4$ ). By contrast, had the ball been removed at  $t_2$ , the cushion would have sprung back by  $t_3$ . In sum, the fact that the ball did not get removed from the cushion at  $t_2$  was a cause of the indentation-therein-at- $t_3$ ; and the fact that the ball did not get removed at  $t_3$  was not a cause of the indentation-at- $t_3$ , because it made no contribution whatsoever to the indentation-at-that-time—though it did of course make a contribution to the indentation-at- $t_4$  and was thus a cause thereof. Each of these instances of causation straightforwardly involved temporal priority.

Yet, notwithstanding the unconvincingness of Kant's illustrations, the notion of simultaneous causation is not arrantly unsustainable. Though nothing in my subsequent discussions will presuppose the soundness of that notion, we ought not to presuppose its unsoundness, either. Consider the following example. A slab of wood suitable for a table top is held suspended just slightly above four upright cylinders of wood that would be suitable as legs for a table. The cylinders are positioned under the four corners of the slab, each of which contains a notch on its underside that will smoothly hold the cylinder below it. At some moment  $t_1$  the slab of wood is released from its suspension, and it drops onto the four vertical rods at the slightly later moment  $t_2$ . Had the slab not made contact with those four cylinders at that moment, it would have continued to fall. Similarly, if the slab had not dropped onto the cylinders at  $t_2$ , then each of them at the next moment  $t_3$  would have begun to fall to the floor; the contact between the four of them and the slab has occurred just in time to prevent each of the (p. 290) cylinders from beginning to topple. We can therefore correctly say that the endowment of the slab with a secure position above the floor at  $t_2$  has been caused by its coming into contact with the four legs at  $t_2$ , and we can likewise correctly say that the endowment of each of those legs with a securely upright position at  $t_2$  has been caused by the slab's coming into contact with the four of them at that moment. Both the secure positioning of the table top above the floor and the securely vertical positioning of the four table legs have occurred simultaneously with the legs' arresting of the table top's downward movement. Unlike Kant's scenario, then, this example involves genuine simultaneity between a cause and its effects.

To be sure, some philosophers intent on denying the possibility of simultaneous causation would undoubtedly wish to dispute the conclusion reached in my last paragraph. Moreover, nothing else in this chapter will depend on the truth of that conclusion. All the same, the account of the table top's alighting upon the four legs has presumably revealed that an explication of causal priority should not hinge on the claim that all causes temporally forego their effects. Though the possibility of simultaneous causation is not incontrovertible, it is credible enough to warrant our avoiding any commitment to a denial of it. We shall therefore

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have to look elsewhere for a means of distinguishing causes from their effects; we cannot safely rely on the view that causes invariably precede their effects in time.

Fortunately, there are other ways of specifying the priority of any cause over its effect.<sup>11</sup> Especially in light of the purposes of this book, the optimal way is to cash out causal priority as explanatory priority. We explain effects by reference to causes, but not causes by reference to effects; something construed as an effect is an *explanandum*, whereas a characterization of something as a cause is an *explanans*. When we wish to elucidate how some state of affairs has come about, we do not adduce the various effects to which it leads. Rather, we single out the salient causes of its emergence. (Of course, as will be discussed presently, a reference to certain effects of some state of affairs *S* can itself help to clarify the causes thereof, particularly when some of those causes consist in human conduct and motivations. However, such a reference is explanatorily serviceable only in that subordinate status, as an aid to ferreting out the causes of *S* in which we are interested. Shorn of that facilitative role, a recountal of *S*'s effects would be beside the point in an explanation of how *S* emerged.)

**(p.291)** A cashing out of causal priority as explanatory priority will yield the appropriate result in every context. Any humdrum instance of causation will clearly lend itself to such an analysis. For example, we explain the breaking of a window by reference to the thud of a tree branch against it, whereas we do not explain the thrust of the tree branch by reference to the shattering of the window's panes. More complex situations will likewise prove amenable to such an approach. Let us look again, for instance, at the simultaneous-causation scenario involving the table top and the legs. As has been observed, the contact between the slab of wood and the four legs at  $t_2$  is a key cause of the secure positioning of the slab above the floor at  $t_2$ , and is also a key cause of the securely vertical positioning of each leg at  $t_2$ . We advert to the occurrence of that contact in order to explain the secureness of the slab's elevated position at  $t_2$ , and also in order to explain the secureness of each leg's upright position at  $t_2$ . By contrast, we do not advert to either of those states of secureness in order to explain the slab's alighting on the four wooden cylinders. When faced with a situation that is marked by the simultaneity of a cause and its effects, then, we reassuringly find that causal priority tallies with explanatory priority.

A similarly reassuring conclusion awaits us when we turn our attention again to collateral effects. We explain such effects by reference to their common cause, whereas we do not explain the co-occurrence of joint causes or over-determining causes by reference to their common effect. Let us return to Mackie's example of the defeat suffered by the Labour Party that pleases James and saddens John. Whereas we explain James's happiness and John's distress by adverting to the Labour debacle, we hardly explain that debacle by pointing to the feelings of James or John. Nor do we explain James's pleasure by reference to John's

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consternation, or vice versa; as is indicated by the lack of explanatory connections, neither man's feelings were causally linked to the other's in any way. (Recall that James and John were not familiar with each other at all.) Now suppose that the Labour Party's downfall was due partly to some inspiring speeches by the Conservative leader and partly to the lacklustre performance of the Labour leader—as well as to any number of other factors, of course. We explain the defeat by adducing those joint causes, but we do not explain the inspirational and drab performances by reference to the defeat that was their common effect. In sum, in the presence of joint causes as much as in the presence of collateral effects, causal priority and explanatory priority are at one.

Before moving on, we should probe a bit more deeply into the nature of explanations in order to avert a potential objection to my assimilation of causal priority and explanatory priority. An explanation of **(p.292)** something seeks to account for its occurrence or existence by indicating how it came about. An explanation addresses 'how' questions, in that it endeavours to recount some of the chief processes that have led up to something. When one's attention is drawn to the mechanisms or promptings that are revealed by a good explanation of some event or some state of affairs, one gains a better understanding of the array of factors that brought the event or the state of affairs about.

Now, we can endorse the view that an explanation addresses 'why' questions, so long as 'why' is understood as 'by what means' or 'on the basis of what motivations' or 'through what sorts of processes'. We should not endorse that view if 'why' is understood instead as 'towards what end' or 'in furtherance of what significant purpose'. Were we to accept that explanations address 'why' questions of the latter sort, we would jeopardize the congruence between causal priority and explanatory priority; we would be accepting that some *explanantia* consist essentially in statements of effects rather than of causes. Thus, only in so far as 'how' and 'why' are interchangeable, should we allow that explanations are answers to 'why' questions.

Such a restriction, however, may seem at odds with many ordinary patterns of discourse. Quite often we try to shed light on some action or apparatus or state of affairs by focusing on the goal toward which the action or apparatus or state of affairs is oriented.<sup>12</sup> For example, we might attempt to account for the nature of certain institutional arrangements by highlighting the objectives which those arrangements tend to promote. (We might thereby be maintaining that the arrangements were designed to promote those objectives, or we might be maintaining that their possibly undesigned tendency to further those objectives has enabled them to persist and flourish.) In a similar vein, functional accounts of the workings of bodily organs are common. Such an account might illuminate the workings of an animal's heart, for instance, by highlighting the function of the heart in circulating the animal's blood. Even more broadly, a long-standing philosophical tradition—the tradition of teleological explanation, going back at

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least to Aristotle—would appear to belie my restrictive conception of explanations. For someone working within an Aristotelian framework, the ends toward which substances or activities tend are final causes that become manifest through teleological explanations. Though rather few philosophers and even fewer non-philosophers in the present day would subscribe to Aristotle's metaphysics, the teleological **(p.293)** approach to elucidating the nature and workings of myriad things is robustly present in everyday discourse and in intellectually sophisticated enquiries.

In response to these misgivings, let it be said straightaway that we obviously should not attach any talismanic significance to the word 'explanation' and its cognates. If people wish to employ that word to designate teleological accounts—and if people wish to designate goals as causes ('final causes')—then so be it. There is no point to quarrelling over a label. This subsection's discussion of explanations and explanatory priority can be rephrased to refer more specifically to etiological explanations and etiological-explanatory priority. Such explanations deal not with teleological 'why' questions but with 'how' questions concerning the means or processes or pathways by which things have come about. (As has been noted, those 'how' questions can be redescribed as 'why' questions if 'how' and 'why' are taken to be interchangeable expressions for posing inquiries about the origins of things.) Instead of adopting a prospective focus on goals and tendencies and functions, an etiological explanation adopts a retrospective focus on mechanisms and sources and promptings. So long as it is entirely clear that the earlier portions of this subsection have used the term 'explanation' exclusively in this sense, one scarcely should object to the fact that the term is used more expansively in other settings.

An important point remains to be addressed, however. Can a teleological approach itself be serviceable for etiological purposes? Much depends here on the precise tenor and ambitions of a teleological exposition. If it is a free-standing elaboration of something's role in producing certain consequences, then it will have gone no way toward unearthing and clarifying the origins of that thing. To expound the heart's circulatory function, for example, is not yet to say anything about the processes by which the heart came to be endowed with the capacity to fulfil that function. Likewise, to chart the manifold implications of a military victory in having paved the way for the flourishing of some civilization *C* is not per se to furnish an account of the means by which the fighting and the victory came about. Someone concentrating on the aftermath of the military triumph would doubtless be providing an etiological explanation of the flourishing of *C*, but would not be providing such an explanation of the triumph itself.

However, many teleological accounts are not meant to be free-standing in the way just sketched. Many such accounts play subordinate roles in etiological explanations of the phenomena which they elucidate. For example, if we

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highlight the effects of some action performed by a human being, we may well be dwelling on those effects **(p.294)** in order to make clear that she was motivated by a desire to achieve them. We would thus be describing her action teleologically, but we would be doing so exclusively or primarily in order to indicate what led up to it. In a parallel vein, if we highlight the probable results of some kind of endeavour that is frequently carried out by an animal, we might thereby be suggesting that the animal has come to behave in that manner as a result of channelled reinforcement—that is, reinforcement through previous successes in fulfilling its desires by way of just such behaviour. Much the same could be said, *mutatis mutandis*, about the patterns of activity of a sophisticatedly adaptable robot with a feedback mechanism that enables it to ‘learn’ from its mistakes.

A broadly comparable tack, consisting in a teleological exposition presented for a predominantly etiological purpose, can be pursued in connection with each of the examples mentioned in the penultimate paragraph above. For instance, if an account of the heart's circulatory function is propounded by an evolutionary biologist, he is undoubtedly offering the account as a component of an etiological explanation of the heart's capacities. Such an explanation combines that functional account with a complicated array of etiological claims focused on genetic mutations, genetic transmissions, and environmental pressures. Conjoined with those claims, the functional account helps to explain how the capacities of the typical heart came to be as they are.

A teleological orientation can likewise be put to etiological uses when someone underscores the importance of a military victory in securing the greatness of the nation that has triumphed. If such an emphasis is combined with the view that a benevolent deity has been guiding the fortunes of that nation, then the person proclaiming the magnificence of the military conquest is thereby indicating (at a general level) how it came about. Explanations of this sort are not to the liking of secular intellectuals—or anyone else who is sensible—but they continue to appeal to people of a religious bent in many countries. They were even more widespread in the past. The Bible, for example, teems with references to the role of the Lord in ensuring the greatness of His people by fighting on their behalf against their enemies. ‘Thy right hand, O Lord, glorious in power, thy right hand, O Lord, shatters the enemy.’<sup>13</sup>

Thus, although a focus on the effects or functions of something will never in itself inform us how the thing came to be as it is, such a focus can prove to be etilogically fruitful when it accompanies some theses **(p.295)** that posit a link between the origin and the upshot of the thing. The relevant link can take a number of forms—as should be apparent from the several examples mooted in my last few paragraphs—but it always operates through ordinary causation as it forms a bridge between how something emerged and what something does.

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At any rate, whether or not some particular etiological explanation includes a teleological component, the key message of this subsection is that causes and effects can be suitably distinguished if we cash out causal priority as etiological-explanatory priority. As has been seen, even a cause that occurs at exactly the same time as its effects is etilogically-explanatorily prior thereto. If we know that two events or states of affairs *C* and *E* were causally linked, and if we want to ascertain whether *C* was a cause of *E* or vice versa, we must simply determine whether *C*'s coming about is to be explained by reference to *E*'s coming about or vice versa.

### 3. *Over-determination Defused*

One of the truly perplexing cruxes for most theories of causation is a matter that can be largely pretermitted by my own theory. In this respect the current section differs from the previous sections of this chapter, which have explicated the concept of causation in a fashion that is not peculiarly a product of my underlying aim to distinguish unfreedoms from mere inabilities. On the one hand, my reflections on causation heretofore in this chapter have been crucial for the accomplishment of that underlying aim; on the other hand, those foregoing reflections are pertinent for any number of projects and are not distinctively tied to the purposes of this book. By contrast, the current section handles the problem of causal over-determination in an unusual manner that is specifically connected with those purposes. More precisely, as we shall discover, the U Postulate—which has given rise to the need for criteria that will distinguish unfreedoms from mere inabilities—enables us to dodge all or most of the difficulties that beset any general analyses of over-determination.

#### 3.1. *A Concise Overview of the Problem*

To understand why the problem of over-determination can be circumvented in this chapter, we need to grasp exactly what that problem is. We must consider two broad types of over-determination, which Wright has usefully designated as 'duplicative causation' and 'pre-emptive (p.296) causation'.<sup>14</sup> A situation of duplicative causation obtains when two or more sets of actually occurring conditions are each minimally sufficient for some effect *E* that actually ensues. Each of those sets on its own would have been enough to bring about *E*, and therefore no single one of them is necessary for such a result. Of course, some factors, such as the continued presence of oxygen in the atmosphere, will very likely be members of each of the duplicative sets. Any such factors will have been necessary for the occurrence of *E*. Nevertheless, any factor that is a member of some but not all of the duplicative sets will have been unnecessary for the bringing about of *E*. Such a factor, which we may label as a 'duplicative cause', does not satisfy the but-for test of causation. (N.B. It is not invariably the case that each duplicative cause is sufficient—in conjunction with the prevailing circumstances apart from the other duplicative cause[s]—to bring about the over-determined effect to which it contributes. So long as the causes are cumulatively more than sufficient to generate that effect, a situation of

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duplicative causation obtains. For example, if three fires of equal intensity reach a house simultaneously and consume it, and if any two of the fires would together have been sufficient to burn down the house, then we can identify three sets of actual conditions minimally sufficient for the house's destruction. That destruction has been duplicatively caused even though no fire on its own would have been sufficient in the circumstances for such an outcome. Nonetheless, largely for stylistic reasons, nearly every example of duplicative causation in the present section will involve a duplicative cause which—in conjunction with the prevailing **(p.297)** circumstances apart from the other duplicative cause[s]—is sufficient to produce the over-determined effect to which it contributes.)

Precisely because the but-for criterion does not allow us to recognize duplicative causes as causes, the NESS criterion is a superior test. Though notable instances of duplicative causation are not common, a reliance on the but-for test in one's handling of them would lead to unacceptable conclusions. Suppose, for example, that two terrorists shoot a victim simultaneously. Each bullet reaches the heart of the victim at the same time, and each would have been sufficient on its own to kill him. Under the but-for criterion we would have to conclude that neither gunshot was a cause of the victim's demise. We would thus have to conclude that neither of the terrorists can correctly be said to have committed a slaying, since neither of them was causally responsible for the death. Under the NESS standard, by contrast, each shot was a cause of the death; each terrorist slew the victim.

One can easily imagine many other scenarios of duplicative causation that would reveal the NESS criterion to be preferable to the but-for test. (Indeed, we do not have to imagine them, since several germane examples have become staples of the legal and philosophical literature on causation.) For instance, suppose that an arsonist throws a firebrand onto a pile of dry boards at exactly the same moment that a bolt of lightning strikes the boards. The pile is completely consumed. Each of those incendiary events in isolation from the other was sufficient to ignite a blaze capable of destroying the boards. Accordingly, neither event was necessary for the destruction. Under the but-for standard, then, we have to maintain that the arsonist's action was not a cause of the incineration of the boards; though the culprit can be convicted of the crime of attempted arson, he will have to be exonerated of the crime of arson. He can disclaim causal responsibility for the loss of the boards even though he performed an act that was sufficient—in conjunction with the prevailing circumstances apart from the bolt of lightning—to reduce the boards to ashes. Moreover, he can disavow causal responsibility for the blaze even though (according to the but-for standard) there was no other set of conditions which caused that calamitous event. To avoid this unsatisfactory verdict, theorists should normally resort to the NESS test in lieu of the but-for test as their criterion for attributing causal responsibility.

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The NESS standard's superiority over the but-for standard is even more palpable when we encounter situations of pre-emptive causation. In any such situation that is not also marked by duplicative causation, the following two facts obtain: (1) some effect *E* is brought about by the sole minimally sufficient set of actual conditions *C*; and **(p.298)** (2) if *C* had not been present, then *E* would have been brought about by an alternative set of conditions that would have been minimally sufficient for *E* in the absence of *C*. Scenarios involving pre-emptive causation are of two main varieties, *V*<sub>1</sub> and *V*<sub>2</sub>. In any *V*<sub>1</sub> situation, an alternative set of conditions actually emerges as such. However, that set reaches its climax as a full sequence slightly later than *C* and is thus not causally efficacious (since *E* has already been brought about by *C*). Its sufficiency is counter-factual rather than actual, because of the actuality of *C*. In any *V*<sub>2</sub> situation of pre-emptive causation, an alternative set of conditions does not emerge—precisely because *C* has emerged.

Countless examples of pre-emptive causation could be adduced. Let us begin with a *V*<sub>2</sub> scenario. Suppose that the leader of a criminal gang sends one of his followers to purchase narcotics from a supplier. If that particular henchman had not gone to make the purchase, then another member of the gang would have done so. Hence, although the gangster's carrying out of the routine transaction was sufficient in conjunction with the prevailing circumstances to acquire the narcotics for the gang from the supplier, and although the set of conditions that included his carrying out of the transaction was the only set of actual conditions minimally sufficient for the acquisition of the narcotics, his purchase was not a but-for cause of that acquisition. If this particular henchman had refused to comply with his boss's directive, one of his fellow criminals would have acted in his stead. Thus, an application of the but-for test would lead us to the conclusion that the henchman was not causally responsible for the gang's possession of illegal drugs. His transaction with the supplier was not a cause of the acquisition of the drugs, or so we would apparently be asked to believe. By contrast, an application of the NESS test will issue in the conclusion that the aforementioned transaction was indeed a cause of the gang's acquisition of the narcotics. That test allows us to avoid the ridiculous notion that, because every one of the gang-leader's minions was perfectly able and willing to purchase the drugs, anyone among them actually engaging in the purchase would not be causally responsible for it.

