

FEINBERG ON WHAT SORTS OF BEINGS CAN HAVE RIGHTS¹

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In his valuable essay "The Rights of Animals and Unborn Generations,"² Joel Feinberg makes use of a number of general claims involving the idea of "interests" in his effort to illuminate some of the dark corners of our thinking about rights—e.g., "Can animals have rights?" "Can plants?" "Can unborn generations?" Here are two of the things Feinberg says:

- (1) "(T)he sorts of beings who *can* have rights are precisely those who have (or can have) interests" (p. 51).
- (2) "What is incapable of having interests is incapable of having rights" (p. 57).

Feinberg refers to the principle expressed in (1) and implied by (2) as "the interest principle."³ His view is that a logically necessary and sufficient condition for a being's possibly possessing rights is that it meet this principle. I shall have more to say about the interest principle in what follows. First, though, we need to realize that there is another principle concerning the sorts of beings which can possess rights that is implied by other things Feinberg says but to which he gives no name. This can be made clear by considering these additional claims:

- (3) "(A) right holder must be capable of being a beneficiary in his own person and a person without interests is a being that is incapable of being harmed or benefitted, having no good or 'sake' of its own" (p. 51).
- (4) "Without interests, he" (the catatonic schizophrenic or the human 'vegetable') "cannot be benefitted; without the capacity to be a beneficiary, he can have no rights" (p. 61).
- (5) "Without interests a creature can have no 'good' of its own, the achievement of which can be its due" (p. 50).

These latter claims of Feinberg's differ from the earlier ones in that they involve not only the ideas of "rights" and "interests" but also the ideas of "benefit" and "a good of his/its own." It seems reasonable to assume,

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therefore, that Feinberg thinks there are important connections between the members of this family of ideas. Here I shall trace two of the implied connections.

First there is an implied connection between (a) a being's capacity to be a beneficiary in his own person and (b) that being's possibly having a good of his own. This becomes clear if we look carefully at what (3) says. What it says is that a being without interests cannot be a beneficiary in his own person. But if we ask *why* this is so, the implied answer is that, lacking interests, he can have no good of his own. The most natural reading of (3), in other words, is that a being without interests cannot himself be benefitted or harmed—(cannot be the sort of being *whose good* can be positively or negatively affected)—because such a being can have no good of his own to begin with. Thus, (3) yields the view that a being who can have no good of his own cannot himself be a beneficiary, which implies that the only sorts of beings who can be beneficiaries in their own person are those who can have a good of their own.

A second thing that is implied concerns (c) those beings who can have a good of their own and (d) those beings who can possess rights. (3) tells us that a right holder must be capable of being a beneficiary in his own person. We have just seen, however, that the only sorts of beings who can be beneficiaries in their own persons are those beings who can have a good of their own. It follows, therefore, that the only sorts of beings who can have rights are those beings who can have a good of their own. Hereafter I shall refer to this latter proposition about the sorts of beings who can possess rights as “the goodness principle.”

In what follows I will be examining both of Feinberg's principles. First I shall explain why both depend on an understanding of interests which Feinberg has failed to illuminate to a satisfactory extent. As such, I shall argue that it would be premature for anyone to accept either the interest principle or the goodness principle, as Feinberg understands them, even if they were otherwise free of difficulties. But, second, I shall argue that they are not free of other difficulties and that, in particular, they lead to inconsistent results concerning what beings can and what beings cannot possess rights. This I shall show by arguing, contrary to Feinberg's judgments, that mere things and plants can meet his goodness principle despite the fact that they cannot meet the interest principle.

