

# PD38

Bailey: 38. Where, provided the circumstances have not been altered, actions which were considered just have been shown not to accord with the general concept, in actual practice, then they are not just. But where, when circumstances have changed, the same actions which were sanctioned as just no longer lead to advantage, they were just at the time, when they were of advantage for the dealings of fellow-citizens with one another, but subsequently they are no longer just, when no longer of advantage.

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“When, without any fresh circumstances arising a thing which has been declared just in practice does not agree with the impressions of reason, that is a proof that the thing was not really just. In the same way, when in consequence of new circumstances, a thing which has been pronounced just does not any longer appear to agree with utility, the thing which was just, inasmuch as it was useful to the social relations and intercourse of mankind, ceases to be just the moment when it ceases to be useful.” Yonge (1853)

“Where without any change in circumstances the conventional laws when judged by their consequences were seen not to correspond with the notion of justice, such laws were not really just; but wherever the laws have ceased to be expedient in consequence of a change in circumstances, in that case the laws were for the time being just, when they were expedient for the mutual intercourse of the citizens, and ceased subsequently to be just when they ceased to be expedient.” Hicks (1910)

“Where without any change in circumstances the conventional laws, when judged by their consequences, were seen not to correspond with the notion of justice, such laws were not really just ; but wherever the laws have ceased to be expedient in consequence of a change in circumstances, in that case the laws were for the time being just when they were expedient for the mutual intercourse of the citizens, and subsequently ceased to be just when they ceased to be expedient.” Hicks (1929)

“Where, provided the circumstances have not been altered, actions which were considered just, have been shown not to accord with the general concept in actual practice, then they are not just. But where, when circumstances have changed, the same actions which were sanctioned as just no longer lead to advantage, there they were just at the time when they were of advantage for the dealings of fellow-citizens with one another, but subsequently they are no longer just, when no longer advantage.” Bailey (1926)

“If, although no new circumstances have arisen, those things that were commonly held just in these matters did not in their actual effects correspond with that conception, they were not just. Whenever, as a result of new circumstances, the same things that had been regarded as just were no longer useful, they were just at

the time when they were useful for the relations of citizens to each other; but afterwards, when they were no longer useful, they were no longer just.” Geer (1964)

“Where actions that were considered just are shown not to fit the concept (of justice) in actual practice—provided circumstances are not altered—they are not just. But where, once events have changed, the same actions once held to just are no longer advantageous, they were just at the time when they brought advantage to citizens’

dealings with one another; but later they were no longer just, when they brought no advantage.” O’Connor (1993)

“If objective circumstances have not changed and things believed to be just have been shown in actual practice not to be in accord with our basic grasp [of justice], then those things were not just. And if objective circumstances do change and the same things which had been just turn out to be no longer useful, then those things were just as long as they were useful for mutual associations of fellow citizens; but later, when they were not useful, they were no longer just.” Inwood & Gerson (1994)

“Where, without any change in circumstances, things held to be just by law are revealed to be in conflict with the essence of justice, such laws were never really just. But wherever or whenever laws have ceased to be advantageous because of a change in circumstances, in that case or time the laws were just when they benefited human interaction, and ceased to be just only when they were no longer beneficial.” Anderson (2004)

“[This is what we must say] if we are not to perturb ourselves with hollow words but rather take our bearings from the truth about human affairs. In those instances, in which, without any new developments arising, it becomes evident that the accepted concepts of justice are not, after all, in harmony with concrete interests or exertions of human effort: we must, in such cases, admit that those concepts of justice have had nothing to do with justice to begin with. But, in those instances, in which novel developments make it disadvantageous to preserve the same [concepts of] justice: in such cases, we must say that the concepts of justice were true in the past, for as long as they were conducive to the mutual association of fellow citizens, but, subsequently, when they were no longer advantageous, they were no longer just to adhere to.” Makridis (2005)

“When circumstances have not changed and things that were thought to be just are shown to not be in accord with our basic grasp of justice, then those things were not just. But when circumstances do change and things that were just are no longer useful, then those things were just while they brought mutual advantage among companions sharing the same community; but when later they did not bring advantage, then they were not just.” Saint-Andre (2008)

“In cases where the surrounding conditions are not new and where laws regarded as just have been shown to be inconsistent with the conception of justice in their actual workings, such laws are unjust. Again, in cases where the circumstances are new and where the same laws, once deemed to be just, are no longer serviceable, the laws in this case were just as long as they were useful to the community of citizens, but later when they were no longer useful they became unjust.” Strodach (2012)

“Where without any change in circumstances the conventional laws were seen not to accord with the preconception when judged by their consequences, such laws were not just. But whenever, in changed circumstances, the existing laws have ceased to be expedient, then they were just when they benefited the mutual intercourse of fellow citizens, but were no longer just later on when they ceased to be expedient.” Mensch (2018)

“Where, even without any change in circumstances, it became obvious from actual practice that the established norms of justice did not align with the preconception [sc. of justice], then they were not just. But where the situation did change and the same norms established as just no longer promoted [sc. what they had previously: the community’s interactions], then in that case they were just for so long as they did promote the community of fellow citizens in their interactions, and later they were no longer just when they no longer promoted that.” White (2021)