The other main kind of pre-emptive causation, *V*<sub>1</sub>, can likewise be illustrated easily. Suppose that two people independently start fires that head towards a large wooden house from different directions. Each fire in isolation from the other is sufficiently large and intense to destroy the house if the house is still standing when the fire reaches it. In fact, however, the blaze approaching the edifice from a northward direction arrives roughly eight hours ahead of the fire that is approaching from a southward direction. By the time that the latter blaze reaches the site, the residence has been reduced to a heap of **(p.299)**

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smouldering ashes. Hence, the fire approaching from the south is not sufficient in conjunction with the prevailing circumstances to burn down the house—since one of those circumstances is the fact that the house has already been consumed. Among the elements in any set of conditions minimally sufficient for the burning down of the residence would be the fact that it has not yet been incinerated. Since that condition does not obtain by the time of the arrival of the second fire, that fire does not qualify as a cause of the house's destruction under either the NESS test or the but-for test. Only the blaze that has approached from the north is a cause of the destruction of the home.

More precisely, that northerly fire qualifies as a cause under the NESS criterion. Its status under the but-for criterion is slightly more ambiguous. For most purposes, one's characterization of the house's destruction will not include a fine-grained temporal index. Whether we opt to characterize that misfortune with an event-description ('the consumption of the house by fire') or with a fact-description ('the fact that the house was consumed by fire'), we shall not usually need to specify with great exactitude the time at which the misfortune occurred. If we apply the but-for test with a description of the house's destruction that does not specify the time of the destruction minutely enough to distinguish between the junctures at which the successive fires arrived, we shall have to conclude that the northerly blaze was no more a cause of the incineration of the house than was the southerly blaze. Neither fire was necessary in the circumstances for the devastation of the house at some point or another during the day on which the devastation occurred. Neither fire was necessary, because the other fire was also present at some point during that day. A different verdict is warranted, however, if we apply the but-for test with a description of the house's destruction that includes quite a precise temporal index—for example, 'consumption of the house by fire no later than 3.00 p.m.'. We shall then conclude that the northerly fire was necessary for the occurrence of that destruction. It was necessary because the southerly fire did not arrive soon enough to produce an effect that would match our temporally indexed description.

Let us consider one further aspect of the situation of the house and the fires. In addition to asking about the incineration of the house (an event that occurs during a certain period of time), we can ask about the house's non-existence or obliteratedness (a state of affairs that ensues from the incineration). Clearly, the southerly fire was neither a NESS cause nor a but-for cause of the house's non-existence. In the prevailing circumstances—which crucially included the presence of the northerly fire—the southerly blaze contributed nothing to the obliteratedness of **(p.300)** the residence, which had become obliterated before that blaze ever reached it. What can we say about the northerly fire, then? Under the NESS test, that fire was a key cause of the house's non-existence. Under the but-for test, on the other hand, the northerly fire was a cause of only a short duration of the house's non-existence. That fire was indeed a but-for

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cause of the obliteratedness of the home between the time of the completion of the actual incineration and the time at which a thorough incineration would have been accomplished by the southerly fire if the home had still been intact when that latter fire arrived. However, the northerly blaze—the first fire on the scene—was not a but-for cause of the home's non-existence for any period after the duration specified in my preceding sentence. If we inquire on the following day whether the house's non-existence at that time is causally attributable to the person who started the northerly blaze that consumed the whole edifice, the but-for criterion will oblige us to answer in the negative. In respect of the house's obliteratedness on that following day and on all subsequent days, neither of the two fires can be correctly classified as a cause under the but-for test.

In short, both with regard to situations of duplicative causation and with regard to situations of pre-emptive causation, the NESS principle avoids the unacceptable verdicts that would be generated by the but-for principle. In application to any context where some effect *E* has been duplicatively brought about, the NESS standard ascribes the status of a cause to every element in each set of conditions minimally sufficient for *E*. In application to any context where some effect *E* has been brought about by some minimally sufficient set of conditions *C*<sub>1</sub> that pre-empted the operative role of some other set of conditions *C*<sub>2</sub>—a set of conditions that would have been minimally sufficient for *E* in the absence of *C*<sub>1</sub>—the NESS criterion ascribes the status of a cause to each element in *C*<sub>1</sub> but not to any element in *C*<sub>2</sub> that was not also an element in *C*<sub>1</sub>. That criterion deems each element in *C*<sub>1</sub> to be a cause of *E* and of everything that has resulted from *E*.

### 3.2. *Dodging Most Difficulties*

Let us recall that the present chapter's exploration of causality has been triggered by the U Postulate's distinction between unfreedoms and mere inabilities. Given the U Postulate's exact formulation of that distinction, however, we can happily circumvent most of the puzzles engendered by situations of over-determination. Were it not for the fact that we can dodge those puzzles, we would manifestly be well advised to favour the NESS test of causation over the but-for test. The **(p.301)** preferableness of the former test is encapsulated in the final sentence of the preceding subsection—and in the discussion of the burned-down house's state of obliteratedness, from which that sentence emanates. What makes that particular discussion so important is that the non-existence of the house is relevantly similar to the non-existence of any ability of a human being. Just as the solid edifice of the home has been eliminated by the northerly fire, so too a person's ability-to- $\phi$  can be taken away by some occurrence. When a person has been deprived of some ability by duplicative factors, neither the initial deprivation nor the subsequent state of inability will be causally attributable to any of those factors under the but-for criterion. To be sure, when someone has instead been divested of an ability by a *pre-emptive* factor, the initial divestiture will be causally attributable to that factor under the

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but-for test if our specification of the divestiture includes a precise temporal index and if the pre-empted set of conditions would have taken effect later than the pre-emptive set. Even then, however, nearly the whole of the person's subsequent state of disabledness will not be causally ascribable to either the pre-emptive factor or the pre-empted factor. In respect of any situation of over-determination, in other words, the but-for standard disallows us from causally tracing a persistent lack of freedom to the set of occurrences that brought it about. We should eschew such a ridiculous upshot, especially in light of the importance of causal ascriptions within this book—that is, in light of the central role of those ascriptions in operationalizing the pregnant distinction between unfreedoms and mere inabilities. Consequently, if we had to select between the NESS principle and the but-for principle, we would have very strong reasons indeed for embracing the former and disfavours the latter.

Fortunately, however, a choice between those two criteria is inessential, since the U Postulate obliges us to resort to the but-for standard whenever that standard clashes with the NESS criterion. We are able to take advantage of the simplicity of the but-for principle without being led astray in regard to situations of over-determination, because such situations are wholly unproblematic under the U Postulate. Far from giving rise to fiendish cruxes, issues relating to over-determined inabilities lend themselves to perfectly straightforward resolutions when they are analysed by reference to that postulate.

Why, then, does the U Postulate defuse all or most of the difficulties associated with over-determination? For one thing, as this chapter has already remarked, the U Postulate trains our attention not so much on specific causal factors as on two broad classes of causal factors (the actions of other people versus one's own conduct or the workings of **(p.302)** natural forces). When someone's freedom has been curtailed by the actions of someone else, for example, we are interested not so much in the identity of the other person as in the fact that he or she is indeed another person. Because of our focus on general categories of determinants, we can very easily handle any situation of duplicative causation or pre-emptive causation involving determinants within only one category. Regardless of whether we apply the but-for standard or the NESS standard to any such situation, we shall come up with the same clear-cut answer.

For instance, if two people have simultaneously shot another person, and if each of the gunshots was independently sufficient to incapacitate the victim's left arm, his subsequent inability to move that arm has been over-determined by some actions of other people. One set of actual conditions minimally sufficient for the disabling of the arm included one of the gunshots as an indispensable element, and another such set included the other gunshot. Now, if our focus were not on general classes of causal factors but instead on individual factors within each class, the NESS test and the but-for test would lead here to sharply divergent conclusions. Under the former test, each shot was a cause of the

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victim's lack of freedom; under the latter test, by contrast, neither shot was a cause. Thus, in regard to this scenario of duplicative causation and in regard to countless other scenarios of over-determination—some of which would be much trickier—a focus on individual causal factors will require us to choose between the NESS criterion and the but-for criterion. (As has been stated, the NESS criterion is manifestly preferable when a choice must be made outside the sway of the U Postulate.) However, no selection between those criteria is required in this context, because our focus lies on broad classes of causal factors when we are analytically separating unfreedoms from mere inabilities. With such a focus, the but-for test and the NESS test here converge. Since every set of actual conditions minimally sufficient for the incapacitation of the victim's left arm included the fact that at least one person other than the victim performed some action, that fact was both a NESS cause and a but-for cause of the victim's incapacity. After all, had it not been the case that at least one person other than the victim shot him in his left arm, he would not in the circumstances have lost the use of that arm; consequently, the but-for test as well as the NESS test will ascribe a causal role to the fact that at least one person other than the victim did indeed shoot him. (A dispensable feature of this example is that each of the attackers injured the victim by the same means. Suppose instead that one of the assailants shot the victim's arm just as the second assailant wounded the arm incapacitatingly with an axe. In that case, the causally relevant fact is **(p.303)** that at least one person other than the victim in his immediate proximity performed an injurious action. To that fact both the NESS test and the but-for test will attribute a causal role.)

In short, because the task of staking off unfreedoms from mere inabilities does not oblige us to discriminate among particular causal factors within each of the two general categories of such factors, we can readily come to grips with numerous instances of over-determination. Whenever the over-determining factors all belong to the same broad category, we do not need to inquire further. We do not need to ask, for example, whether those factors were genuinely duplicative contributions or whether instead one was pre-emptive and the other pre-empted. Nor, in connection with a situation of pre-emptive causality, do we need to ask which factor was a pre-emptive contribution and which was pre-empted and was thus not a contribution at all. Of course, such questions are crucial for someone who aims to single out specific factors to which causal responsibility can accurately be ascribed; but those questions are beside the point within the confines of this book, where the U Postulate's concentration on general types of determinants has obviated such detailed probing.

At least as important in defusing all or most problems of over-determination, however, is the first of the two main prongs of the U Postulate (which stipulates that a person's inability-to- $\phi$  is a mere inability—rather than an unfreedom—unless the person would be able-to- $\phi$  in the absence of the second of the conditions specified by that postulate). The proviso expressed therein spares us

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from having to ponder the complexities of situations of over-determination that cut across the broad categories of causal factors. Having found already that *intra*-categorical specimens of over-determination are wholly untroubling, we shall now find that much the same is true of *inter*-categorical specimens.

What the first chief prong of the U Postulate establishes is that, when any person *P* lacks some ability-to- $\phi$ , the lack is a mere inability rather than an unfreedom unless *every* set of actual or pre-empted conditions minimally sufficient for the non-existence of the specified ability is a set that contains some instance(s) or product(s) of actions performed by some other person(s).<sup>15</sup> If at least one set of actual or pre-empted conditions minimally sufficient for the non-existence of *P*'s ability is a **(p.304)** set containing no instances or products of anyone else's actions among its elements, then the inability is a mere inability rather than an unfreedom. It is a mere inability because in those circumstances *P* would not have been able-to- $\phi$  even in the absence of any relevant actions by any other person(s).

Let us notice straightaway that the implications of the U Postulate expounded in the preceding paragraph are applicable to situations of pre-emptive causality as well as to situations of duplicative causality. On the one hand, as was illustrated in my earlier example of the gangster's purchase of narcotics, a pre-empted set of conditions might not ultimately emerge. On the other hand, if such a set containing no instances or products of anyone else's actions would have emerged if some pre-emptive set(s) of conditions had not emerged, then the first prong of the U Postulate has not been satisfied. In those circumstances, it is not the case that *P* would have been able-to- $\phi$  in the absence of any actions by someone else that deprived him of his ability-to- $\phi$ . Had those actions not occurred, the pre-empted set of conditions involving no such actions would have occurred and would have deprived *P* of his ability-to- $\phi$ . Thus, even when an over-determining set of conditions does not actually emerge—because it has been obviated by the emergence of an alternative set—it will be taken into account under the first prong of the U Postulate if it is a set comprising no instances or products of anyone else's actions. (One caveat should be entered here. As became clear in my earlier discussion of the obliteratedness of the burned-down house, a situation of pre-emptive causality can be marked by an interval between the time of the actual production of some effect and the time at which the effect would have been produced by the pre-empted set of conditions. If *P*'s ability-to- $\phi$  was eliminated at some time  $t_1$  by a pre-emptive cause that directly or indirectly involved somebody else's actions, and if that ability would have been eliminated at a later time  $t_2$  by a pre-empted set of conditions involving no such actions, then *P*'s lack of the ability-to- $\phi$  was an unfreedom throughout the interim between  $t_1$  and  $t_2$ . At  $t_2$ , however, it became a mere inability.)

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Before we look at a few examples that will lend some concreteness to the dauntingly abstract discussion in the last couple of paragraphs, one further point should be noted. As was remarked in my initial exposition of duplicative causation, it is not always the case that any duplicative cause of *E* will be sufficient to bring about *E* in isolation from the other duplicative cause(s) thereof. Consequently, this subsection's current analysis should lead us to classify impairments of *P*'s freedom as mere inabilities only in some of the situations where the impairments **(p.305)** have been duplicatively caused across the U Postulate's broad categories of determinants. That is, the 'mere-inabilities' classification is appropriate only when at least one freedom-impairing set of actual conditions which does not include anyone else's actions is by itself minimally sufficient to produce its freedom-curtailing effects. When instead every such set is sufficient to produce those effects only when it is combined with another set of actual conditions that does include some action(s) of some person(s) other than *P*, the curtailment of *P*'s liberty will be classifiable as an instance of unfreedom under the U Postulate. Although the causation of that curtailment by the different sets of conditions might be duplicative—since the cumulative causal force of the sets might be greater than is requisite for the curtailment—the situation is not such that *P*'s freedom would have been reduced even in the absence of anyone else's actions.

Let us now consider a few examples that can render this abstract argumentation more concrete. These examples will amount to variations on a basic scenario roughly similar to one which we pondered earlier. Suppose that Albert goes into a cave to explore its interior. Outside the cave at the top of an inclination is his enemy Theodore, who gladly takes advantage of this opportunity to abridge severely the overall liberty of his foe. Theodore gives a shove to a boulder that is precariously perched at the top of the slope on which he is standing. The boulder rolls down and traps Albert in the cave. On the basis of what we have been told so far, we can conclude straightforwardly that the sharp diminution in the overall freedom of Albert has consisted in the creation of commensurate unfreedom for him; his countless new inabilities are unfreedoms rather than mere inabilities. But let us now suppose that, at the exact moment when Theodore pushes against the boulder in order to send it hurtling down the inclination, a very strong gust of wind blows the branch of a tree against the boulder. We should mull over a few versions of this amplified scenario.

Let us initially presume that Theodore's shove and the smash of the branch against the rock were individually sufficient to topple the rock from its position on the slope. Under the first main prong of the U Postulate, then, we should classify the myriad new restrictions on Albert's range of activities as mere inabilities rather than as unfreedoms. It is not the case that, had no actions by anyone else diminished his liberty, Albert would have been able to engage in the activities that are newly closed off to him. Rather, he would have been unable to engage in those activities in any event, since the collision of the branch against

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the boulder was sufficient in the circumstances to seal him in the cave without any intervention by Theodore. Thus, because a set of **(p.306)** actual conditions comprising no instances or products of anyone else's actions was minimally sufficient to trap Albert in the cave, the new curbs on his liberty are mere inabilities even though they were duplicatively caused by a set of conditions that included some of Theodore's actions.

Suppose now that, instead of being an instance of duplicative causation, the events leading up to the immurement of Albert in the cave were an instance of pre-emptive causation. A shove by Theodore sent the boulder rolling toward the mouth of the cave, but shortly after his shove an extremely strong gust of wind propelled a tree branch through the exact region of space that had been occupied by the boulder 20 seconds earlier. Had the boulder still been resting precariously in the position from which Theodore knocked it down, it would have been sent hurtling by the thud of the branch. In the actual circumstances, however, the flight of the branch was pre-empted as a cause of Albert's confinement by Theodore's shove. The sole set of actual conditions minimally sufficient for the confinement was a set that included the shove but excluded the branch's flight. (By contrast, the set of actual conditions that included the flight but excluded the shove was only counter-factually sufficient—rather than actually sufficient—for the confinement of Albert. It would have been sufficient if the shove had not occurred, but it was inefficacious in light of the fact that the shove had already occurred.) Nonetheless, despite the status of Theodore's action as a cause of Albert's entrapment in the cave, and despite the fact that the soaring of the branch was not such a cause, the restrictions imposed on Albert's activities by the entrapment are mere inabilities rather than unfreedoms. To be sure, during the first 20 seconds or so of his entombment, those restrictions were unfreedoms; that period was the interval between the time at which the restrictions were actually imposed and the time at which they would have been imposed if they had been caused by the collision of the branch with the boulder. After that 20-second period had elapsed, however, the limits on Albert's range of activities became mere inabilities. They remain such for as long as Albert continues to be alive and confined in the cave. In sum, for virtually any purpose that might be pursued by an enquiry into the statuses of someone's particular inabilities, the upshot of this example of pre-emptive causation is essentially the same as the upshot of the preceding paragraph's example of duplicative causation. In each case, the first prong of the U Postulate steers us to the verdict that Albert has lost untold freedoms without becoming unfree. Because in each case a set of actual or pre-empted conditions that did not encompass any instances or products of anyone else's actions was minimally **(p. 307)** sufficient for Albert's loss of those untold freedoms—regardless of whether the sufficiency of each set was actual or counterfactual<sup>16</sup>—we are bound to classify his loss as an array of mere inabilities in essentially the same way for each situation. (The basic point made in this paragraph would be even more

evident if the pre-emptive cause of Albert's captivity in the cave had been the striking of the tree branch against the rock. In such a variant of my example, the shoving of the rock by Theodore would have been merely a pre-empted condition rather than a cause. Likewise, the central point made in this paragraph would be underscored if the scenario of pre-emptive causation were altered to remove any interval between the time at which Albert's loss of freedoms actually occurred and the time at which his loss would have occurred if it had been brought about by the pre-empted condition. Moreover, the conclusions reached here would be the same even if the pre-emptive causality were of the  $V_2$  variety rather than of the  $V_1$  variety. In other words, even if there did not materialize any workings of natural forces that would have been sufficient for the entombment of Albert—sufficient, that is, in conjunction with the prevailing circumstances apart from Theodore's actions—the U Postulate will classify the entombment as an array of mere inabilityes if the non-occurrence of the workings of those natural forces was due to the pre-emptive occurrence of Theodore's actions.)