Fundamental to both of Feinberg's principles is the idea of interests. Even in the case of the goodness principle, as (5) (above) makes plain, the basis Feinberg uses for determining which beings can and which cannot have a good of their own is the presence or absence of interests. A natural place to begin our assessment of Feinberg's position, therefore, is by asking how he understands this idea. Here we encounter an important ambiguity, one that we shall have occasion to remark upon again. For when we speak of a being (A) as “having an interest” in something (X), we may mean either (a) that X is in A's interests, that X is

conducive to *A*'s good, or (b) that *A* is interested in *X*, that, for example, *A* likes or desires or is aiming at *X*. Suppose we refer to these two senses of “*A* has an interest in *X*” as interest₁ and interest₂ respectively. And let us note that the two senses really are logically distinct: *A* being can be interested in something that is not in his interests, and something may be in a being's interest despite the fact that he is not interested in it. Then we can ask, which sense of “having an interest” Feinberg has in mind, when, as in the quotes given above, he speaks of beings as “having” or of “being without interests.” The answer here is that it is interest₂ that Feinberg has in mind. That this is correct is shown by the fact that, when he turns to the task of saying what is involved in the idea of “an interest,” it is “an interest” in the sense of interest₂ that he discusses. What he says is this (p. 52):

(A)n interest, however the concept is finally to be analyzed, presupposes at least rudimentary cognitive equipment. Interests are compounded out of *desires* and *aims*, both of which presuppose something like belief, or cognitive awareness. A desiring creature may want *X* because he seeks anything that is ϕ , and *X* appears to be ϕ to him; or he may be seeking *Y*, and he believes, or expects, or hopes that *X* will be a means to *Y*. If he desires *X* in order to get *Y*, this implies that he believes that *X* will bring *Y* about, or at least that he has some sort of brute expectation that is a primitive correlate of belief.

This is a difficult passage to interpret. In particular, it is unclear how the idea of belief is to be understood. It is not clear whether Feinberg thinks (a) that a being merely has to have the capacity to form a belief of one kind or another (and, thus, of no particular kind) if he is to have aims and desires, and, with these, interests, or (b) that a being must be able to form beliefs of a particular kind if he is to have interests. Feinberg's examples suggest the latter. For notice, first, that the beliefs of the desiring creature he mentions are not just beliefs about this or that; they are beliefs about what the desiring creature desires or aims at. And notice, secondly, that these beliefs are not just beliefs about these things; they are beliefs that bear on what the creature will or ought to do if he is to satisfy his desires or to achieve his aims. So, if Feinberg's examples are to be taken as a guide, it would seem to be the case that, on his view, it is not the mere capacity to have beliefs that is necessary if a being is to have desires and aims, and, with these, interests; it is the capacity to have beliefs of a requisite kind—that is, beliefs that have the aforementioned properties—that is necessary; either this, or their “primitive correlates.”

But assuming, as I shall, that Feinberg does not believe what is obviously false, it follows that we should not interpret his remarks about the connection between having beliefs and having interests in this way. For we can easily conceive of beings who lack the capacity to form beliefs of the kind just characterized but who can have beliefs, desires, aims, interests and a good of their own—e.g., severely disoriented, retarded but sentient off-spring of human parents, beings concerning whom it would be grotesque to say that “they cannot be benefitted” or

that, e.g., “they do not desire anything to ease the pain of an abscessing tooth,” a desire which, it bears emphasizing, they can have without being able to form beliefs of the type, “If I want *X*, then I must do *Y*” or “Since I want *X*, and *Y* appears to be *X*, I must (ought to) get *Y*.” So, it is doubtful that Feinberg should be interpreted as being committed to a view that would imply that such beings cannot have desires, etc. Even so, however, this only helps us see what it is likely that Feinberg does not believe about the connection between having beliefs and having interests; it does not contribute to our understanding of what he does believe on this important matter. Certainly it would seem to be the case that he must believe that it is more than the mere capacity to form beliefs that must be present if a being is to have desires or aims and, with these, interests. It would seem that the beliefs must be *connected* with (to) the desires, etc., in some way, that, to take an extreme case, *A*’s capacity to form the belief ‘Grannie knits afghans’ is not a sufficient basis for supposing that *A* can have the desire to swim the English Channel. But the problem remains how to explain what this connection is, and to explain it in such a way that we do not exclude some beings who plainly can desire things—e.g., the off-spring of humans referred to above—from having the desires they have. All this and more, in short, remains to be done by one who, like Feinberg, would maintain, what may well be true, that beliefs are necessary for desires, aims, interests, etc. And this is to say that, since Feinberg has not done this on this occasion—and Feinberg himself is aware that his analysis is incomplete; my remarks are intended to show that it is—he has failed to make it clear what acceptance of the interest and the goodness principles would commit us to. As such, it would be rash to accept either, as he understands them.