We should contemplate one further variation on the story of Albert and Theodore. Heretofore that story both in its duplicative-causation version and in its pre-emptive-causation version has illustrated how the U Postulate enables us to deal handily with situations of inter-categorical over-determination. Whenever a set of actual or pre-empted conditions that does not include any instance or product of anybody else's actions is minimally sufficient for the deprivation of someone's liberty-to- $\phi$ —that is, sufficient actually or counter-factually—the deprivation of that liberty constitutes a mere inability rather than an unfreedom. A new variation on the story of Albert and Theodore can show that, in accordance with remarks made four paragraphs ago, some situations of duplicative causation have to be handled in a converse though equally straightforward manner. Let us presume that the thud of the branch against the boulder was not quite sufficient on its own to send the boulder rolling toward the mouth of the cave. Only in **(p.308)** combination with Theodore's simultaneous pushing was the collision of the branch capable of producing such an effect. Perhaps Theodore's pushing was sufficient to produce such an effect without any assistance from the thud of the branch, or perhaps it was sufficient only in combination with that thud. Regardless of whether Theodore's action was enough by itself to topple the boulder in the prevailing circumstances, we may suppose that in combination with the collision of the branch it was more than sufficiently forceful to send the boulder hurtling down the slope. Duplicative causation, rather than simply joint causation (where the two causes would together be just enough to produce their common effect), was thus at work in the events that led to the entombment of Albert in the cave. Nevertheless, the U Postulate does not lead us to classify Albert's loss of various freedoms as an array of mere inabilityes. Instead, that loss consists in an array of unfreedoms. Because no set of actual conditions minimally sufficient for the confinement of Albert was a set that did not contain any instances or products of somebody

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else's actions, Albert would have retained his freedoms if the specified actions—namely, Theodore's shoving—had not occurred. Therefore, the first prong of the U Postulate has been satisfied, and the second prong is dispositively applicable.

At any rate, whether a situation of over-determination is one of duplicative causality or of pre-emptive causality, and whether it cuts across our two major categories of causal factors or remains within a single category, and whether duplicative causes (in a situation of duplicative causality) are individually sufficient for their common effect or not, the fundamental message of this section is that the U Postulate averts any difficulties that might otherwise plague us when we have to take account of over-determined inabilities. When the over-determination of some inability of a person has occurred within only one of the two classes of causal factors, we need not enquire any further. If the over-determining factors were all instances or products of other people's actions, then the resultant inability is an unfreedom; if instead those factors were all instances of the person's own conduct or of the workings of natural forces, the resultant inability is a mere inability. When the *duplicative causation* of some inability of a person has occurred across the two categories of causal factors, the key question to be asked is whether any set of actual conditions minimally sufficient for that inability was a set containing no instances or products of anyone else's actions. If the answer to that question is affirmative, then the person's inability is a mere inability. If the answer is negative, the inability is an unfreedom. When the *pre-emptive causation* of some inability of a person has occurred across the categories of causal **(p.309)** factors, we can know without further enquiry that the inability is a mere inability if the pre-emptive set of conditions did not include any instances or products of anyone else's actions. If instead the set of conditions that did not include any such instances or products was the pre-empted set, the inability is an unfreedom during the interval (if any) between the time of its inception and the time at which it would have arisen if the pre-empted set of conditions had caused it. Thenceforward, however, it is a mere inability. In short, irrespective of the species of over-determination that might confront us when we endeavour to discover whether somebody is unfree-to- $\phi$ , the U Postulate yields unequivocal answers. Although the application of that postulate to specific situations can of course now and then be tricky because of uncertainties about the relevant facts, each prong of the postulate comes to grips with any ascertained facts in ways that are admirably clear-cut. At least at a theoretical level—as opposed to a concrete level at which theoretical standards are brought to bear on sometimes nebulous facts—the cruxes engendered by over-determination are not cruxes at all for my theory of freedom.

#### 4. Acts, Omissions, and Causal Responsibility

Throughout the last section, my discussion has sought to indicate that among the causes of any state of affairs are not only its immediate antecedents but also the countless antecedents of those antecedents. The relationship of causality is



transitive; that is, if *X* was a cause of *Y* and if *Y* was a cause of *Z*, then *X* was a cause of *Z*. When we endeavour to ascertain whether a person's lack of some freedom is causally attributable to other people's actions or is instead attributable exclusively to his own conduct and to natural processes, we have to ask not only whether other people's actions were directly implicated but also whether the products of their past actions were implicated in any way.

This final main section of the present chapter will later distinguish between actions and omissions rigorously, and will explain why omissions must receive special treatment. In the opening subsection, however, we may rely on an intuitive understanding of actions as we consider the extent of actions' causal contributions to restrictions on freedom.

### *4.1. Any Contribution is Enough*

The paramount question to be addressed in this subsection is whether the contributions of a person's actions to any limits on some other **(p.310)** person's liberty must pass a certain threshold of significance if those limits are to be correctly classifiable as unfreedoms. In pondering this question, we should recall the reasons for distinguishing between unfreedoms and mere inability in the first place. As has been indicated in Chapter 2 and again at the outset of this chapter, the basic reason for insisting on such a distinction is to avoid the conclusion that either the range of everyone's combinations of conjunctively exercisable freedoms or the range of everyone's combinations of consistent unfreedoms is infinite. That conclusion is indeed something to be avoided, since it would undermine this book's general claim that (at least in principle) the overall freedom of each person and of each society can be measured. Hence, a distinction between unfreedoms and mere inability is vital for the fundamental objective which I am pursuing.

To be sure, as has been noted near the beginning of this chapter, my specific way of posing that distinction—as a divide between the restrictions imposed by other people's actions and the restrictions imposed by oneself or by natural forces—has not yet been fully justified. Not until Chapter 5 will a set of arguments be advanced in support of that specific demarcation. Still, what should already be apparent is that my singling out of other people's actions as the sources of unfreedoms is based on the premise that the freedom-impairing effects of human intercourse (even remote and indirect human intercourse) are especially noteworthy for political philosophers. Although those philosophers are rightly attentive to all sorts of curbs on socio-political liberty, the distinctiveness of such liberty lies precisely in one's attribution of special significance to the curbs brought about by human interrelationships. Given as much, we have grounds for remaining alert to the freedom-constraining role of any such interrelationships even when that role is inconspicuous or attenuated. In the absence of reasons that countervail those grounds, then, we should accept that curtailments of a person's liberty arising partly from other people's actions will

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count as unfreedoms even if the causal contributions of those actions do not surpass any threshold of prominence that might be posited.

A further consideration militates against any insistence on such a threshold. Were we to contend that reductions in a person's liberty caused by other people's actions do not qualify as unfreedoms if the causal contributions of those actions are not salient, we would oblige ourselves to have recourse to evaluative judgements when staking off unfreedoms from mere inabilities. Although the evaluatively pregnant basis for such judgements would not necessarily be moral or political, it would indeed have to be evaluatively pregnant. Exactly what might constitute that basis is quite mysterious, for it could not reside in the **(p. 311)** special importance of human interrelationships as sources of constraints on people's freedom; after all, as has just been maintained, that special importance is a factor that weighs against the establishment of any threshold of causal significance. An alternative basis for the relevant evaluative judgements would therefore not only have to provide persuasive grounds for distinguishing between unfreedoms and mere inabilities by reference to its own particular conception of causal salience. In addition, it would have to override our reasons for drawing the unfreedoms/mere-inabilities distinction by reference to sheer causality rather than by reference to any conception of causal salience. Moreover, since those latter reasons are directly connected to the concept of socio-political liberty, any basis for judgements about salience that is capable of defeating those reasons must likewise be directly connected to that concept. Otherwise, far from yielding a more refined analysis of socio-political freedom, such a basis would amount to an extraneous change of topic. Whether any available principle could meet all these demands is exceedingly doubtful, to say the least. (Lest anything in this paragraph might somehow seem to bespeak a contrary view, I should note that at least in theory there is an obvious standard for measuring the sizeableness of any causal factor's contribution to some result *R*. If we can gauge the extent to which the existence of each such factor raised the *ex-ante* probability of an occurrence like *R*, we shall thereby have ascertained the relative salience of the factors in bringing about *R*. Throughout this subsection I implicitly rely on just such a measure of the prominence or inconspicuousness of various causes. Nevertheless, that way of quantifying causal significance is patently not the sort of evaluative principle to which this paragraph has referred. Rather, it is simply a precise means of expressing the fact that various causes partake of differing degrees of salience—a fact that is manifestly presupposed throughout my present discussion. A means of articulating that fact with exactitude does not go the slightest way toward establishing that anyone's actions which curtail anyone else's liberty must have surpassed a certain threshold of causal salience if the curtailment is to be classifiable as a state of unfreedom. Such a conclusion about a threshold of significance would be an outright non sequitur.)

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What is more, there are no countervailing considerations that point in favour of grounding our distinction between unfreedoms and mere inability on judgements about the prominence of the contributions of other people's actions to various restrictions on liberty. Given that the focus of this subsection lies on actions as opposed to omissions, we need not be concerned here that taking account of inconspicuous causal contributions will be an unduly conjectural enterprise. Whereas **(p.312)** omissions have to receive special treatment if we are to avoid inordinate speculativeness and other snags, actions and their effects—even their remoter effects—are generally much more clear-cut. Besides, in any context where the ascription of a minor causal role to some action would indeed be a matter of guesswork, we can either eschew the ascription or else attach a stringent probabilistic qualification to it. (Such a qualification would in turn get attached to our verdict that some constraint on a person's liberty is an unfreedom rather than a mere inability.) As we probe the sources of inability, we should of course be responsive to the facts of any situation but also to the limits on our ability to know the facts. Those limits are not very confining when we are concentrating on actions, but they do exist.

Nor should any worries about the issuance of unwarranted reproaches deter us from attributing decisive causal responsibility to somebody's action(s) that played only a tiny part in curbing someone else's freedom (a tiny part, that is, in comparison with the role of natural forces or of the latter person's own conduct). As has been observed in the opening portion of this chapter, the character of this book's enquiries is crucially different from the character of the enquiries undertaken by adjudicative officials. Those officials operate institutions that are charged with the practical task of holding people legally accountable—and often morally accountable as well—for their actions. For such officials, the meagreness or remoteness of a person's contribution to an untoward result is plainly a relevant consideration as they decide whether the person should be held legally responsible for that result. Admittedly, as was mentioned in my earlier remarks, these aspects of the matter of legal responsibility are frequently discussed by jurists as if they were causal issues, under headings such as 'proximate causation'. H. L. A. Hart and Tony Honore', for example, have adopted just such an approach: 'A hits B who falls to the ground stunned and bruised by the blow; at that moment a tree crashes to the ground and kills B. A has certainly caused B's bruises but not his death.'<sup>17</sup> Nevertheless, in so far as the inconspicuousness or **(p.313)** tenuousness of the causal role of someone's conduct is a factor that influences adjudicative decisions about his or her legal responsibility for some outcome, that factor is an object of normative assessments rather than of genuinely etiological investigations. No such assessments are requisite or pertinent in this book, since the aim herein is not to hold people accountable but to separate unfreedoms from mere inability. When a theorist pursuing the latter aim submits that somebody's modest or distant contribution to trammels on someone else's liberty is sufficient for the status of those trammels as

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instances of unfreedom, no blame whatsoever is thereby expressed. Far from deeming anyone to be culpable, we are simply concluding that the trammels in question derive from human interrelationships and that they are therefore of special interest to political philosophers. That theoretical conclusion has precious little to do with practical questions and decisions concerning the extent of the responsibilities that people owe to one another. Thus, because my theory of freedom is unburdened by the moral pressures that weigh on officials who have to reach judgements about punishments and compensatory remedies, we should have no qualms about imputing causal responsibility to any person whose actions were only minor elements in a set of conditions that minimally sufficed to curtail somebody else's liberty. We shall not thereby be condemning the person or doing anything else that affects his life adversely. There is accordingly no reason for us to feel squeamish or hesitant about treating his very modest role as a determinative factor in our analysis of the situation to which his actions contributed.

We should now contemplate a few examples that will help to clarify the implications of the arguments in this subsection. The central theme of those arguments is that the sheer remoteness or smallness of some person's causal contribution to a reduction in some other person's liberty is never per se a reason for ignoring that contribution when we are ascertaining whether the reduction consists in unfreedom. Although our enquiry might run afoul of serious empirical uncertainties about the nature and sequelae of the action(s) that apparently made the specified contribution, the outcome of our enquiry should be unequivocal if such uncertainties are absent. However modest the role of the action(s) may have been, we should regard it as enough to warrant our affixing the classification of 'unfreedom' to any resultant curbs on someone's liberty. A meagre causal role is dispositive, for the purpose of gauging the applicability of that classification.

Consider, then, the following scenario. An obelisk or a statue or some other structure *S* was erected long ago near a mountain. Suppose **(p.314)** that a landslide occurs and sends a stone hurtling against *S*; the stone ricochets off *S* and smashes into Andrew, incapacitating his left arm. Had *S* not been present, neither that stone nor any other stone in the landslide would have hit and disabled Andrew. Undeflected, the stones would have soared past him without harming him. (Let us assume that, if *S* had not been present, no natural stone formation nor any other natural structure would have been standing in its place.) In these circumstances, then, the presence of *S* was necessary for the sufficiency of a set of actual conditions that was minimally sufficient for the incapacitation of Andrew's arm. Therefore, because the presence of *S* was a product of someone else's actions, the incapacitation amounts to an array of unfreedoms rather than to an array of mere inabilities. In analysing this situation, we should not attach any importance to the fact that the actions which led to the presence of *S* were performed in the distant past. Nor should we be

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distracted by the fact that the role of those actions in curtailing Andrew's liberty was dwarfed by the role of natural forces. Though the avalanche was a much more prominent cause of the impairment of Andrew's freedom than was the erection of *S* many decades or centuries earlier, the avalanche was not sufficient for that impairment in the absence of *S*. It was therefore not sufficient for that impairment in the absence of the actions that gave rise to *S* in the remote past. The first prong of the U Postulate has thus been satisfied, since Andrew would now be able to make use of his left arm if the contribution of some other person(s) to the incapacitation of that arm had not occurred. Consequently, the curtailment of his liberty consists in unfreedom.

Many other examples could likewise be adduced to underscore the basic claim of this subsection: my claim that the meagreness or remoteness of the contribution of someone's actions to the constriction of somebody else's liberty is never a ground for ignoring that contribution when we are ascertaining whether the constriction has created unfreedoms. In every relevant scenario, somebody's actions are but-for causes of curbs on someone else's liberty, yet those actions are enormously overshadowed by other but-for causes in the form of natural occurrences or the latter person's own conduct. Suppose, for instance, that a short man Benjamin and a much taller man Nathan encounter each other near some trees and bushes. Benjamin is wielding a gun, and he orders Nathan to grasp some berries that are dangling overhead far beyond the short man's reach. Because Benjamin is so diminutive and so lacking in physical dexterity, he is wholly unable to gain hold of the berries without Nathan's assistance. Nathan, however, expostulates with Benjamin by pointing out that the berries are poisonous; anyone **(p.315)** consuming them will quickly suffer paralysis from the waist downward. Benjamin, perhaps not believing Nathan or perhaps simply not caring about the ghastly potency of the berries, adamantly insists that he wishes to eat the berries and that he therefore wants the taller man to pick them for him. Benjamin warns that he will begin shooting within ten seconds if Nathan does not comply with his behests. Very reluctantly, the taller man submits to Benjamin's demands. He picks the berries and hands them over to Benjamin, who promptly gulps them down. Not long afterward, the short man undergoes the paralysing effects of his foolhardy repast. Has he thereby become unfree to perform the actions and combinations of actions that he thitherto could perform with his legs, or has he become merely unable to do so?

If we were engaged in an adjudicative enterprise whereby we had to apportion blame for the debilitation of Benjamin, we would be amply justified in ascribing full blame to Benjamin himself and in exonerating Nathan. However, as has been emphasized, the task of distinguishing between unfreedoms and mere disabilities has nothing to do with the attribution of guilt or innocence. It is etiological rather than censorious. A theorist undertaking that task in this context must focus not on Nathan's blameworthiness but on the causal status of his act of picking the berries. That act was plainly an element in the set of actual

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conditions that was minimally sufficient for the onset of Benjamin's paralysis. Moreover, even if it pre-empted the causal role of a similar act that would have been undertaken coercedly by a subsequent passer-by, that pre-empted occurrence would likewise have been an action performed by some person other than Benjamin. (Without the aid of such an action by a tall human being, Benjamin in the circumstances would not have been able to obtain the berries.) Hence, the pre-empted occurrence would likewise have endowed Benjamin's new incapacities with the status of unfreedoms. In sum, because Nathan's action or a similar action by some other tall person was essential for the chain of events that led to Benjamin's paralysis, the U Postulate classifies that paralysis as a state of unfreedom. In the absence of any action like Nathan's, Benjamin would have remained able to do all the things that his paralysis prevents him from doing. To be sure, Nathan's causal responsibility was greatly overshadowed by the causal role of the poisonous berries and especially by the causal role of Benjamin's own gun-toting threats and his own eager consumption of the poisonous fruit. Nonetheless, the relative inconspicuousness of Nathan's causal contribution is utterly immaterial here. The fact that his contribution was modest in comparison with that of some other factors is irrelevant; the fact that it was indeed an essential contribution is determinative.

**(p.316)** As we ponder these and other examples, we should attend carefully to the causal issue that we are addressing. For the purpose of applying the U Postulate, strictly speaking, we are not asking whether any action(s) by some person *P* caused an event that eliminated some of the particular freedoms of another person *Q*; rather, we are asking whether *P*'s action(s) caused the non-existence of some of *Q*'s particular freedoms. To be sure, those two questions may seem indistinguishable, and the answer to each is usually the same as the answer to the other. Nevertheless, because we are taking account of small and remote causal contributions when we separate unfreedoms from mere inabilities, the two questions just delineated are occasionally divergent. The potential for a divergence between those questions becomes manifest in the following scenario. Suppose that Sarah has been flying her aeroplane and that she lands the vehicle in a natural meadow in order to go for a stroll through the surrounding countryside. While she is walking along, the aeroplane is destroyed by a small meteoroid that has survived its passage through the earth's atmosphere before plummeting into her craft. Sarah in the middle of an uninhabited region is now unable to reach the destination that she had been intending to visit, and she is also unable to do numerous other things that were possible for her with the use of her aircraft. She is not free to reach that destination, and she is not free to do those numerous other things. Has she been made unfree? On the one hand, the manufacture of her aeroplane by other people was plainly a but-for cause of the destruction of the plane by the meteoroid's impact. Had the manufacturing process not been carried out by those people—and had no comparable process been carried out by alternative

people—Sarah would not have possessed an aeroplane, and thus there would not have been any such machine in the meadow for the meteoroid to demolish. The production of the plane by other people was thus an element in the set of actual conditions minimally sufficient for the devastation of the plane. Much the same can be said about the actions of other people that provided the fuel for Sarah's flying. Without those actions and without any similar actions by alternative people, the aeroplane would not have been operative and would thus not have been flown by Sarah to the place of its demolition. On the other hand, we should not rush to the conclusion that the destruction of that vehicle has rendered Sarah unfree in any respect. After all, although the actions of other people in manufacturing the vehicle were essential for its destruction (since it could not have been destroyed if it had never existed), they were not essential for the absence of Sarah's freedom to undertake a journey with an operative aeroplane. Had the actions of producing her plane **(p.317)** and other planes never taken place, neither Sarah nor anyone else would have possessed such a vehicle, and thus she would not have been free to undertake a journey therewith. Likewise, if the actions of other people in producing fuel for aviation had not occurred, and if no similar actions by alternative people had occurred, Sarah would not have been free to fly her plane anywhere. In other words, whereas the processes of producing the vehicle and the fuel were but-for causes of the event by which Sarah *lost* her freedom to fly to her destination, they were not but-for causes of the fact that she *lacks* such a freedom. In the absence of those processes and any parallel processes of production, it would still be the case that Sarah lacks the specified freedom. Consequently, we have to conclude that Sarah is merely not-free-to-fly-to-her-destination and that she is not unfree-to-fly-there. Under the but-for test—which is the germane test for causation within the sway of the U Postulate's first prong—her inability has not resulted from any actions by other people, even though the loss of her ability did indeed partly result therefrom.

Note that the point made in the preceding paragraph can be suitably generalized as follows. If any action by some person is a but-for cause of the fact that some other person *P* is able to  $\phi$ , that action will never in itself be a cause of the absence or limitedness of *P*'s ability-to- $\phi$ . So generalized, the preceding paragraph's point is crucial for the tenableness of the distinction between unfreedoms and self-inflicted inability. After all, among the actual conditions minimally sufficient for the loss of any person's ability-to- $\phi$  is the fact that the person was brought into the world by the actions of other people. Had somebody not been born as a result of his parents' procreative acts or as a result of techniques of artificial conception, his subsequent loss of any ability would not have taken place. There would have been nothing for him to lose if he had never come into existence. Thus, unless we are alert to the potential divide between causing the elimination of an ability and causing the absence of an ability, we shall be tempted to conclude that every self-inflicted inability is partly due to the actions of other people and is consequently an unfreedom. If I jump off a cliff

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and thereby paralyse myself from the waist downward, my parents' acts of procreation were but-for causes of my loss of my ability-to-use-my-legs. Had my parents not begotten me, neither I nor my ability-to-use-my-legs would have existed; ergo, the loss of that ability could not have occurred. Yet, although my parents' acts of procreation played a but-for role in bringing about the *loss* of my ability, they have not played any such role in bringing about the *non-existence* of my ability. Had those acts never occurred, my ability would still have been **(p. 318)** non-existent. The proposition 'It is not the case that Matthew Henry Kramer can walk' would still have been true. Hence, the incapacity arising from my throwing myself off the cliff should not be classified as an instance of unfreedom. It should be classified as a mere inability which I have inflicted on myself. Much the same is true of other self-inflicted incapacities, which are categorizable as such despite the fact that the events leading up to them are causally attributable in part to acts of sexual intercourse by the parents of the people who have incurred the incapacities. Precisely because of the distinction highlighted in the preceding paragraph—the distinction between other people's causing the extirpation of somebody's capacity and other people's causing the absence of somebody's capacity—the set of self-inflicted incapacities is not empty.

At any rate, the central thesis of this subsection is that even a tiny contribution by the actions of some person *P* to an inability of some other person *Q* is enough to warrant our designating that inability as an unfreedom. Of course, to say as much is to presuppose that the contribution was indeed a contribution. If *P*'s actions made no difference to the existence of *Q*'s inability, then those actions played no causal role of the kind required by the U Postulate. Consider here a variant of the scenario involving Benjamin and Nathan and the berries. Suppose that Benjamin is able to reach the berries, but not as easily as the much taller man. When he orders Nathan to pick the berries for him, he is doing so out of laziness rather than because of a wholesale lack of any alternative means of obtaining the fruit. Were Nathan foolish enough to refuse to comply with the behest, Benjamin (after shooting Nathan) would straightaway gather the berries himself, with a bit of straining. Nathan is not foolish, however, and he reluctantly elects to follow Benjamin's orders. In these circumstances, then, his act of grasping the berries does not make a but-for contribution to the state of paralysis which Benjamin undergoes after eating the fruit that has been picked. Had Nathan not done what was demanded of him, Benjamin by his own efforts would still have obtained and consumed the berries and would therefore still have undergone their incapacitating effects. In sum, this variant of my earlier scenario depicts a situation of inter-categorical over-determination; Nathan's act of picking the berries is a pre-emptive cause, and Benjamin's act of picking them (which never occurs) is a pre-empted condition. In combination with the prevailing circumstances, including some of Benjamin's own subsequent actions, that pre-empted condition would have been sufficient to bring about his state of paralysis if the pre-emptive cause had not occurred. Accordingly, the first prong



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of the **(p.319)** U Postulate has not been satisfied. It is not the case that Benjamin would have retained the use of his legs if Nathan had declined to gather the berries. In other words, as has been remarked, Nathan's gathering of the berries did not contribute to Benjamin's paralysis in the fashion required under the U Postulate for the classifiability of the paralysis as a state of unfreedom.

Yet, whenever somebody's actions *have* made a contribution of the requisite sort (that is, a but-for contribution), the extent or salience of that contribution does not matter at all. Such is the view which we should take in regard to people's actions. As the rest of this section will argue, however, we should take an entirely different view in regard to omissions. Still, before we proceed to investigate the act/omission distinction, we should pause to note that some constraints on the freedom of countless individuals—constraints on the range of the combinations-of-conjunctively-exercisable-freedoms that are available to those individuals—are plainly owing to other people's actions and are therefore unproblematically recognizable as unfreedoms within my theory of negative liberty.

As was observed in Chapter 2, the actions that are sources of unfreedom need not be intentional in the sense of being aimed at producing their freedom-impairing effects. If someone's actions are such as to impose restrictions inadvertently on the liberty of somebody else, then those restrictions are straightforward unfreedoms despite the fact that they were not brought about deliberately. Similarly, if the 'impersonal' workings of social or political or economic institutions trammel people's liberty in various respects, the actions that diffusely constitute those workings are sources of unfreedom *pro tanto*. In particular, we should realize that many of the curbs on impecunious people's liberty are direct or indirect consequences of actions actually performed by other people or of actions that would be performed by those other people if certain circumstances arose. Ian Carter has made this point well: '[T]he money in one's possession partly determines whether or not others will physically prevent one from performing certain sets of actions. Thus, the tramp is physically prevented, not by his lack of money, but *because* of his lack of money, and *by other people*, from eating at the Ritz and then walking away unimpeded (assuming he is not thrown out first for bad dress).'<sup>18</sup> G. A. Cohen has offered an equally apt analysis from a Marxist perspective: **(p.320)**

[I]f the structure of capitalism leaves the worker no [minimally acceptable] choice but to sell his labour power, then he is forced to do so by actions of persons. For the structure of capitalism is not in all senses self-sustaining. It is sustained by a great deal of intentional human action, notably on the part of the functionaries of the state. Since the state deliberately protects the property of the capitalist class, the structural constraint by virtue of which the worker must sell his labour power has enough human will

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behind it to satisfy the stipulation that where there is force, there are forcing human beings.<sup>19</sup>

Although my exposition of the act/omission distinction has not yet been unfolded, we should already recognize that the 'act' side of the demarcation comprises not only actual performances but also dispositions-to-perform-actions. As has been argued at length in Chapter 3, the readiness of a person *P* to act to prevent another person *Q* from exercising some combination of freedoms is as direct and important a trammel on *Q*'s liberty as is any actual preventive action by *P*. If for example several policeman are prepared to prevent each person in their vicinity from vandalizing with impunity the premises that they are guarding, then each such person is unfree to engage in the following combination of activities: vandalism of the premises, and any activity ruled out by the punishment to be inflicted on everyone who commits such vandalism. Of course, if nobody attempts to commit any acts of vandalism, the dispositions of the policemen will remain unactivated. **(p.321)** Nevertheless, the dispositions themselves are actual, and their freedom-curtailling effects are actual. The aforementioned combination of activities is not conjunctively performable by anyone within the sway of the policemen, and thus the overall liberty of everyone within their sway is diminished *pro tanto*.

Naturally, we shall sometimes not be in a position either to verify or to disprove the existence of an unactivated disposition. In such circumstances, we have to attach a probabilistic qualification to any ascription of unfreedom (or freedom) that is based on an affirmation of the disposition's existence (or inexistence). Still, the need for such a qualification also arises when we are not in a position either to verify or to disprove the occurrence of some action that is said to have caused an impairment of somebody's liberty. In such circumstances, we must attach a probabilistic caveat to any characterization of that impairment as a state of unfreedom, and we must likewise attach a caveat—an inverse caveat—to any characterization of the impairment as a mere inability. Epistemic limits do not uniquely bear on our knowledge of *dispositions*, by any means. Moreover, they certainly do not preclude us from confidently apprehending the existence of various unactivated dispositions in countless contexts.

Now, because dispositions-to-perform-actions are sources of unfreedom whenever they close off options or combinations of options for other people, the dispositions of officials and proprietors to keep impoverished people from gaining possession of sundry assets are sources of unfreedom for those indigent people. Of course, the unfreedom of poor people hardly derives exclusively from owners' and officials' *dispositions*. Multitudinous outright *actions* and products of actions, such as fences and walls, are likewise involved in blocking access to any number of resources and in thus giving rise to unfreedoms. Still, clearly among the pervasive sources of impoverished individuals' unfreedom are the dispositions of proprietors and officials to take action against those individuals if

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necessary in order to prevent them from stealing or defrauding with impunity. Those dispositions preclude each impoverished person from exercising certain freedoms conjunctively. (Of course, each wealthy person is likewise prevented from stealing or defrauding with impunity. However, unlike someone with scanty funds, a wealthy person can purchase access to manifold goods quite readily without having to resort to punishable misdeeds. Thus, although everyone undergoes the *pro-tanto* reductions in his or her overall freedom that have been described by this paragraph, those reductions will impinge more severely on the leeway of each needy person than on the leeway of each affluent person.)

**(p.322)** Given that dispositions-to-perform-actions are located on the 'act' side of the act/omission divide, any causal contributions by them to the inability of indigent people are enough to invest those inability with the status of unfreedoms. No test or threshold of causal salience is pertinent. So long as some person's disposition-to-perform-an-action is a but-for cause of some inability of another person, the inability is an unfreedom irrespective of the disposition's prominence as a cause. Let us ponder an example that will highlight this point. Suppose that Joshua owns a farm that is devastated and rendered worthless by a medley of lightning bolts and cataclysmic floods in quick succession. Formerly wealthy, Joshua is now virtually penniless. He is barely able to satisfy his basic needs and is wholly unable to achieve a standard of living beyond the minimal satisfaction of those needs. Should we designate his inability as unfreedoms or as mere inability? Clearly, the most conspicuous causes of his plight were the destructive natural phenomena of lightning bolts and floods. Nonetheless, although those phenomena brought about Joshua's state of penury without the intervention of other people, the continuation of his destitution is by no means causally attributable solely to those natural forces (or solely to other natural forces). The people in the surrounding community, not least the officials entrusted with the duties of policing, are disposed to prevent Joshua from committing theft or fraud with impunity. Because those people are inclined to take preventive or punitive measures if Joshua attempts to gain possession of anybody's goods non-consensually, numerous options and combinations of options are closed off to him. His poverty thus consists in an array of unfreedoms, even though it originated exclusively from the workings of natural forces.

If we mildly embellish the narrative of Joshua's plight, the causal role of natural forces and of his own folly will even more markedly overshadow the causal role of other people's dispositions and actions. Suppose that Joshua is repeatedly admonished by the other residents in his community against locating his farm on a piece of land that is notoriously susceptible to lightning bolts and floods. They protractedly and vigorously remonstrate with him, and they warn him that they will not offer him any assistance in coping with disasters that might befall him if he recklessly disregards their advice. Despite all these exhortations, Joshua blithely proceeds to situate his farm on the ill-starred parcel of land. Thus, when

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he falls prey to the natural catastrophes that occur shortly after he has moved in, the slightly hard-hearted reaction of the people in his community is in keeping with their view that his troubles have been caused by his own obstinacy **(p.323)** and of course also by the natural occurrences which he brazenly hazarded. Not only do they feel no moral responsibility for his plight, but they also feel that none of their actions has carried any causal responsibility for it whatsoever. Now, they are quite correct in believing that their actions have not been causally responsible for the *advent* of his woes, but they are wrong in so far as they believe that their actions or dispositions are not causally responsible for the *continuation* of his poverty. Although the most conspicuous causes of his current travails are his own heedlessness and the natural phenomena that initiated his state of indigence, the actions and the dispositions-to-perform-actions of the people in his community—most notably, their being disposed to prevent him from acquiring any of their assets non-consensually with impunity—are likewise some but-for causes of the persistence of his travails. As such, those dispositions and actions are enough under the U Postulate to get his state of penury classified as an array of unfreedoms. The fact that those but-for causes are overshadowed by other but-for causes is immaterial.

Note that my characterization of Joshua's destitution as a situation of unfreedom is independent of any particular ethical or political theory that might assign moral responsibility for the plight of the poor. When we seek to apportion blame for the neediness of Joshua, we can quite plausibly affirm that the primary moral responsibility for his continuing hardships (and, of course, for the onset of his hardships) is assignable to him. Nevertheless, even when a victim of poverty is so unsympathetic by the lights of most moral theories, his impoverished state is correctly classifiable as a state of unfreedom—precisely because such a classification hinges on causal matters rather than on moral matters. Equally, the appositeness of that classification is independent of any particular economic theory about the principal determinants of poverty. A theory of that sort might single out certain factors as especially salient causes or as readily controllable and alterable causes. All such considerations are irrelevant to the U Postulate's demarcation between unfreedoms and mere inabilities. For the purpose of operationalizing that demarcation with reference to some inability of a person, we simply have to ask whether any actions or dispositions-to-perform-actions of any other person(s) are but-for causes of that inability. If the answer to that question is affirmative, then we can designate the inability as an unfreedom without enquiring further into the relative prominence or manipulability of the dispositions/actions that have contributed thereto. This point applies to inabilities associated with material want, plainly, as much as to inabilities of other types.

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**(p.324)** 4.2. *Separating Acts from Omissions*

To set the stage for my next subsection, which will argue that omissions are never in themselves sources of unfreedom, this subsection expounds the basic division between acts and omissions. Let it be said at the outset that the terms ‘act’ and ‘omission’ are not entirely felicitous. Some philosophers turn instead to the phrases ‘positive agency’ and ‘negative agency’, and those phrases have much to commend them. The term ‘omission’ is particularly liable to mislead, since it tends to suggest an intentional refusal to act or a failure to act in the presence of a clear opportunity. Although the category of omissions as expounded below does encompass any deliberate refusals and any failures to take advantage of palpable opportunities, it extends further. It includes also any portion of the conduct of a person in which he or she does not perform any action of some specified type that is within his or her powers. Nevertheless, while the term ‘omission’ is certainly not ideal in all respects, every alternative term or phrase would likewise partake of shortcomings. Moreover, the contrasting labels ‘acts’ and ‘omissions’ are familiar not only in philosophy and law but also in ordinary discourse. Though the applications of those labels in this chapter will obviously be more precise and consistent than the applications thereof in the unreflective discourses of everyday life, the meanings which I attach to those terms are plainly similar in many ways to their ordinary meanings. Thus, so long as it is clear that ‘act’ and ‘omission’ as used by this chapter are elements of a technical parlance, their widespread familiarity is more of an advantage than a disadvantage; those terms are helpful preliminary signals, albeit imperfect signals, of the tenor of my distinction between their referents.

This subsection draws heavily on the work of Jonathan Bennett,<sup>20</sup> **(p.325)** whose exploration of the act/omission dichotomy is unsurpassed in contemporary philosophy for rigour and subtlety. My account of that dichotomy will not seek to reproduce all the layers and involutions of Bennett's arguments and his responses to critics, but his fundamental line of thought will serve admirably as a starting point for the special treatment of omissions in this chapter. (Bennett generally prefers the ‘positive’/‘negative’ terminology because his discussion of this matter concentrates largely on propositions concerning human conduct rather than on human conduct itself. His focus and terminology are apposite for his purposes, but I have departed from them here.) Modifying some ideas put forward by Kant and A. J. Ayer, Bennett maintains that the key to the act/omission distinction is the relative numerousness of the ways in which a person *P* can behave in order to achieve some result *E*. If *E* is to be attained by some sort of action on the part of *P*, then the number of different ways in which *P* can behave while bringing about *E* is small—much smaller than if *E* is to be attained by an omission on the part of *P*. Now, if we wish to invoke such a criterion for staking off acts from omissions, we manifestly must rely on some metric for quantifying the ways in which *P* can behave. Unless we can fix on a

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standard that will in principle enable us to count the different modes of conduct in which *P* can engage, we shall not be able to make the comparisons required for distinguishing between acts and omissions. That is, we shall not be able to determine whether the number of ways in which *P* can behave while bringing about *E* is small or large as a proportion of the total number of ways in which *P* can behave. Bennett endeavours to supply the requisite metric—with elaborate arguments that will not be recounted here—by focusing on the sundry movements and the sundry stationary postures that can be adopted by a human body. For the application of such a metric, we must opt for a certain level of concreteness or abstraction in our specifications of the movements and positions that can be predicated of a person's body. Whatever the level for which we opt, its workability depends on our stopping well short of infinite concreteness and infinite divisibility; that is, the smallest spatio-temporal units in our specifications will not be infinitesimal. Now, if at a given level of **(p.326)** concreteness we consider all the possible movements and stationary positions among which some person *P* can select at a particular juncture, and if we consider further whether each of those movements and positions would lead to a certain result *E* on which *P*'s conduct has a bearing, we shall be able to distinguish pertinently between acts and omissions. If the movements and positions that would each lead to *E* are a very small proportion of the total array of movements and positions among which *P* can select at the specified juncture, then the bringing about of *E* by *P* is an act. If on the contrary the movements and positions that would each lead to *E* are a very large proportion of the total array of movements and positions among which *P* can select, then *E* occurs—if it does occur—by dint of *P*'s omitting to do what is necessary to prevent it. In short, given that *E* occurs and that *P*'s conduct has had some bearing on its occurrence, *P*'s contribution to *E* was an action if nearly all of the movements and positions available to *P* would not have led to *E*; and *P*'s contribution to *E* was an omission if nearly all of the movements and positions available to *P* would have led to *E*. (Of course, *P*'s conduct will not have any bearing on the occurrence of myriad events and states of affairs. No act that could ever be performed by *P* would affect the continuation of the revolution of the planet Pluto around the sun, for example. If no act within *P*'s power could ever help to promote or prevent the occurrence of *E*, then every element of his conduct is neither an act nor an omission in relation to *E*.)