But suppose we grant Feinberg his view that the having of beliefs is necessary for the having of interests, in the interest₂ sense of interests; the sense in which to say “*A* has an interest in *X*” means “*A* is interested in *X*.” Then we can turn our attention to his arguments against the possibility that plants and mere things can have rights, arguments which we may reconstruct in the following way, making use of the interest principle first and then the goodness principle (cf. pp. 51-55).

The IP Argument

1. The only beings who can have rights are those who are (or can be) interested in things.
2. The only beings who are (or can be) interested in things are those who can have beliefs.
3. The only beings who can have beliefs are those who have some form of cognitive awareness.
4. Plants and mere things do not have any form of cognitive awareness.
5. Therefore, plants and mere things cannot have beliefs.

6. Therefore, plants and mere things are not (and cannot be) interested in things.
7. Therefore, plants and mere things cannot have rights.

The GP Argument

1. The only beings who can have rights are those who can have a good of their own.
2. The only beings who can have a good of their own are those who are or can be interested in things.
3. The only beings who are or can be interested in things are those who can have beliefs.
4. The only beings who can have beliefs are those who have some form of cognitive awareness.
5. Plants and mere things do not have any form of cognitive awareness.
6. Therefore, plants and mere things cannot have beliefs.
7. Therefore, plants and mere things cannot be interested in things.
8. Therefore, plants and mere things cannot have a good of their own.
9. Therefore, plants and mere things cannot have rights.

Both these arguments appear to be formally valid, so to challenge Feinberg, if we ignore the problems he has yet to address concerning the matter of belief, we must come at him from outside the scope of formal logic. I shall begin here by addressing myself to the GP Argument and, in particular, to the second step in this argument.

The first point to notice is that the 'can' in "the only beings who *can* have a good of their own" should be understood as the 'can' of logical possibility, that, in other words, step 2 in the GP Argument implies that it is logically impossible for a being to have a good of its own if it lacks the capacity to be interested in things. This is the interpretation that is required since, throughout his essay, Feinberg is interested in what sorts of beings can have rights in this same sense of 'can'. When he says that plants and mere things cannot possess rights, he means that it is logically impossible for them to do so, that rights cannot be meaningfully predicated of them. Thus, if Feinberg's beliefs about what sorts of beings can have a good of their own are to support his conclusions about what sorts of beings can have rights, the former, like the latter, must be understood in terms of logical possibility and impossibility.

Secondly, the question must arise, "How are we to understand Feinberg's idea of 'a good of his/its own'?" Unfortunately, this is an idea about which Feinberg has little to say on this occasion but the contrast he implies in this essay⁷ is that between those beings, on the one hand, who can have a good independently of the interests other beings happen to take in them, and those beings, on the other hand, whose goodness depends, as he puts it (p. 50), "entirely on their being the objects of other beings' interests." Beings who can have a good of the former kind, what I

shall call an “inherent good,” can have a good of their own; those beings who can have a good only if and so long as other beings take an interest in them cannot have an inherent good of their own. Humans and (some) animals are given as examples of beings who can have an inherent good; “mere things,” such as buildings and plants are said by Feinberg not to have a good of their own; these latter are not, in Feinberg’s words, “the loci of value in their own right” (*ibid.*). Thus, given that the ‘can’ in step 2 of the GP Argument is the ‘can’ of logical possibility; and given Feinberg’s conception of what sorts of beings can have a good of their own; his position, as set forth in the step in question, is that the only sorts of beings of whom it is logically possible that they can have a good of their own are those who have interests, in the sense that they are or can be interested in things.

Against this view it might be objected that we do speak of certain things as being “good” or “bad” for, and as being “beneficial” or “harmful” to, beings which are admittedly incapable of being interested in things—e.g., plants. Moreover, this way of speaking, as Feinberg acknowledges (p. 52), does suggest, contrary to his view, that such beings might have a good of their own. It will be instructive to consider how Feinberg responds to this.