One of the great advantages of Bennett's account of the act/omission divide is that it fully acknowledges a point which has sometimes been thought to cast doubt on that divide. That is, on the basis of Bennett's approach, we can easily recognize that virtually every mode of conduct classifiable as an omission is also an action. When *P* omits to do whatever is necessary to prevent *E*, he *pari passu* does something else that relates as an action to some other result. Indeed, save perhaps when *P* has been rendered unconscious, he will always be acting as well as omitting to act in various ways. What Bennett's exposition highlights is that

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the status of a mode of conduct as an omission or an action is not an intrinsic property. Rather, that status resides in a relation among the specified mode of conduct, other available modes of conduct, and some result(s) to which each course of conduct would or would not contribute. Because the aforementioned status is a complex relational property of this sort, and because every stretch of conduct stands in any number of the relevant relations, every stretch of conduct is an act in respect of some outcomes and an omission in respect of numerous others. As Bennett writes: '[T]here could not possibly be **(p.327)** conduct which was, in itself, negative: it is an error to try to divide items of conduct into those that are and those that are not negative acts or refrainings or forbearances or omissions, as though we had "...is negative" or "...is a refraining" as a monadic predicate of acts.'<sup>21</sup> Far from being called into question by the fact that every omission-to-avert in relation to  $E_1$  is likewise an act-to-promote in relation to  $E_2$ , my exposition of the act/omission distinction is reinforced by that very fact.

Another virtue of Bennett's explication of the act/omission dichotomy is its strict moral neutrality. When we classify some element of  $P$ 's conduct as an action because it is one of the few modes of behaviour available to  $P$  that will lead to  $E$  rather than to not- $E$ , or when we classify some element of  $P$ 's conduct as an omission because it is one among a vast array of modes of behaviour available to  $P$  that will lead to  $E$  rather than to not- $E$ , we are not thereby making any claim about the moral status of  $P$ 's conduct or the moral status of  $E$ . In this respect, Bennett's division between acts and omissions is in keeping with the broader tenor and ambitions of this chapter. Although the ultimate justification for this book's specific way of distinguishing between unfreedoms and mere inability is partly moral-political—in an extremely abstract and expansive sense—the implementation of that distinction through the elaboration and application of appropriate causal criteria is an enterprise that does not depend on any further moral judgements. So this chapter has observed more than once. Thus, since the contrast between acts and omissions is of considerable importance in shaping the causal criteria developed herein, the moral neutrality of that contrast as analysed by Bennett is a major desideratum. After all, one of the principal objectives of this chapter is to avoid any conflation of causal responsibility and moral responsibility. Only by sedulously separating the one from the other can this book present a theory of freedom that will be valuable across the widest possible spectrum of political viewpoints. Bennett's analysis is to be welcomed for furthering that objective.

Let us now ponder the most frequently raised objection to Bennett's approach. Recall that, while bodily movements are key physical components of manifold types of conduct that are open to most people in various contexts, positions of stationariness are key physical components of other such types of conduct. In most circumstances and in relation to most consequences, a stretch of conduct that qualifies **(p.328)** under Bennett's test as an action will involve some bodily movement(s). Nevertheless, there will from time to time clearly be

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circumstances in which something that qualifies under his test as an action does not involve any such movement(s) and instead consists in stark stationariness.<sup>22</sup> Let us contemplate two scenarios, the first of which has been propounded by Bennett himself and by several of his critics. Suppose that, if Herman remains completely motionless in the sealed room where he is standing, a fine metallic dust in the air will settle upon the floor. Some of the dust will fall onto a tiny electronic device and will close a circuit, triggering an explosion that will release some hostages from a room where they have been detained. By contrast, if Herman moves his body in any perceptible way, he will prevent the fine dust from settling and will thereby avert an explosion. In these circumstances, then, his remaining immobile is the only mode of behaviour or just about the only mode of behaviour by which he can set off an explosion near the other room. His remaining immobile will thus qualify as an action by which he can achieve that result. Contrariwise, if he engages in any of the countless perceptible movements of his body that are within his power, he will avert the explosion. Since those movements are huge in number, any one of them will be classifiable as his omission to do what is necessary for the occurrence of an explosion. In sum, this scenario confronts us with a situation in which a posture of utter stationariness is an action and in which any movement of Herman's body is an omission. According to some critics of Bennett, we should be troubled by such an upshot.

In the scenario just broached—which I shall shortly endeavour to defuse—we are not told whether Herman knows that an explosion will **(p.329)** ensue if he keeps his body still, and we are likewise not told whether he views such a result as desirable (or whether he would view such a result as desirable if he knew of it). To be sure, neither of those aspects of the situation is strictly relevant to the classifiability of his stationariness as an action and the classifiability of any movement of his as an omission. Nonetheless, the scepticism of Bennett's opponents might seem to be especially warranted if Herman does not know the implications of his conduct. The complaints by those opponents might appear even stronger in respect of a second scenario (of my own invention), where the agency of the person involved is highly attenuated. Suppose that Margaret is walking along when an earthquake erupts around her. While remaining fully conscious, she freezes out of fear. As she stands transfixed, all the ground around her crumbles violently; nothing but the spot on which she stands is spared from the destruction. Had she not frozen into immobility, then, she would have been killed or at least badly injured. Only because she abruptly desisted from walking is she on the lone piece of accessible land where she can be safe. Thus, in relation to the objective of staying alive in the unusual circumstances, her motionlessness must plainly be classified as an action—whereas any continuation of her ambling would have been properly classifiable as an omission. Anyone endorsing Bennett's approach to the act/omission distinction



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must accept this conclusion, notwithstanding that Margaret has remained fully stationary out of sheer fear rather than as a result of any decision on her part.

How can Bennett's approach be defended against the objection which these narratives highlight? A small point to be noted initially is something mentioned at the outset of my consideration of that objection. That is, because actions as defined by Bennett will in relation to most outcomes in most circumstances involve bodily movements, we are bound to regard as somewhat odd the quite infrequent contexts in which actions as defined by him instead consist in motionlessness. Unaccustomedness should not be mistaken for incorrectness. Much more important, the whole objection which we are exploring is based on the very error which Bennett's analysis is designed to correct. In posing that objection, his critics wrongly presume that the property of being an action or being an omission is intrinsic—like the property of being immobile—rather than relational. As Bennett declares, the thesis underlying their complaints 'is quite worthless because it relies on the notion of negativeness *de re*, negativeness as a monadic property of concrete actions and events'.<sup>23</sup> In fact, as most of those (p. 330) critics themselves elsewhere emphasize, hardly any omissions (as understood by Bennett or as understood in everyday discourse and legal discourse) are instances of motionlessness.<sup>24</sup> When a person omits to do something that is necessary to avert some result, he or she is typically engaging in bodily movements to do something else; very seldom is he or she remaining immobile like a mummy. However, once we discern that stationariness is not the essential characteristic of omissions that distinguishes them from actions, we need to specify some other characteristic that does so distinguish them. We can scarcely content ourselves with saying that an omission consists in not doing something that would have prevented a certain outcome. After all, any actions which are essential for that outcome will likewise consist in not doing anything that would have prevented it—that is, in not doing anything that would have been inconsistent with the performance of those essential actions. We therefore have to look for a more complex relation that can form a line of demarcation between omissions and actions. Bennett's specification of a multi-faceted relationship—the relationship between (1) any course of conduct for some person *P* that has some bearing on an upshot *E*, and (2) all the other courses of conduct which are possible for *P* and which will each promote or not promote *E*—is a singularly powerful and pertinent solution to this crux.

When the opponents of Bennett's approach purport to disprove his line of thought by pointing out that some instances of behaviour classified under his analysis as omissions will consist in bodily movements and that some instances of behaviour classified under his analysis as actions will consist in strict motionlessness, they are guilty of begging the question or of fallacious reasoning. Perhaps, as Bennett himself suggests, those opponents in their efforts to refute his approach are slipping back into thinking that the essential feature of every omission is the intrinsic property of stationariness. If so, they thereby

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beg the question against him by upbraiding him for departing from a non-relational conception of omissions (and actions) which his theory robustly rejects. In so doing, moreover, they fail woefully to shed any light on the problem that has motivated the development of his theory: namely, the problem residing in the fact that most omissions do not consist in stationariness, which therefore cannot correctly be singled out as the property that distinguishes omissions from actions. Alternatively, the writers who assail Bennett are perhaps simply assuming that a position of immobility cannot be sufficiently 'active' to count as an **(p.331)** action. Such an assumption is once again a begging of the question, since it is nothing more than a variant of the thesis that the status of an instance of conduct as an action or omission is a corollary of some intrinsic property. As a riposte to Bennett, a claim that all actions must involve bodily movements is no more effective than a claim that all omissions must involve the absence of bodily movements. In each case, the particular claim rests on the tenet that the defining property of every act as an act or of every omission as an omission is non-relational. Such a claim thus begs the question against Bennett, instead of engaging with his arguments. Under his analysis, the retention of a posture of stationariness by some person *P* can perfectly well count as an action, since it can be just about the only mode of conduct available to *P* that would lead to some specified result. Furthermore, as should be apparent from my remarks on actions and bodily movements in the first main section of Chapter 3, the notion that all actions must involve bodily movements is at odds even with a quotidian conception of actions. On this point, as on most other points, one's endorsement of Bennett's rigorous analysis is likewise an endorsement of common sense.

Let us now return to the scenarios with which I began this discussion of the objection concerning immobility. In particular, we should mull over the importance or unimportance of the outlook of the agent in each scenario. With regard to the first narrative, will the status of Herman's motionlessness as an action be affected at all by his knowledge or ignorance of the implications of his conduct? On the one hand, to be sure, that status is especially clear if Herman as he remains stationary is aware that he must do so in order to bring about an explosion. Given such knowledge, his retention of an immobile posture—which might very well require great doggedness—is directly oriented toward the end which it promotes, the occurrence of an explosion. When the narrative is embellished along these lines, the resistance of sceptics to classifying Herman's stationariness as an action should be minimal. Likewise, their resistance to classifying any perceptible movement by Herman as an omission should be minimal. If he does move, he will have omitted to do what he knows to be necessary for the attainment of an important objective. In that respect, his situation is similar to that of a studio model who is instructed by an artist to remain entirely still while he paints a full-length portrait of her. If the model scratches her nose or shifts her legs, the irascible artist could quite intelligibly chastise her: 'You have failed to do what I told you to do. I instructed you to keep

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still. How can I work properly if you decline to play your part in the production of this painting?!' Though such a rebuke can certainly be faulted for its **(p.332)** petulance, it should not strike anyone as a misapplication of the concept of omissions.

On the other hand, despite what has just been said, we should not hesitate to affirm that the retention of a motionless posture by Herman is an action even if he is ignorant of the full implications of his conduct. Perhaps he remains stationary simply because he is musing on some deep intellectual problem or is recalling some fond memories. Even so, he is behaving in just about the only way available to him that is promotive of the occurrence of an explosion. In relation to that outcome, his stillness is an act, and any movement by him would be an omission to do what is requisite. His ignorance of the full significance of his remaining immobile does not disqualify the immobility as an action, any more than a comparable ignorance on the part of someone who performs various bodily movements. If Hannah presses against a wall and thereby engages in just about the only bodily movement that will lead to the disclosure of a secret passage within a house, her ignorance of the implications of her act of pressing is fully consistent with the status of that act as such. Many actions are characterized by inadvertence, in that their chief effects have not been envisaged and perhaps not desired by the people who perform the actions. In that respect, Herman's inadvertent triggering of an explosion (by remaining motionless) is no different from Hannah's inadvertent uncovering of the secret passage (by pressing against a certain part of the wall). If the latter bit of conduct should be classified as an action notwithstanding the unexpectedness of the consequences that flow from it—as it patently should—then the same is true of the former bit of conduct.

My scenario involving Margaret and the earthquake is slightly more perplexing, though not in any way that places in doubt the classifiability of some instances of stationariness as actions. To designate Margaret's terrified retention of an immobile posture as an action is problematic not because of the unmovingness of her stance but because of the attenuation of her agency. It is quite doubtful whether we can correctly describe her frozen position as an element of her conduct at all; it is more plausible to describe that position as something that happens to her than as something that she does. However, these difficulties are not at all distinctively connected with the fact that her action consists in motionlessness. Parallel difficulties can surround various actions that consist in bodily movements. For example, my second chapter has mentioned the scene in *Schindler's List* where a bulky German soldier bellows truculently at his Jewish victims when he orders them to march in a certain direction. Their first several steps after his screaming at them are impelled as much by instinctive reflexes **(p.333)** as by any conscious choices. Whether those steps should be classified as actions at all is therefore quite problematic. The dubiousness of the classification stems of course not from the fact that the steps are bodily

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movements but from the fact that they are barely volitional. Much the same is true of Margaret's petrified immobility, which saves her life. If her failure to move is only problematically classifiable as an act, the difficulty stems not from the nature of that failure as an instance of stationariness but from its nature as a largely non-volitional reflex. In other words, the difficulty does not pertain to classifying her transfixed stillness as an act rather than as an omission; instead, the difficulty pertains to classifying that stillness as a portion of her conduct at all.

Let us close this subsection with a brief look at a few other misgivings that have been expressed by various writers about the act/omission distinction generally or about Bennett's construal of that distinction. Each of these queries is focused on a situation of over-determination or of multiple causes in protracted sequences. The first of these queries, contained in an attack on Bennett, has been raised by Don Locke among others: '[I]f Y swallows poison and X, instead of giving him an emetic or antidote, shoots him through the heart, we would surely say that X killed Y, though on Bennett's account he has merely let him die, inasmuch as almost any course of action would have resulted in Y's death.'<sup>25</sup> As should be clear from some of my earlier discussions, the scenario recounted by Locke depicts a situation of pre-emptive causation. The shot through the heart was a pre-emptive cause of Y's death, whereas the swallowing of the poison was a pre-empted condition that would in the circumstances have been sufficient to bring about his death if the shot through the heart had not occurred. Given that the shot did occur, the poison made no causal contribution to Y's death. If any set of actual conditions minimally sufficient for Y's death had included the swallowing of the poisonous liquid, it would also have had to include Y's survival up to the point when the lethal powers of the liquid could take effect. Since Y did not in fact survive that long, the swallowing of the poison was not a cause of his death. It was not a member of any set of actual conditions minimally sufficient for the fatality that in fact came about. Just as a fire cannot be causally responsible for the incineration of a house that has burned down before the fire reaches it, so too the ingestion of the poison could not be causally **(p.334)** responsible for the demise of someone whose life had ended before the poison could wend its way through his body.

Hence, X conducted himself in just about the only available manner that would arrest the fatal workings of the poisonous substance by halting the life of Y before those workings could reach their culmination. In other words, Locke's retort to Bennett is doubly incorrect. Bennett's analysis does not generate the conclusion that X let Y die, and it does generate the conclusion that X acted in such a way as to kill Y. X did not let Y die, because in the circumstances the myriad possible routes for his allowing the death would each have involved his allowing the poison to continue its operations unchecked. Far from omitting to do what was necessary to terminate those operations, X pursued one of the few courses of action available to him that would indeed bring the effectiveness of

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those operations to an end. Similarly, he pursued one of the few available paths of conduct that would amount to his killing Y rather than to his merely letting Y die. By opting for that path of conduct, X brought it about that the only set of actual conditions minimally sufficient for Y's death was a set that included the shooting of the gun but not the swallowing of the poison. Because the shooting causally contributed to the death, and because that contribution did not consist in letting Y die—since it in fact excluded all the countless ways in which X could have let Y die from the workings of the poison—it had to amount to a killing.

Maybe someone will try to shore up Locke's criticism of Bennett by depicting a situation of duplicative causation rather than of pre-emptive causation. Suppose that, instead of shooting Y before the lethal effects of the poison have taken hold, X sends a bullet through his heart just as the poison's effects reach their culmination. We now confront a situation akin to that in which two fires arrive at exactly the same time rather than in succession. Here, according to the NESS test for causation, the poison in conjunction with the prevailing circumstances has indeed caused Y's death. Is a supporter of Bennett's analysis therefore logically committed to the view that X in this modified scenario has merely let Y die? Because of the adverb 'merely' in the foregoing question, the answer is negative. Although X has indeed let Y die, he has also killed Y. The status or character of his pattern of conduct is twofold. On the one hand, because X did not cut short the operations of the poisonous liquid before they reached the point of producing their fatal outcome, he acted in one of the numerous ways that would consist in his letting Y die. On the other hand, X likewise conducted himself in one of the few ways that would amount to his killing Y. His act of shooting Y through the heart was a key element in a **(p.335)** set of actual conditions minimally sufficient for the occurrence of Y's death—a minimally sufficient set that did not encompass the ingestion of the poison. Thus, although X omitted to do what was necessary to prevent the deadly effect of the poisonous substance, he acted to do what was necessary to bring about Y's death independently of that substance. Whereas the former aspect of his conduct could materialize through manifold routes, the latter aspect could materialize only through a highly limited number of routes. Hence, once again Bennett's analysis yields the correct conclusions about the nature or status of X's conduct. If there is something odd about those conclusions in this context, it lies in the general oddness of duplicative causation; it does not lie in anything peculiar to the treatment of duplicative causation which my focus on the act/omission distinction inspires.

In any event, as should be clear from this chapter's earlier section on over-determination, problems such as those raised by Locke's original scenario or by my duplicative-causation version of his scenario do not really have to be addressed within the confines of this book. To see as much, let us presume that the poisonous substance and the gunshot would each be incapacitating rather than lethal. In Locke's original scenario suitably modified, then, X's gunshot

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disables precisely the same part of Y's body that would have been disabled by the poison if some more time had elapsed. In the duplicative-causation variant of that scenario, X's gunshot disables some part of Y's body at the very moment when that same part of his body is disabled by the ingested poison. Now, an investigation of the status of X's shooting as an act or an omission is almost certainly superfluous within this book—regardless of whether we are analysing a situation of pre-emptive causation or of duplicative causation. Although Y's swallowing of the poison was his own conduct, the poison itself or some component thereof was almost certainly the product of other people's actions. Without those actions and without similar actions by alternative people, no poison would have been available. Hence, given that the classification of a person's inability as an unfreedom hinges only on the existence and not on the salience of the causal contribution made by anyone else's actions, the role of other people's actions in producing the poisonous liquid would be sufficient for the status of Y's incapacitation as an array of unfreedoms.

When we look at some other expressed misgivings about the act/omission distinction, we shall find that—even in the absence of over-determination—enquiries into the 'act'/'omission' status of various elements of people's conduct are often dispensable in contexts where the causes involving such conduct are multiple. David Miller, while **(p.336)** readily and commendably acknowledging the importance of Bennett's work, has advanced some doubts about the general sustainability of the act/omission distinction. He conjures up a scenario in which a large tree on Jones's plot of land is towering over a contiguous highway. Miller believes that each of the following two versions of the scenario is especially resistant to any straightforward categorization: 'In the first, the tree will blow down if (and only if) Jones tills the soil around it, weakening the roots. In the second, the tree will blow down if (and only if) Jones does not till the soil (doing which would allow moisture to penetrate). In each of these cases, would the tree's falling and the blocking of the highway result from an act or an omission?' Miller avows that Bennett's act/omission criterion could '[i]n theory' handle each of these two situations, but he provides no suggestions on how the criterion would or should be applied.<sup>26</sup> In fact, the resolution of each case is perfectly clear-cut. In the first situation, any conduct by Jones that leads to the toppling of the tree is an act as opposed to an omission, since quite a specific type of conduct is required—far more specific than what is required for the avoidance of the toppling. In the second situation, any conduct by Jones that leads to the toppling of the tree is an omission, since the type of conduct required is anything within a vast range that excludes only acts of extensive tilling.

In sum, Miller's scenarios pose no difficulties at all for the application of Bennett's act/omission schema. Furthermore, even if they were less tidily resolvable under that schema, they would not be troubling. After all, for the purposes of this book, we very likely do not have to ponder the 'act'/'omission' status of Jones's conduct in the period when the tree might topple. A tree

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growing on a parcel of land adjacent to a road has very likely been planted by some human being(s) in the past, whether by Jones or by some predecessor. If so, then the curtailment of the freedom of motorists by the toppling of the tree onto the highway is an increase in the unfreedom of each motorist affected. Each motorist is unfree, rather than merely not free, to drive past the point at which the tree is blocking the road. The planting of the tree, which was a human action, was a but-for cause of the tree's subsequent tumble onto the highway, even if those two events were separated by many decades. Since the causal contribution of anybody's action to some other person's inability does not have to surpass a threshold of salience or proximity in order to warrant our classifying the inability as an unfreedom, the curtailment of each motorist's liberty by the (p.337) tumbling down of the tree is a situation of unfreedom irrespective of whether any actions beyond the planting were involved. We therefore do not have to worry about categorizing Jones's behaviour in the period leading up to the fall of the tree. Regardless of the correct categorization of that behaviour, the tree's demise has imposed unfreedoms on motorists.

Miller challenges the view that a very distant or inconspicuous causal contribution by a human action is sufficient to warrant the designation of any resultant inability as an unfreedom.<sup>27</sup> He constructs a narrative in which a picnicker on a rocky hill casually tosses aside an apple. A seed from the apple takes root and develops into a tree over the course of several years. At some point, the tree precipitates a rockfall that traps an unfortunate person in a cave below. Miller stipulates that 'the fall wouldn't have occurred unless the apple had landed more or less where it did'. In these extraordinary circumstances, then, the trapping of the person in the cave is an event that not only greatly curtails her liberty but also greatly increases her unfreedom. Though the causal contribution by a human action was made long before the occurrence of the rockslide, it sufficed to endow the trapped person's new disabilities with the status of unfreedoms. Such, at least, is the conclusion for which this chapter has plumped in declining to lay down any threshold of causal conspicuousness or proximity for actions. Miller takes a contrary view. He submits that a characterization of the trapped person's plight as a situation of unfreedom 'seem[s] paradoxical because [it] clash[es] with our primary intuition that [unfreedoms] are obstacles attributable to human agency. In [the scenario of the rockslide] the result depends on a combination of natural factors and human behavior. But "human agency" means both more and less than [the causal contribution, however slight, of a human act]. It means that the humans in question knew what they were doing or, if not, that they should have done'. Miller adds that, although the tossing of the apple was a cause of the confinement of the person in the cave, such a result was 'neither willed nor intended nor foreseen (nor even perhaps capable of being foreseen)'.<sup>28</sup> Now, as has been argued in Chapter 2 and much more tersely in this chapter, the actions that give rise to unfreedoms are not perforce deliberately aimed at producing

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such effects. Nor must those constraining effects be foreseen or foreseeable in order to count as unfreedoms. When somebody's actions curtail someone else's liberty in a wholly and excusably **(p.338)** inadvertent manner—perhaps after an interval of many decades—the curtailment consists in unfreedom despite its utter unforeseeability. Just as there is no threshold for the significance or proximity of an action's causal contribution, so too there is no requirement of intentionality or foreseeability. Miller's insistence on such a requirement is based on his premise that the distinction between unfreedoms and mere inabilities is profoundly moral. Whereas I draw that distinction by reference to causal responsibility, Miller draws it by reference to moral responsibility. He maintains that unfreedoms arise only when any person *P* has limited the freedom of any other person in a way (maybe a fully justified or excusable way) for which *P* is morally responsible.

Although the current subsection is not the place for a full-scale rehearsal of the reasons for my austere methodological stance, we should glance here at Miller's rejection of such a stance. He writes: 'The view that the idea of freedom has no built-in evaluative force seems to me incredible. If showing that the enactment of a certain law increases or decreases freedom or that people in society A generally enjoy more freedom than people in society B were merely an exercise in technical classification, what purpose would it have? We are interested in deciding when obstacles are properly seen as [unfreedoms] because, other things being equal, we wish not to be [unfree]'.<sup>29</sup> In fairness to Miller, let us straightaway note that he is responding here to the extreme methodological position of Felix Oppenheim. His retort would undoubtedly have been more textured if he had been contesting a subtler position. Nonetheless, as his pronouncements stand, they purport to call into question any methodologically austere perspective that does not resort to a standard of moral responsibility as the touchstone for distinguishing between unfreedoms and mere inabilities. Regrettably, his comments in the context of his overarching argument run together two distinct questions. First, what is the nature or content of the criterion for staking off unfreedoms from mere inabilities, and, second, what is the justification for the content of that criterion? This book accepts that the ultimate justification for the pertinent criterion is partly moral-political, at a very high level of abstraction. However, the pertinent criterion itself is strictly non-normative, with a focus on causal responsibility rather than on moral responsibility. Only by conflating the two specified questions can Miller think that his moral-responsibility criterion is supported by his observations on the **(p. 339)** moral-political tenor of the justification for enquiring into the status of obstacles as unfreedoms.

The separability of those questions can best be highlighted if we shift our attention to a property that is uncontroversially non-normative and non-evaluative. One such property, apt for consideration here, is the speed with which human beings can run. Devices and techniques for measuring that

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property have been developed to a high level of technical refinement, to ensure that comparisons among people's performances are strictly accurate rather than misleading. Nevertheless, we would go badly astray if we were to surmise that the carrying out of those meticulous comparisons is 'merely an exercise in technical classification' (in Miller's words). Far from being an arid exercise in cataloguing, those elaborately precise comparisons are the means of ascertaining levels of excellence in an activity that pushes human endurance to its limits. Officials who monitor the efforts of runners in races go to great lengths to achieve accuracy in their measurements because those measurements serve as the bases for richly evaluative judgements about the relative proficiency of people in a gruelling sport. Prizes and plaudits and lucrative advertising contracts are conferred on certain runners by reference to those measurements. The attainment of rigorous accuracy is thus essential for the attainment of fairness in the distribution of sundry benefits. Consequently, the employment of devices and standards that enable such accuracy can be justified on normative and evaluative grounds, even though the devices and standards themselves are neither normative nor evaluative.

Of course, the analogy sketched in my last paragraph is only an analogy and is thus inevitably imperfect. Although evaluations of the relative performances of runners quite often encompass judgements about their fortitude and their competitive perseverance, no sensible person would think that assessments of runners' proficiency are as morally profound and significant as the judgements at which we arrive on the basis of our surveys of people's freedoms and unfreedoms. Somebody can be an admirable human agent without being a good runner, whereas no society can be admirable unless most of its inhabitants enjoy substantial degrees of overall liberty. All the same, notwithstanding the evident shortcomings of the analogy, the key point which it underscores is that a set of criteria can be strictly non-normative even if the justification for adopting and applying those criteria is of a moral-political character.

When we seek to ascertain whether an individual has been made unfree in some respect(s), we typically do so in order to reach exonerative or condemnatory judgements. We likewise often do so in order to **(p.340)** gauge the efficacy of formal or informal mechanisms for averting some type(s) of unfreedom. Our findings also enable us to compare individuals in order to see whether instances of unfreedom of some kind are widely distributed or are confined largely to certain groups. Perhaps most notably, our enquiries into the existence of unfreedoms are steps toward the measurement of the overall freedom of each individual and of each society. Our measurements can form the bases for comparative judgements about societies' differing merits, and can also form the bases for determinations concerning the extent to which any given society's institutional arrangements are just. All of these uses (and other moral-political uses) to which our investigations of specific unfreedoms can be put are far more than a sterile 'exercise in technical classification'. If we deem those

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investigations to be worthwhile, one key reason is that they enable us to come up with solidly informed moral-political verdicts on certain questions. What may be even more important, they help us along the path toward coming up with such verdicts on a much wider array of questions—by helping to lay the groundwork for the measurement of each person's overall liberty. In other words, a prominent part of the justification for looking carefully into the existence or inexistence of various unfreedoms is moral-political. If our enquiries into the occurrence and frequency of those unfreedoms never led us to arrive at verdicts of the sort just mentioned, they would be largely pointless. Still, we should not rush to embrace Miller's conclusions. Nothing said here should incline us to think that the distinction between unfreedoms and mere inabilities must itself be defined in a manner that requires moral judgements for its application. Indeed, not least because of all the moral-political uses to which our discoveries of unfreedoms can be put, we should opt for a definition that does not leave those discoveries dependent on moral-political judgements. Clarity at every stage will be enhanced if we keep a firm separation between moral-political disputation and the matters of fact to which the disputation pertains. If the initial stage at which we categorize states of affairs as unfreedoms or as mere inabilities is already a stage that kindles moral-political controversies, then the focus of our subsequent debates will be less sharp. At any rate, from the sheer fact that the *justification* for staking off unfreedoms from mere inabilities in a certain fashion is partly political—at a high level of abstraction—we cannot validly infer that the *content* of the criterion for the unfreedoms/mere-inabilities distinction must itself be morally pregnant. Miller's suggestion to the contrary is erroneous. There is ample room for a criterion, such as a causal criterion, that can be applied without recourse to moral-political considerations. (More is (p. 341) said in other parts of this book about the general methodological issues raised fleetingly in this paragraph.)

Having eschewed Miller's conflation of the content of a criterion and the justification for that content, we can and should accept that any causal contribution by someone's actions to the impairment of somebody else's freedom is a source of unfreedom. Let us consider a further example that underlines how slight the causal contribution of an action can be. Suppose first that Fred and Mabel are near a cave into which Mabel wishes to descend. Fred assures her that he will prevent a large boulder from rolling down and blocking the narrow mouth of the cave. On the basis of that assurance, Mabel descends; she would not have gone into the cave without receiving such an undertaking. If Fred subsequently declines to avert the rock's motion—perhaps because of malice or remissness, or perhaps because he needs to attend to some other urgent task—his omission has clearly been preceded by his action of offering an assurance, an action that was a but-for cause of Mabel's entry into the cave. The contribution of his action to her confinement in the cave is sufficient to endow that confinement with the status of an array of unfreedoms. So much is obvious, but

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now let us look at a modified version of the scenario. Suppose that, although Fred and Mabel are both in the vicinity of the cave, they are not together. Indeed, Fred is not even aware of Mabel's presence at all, and he certainly does not offer any assistance or undertakings. Nonetheless, Mabel sees Fred at a distance and mistakenly assumes that he knows of her presence. Without bothering to extract any assurances or to communicate with him in any way, she presumes that he will stop any boulders from rolling into the mouth of the cave. She accordingly enters the cave with confidence that she is safe; had she not seen Fred or some other robust person in the general area, she would not have undertaken her speleological descent. When the boulder rolls down and occludes the mouth of the cave, has she been made unfree? On the one hand, it is manifest that the most salient causes of Mabel's captivity were her own foolishness and the operations of natural forces. On the other hand, Fred's action of strolling around the general area of the cave was a but-for cause of that captivity. Had Fred not been present in that area, Mabel would not have seen him and would therefore not have felt sufficiently secure to enter the cave. Consequently, although he was wholly unaware of her existence and although his lulling of her into a false sense of security was neither intentional nor negligent on his part, an action of his was a but-for cause of the severe impairment of her liberty. Thus, her plight is a situation of unfreedom; the causal contribution made by Fred's act of visiting the area of the cave was **(p.342)** enough per se to trigger the applicability of the 'unfreedom's' side of the 'unfreedom's'/'mere-inabilities' dichotomy.

### 4.3. *Why Omissions are Not Sources of Unfreedom*

In this final subsection we must consider why omissions should be disregarded when we endeavour to apprehend whether people's inabilities are unfreedom or not. The contrast here, of course, is with actions. When people's inabilities have been caused to even a slight extent by other people's actions or by the products of other people's actions, they *ipso facto* count as unfreedom. More precisely, whenever at least one action (or any product of such an action) by at least one person is necessary for the existence of some inability of another person, that inability should be classified as an unfreedom. No such classification is warranted, however, if the only contribution to some inability of a person by anyone else is an omission or a set of omissions.

On the way to understanding why omissions must be put aside, we should initially glance at two false trails—two untenable lines of thought concerning the distinctiveness of omissions. First, as should be apparent from some of my previous remarks, the noteworthy difference between acts and omissions that necessitates a special approach to the latter is not a matter of morality or politics. We do not need to tackle here the question whether there are always some moral differences between contributing to the occurrence of *E* by doing something and contributing to the occurrence of *E* by omitting to do something. Although such a question is undoubtedly of importance in itself, and although it

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attracts attention from many philosophers who write on the act/omission distinction (including Bennett), it is beside the point within this chapter.

On the one hand, as has already been emphasized, the act/omission distinction as drawn by Bennett does not partake of any inherent moral significance. That aspect of it is one of its strengths, as far as this book is concerned. On the other hand, as Bennett himself illuminatingly observes,<sup>30</sup> his distinction is correlated—albeit quite imperfectly—with certain other distinctions that are indisputably of moral significance. One such distinction, for example, lies between courses of conduct that are relatively burdensome (for the person who chooses them) and courses of conduct that are relatively easy. Another such distinction lies between conduct that motivationally is highly focused and conduct that motivationally is much more diffuse. Now, while **(p.343)** these distinctions and other morally pregnant distinctions do correlate imperfectly with the act/omission dichotomy, my concern in this book is with ensuring the measurability of overall freedom rather than with assessing the moral weight of considerations that support or discredit certain patterns of behaviour. Thus, even if there were always some moral difference between contributing to *E* by doing something and contributing to *E* by omitting to do something—because the contrasts that imperfectly correlate with the act/omission dichotomy might somehow always be disjunctively applicable, even though no single one of those contrasts would always be applicable—we could leave that whole matter aside. Of course, there is in fact no reason to think that a moral difference of the aforementioned kind does always obtain. There is every reason to agree with Bennett when he writes that the distinctions which correlate imperfectly with the act/omission dichotomy are ‘merely frequent companions’ of that dichotomy and are not invariable accompaniments, even disjunctively.<sup>31</sup> All the same, we can prescind from that topic here. Though my view is that Bennett is surely correct, this chapter will not attempt to substantiate that view. Even if he were wrong, my reasons for adopting a distinctive approach to omissions would be entirely unaffected, neither weakened nor strengthened.

One false trail to be avoided, then, is the notion that this subsection's discussions derive from a premise affirming some inherent or invariable moral difference between acts and omissions. Another false trail is the thesis that the very concept of causation applies differently between acts and omissions. Both the NESS test and the but-for test ascribe causal roles to omissions as well as to acts, and the questions asked by each test about omissions are exactly the same as the questions that are asked about acts. Nothing in this chapter is meant to suggest otherwise. My isolating of omissions for special treatment does not derive from any sense that the fundamental criteria for designating them as causes of inabilities are different from the criteria for so designating acts.

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Some philosophers have challenged the claim that the fundamental criteria for causation are uniform between acts and omissions. Let us consider one example of such a challenge, from a sophisticated essay by Alison McIntyre on the moral responsibility of people for omissions. Although McIntyre is discussing the issue of moral responsibility, her division between acts and omissions is a division between causing and **(p.344)** allowing, and her way of pinpointing the distinctiveness of omissions is focused on the matter of causal efficacy in contexts of over-determination.

If by omitting to perform some act A you have *allowed* some event E to occur, then it must be true that your doing A would have prevented E. However, if an action of yours has *caused* some event E, it need not be true that an alternative course of action by you would have prevented E. Thus, if you shoot Sam you can be morally responsible for causing him to be shot even if it is true that if you had refrained from shooting him, he still would have been shot by someone else who stood waiting nearby. In contrast, you can be morally responsible for allowing Sam to drown by refusing to toss him a life preserver only if tossing him a life preserver would have prevented him from drowning.<sup>32</sup>

McIntyre here envisages two situations of pre-emptive causality. Her comment about the first of those situations, in which someone shoots Sam, is entirely unexceptionable. As should be plain from my earlier exposition of pre-emptive causation—and in particular from my scenario of the criminal henchman who purchases drugs—McIntyre is unimpeachably correct in stating that the assailant caused Sam's death, even though the death would have been caused by someone else if the assailant had not committed his misdeed. The act of shooting was an element in a set of actual conditions minimally sufficient for the occurrence of the death. Under the NESS test, then, the act of shooting was unequivocally a cause of the death. To be sure, the but-for test would lead to a different verdict; yet, as was indicated in my initial presentation of those two tests, the fact that the but-for criterion would generate a different verdict in such a context is a principal reason for deeming that criterion to be inferior to the NESS standard. When we are probing the nature of causal relationships generally, and thus when our reflections on the matter are not bound by the peculiar constraints and requirements of the U Postulate, the NESS principle is always to **(p.345)** be preferred to the but-for principle in the infrequent circumstances where the two standards lead to divergent conclusions. Hence, McIntyre's account of the shooting—an account that is obviously not inflected by the constraints and requirements of the U Postulate—is beyond reproach.

By contrast, her comment on her scenario of the bystander who refuses to rescue Sam from drowning is untenable. The unsustainability of her analysis will become palpable if the scenario is amplified slightly. (Let us designate this amplified scenario as 'S<sub>1</sub>'.) Suppose that, if the bystander throws the life

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preserver to Sam, the drowning man will gratefully avail himself of it to keep afloat. He will make his way to a dock that is not far from the location where the waters nearly overwhelmed him. Unbeknownst to him and to the bystander, however, a thug who deeply dislikes Sam is hiding behind the dock. Just as Sam arrives, the thug will grab him and will hold his head under the water until he drowns. Sam's death from drowning will occur at approximately the same time at which Sam would have drowned if the bystander had not tossed the life preserver to him. In these circumstances, then, it is not the case that 'tossing him a life preserver would have prevented him from drowning' (in McIntyre's words). Now, while keeping in mind what would happen if the bystander were to be responsive to Sam's call for aid, let us assume that he will not in fact be responsive. If we apply the NESS criterion in order to ascertain whether his refusal to throw the life preserver is classifiable as a cause of Sam's death, the answer is clearly affirmative. His refusal is an element in a set of actual conditions minimally sufficient for the occurrence of the death. In the event of such a refusal, the thug's murderous actions will not take place and will be wholly pre-empted by the set of actual conditions that includes the bystander's unhelpfulness. In sum, McIntyre has gone astray in thinking that an omission cannot count as a cause of some untoward outcome in a situation of over-determination. Just as the NESS standard can lead us to designate an *action* as a cause in such a situation—as McIntyre herself explicitly accepts when mentioning the shooting of Sam—so too it can lead us to designate an *omission* as a pre-emptive cause. That is, an omission can qualify under the NESS criterion as a cause even though the outcome allowed by it would have come about through some other means if the omitted action had been performed.