Here, he thinks, we should not take “what we say” seriously. “We also say that certain kinds of paint are good or bad for the internal walls of a house, and this does not commit us to a conception of walls as beings possessed of a good or welfare of their own” (pp. 51-52). Besides, “all are agreed that plants are not the kinds of beings that can have rights. Plants are never plausibly understood to be the direct intended beneficiaries of rules designed to ‘protect’ them. We wish to keep redwood groves in existence for the sake of human beings who can enjoy their serene beauty, and for the sake of human beings yet unborn. Trees are not the sorts of things who have their ‘own sakes,’ despite the fact that they have biological propensities. Having no conscious wants or goals of their own, trees cannot know satisfaction or frustration, pleasure or pain. Hence there is no possibility of kind or cruel treatment of trees. In these morally crucial respects, trees differ from the higher species of animals” (p. 53).

Here Feinberg is assuming the greater part of what he has to show. All that his observations about plants could show is that they could not have a certain kind of good of their own—namely, the kind of good that we tend to equate with the integrated satisfaction of our desires—i.e., “happiness.” What this cannot show is that plants cannot have a good of their own of some other kind. Similarly, Feinberg’s remarks about “kind or cruel treatment” could at most show that plants cannot be benefitted or harmed in these ways; what they could not show is that they cannot be benefitted or harmed in some other way. For to benefit something, in the relevant sense of ‘benefit’ in question, is to contribute to its good, while to harm it is to do something that is the opposite. And though being kind

or cruel to some beings may be to benefit and harm them, respectively, Feinberg has given us no reason to believe that this is the only way to benefit or harm beings, or that the only beings concerning whom it is logically possible that they be harmed or benefitted are those who can be treated kindly or cruelly.

This same point can be made in a different way. Recall the two senses in which we speak of beings as "having interests." In the interest₁ sense to say "*A* has an interest in *X*" means "*X* will contribute to *A*'s good." In the interest₂ sense, "*A* has an interest in *X*" means "*A* is interested in (desires, etc.) *X*." Suppose we grant, what I think is an evident (tautological) truth, that only those beings who can have a good of their own can have things that are in their interests (i.e., things that can promote *their* good). Granting this, it does not follow that the only beings who can have a good of their own are those beings who can be interested in things. That remains an open question, even if we grant that beings who are or can be interested in things can have a good of their own. For there is nothing in this line of reasoning that can show that the kind of good these beings can have is the only sort of good that is an inherent one, or that there is something logically untoward involved in the suggestion that things can be in the interests of beings who are not themselves capable of being interested in things. Feinberg, it appears, has overlooked this point, possibly because he was misled by the ambiguous character of speaking of beings as "having interests." But this is conjectural. What is not is that he has gone no way toward showing that "happiness" is the only intelligible sort of inherent good, or that it is only beings who can have an inherent good of this kind who can themselves be the beneficiaries of what is done to or for them.⁵

What remains to be shown is that we can make sense of the idea that beings who cannot be interested in things nevertheless can have a good of their own, and that we can, therefore, literally speak of what will benefit or harm them and of what is and what is not in their interests. I propose to show this by taking examples of beings who cannot literally be supposed to be capable of happiness, beings who Feinberg thinks cannot have a good of their own. The sorts of beings I have in mind are (1) "mere things" and (2) plants. My strategy will be to consider arguments that might be advanced against the possibility that these sorts of beings can have a good of their own and to indicate why I think these arguments fail to show this. A strategy of this kind must suffer from a degree of incompleteness. Not all possible arguments against this possibility can be considered here. Those I do consider appear to me to be the most important.

Let us begin with the most difficult case, that of mere things—e.g., cars, an example Feinberg himself uses. I shall take it as given that cars are used to fulfill certain human purposes and that, with respect to these purposes, it is a fact that some cars are better than others, a good one being, roughly speaking, one that fulfills our purposes. Our question,

then, is whether we can make sense of the idea that a car can have “a good of its own.” Against this possibility it might be pointed out that there would not be any cars, and, so, no good ones, if human beings had not taken an interest in having them, a fact which shows, it might be alleged, that they cannot have a good of their own. But this same sort of argument could be applied to human beings. Suppose it is a fact that my son would not now exist if my wife and I had not had an interest in having children; surely it does not follow from this that, once in existence, he cannot have a good of his own. But if it does not follow in the case of my son, neither can it follow in the case of cars. At the most, in short, this sort of thinking can tell us why something has come into being; it cannot tell us whether, once it has done so, it can or cannot have a good of its own, and if the former, in what its goodness consists.

Perhaps it will be said that, though this is true, there are other reasons for denying that cars can have a good of their own. For a time might come when we no longer have any interest in them—e.g., because of the development of some alternative mode of transportation. Then, it might be alleged, cars would cease to have any value; were they to cease to be “objects of our interests,” they would cease to be, or to have a, good. But this line of reasoning surely is defective. Suppose that my Datsun is a better car than Randy’s Volvo. And suppose the time comes when neither I nor Randy nor any other human being has an interest in cars. It would still remain true, other things being equal, that my car is a better car than Randy’s. All that would have changed is the frequency with which we make use of our good (or not so good) cars and the value we attach to having one. What would not have changed is the relative goodness of the cars, *qua* cars.

Here it will be objected that, if we cease to value cars, they must cease to be good. But this seems to confuse two logically distinct ideas—namely, (i) the goodness of things like cars and (ii) whether we value them or not. Something can be good and not be valued, just as something can be valued and not be good. This is why talking about “the value of things” is a risky business, especially if it is coupled with talk of goodness as “a value.” For then we are apt to suppose that, since valuing is something we do, things are good only if (and only so long as) we value them.⁶ In fact, this seems to be precisely what Feinberg has done. Things like cars can have no good of their own, he thinks; rather, “their value consists entirely of their being objects of (our) interests.” But the fact, if it is a fact, that the value *we* attach to cars—their value *for us*—stems from the fact that they are “objects of our interests” goes no way toward showing that *they* cannot have a good of their own.

Still, we do speak of cars as being good because they fulfill our purposes, and this shows, it might be alleged, that their goodness consists in the fact that they fulfill them, which implies that they cannot have a good of their own. But this line of reasoning gets things backward and confounds, again, the ideas of (i) the goodness of things and (ii) whether we value them or not. That a car fulfills our purposes is not

what makes it a good car; it is not even one of the good-making characteristics of a good car. Rather, a car fulfills our purposes because it is a good car, and it fulfills our purposes because it possesses, to a requisite degree, those characteristics which are good-making. Thus, to say that a car is a good one because it fulfills our purposes does not tell us anything about the car which, *qua* car, makes it good; speaking in this way performs the different function of indicating that we value those cars that are good ones because these are the ones that fulfill our purposes.

Nor will it do to argue that cars cannot have a good of their own because what characteristics are good-making in cars depends on what our interests are. For a car has those characteristics it has, including those which are good-making, quite independently of our taking an interest in them. Cars do not *become*, say, comfortable or economical by becoming the objects of our interests. They are (or are not) comfortable or economical whether or not we have an interest in them, and whether or not we have an interest in their being comfortable or economical. Of course, manufacturers may try to make cars that are comfortable, etc. But this is only to say that they may try to make good ones, and there is nothing inconsistent in supposing that a thing is made, on the one hand, and, on the other, that it can have a good of its own.

Perhaps, finally, it will be objected that cars are *designed* by human beings with the intention of fulfilling human purposes; only overactive metaphysical glands, it might be supposed, could lead us to the belief that they might have a good of their own. But suppose a good car was produced, not by human design, but by the random operations of a machine. Suppose it just so happened that, on one of its random runs, the machine came up with a good car. Are we supposed to say that it cannot be a good one because it was not designed by humans? Because it was not made with a particular intention? These suggestions lack credibility. If a good car was produced by purely natural means—if, say, one were to “fall into place” as a result of earthquakes, vast temperature changes and the like—that would not make it any less a good one. It would make it an unusual one.