Note that the  $S_1$  scenario recounted in the preceding paragraph is crucially different from a scenario in which the throwing of the life preserver would have proved futile because Sam would not have been able to keep himself afloat with it. Let us designate that new scenario as **(p.346)** ' $S_2$ '. In the context of  $S_2$ , the refusal of the bystander to toss the life preserver—though reprehensible—would not count as a cause of Sam's death at all. No set of actual conditions minimally sufficient for the occurrence of the death would include the bystander's omission, since the omission was utterly redundant in the circumstances, and no minimally sufficient set includes any redundant members. Thus, whereas the refusal of the bystander was a pre-emptive cause of Sam's death in  $S_1$ , it would make no causal contribution whatsoever in  $S_2$ . We can know as much by applying the NESS standard straightforwardly to each case. McIntyre's remarks on omissions and over-determination are correct with reference to the kind of situation depicted in  $S_2$ , but they overlook the kind of situation depicted in  $S_1$ .

In short, my singling out of omissions for special treatment in this chapter is not due to any fundamental moral differences between acts and omissions, nor due to any differences of causal efficacy between them. No differences of the latter sort obtain, and any differences of the former sort would be irrelevant even if

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they did obtain. Why, then, is a separate subsection on omissions necessary? Why should we not adopt the same approach for omissions as for actions, and why therefore should we not attach the designation of 'unfreedom' to every inability of a person that is caused by any other person's omission(s)? Such a uniform approach, after all, would deal perfectly well with the basic problem that has prompted me to distinguish between unfreedoms and mere inabilities. That is, it would enable us to affirm that neither the range of the combinations of conjunctively exercisable freedoms nor the range of the combinations of consistent unfreedoms for each person is infinite in extent. After all, countless inabilities—such as the inability of each person to fly around and around every galaxy—are not traceable to anyone's omissions (or to anyone's actions, of course). Such inabilities would be classifiable as mere inabilities even if every inability caused in part by some omission(s) were to be classified as an unfreedom. In other words, even if omissions were placed fully on a par with actions as sources of unfreedoms, and thus even if the slightest or remotest causal contribution by any omission to an inability were enough to elicit the designation of 'unfreedom', the range of the combinations of consistent unfreedoms for each person would be finite. Hence, the measurability of everyone's overall liberty would not be threatened by the prospect of an infinitely large denominator in the fraction that expresses the freedom-measuring ratio for each person.

Nevertheless, for a number of reasons, any uniform approach to actions and omissions would undermine my theory of freedom. Such an approach would disregard the key divergence between actions and (p.347) omissions. Whereas an action is an event that occurs, an omission is the fact that no action leading to some particular outcome has occurred. An ascription of an action to some person *P* is a more or less precise specification of something that she has done in furtherance of a certain upshot, whereas an ascription of an omission to *P* is in itself a relatively uninformative assertion that she has *not* done anything that would have furthered a certain upshot. As we have seen in my discussion of Bennett, the considerable informativeness of an ascription of an action to *P* derives from the fact that the ways in which she can position her body to perform the action are far fewer than the alternative ways in which she can position her body. Conversely, the relatively meagre informativeness of an ascription of an omission to *P* derives from the fact that the ways in which she can position her body without bringing about some specified result are far more numerous than the ways in which she can position her body to bring about that result. (Here and elsewhere, of course, the notion of positioning one's body is meant to encompass one's retention of any stationary posture as well as one's carrying out of any movements.) Now, because of this central difference between actions and omissions, we shall have to maintain that inabilities caused by other people's omissions but not directly or indirectly by other people's actions are mere inabilities rather than unfreedoms. In exploring this point, we should

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contemplate first the possibility of treating all omissions as potential sources of unfreedom, and then the possibility of treating only some omissions in that manner. As will be seen, each of those alternatives is unacceptable. Omissions have to be excluded as sources of unfreedom.

If we regard all omissions as potential sources of unfreedom when we endeavour to ascertain whether sundry inabilities are unfreedoms or not, at least two formidable difficulties will arise. In the first place, we shall have rendered our enquiries unmanageably speculative and tangled. After all, when we take into account the causal roles of omissions, we are pondering the diversion of resources from their actual uses to alternative uses. We are taking into account what would have happened if people had behaved differently in some respects from the ways in which they have actually behaved, and we are likewise taking into account what would have happened if various substances and materials had been employed differently. To be sure, so long as we are hypothesizing diversions of resources to alternative uses on a modest scale, we can have confidence in the veracity of our claims about the outcomes of the diversions. Those claims will not be unduly conjectural and will not enmesh us in severe complications pertaining to the incidental effects of the diversions. Contrariwise, if **(p.348)** we are hypothesizing assignments of resources to alternative uses on a sweeping scale, our enquiries will consist of absurdly extensive guesswork. The resultant uncertainties are not just snarls that would thwart the practical implementation of any criteria for distinguishing between unfreedoms and mere inabilities; they are snarls that would thwart the coherent elaboration of those criteria at a theoretical level.

To a large degree, the problem of speculativeness in this context is a general problem that afflicts counter-factual conditionals. In so far as the antecedent (the 'if' clause) in a counter-factual departs markedly from actuality, we can only conjecture whether the consequent (the 'then' clause) follows therefrom or not. As David Lewis has remarked, 'the farther we depart from actuality, the more we lose control over our counterfactuals'.<sup>33</sup> In this respect, the uncertainties that attend our reflections on allocations of resources sweepingly different from any actual allocations are roughly similar to the uncertainties that attend our reflections on the outcome of the Second World War if Germany had declined to declare war on the United States in late 1941 and if Winston Churchill and Franklin Roosevelt had both been assassinated around that time. In important respects, however, the counter-factual musings required for the tracing of inabilities to complex omissions would be even more disconcertingly fanciful. Perhaps the most knotty problem is that a theorist engaged in such musings would have to be able to divine whether a host of unrealized technological developments could have been realized if they had been pursued with unremitting tenacity.



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Suppose, for example, that societies throughout the world have devoted their extensive resources to countless uses that have resulted in a high standard of living for the large majority of human beings. Nevertheless, no one is able to embark on a journey to Mars or to any other planet, since the technology for interplanetary travel by people has not been developed. Suppose that, when gauging the overall liberty of each person, a theorist wants to separate unfreedoms from mere inability in accordance with my U Postulate while wanting also to treat all omissions as potential sources of unfreedom. Such a theorist will have to try to discern whether the technology for interplanetary travel could have been developed if massive quantities of resources (up to any levels compatible with the continued existence of civilization) had been devoted to that objective over a period of many years. If the answer to that question is affirmative, then the inability of each person to engage in interplanetary travel is a state of unfreedom. Contrariwise, **(p.349)** if the answer is negative, the aforementioned inability is a mere inability rather than an unfreedom. Exactly how a political philosopher or even a scientific expert could arrive at an answer to such a question with minimal confidence is not at all clear. Moreover, he would have to arrive at answers to myriad other questions on the frontiers of scientific exploration. For example, suppose that some people suffer from a disease that incapacitates their legs. The theorist depicted here would have to decide whether a cure for that disease could have been developed if vast amounts of resources had been dedicated to such an aim over a long period of time. If the answer to that question is affirmative, then the incapacitation of each person who suffers from the specified disease is a state of unfreedom. If the answer is negative, the incapacitation is an array of mere inability. Again, exactly how a political philosopher or anyone else could reach a minimally reliable answer to such a question is far from apparent—especially since he would also have to grapple with thousands and thousands of other scientific/technological questions, virtually none of which would be straightforwardly or uncontroversially answerable by leading experts in the relevant fields. Even the attachment of probabilistic qualifications to answers would very frequently be a matter of sheer guesswork.

In sum, unless we restrict the range of the omissions that are taken into account when we separate unfreedoms from mere inability, our enquiries will become ludicrously conjectural. If we are to be reasonably confident in our ascertainment of each person's unfreedoms, we have to avoid getting bogged down in quagmires of imponderables. Hopeless speculativeness, however, is not the only fatal drawback of which we would run afoul if we were to view all omissions as potential sources of unfreedom. In addition, such an approach would effectively mean that all the self-inflicted inability of every person are unfreedoms—since every such inability has been caused in part by other people's omissions.

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To perceive why the self/other distinction would be effaced, we should briefly recall the nature of omissions. On the one hand, a stretch of conduct does not constitute an omission unless the omitted act was within the powers of the person to whom we ascribe the omission. As has already been mentioned, a person's conduct must have some bearing on the occurrence of a given outcome if that conduct is to be classifiable as an act or omission in relation to that outcome. If no action that a person could possibly perform would ever prevent some state of affairs—such as the continuation of the revolution of the planet Pluto around the sun—then the fact that the person does not do anything to preclude that state of affairs is not an omission on his **(p.350)** part. If the conduct of someone is to be classifiable as an omission in relation to the emergence of some outcome *E*, there has to be a distinction for him or her between 'There was absolutely nothing that I could have done at any time to prevent *E*' and 'I did not do anything to prevent *E*'. On the other hand, when we accept that an action of a specified type must be within someone's abilities if his non-performance of that action is to be classifiable as an omission, we are not thereby accepting that the non-performance of the action must perforce have been aimed at allowing whatever the action in the circumstances would have averted. As was noted earlier, an omission that allows the occurrence of *E* is an omission regardless of whether it was intended to have any such effect. It may have been intentional, of course, but it may have been wholly inadvertent (perhaps because of remissness or perhaps because of innocent ignorance). Accordingly, as was also remarked earlier, we can correctly ascribe an omission to some person *P* even if he or she has not had any evident opportunity to perform the action(s) which he or she has omitted. So long as there was in fact some opportunity, it need not have been manifest to *P* at all.

Thus, if every omission were a potential source of unfreedom, all inabilityes caused by one's own conduct would be unfreedoms even though some of those inabilityes would not be due to other people's actions in any way. After all, unlike some naturally caused inabilityes, every inability inflicted by a person upon himself is something that could have been averted by other people. Whenever a person curtails his own freedom without any contribution by anyone else's actions or by the products of anyone else's actions, certain omissions on the part of other people are nevertheless but-for causes of the curtailment. Had some other person(s) acted to prevent him from doing that which brought about the curtailment, it obviously would not have come about. Let us think back, for example, to the scenario of Fred and Mabel and the cave. Suppose that neither Fred nor anyone else apart from Mabel herself is within 20 miles of the cave when she descends. Neither he nor anyone else apart from Mabel herself knows of her whereabouts, and not even she is aware of the danger from the boulder. In these circumstances, no one other than Mabel has an opportunity to save her by the time she actually enters the cave. However, Fred and myriad other people had opportunities to save her at earlier junctures. Someone could have tracked

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her movements and could have been on the scene to keep the boulder from rolling down. Someone could have persuaded her not to journey into the cave, or could have forcibly prevented her if necessary. If no single person could have stopped her from undertaking that journey, then multiple people certainly could **(p.351)** have. Their not having done so was a but-for cause of her confinement in the cave. This point applies, of course, regardless of her outlook when she trapped herself in the cave. Whether her imprisonment of herself was deliberate or wholly unwitting, it could have been forestalled by actions which other people did not in fact perform.

The preceding paragraph's argument applies *mutatis mutandis* to absolutely every impairment of a person's freedom by the person himself. Suppose, for instance, that Mabel has ascended a cliff instead of descending into a cave. If she jumps or stumbles over the brink of the cliff, and if she becomes physically paralysed as a result, and if all omissions are to be counted as sources of unfreedom, then her state of paralysis will be classifiable as a state of unfreedom. Any number of people could have watched over her as she strolled along the cliff; or, either through exhortation or through physical force, they could have prevented her from ascending the cliff at all. Their not having done so was a but-for cause of her paralysing plunge.

Manifestly, the underlying point made in the last couple of paragraphs applies not only to Mabel but to everyone else as well. Whenever anyone does something that reduces his own freedom, he has done something that could have been averted by the actions of other people. Their not having performed any of those actions was a but-for cause of the reduction in his freedom. Hence, if causal connections between their omissions and his inabilities were sufficient for the classification of his inabilities as unfreedoms, every one of his ostensibly self-inflicted inabilities would be an instance of unfreedom. There would be no such thing as a self-inflicted inability that would get classified under the U Postulate as a mere inability. What is so troubling about this is that the U Postulate as a central element in a political-philosophical theory of freedom is meant to distinguish between constraints on freedom imposed by other people and constraints on freedom imposed by oneself or by natural forces. If the first half of that dichotomy comprises all constraints which emanate from other people's omissions as well as constraints which emanate from other people's actions, then a significant portion of the latter half of the dichotomy—namely, the portion consisting of all constraints imposed by oneself and some constraints imposed by natural forces—will have disappeared. In sum, if we wish to sustain the basic role of the U Postulate, we cannot regard all omissions by other people as potential sources of unfreedom. The countless omissions that cause inabilities are not causes on which the division between unfreedoms and mere inabilities can hinge.

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Should we, then, regard *some* omissions by other people as potential sources of unfreedom? Should we exclude some omissions but take **(p.352)** account of others? An approach along these lines will presumably exclude omissions of coordinated arrays of actions if those arrays would have involved massive reallocations of resources on a humanity-wide scale or even a society-wide scale. Such a tack finesses the problem of inordinate conjecturalness that arises when all omissions are regarded as potential sources of unfreedom. At the same time, such a tack enables us to regard some omissions as such sources. Moreover, its line of demarcation between the included and excluded omissions is drawn by reference to epistemic considerations rather than by reference to moral considerations. It thereby realizes my aim of coming up with a morally neutral content for the criterion that separates unfreedoms from mere inabilities; any unfreedoms that owe their statuses as such to the included omissions will be identifiable as unfreedoms without recourse to moral judgements.

One major snag for such an approach is the likelihood of substantial second-order uncertainty. That is, not only are we frequently engaged in a speculative enquiry when we ask whether this or that outcome could have been averted by a massive humanity-wide reallocation of resources; in addition, we will often be engaged in a speculative enquiry when we seek to determine whether the foregoing question as applied to this or that outcome can be answered with an acceptable degree of definiteness (albeit probabilistic definiteness). Hence, we shall be faced with no easy task if we have to distinguish between omissions with solidly ascertainable consequences and omissions with consequences that are only conjecturally ascertainable. Let us put that problem aside, however. The chief drawback of the approach outlined in my last paragraph is that it hollows out the category of self-inflicted inabilities, just as we do when we regard *all* omissions as potential sources of unfreedom. Even if we can manage to specify the omissions that are to be excluded because of the unascertainableness of their consequences, we shall still be taking account of every omission that allows any person's curtailment of his own freedom. After all, in respect of any self-inflicted inability, we can say with certitude that sufficient monitoring and intervention by some other person(s) would have prevented its occurrence. In taking such a view, we are not grappling with unfathomable questions at the limits of technological progress, nor more generally are we pondering situations that diverge sweepingly from actuality. Epistemic concerns about undue guesswork provide no basis whatsoever for declining to advert to the omissions that enable anybody to harm herself. We can know perfectly straightforwardly that, if Fred and some other people had restrained Mabel from walking along the cliff, she would not have fallen off and **(p.353)** paralysed herself. We can therefore know straightforwardly that their not having induced her to forgo that activity was a but-for cause of its freedom-impairing upshot. Such a claim is not at all akin to a conjectural claim about the feasibility of interplanetary travel in

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the event that massive amounts of resources had been devoted to such a development during a sustained period.

Note that, if a selective approach to omissions is to be based solely on epistemic concerns about the avoidance of excessive speculativeness, it will not only hollow out the category of self-inflicted inabilities but will also cut substantially into the category of natural inabilities. Many inabilities normally perceived as imposed by natural forces will have to be characterized as unfreedoms. Such a characterization will be required whenever the curtailment of anyone's freedom by the operations of natural forces could patently have been arrested or deflected or defused through the anticipatory actions of some other person(s). Attacks in the wild by sharks and bears, for example, will be among the incidents that give rise to unfreedoms (at least where the victims of those attacks have only been injured rather than killed); the victim of any such attack could have been prevented from going into the wild, or the attack itself could have been fended off by the efforts of several other people with guns if they had trailed the victim. To be sure, the distinction between unfreedoms and natural inabilities will not altogether lose its pertinence. As was noted earlier in this subsection, myriad inabilities—such as the incapacity of each person to fly around and around the galaxies—will continue to fall on the 'natural inabilities' side of that distinction. All the same, the range of the inabilities classifiable as mere-inabilities-imposed-by-natural-forces will be greatly diminished.

In short, if the basic role of the U Postulate is to be upheld, a selective approach to omissions cannot be based on purely epistemic considerations. A concern to eschew inordinate speculation will not per se keep the category of self-inflicted inabilities from being thoroughly eviscerated as a category of mere inabilities. A selective approach to omissions will therefore have to introduce some supplementary criteria for distinguishing between those omissions that are potential sources of unfreedom and those that are not. Such criteria might focus, for example, on the availability of ready opportunities for the carrying out of actions that could avert or remove inabilities. Thus, if Fred is actually on the scene to behold Mabel's descent into the cave, and if he could forestall the slide of the boulder without much difficulty, his decision against undertaking such an action will be sufficient to warrant the classification of her subsequent confinement as a state of **(p.354)** unfreedom. Or—whether additionally or alternatively—perhaps the supplementary criteria would focus on the intentions of people who omit to perform actions that could have averted or removed the inabilities of other people. If Fred's failure to rescue Mabel was due to malice rather than to remissness (or to an urgent need to perform some other action), then her imprisonment in the cave is a state of unfreedom. Such is the conclusion to which we would be led by a supplementary criterion focused on intentions. Another possible criterion for the inclusion of some omissions might focus on what is normal or predictable. If an action of a certain type in circumstances of a certain kind would be usual as a matter of statistical

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frequency, then an omission to perform such an action in such circumstances is a potential source of unfreedom. That is, if anybody's omission is abnormal and if it plays a but-for causal role in the cabining of anyone else's liberty, the upshot of that cabining is *ipso facto* a state of unfreedom. So we would be asked to believe by a supplementary criterion focused on the typicalness of patterns of behaviour.

For two main reasons, we should reject any such attempts to resort to supplementary criteria for the purpose of salvaging an analysis that selectively includes omissions as sources of unfreedom. (We should therefore reject that whole line of analysis, of course.) In the first place, each supplementary criterion has a suspiciously ad-hoc air. Neither the criteria broached in the preceding paragraph nor any other colourable criterion can be justified on the basis of epistemic considerations, since each of them is meant to supplement such considerations. Likewise, no such criterion can be justified by reference to the concept of causation; the omissions excluded under any supplementary criterion are causes just as much as the omissions included. Each criterion therefore seems justified only as a contrivedly ad-hoc device for preserving the full significance of the U Postulate by ensuring that some self-inflicted inabilities are designated as mere inabilities. Nothing appears to warrant our drawing the line between excluded omissions and included omissions at the particular place prescribed by any such criterion.