In a word, then, although a good car is one that fulfills our purposes, there seems to be no logically compelling reason to suppose that its goodness depends *entirely* on someone’s taking an interest in it. Indeed, there would appear to be no logically compelling reason to suppose that its goodness (as distinct from its value) is in *any* way dependent on this. Sense can be given to the idea that the goodness of a good car is an inherent good, one that it can have independently of our happening to value it because of the interests we take in it. If we were to transport a good car from our world to a world inhabited by beings who did not have the interests we have, it would not cease to be a good car, though it would cease to be valued as one. A good car does not lose its goodness if we lose our interest in it.

Now, whatever may be unclear about the inherent goodness of a good car—e.g., whether it should be understood as a property or relation, or as natural or non-natural—this much at least is clear: it is a kind of goodness that is distinct from well-being, when this is understood to mean “happiness.” For we have no reason to believe that a good car is (in any literal sense) a happy one. But a second thing also is clear—namely, that we can make sense out of speaking of cars as having interests, not in the sense that they desire or aim at things, but in the different sense that things can be in their interests, can contribute to their good, *and* that we can make sense out of this without having to bring in the interests of *other* (e.g., human) beings. It is in my Datsun’s interests (it contributes to its having the sort of good *it* can have) that I put anti-freeze in its radiator in the winter, and this despite the fact that it is not the sort of being that can be interested in what happens to it. True, it also happens to be the case that, by doing this, I do something that is in my interests; and it is also true that my reasons for doing this are tied up with my beliefs about what is in my interests rather than with some “altruistic” concern I have for my car’s “well being”; but none of this shows that, by doing this, I am not also contributing to the goodness which my car, *qua* car, can have. Moreover, since the concept of benefitting something can be explicated in terms of doing what is in its interests, we can meaningfully speak of benefitting (or harming) things like cars: My car is the beneficiary when I put anti-freeze in its radiator in the winter.

For these reasons, then, the idea that a car (and by implication, many other “mere things,” e.g., the interior walls of a house) can have a good of their own appears to be at least an intelligible one. And since cars are admittedly not the sorts of beings who can be interested in things, we have our first reason for denying something that Feinberg would have us affirm—namely, (step 2 of the GP Argument) ‘The only sorts of beings who can have a good of their own are those who are (or can be) interested in things’.

The case of plants is at once the same and different. It is different because plants are not (or at least are not normally) the products of human art and contrivance; in their case, therefore, we are less likely to look upon them as mere “instruments” whose possible goodness consists entirely in the fact that they serve our purposes well. For this reason it will be unnecessary to rehearse most of the arguments just given in the case of cars. The cases are the same, however, in that plants, like cars, can be conceived to have a good of their own. Some plants can be better than others, *qua* the kind of plant that they are. A luxuriant gardenia, one with abundant blossoms and rich, deep green foliage is a *better gardenia* than one that is so deformed and stunted that it puts forth no blossoms at all, and this quite independently of the interests other beings happen to take in them. Now, to one who does not accept this, who thinks that the value gardenias can have “consists entirely of their being objects of other beings’ interests,” my reply is that, though this may be

true as an explanation of why some gardenias have value for us (or are valued by us), it goes no way toward showing that gardenias cannot have a good of their own. For there is, as I have said before, a difference between valuing something and that thing's being good. People who have an interest in gardenias (etc.) would understand very well the idea that they desire to have good ones; and if we were to tell them that there aren't any good ones, only ones that people desire, etc., they would think that we did not understand either flowers or the concept of goodness very well. Good gardenias are desired because they are good; they do not become good by being desired. As to what a good one is, that is an important and interesting philosophical question; or, rather, what is an important and interesting philosophical question is whether there are any general truths about the sort of inherent good gardenias and other plants can have. It is to Aristotle and Aquinas that we should look for guidance here. But that "answers to human desires, aims, etc." is not one of the good-making characteristics of a good gardenia (or any other plant that can have an inherent good) is clear enough. Good gardenias do answer human needs, aims, etc., if these needs, etc. require having good gardenias. But answering human needs, etc. is not what makes a good gardenia a good one; it is not even one of the good-making characteristics of a good one; rather, that a good gardenia answers human needs sheds light on why we value those gardenias that are good ones, a very different matter.

Just as in the case of "mere things" such as cars, so also in the case of plants, therefore, sense can be given to our thinking of beings of this sort as possibly having a good of their own. To establish that they do and what, in general, the nature of this good is, that, of course, would require much more by way of argument than I have given here. But that we can at least make sense of the idea that things and plants *can* have an inherent good, that, I think, is clear enough. In the case of plants, too, therefore, we can make sense of the idea that they can have interests, not in the sense that they are interested in things, but in the different sense that things can be in their interests. Even if it is true that I have an interest in my gardenia's flourishing; and even if it is true that it is because of my interest that I water it, give it the proper nutrients, etc.; it does not follow that doing these things cannot be in the gardenia's interests (cannot contribute to *its* good), and this despite the fact that gardenias are not the sorts of beings that can be interested in what happens to them. Feinberg, therefore, has not shown that in the case of so-called "protective legislation," "the law...cannot have as its intention the protection of their (that is, plants') interests" (p. 53), when "*A* has an interest in *X*" is understood to mean "*X* will contribute to *A*'s good." For plants *can* have interests in this (the interest₁) sense, even if they cannot have interests in the interest₂ sense of being interested in things; and it may be that the intention (or, at any rate, the result) of protective legislation is to protect the interests of plants in just the sense in which

they can have them. Plants, like cars, can be the intended beneficiaries of what we do to or for them, if our intention is to do what is in their interests.

A defender of Feinberg might point out that there is one thing I have left out of my argument to this point. This is the idea of “representation.” “A rightholder,” Feinberg says (p. 51), “must be capable of being represented and it is impossible to represent a being that has no interests.” Now, the sense of “has no interests” Feinberg has in mind is the familiar interest₂ sense and, as such, his claim about what sorts of beings can be represented is subject to a familiar line of criticism. Granted, trees cannot desire or long for things, from which it follows that we cannot represent their interests in the sense of representing their desires, etc. Still, sense can be given to the idea of representing the interests of trees or the Taj Mahal (Feinberg’s example) in the sense of speaking in behalf of what is in their interests—what will contribute to their having the sort of good they can have. And if it be replied that this is a hopelessly muddled way of thinking, it is worth pointing out that even in the case of representing the interests of human beings it is not always their desires that are represented. When a court-appointed attorney represents the interests of a child or a mentally defective person, for example, he does not (or need not) represent what they actually desire. What he may represent is in their interests, what will contribute to their good, whether they happen to desire these things or not. So it will not do to argue that plants and things cannot have rights because they have no interests that can be represented. They do. And if it be alleged that, though they may have interests in one sense, they cannot have them in another, and that it is this other sense—(the interest₂ sense)—in which a being must have interests to qualify as a possible possessor of rights, then our reply should be this: That just as no reason has been given for supposing that happiness is the only (or the only relevant) sort of inherent good, so no reason has been given for supposing that desires, wishes and the like are the only (or the only relevant) sorts of interests which can be represented.

Both in the case of plants and in the case of mere things, therefore, we have sufficient reason to believe that Feinberg is mistaken when he supposes (Step 2 of the GP Argument) that ‘The only beings who can have a good of their own are those who are or can be interested in things.’ And what this shows, if the preceding is sound, is that even if we were to grant Feinberg his goodness principle—(the principle, once again, that ‘The only beings who can have rights are those who can have a good of their own’)—it would not follow that neither plants nor mere things can have rights. Quite the contrary, what would follow is that they *can*, if, as I have argued, we can make sense of the idea that they can have a good of their own. If, then, we accept Feinberg’s goodness principle and do not suppose, as he evidently does, that the only (or the only relevant) sort of inherent good is happiness, then we can see how