More important is a second difficulty, which arises from the most evident way of addressing the problem of ad-hoc contrivedness. Each of the supplementary criteria can plausibly be justified on moral grounds. If for example we follow the first of those criteria in its focus on the easiness or burdensomeness of performing various acts, we are singling out a factor that is always relevant to the moral issue of the reasonableness or unreasonableness of omitting to perform those acts. Likewise, if we follow the second of the supplementary criteria in its focus on intentions, we shall be attending to a factor that is clearly of **(p.355)** moral significance (indeed, according to many moral doctrines, a factor that is of paramount moral significance). Similarly, if we join the third criterion in looking for statistically anomalous behaviour that is freedom-impairing, we shall be concentrating on a factor that is quite closely connected with the dashing of legitimate expectations, which are always morally significant. Hence, each of the supplementary criteria can divest itself of its air of ad-hoc arbitrariness if it is presented as a morally pregnant standard. The overwhelming disadvantage of such a tack, however, is that it runs athwart the fundamental tenor of this book. It turns the distinction between unfreedoms and mere inabilities into a morally fraught divide, the application of which cannot be ascertained without recourse to moral judgements. We would not be able to draw that distinction comprehensively without first arriving at moral judgements about the reasonableness or unreasonableness of various patterns of behaviour. In a like vein, we would first have to arrive at moral judgements on issues such

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as the appropriateness of assimilating intentionality and recklessness or intentionality and gross negligence. We would similarly have to reach moral judgements on matters such as the level of abstractness or concreteness at which anybody's intentions are to be construed. Even the criterion concerning statistical frequency would require moral judgements, since it would oblige us to specify the frame of reference wherein normality is defined (one society, some portion of one society, all societies in the present, all societies either past or present, some subset of all societies?). Without that indispensable specification, which is profoundly normative, the statistical-frequency criterion cannot be applied determinately. By contrast, my book persistently argues that each person's freedoms and unfreedoms are to be detected through factual judgements rather than through moral judgements. That is, the relevant factors are abilities, inabilities, and causes of inabilities. Moral considerations such as those just mentioned are irrelevant. To be sure, as has been observed more than once, moral considerations at a highly abstract level are part of the ultimate justification for defining the factual issues along the lines developed in this book. Nonetheless, those issues are indeed factual. No moral judgements are required when we address them.

In short, if the general character of this book and the general function of the U Postulate are to be sustained, we shall have to rule out omissions as potential sources of unfreedom. Neither the inclusion of all omissions as such sources nor the inclusion of only some omissions is supportable; we have to conclude that, although many inabilities are caused in part by other people's omissions, those causal connections (**p.356**) are never in themselves sufficient to warrant the classification of the inabilities as unfreedoms. Only the causal contributions of other people's *actions* (and of the products of their actions) are sufficient to warrant such a classification.

We should not worry that this restriction on the sources of unfreedom is inappositely confining within a theory that attaches special importance to the constraints on freedom imposed by human intercourse. Here we should recall that any causal contributions whatsoever by other people's actions or by the products of their actions are sufficient to endow inabilities with the status of unfreedoms. Think back to the example of a man who swallows some poisonous liquid that paralyses him. Suppose that someone sitting nearby is in possession of an antidote, which is fully effective if taken within 20 minutes of the ingestion of the poison. She blithely declines to administer the antidote to the man who has become incapacitated and fallen to the floor. That odious omission, which is manifestly a cause of the man's incapacities, is not in itself sufficient to endow those incapacities with the status of unfreedoms. However, the incapacities are almost certainly unfreedoms in any event, because the poisonous substance was almost certainly the product of other people's actions. In this scenario, then, as in many other circumstances, the fact that an omission does not count as a source of unfreedom is beside the point. Any causal contributions by some other

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person's actions, even if remote or inconspicuous, will place an inability on the 'unfreedom's' side of the division between unfreedoms and mere inability. Given that such causal contributions will so often be present when omissions are also involved, a theory that does not take account of omissions can hardly be accused of blinkeredness.

### 5. Conclusion

Although the NESS test is generally the best standard for ascertaining the existence of causal relations, the U Postulate makes the but-for test the operative standard when we wish to establish whether some inability of a person has been caused by at least one action of some other person(s). When two or more such actions are causally involved, not every one of them must meet the but-for requirement. Indeed, in unusual circumstances where two or more actions are duplicative causes or where one action is a pre-emptive cause and another is a pre-empted condition, none of those actions will on its own have satisfied the but-for requirement. However, given that in such (p.357) circumstances the but-for test will have been satisfied by the fact that at least one action by some other person(s) occurred, the U Postulate's category of 'unfreedom' will be straightforwardly applicable. So long as the but-for criterion has been fulfilled in that manner, the possible slightness or remoteness of the causal contribution made by the relevant action(s) will not detract from the applicability of the category of 'unfreedom' at all. As a result, we should feel no misgivings about concluding that other people's omissions—as opposed to their actions—are not potential sources of unfreedom. Such a conclusion is essential for the accomplishment of the aims of this book, and it does not undesirably de-emphasize the unique importance of the constraints imposed by human beings on the freedom of one another. Hence, equipped with a suitable set of criteria for separating unfreedoms from mere inability, we are now ready to explore in depth the complexities of measuring the overall liberty of each person.

### Notes:

(1) For excellent discussions of the distinction between factual causation and legal causation, see Richard Wright, 'Causation in Tort Law', 73 *California Law Review* 1735, 1741–58 (1985) [hereinafter cited as Wright, 'Causation']; Richard Wright, 'Causation, Responsibility, Risk, Probability, Naked Statistics, and Proof: Pruning the Bramble Bush by Clarifying the Concepts', 73 *Iowa Law Review* 1001, 1011–18 (1988) [Wright, 'Pruning']; Richard Wright, 'Once More into the Bramble Bush: Duty, Causal Contribution, and the Extent of Legal Responsibility', 54 *Vanderbilt Law Review* 1071, 1073–82 (2001) [Wright, 'Duty']. See also the opening several pages of Richard Wright, 'The Efficiency Theory of Causation and Responsibility: Unscientific Formalism and False Semantics', 63 *Chicago-Kent Law Review* 553 (1987).



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(2) In addition to the articles by Richard Wright cited in note 1 *supra*, see, for example, H. L. A. Hart and Tony Honore', *Causation in the Law*, 2nd edn (Oxford: Clarendon Press, 1985) [Hart and Honore', *Causation*], 110–14, 122–5. For some analyses that eventually plump for the but-for criterion after initially upholding the NESS criterion, see John Mackie, 'Causes and Conditions', in Ernest Sosa and Michael Tooley (eds), *Causation* (Oxford: Oxford University Press, 1993) [Mackie, 'Causes'], 33; John Mackie, *The Cement of the Universe* (Oxford: Clarendon Press, 1980) [Mackie, *Cement*], Ch. 3. See also Jonathan Bennett, *The Act Itself* (Oxford: Oxford University Press, 1995) [Bennett, *Act*], 129.

(3) Wright, 'Duty', 1102–3.

(4) For a basically similar formulation, see Mackie, *Cement*, 39. See also Wright, 'Pruning', 1021 n. 108; Tony Honore', 'Necessary and Sufficient Conditions in Tort Law', in David Owen (ed.), *Philosophical Foundations of Tort Law* (Oxford: Clarendon Press, 1995) [Honore', 'Necessary'], 363, 364–5.

(5) Bennett, *Act*, 38, emphasis in original.

(6) For a sustained and sophisticated treatment of the distinction between facts and events—along with the bearing of that distinction on causal ascriptions—see Jonathan Bennett, *Events and their Names* (Oxford: Oxford University Press, 1988) [Bennet, *Events*]. For some other important discussions, see Bennett, *Act*, Ch. 2; Hart and Honore', *Causation*, xxxvii–xxxviii, lviii–lix, 119 n. 11; Mackie, *Cement*, Ch. 10; P. F. Strawson, 'Causation and Explanation', in Bruce Vermazen and Merrill Hintikka (eds), *Essays on Davidson* (Oxford: Clarendon Press, 1985) [Strawson, 'Causation'], 115. As should be plain already, and as will shortly become even more evident, I side with the unifiers in the unifier/multiplier controversy within the philosophy of action. For a very good discussion of that controversy, see Ian Carter, *A Measure of Freedom* (Oxford: Oxford University Press, 1999) [Carter, *Measure*], 175–83.

(7) Mackie, *Cement*, 266–7.

(8) Mackie, *Cement*, 33.

(9) Wright, 'Pruning', 1041 n. 223.

(10) Immanuel Kant, *The Critique of Pure Reason*, trans. Norman Kemp Smith (London: Macmillan, 1933), 228 [A203]. My analysis of Kant's example is closely similar to that in D. H. Mellor, *The Facts of Causation* (London: Routledge, 1995) [Mellor, *Causation*], 220–1. (Mellor, however, goes on to reject the possibility of simultaneous causation more sweepingly than I do; Mellor, *Causation*, Ch. 17.) Kant's example is also discussed in Mackie, *Cement*, 109, 161.

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(11) For a valuable discussion, see Mackie, *Cement*, Ch. 7. For my particular focus, see also Mellor, *Causation*, 63–6; Strawson, 'Causation', 133–4.

(12) For a perceptive discussion from which I have benefited, see Mackie, *Cement*, Ch. 11.

(13) Exodus 15:6.

(14) See, for example, Wright, 'Causation', 1775. All of the articles by Wright cited in note 1 *supra* are sustained and highly insightful investigations of the problem of over-determination. See also his 'Actual Causation vs. Probabilistic Linkage: The Bane of Economic Analysis', 14 *Journal of Legal Studies* 435, 446–9 (1985). For some other important discussions, see Hart and Honore', *Causation*, 235–53; David Lewis, 'Causation', in Ernest Sosa and Michael Tooley (eds), *Causation* (Oxford: Oxford University Press, 1993), 193, 204; David Lewis, 'Postscripts to "Causation"', in *Philosophical Papers*, ii (New York: Oxford University Press, 1986) [Lewis, 'Postscripts'], 172, 193–212; Louis Loeb, 'Causal Theories and Causal Overdetermination', 71 *Journal of Philosophy* 525 (1974); Mackie, 'Causes', 42–4. See also Honore', 'Necessary', 374–80. Far less persuasive is Martin Bunzl, 'Causal Overdetermination', 76 *Journal of Philosophy* 134 (1979) [Bunzl, 'Overdetermination'], which goes astray not least by failing to recognize that facts as well as events are causal relata. Even less impressive is Peter van Inwagen, 'Ability and Responsibility', 87 *Philosophical Review* 201, 212–20 (1978), which completely overlooks the NESS test as a criterion for the existence of causal relations, and which therefore strangely posits an equivalence between one's causing it to be the case that some person *P* has died (in a context where the death was over-determined) and one's causing it to be the case that *P* was mortal.

(15) To avoid making the sentences in this paragraph even more ungainly than they are, I have had to use the word 'sufficient' to cover not only actual sufficiency but also the counter-factual sufficiency of any set of conditions that would have been sufficient in the circumstances if some pre-emptive set of actually sufficient conditions had not emerged.

(16) I have already sought to make clear what is meant by my references to counter-factual sufficiency. If  $C_2$  has been pre-empted by  $C_1$  as the set of conditions that caused *E*, then  $C_2$  would have been sufficient for *E* if  $C_1$  had not already brought *E* about. That 'would-have-been' sufficiency in a context of pre-emptive causation is what I designate here as counter-factual sufficiency.

(17) Hart and Honore', *Causation*, 77. For an endorsement of Hart's and Honore's position on this matter from a perspective largely at odds with theirs, see Peter Lipton, 'Causation outside the Law', in Hyman Gross and Ross Harrison (eds), *Jurisprudence: Cambridge Essays* (Oxford: Clarendon Press, 1992), 127, 138. For a sophisticated version of Hart's and Honore's position that duly

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recognizes the distinction between causal responsibility and moral/legal responsibility, see Jonathan Bennett, 'Morality and Consequences', in Sterling McMurrin (ed.), *The Tanner Lectures on Human Values: 1981* (Cambridge: Cambridge University Press, 1981) [Bennett, 'Morality'], 45, 69–70, 71.

(18) Carter, *Measure*, 235, emphases in original.

(19) G. A. Cohen, *History, Labour, and Freedom* (Oxford: Clarendon Press, 1988), 258. For some important discussions of poverty and unfreedom, see Rodger Beehler, 'For One Concept of Liberty', 8 *Journal of Applied Philosophy* 27, 39–42 (1991); Stanley Benn and William Weinstein, 'Being Free to Act, and Being a Free Man', 80 *Mind* 194, 199–200 (1971); Carter, *Measure*, 234–6; G. A. Cohen, *Self-Ownership, Freedom, and Equality* (Cambridge: Cambridge University Press, 1995), 57–9; John Gray, 'On Negative and Positive Liberty', in *Liberalisms: Essays in Political Philosophy* (London: Routledge, 1989), 45, 61–2; David Miller, 'Constraints on Freedom', 94 *Ethics* 66, 80–6 (1983) [Miller, 'Constraints']. See also Stanley Benn, *A Theory of Freedom* (Cambridge: Cambridge University Press, 1988), 133–4; Marshall Cohen, 'Berlin and the Liberal Tradition', 10 *Philosophical Quarterly* 216, 224–6 (1960); William Connolly, *The Terms of Political Discourse*, 2nd edn (Princeton: Princeton University Press, 1983), 162–9; Keith Dixon, *Freedom and Equality* (London: Routledge & Kegan Paul, 1986), 27–9; Tim Gray, *Freedom* (London: Macmillan, 1991), 41–5; Will Kymlicka, *Contemporary Political Philosophy* (Oxford: Clarendon Press, 1990), 145–51; Andrew Levine, 'Foundations of Unfreedom', 88 *Ethics* 162 (1978); Ernest Loevinsohn, 'Liberty and the Redistribution of Property', 6 *Philosophy and Public Affairs* 226 (1976); Felix Oppenheim, *Political Concepts* (Chicago: University of Chicago Press, 1981), 158–9; Albert Weale, *Political Theory and Social Policy* (London: Macmillan, 1983), 52–4. Cf. D. A. Lloyd Thomas and Richard Norman, 'Liberty, Equality, Property: I & II', 55 (supp.) *Proceedings of the Aristotelian Society* 177 (1981).

(20) See Jonathan Bennett, 'Whatever the Consequences', 26 *Analysis* 83, 94–7 (1966); Bennett, 'Morality', *passim*; Bennett, *Events*, 218–21; Jonathan Bennett, 'Negation and Abstention: Two Theories of Allowing', in Bonnie Steinbock and Alastair Norcross (eds), *Killing and Letting Die*, 2nd edn (New York: Fordham University Press, 1994) [Bennett, 'Negation'], 230; Bennett, *Act*, Chs 4–8. One of the very few writers who have heretofore recognized even *en passant* the potential importance of Bennett's positive/negative distinction for theories of freedom is David Miller. See Miller, 'Constraints', at 73; David Miller, 'Reply to Oppenheim', 95 *Ethics* 310, 311–12 (1985) [Miller, 'Reply']; David Miller, *Market, State, and Community* (Oxford: Clarendon Press, 1990) [Miller, *Market*], 33–5. Miller, however, does not incorporate Bennett's distinction into his own theory of freedom.

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The act/omission divide has figured quite prominently in contemporary philosophical debates over the moral significance of two dichotomies: the distinction between doing and allowing, and the distinction between intended effects and foreseen effects. For a powerful recent contribution to the latter debate, with many pertinent citations to the literature, see Alison McIntyre, 'Doing Away with Double Effect', 111 *Ethics* 219 (2001). Most participants in the aforementioned debates, however, take the nature of the act/omission divide (as opposed to its moral significance) for granted.

(21) Bennett, *Act*, 86.

(22) See Bennett, 'Morality', 66–9; Bennett, 'Negation', 239–41; Bennett, *Act*, 96–100, 112–14. For some of the critics of Bennett who have raised this point, see Daniel Dinello, 'On Killing and Letting Die', in Bonnie Steinbock and Alastair Norcross (eds), *Killing and Letting Die* (New York: Fordham University Press, 1994) [Dinello, 'Killing'], 192; Don Locke, 'The Choice Between Lives', 57 *Philosophy* 453, 463 (1982) [Locke, 'Choice']; Warren Quinn, 'Actions, Intentions, and Consequences: The Doctrine of Doing and Allowing', in *Morality and Action* (Cambridge: Cambridge University Press, 1993), 149, 157–8; Bernard Williams, 'Acts and Omissions, Doing and Not Doing', in Rosalind Hursthouse, Gavin Lawrence, and Warren Quinn (eds), *Virtues and Reasons* (Oxford: Clarendon Press, 1995) [Williams, 'Acts'], 331, 335. Though Judith Lichtenberg does not criticize Bennett at all, she presupposes the equivalence of the act/omission and movement/stationariness distinctions in her 'The Moral Equivalence of Action and Omission', in Bonnie Steinbock and Alastair Norcross (eds), *Killing and Letting Die* (New York: Fordham University Press, 1994) [Lichtenberg, 'Equivalence'], 210, 212–13.

(23) Bennett, 'Morality', 67.

(24) This is a central theme, for example, in Williams, 'Acts'.

(25) Locke, 'Choice', 463. For the slightly more elaborate original version of the example, which exhibits some regrettable inconsistency in the names attached to the parties, see Dinello, 'Killing', 193–4.

(26) Miller, 'Reply', 311, 312; Miller, *Market*, 33, 34.

(27) Miller, 'Reply', 312–13; Miller, *Market*, 34–5.

(28) Miller, 'Reply', 312.

(29) Miller, 'Reply', 313.

(30) Bennett, *Act*, 74–7.

(31) Bennett, *Act*, 142.

(32) Alison McIntyre, 'Compatibilists Could Have Done Otherwise: Responsibility and Negative Agency', 103 *Philosophical Review* 453, 463 (1994), emphases in original. Equally inadvisable is a later argument by McIntyre that treats a situation of pre-emptive causation as if it were a situation of duplicative causation; see McIntyre, 'Compatibilists', 474–7. For some expressions of the erroneous view that omissions are not causes, see Bunzl, 'Overdetermination', 149; Lichtenberg, 'Equivalence', 221–2; Eric Mack, 'Bad Samaritanism and the Causation of Harm', 9 *Philosophy and Public Affairs* 230 (1980). On this point, I am in agreement with John Harris, 'The Marxist Critique of Violence', 3 *Philosophy and Public Affairs* 192 (1974). Harris, however, overlooks the difficulties that preoccupy me in this subsection.

(33) Lewis, 'Postscripts', 173.

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