the implications of the goodness principle run counter to the implications of the interest principle . Since mere things and plants are not the sorts of beings that can be interested in things, it follows, given, the interest principle, that they cannot have rights. But since they can have a good of their own, it follows, given the goodness principle, that they can. And this is to say that, if my earlier arguments are sound, we cannot make use of both these principles as a basis for determining which beings can and which cannot have rights. Yielding, as they do, results that are inconsistent, we must choose to accept one or the other, but not both. Which one, if either, should be accepted is too large a question for consideration here. Here I can only register my own suspicion that it is the goodness principle, not the interest principle, that merits our acceptance, a judgment which, if it should happen to be correct, and if, further, it is true, as I have argued in the above, that plants and mere things can have a good of their own, would yield the interesting (not to say ironic) consequence that Feinberg has provided us with a principle by reference to which we can argue that mere things and plants *can* have rights.

NOTES

¹ I am especially indebted to my colleague, W.R. Carter, whose searching criticisms of two earlier drafts of this essay persuaded me to start anew. I have also profited from the suggestions of my colleagues, Robert Metzger and Alan Aparer.

² This essay originally appeared in *Philosophy and Environmental Crisis*, ed. William Blackstone (Athens, Georgia: University of Georgia Press, 1974). Excerpts from an expanded version of this paper appear in "The Rights of Animals" in *Animal Rights and Human Obligations*, ed. Tom Regan and Peter Singer (Englewood Cliffs, N.J.: Prentice-Hall Inc., 1976). I have expressed my debt to Feinberg elsewhere. See my "The Moral Basis of Vegetarianism," *The Canadian Journal of Philosophy*, October, 1975. Henceforth page references will be to Feinberg's original paper and will occur in the body of my essay.

³ Feinberg cites H.J. McCloskey as a proponent of the interest principle. See his "Rights," *The Philosophical Quarterly*, Vol. 15 (1965). For a critical examination of McCloskey's position, especially as it related to the possibility that animals have rights, see my "McCloskey on Why Animals Cannot Have Rights," forthcoming in *The Philosophical Quarterly*.

⁴ The argument I develop against Feinberg is premised on this contrast. As it stands, my argument will not cause any difficulties for someone who espouses or implies a different contrast than the one Feinberg implies in the essay presently under examination. This point has been made clear to me by considering some of the things Professor Feinberg has kindly written to me in correspondence. It is unclear to me, however, whether, equipped with a richer conception of goodness than the one Feinberg implies here, it is possible to avoid the dilemma I propose at the end of my essay. I am inclined to think it is not.

⁵ Feinberg is not the only one guilty of failing clearly to distinguish between these two senses of 'interest.' Consider the following passage from Peter Singer's *Animal Liberation: A New Ethics for Our Treatment of Animals* (A New York Review Book, distributed by Random House: New York, N.Y., 1975, p. 9): "The capacity for suffering and enjoyment is a prerequisite for having interests at all, a condition that must be satisfied before we can speak of interests in a meaningful way. It would be nonsense to say that it was not in the interests of a stone to be kicked along the road by a schoolboy. A stone does not have interests because it does not suffer. Nothing that we can do to it could possibly make any difference to its welfare. A mouse, on the other hand, does have an interest in not being kicked along the road, because it will suffer if it is." Singer, it is clear, would have us believe that it is meaningless to speak of things as being in the interests of non-sentient beings. This is false. As I explain below, it makes perfectly good sense to speak of what is in the interests of, say, a car or a gardenia. In general, non-sentient beings can have interests, in the sense that things can be in their interests, despite the fact that, like stones, they cannot be interested in things. The reason we cannot make sense of the idea that something might be in a stone's interests is not that it cannot suffer; it is that we cannot form an intelligible conception of what its good could be.

⁶ It is a commonplace in philosophy to find the pairs of expressions (a) "instrumental good" and "instrumental value" and (b) "intrinsic good" and "intrinsic value" used interchangeably, as if they were synonymous. This is false; it is both a symptom and a sustaining cause of the failure to see that there is a conceptual distinction between something's being good and its being valued. Things can be good (instrumentally or intrinsically) and not be valued.