Elements of the Philosophy of Right

G. W. F. HEGEL
1770–1831

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Grundlinien der Philosophie des Rechts

Translated from the German with AI (Claude) and edited



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INTRODUCTION

The *Elements of the Philosophy of Right* (1820) is Hegel's political philosophy, written in Berlin as a handbook for his lectures. Its subject is freedom: how the free will gives itself an existence in the world, first in property and contract, then in the moral conscience of the individual, and finally in the institutions of "ethical life": the family, civil society, and the state.

The book is written in numbered sections (§§), each a compressed statement of the argument, often followed by a longer Remark in which Hegel explains, illustrates and argues with his contemporaries. Along the way he gives a pioneering analysis of modern market society, its division of labor and the poverty it produces, and a defense of the constitutional monarchy of his day. It ends with world history, "the world's court of judgment."

The Preface is among the most quoted texts in philosophy: "What is rational is actual; and what is actual is rational," and philosophy as "its own time comprehended in thoughts," whose wisdom always arrives too late to instruct the world: "the owl of Minerva begins its flight only with the falling of dusk."

Preface

Philosophy and its time: the rational is actual, and the owl of Minerva flies at dusk.

Pref. The immediate occasion for publishing this outline is the need to give my students a guide to the lectures on the *philosophy of right* that I deliver as part of my official duties. This textbook is a fuller and, in particular, a more systematic exposition of the same basic concepts on this part of philosophy that are already contained in the *Encyclopedia of the Philosophical Sciences* (Heidelberg 1817), which I had previously designed for my lectures.[1]

But because this outline was to appear in print, and would therefore also reach the wider public, I decided to expand some of the *Remarks* already here. They were originally meant only to point briefly to related or divergent views, further consequences and the like, all of which would receive their proper explanation in the lectures. I have expanded them in places in order to clarify the more abstract content of the text and to give fuller consideration to ideas that lie close at hand and are current at present. The result is a number of Remarks more extensive than the purpose and style of a compendium would otherwise call for. A compendium proper, however, has as its subject matter the scope of a science that is regarded as complete. What is distinctive of it, apart perhaps from a small addition here and there, is chiefly the assembling and ordering of the essential moments of a content that has long been accepted and familiar,

1 German *Recht* means both "right" and "law." This translation uses "right" except where positive law is plainly meant.

just as that form has its long-settled rules and conventions. A philosophical outline is not expected to follow this pattern, if only because people imagine that what philosophy produces is as short-lived a work as Penelope's web, which is begun afresh every day.[2]

Admittedly, this outline differs from an ordinary compendium first of all in the method that guides it. But I presuppose here that the philosophical way of advancing from one subject matter to another and of scientific proof—this speculative mode of knowing in general—differs essentially from every other mode of knowing. Only insight into the necessity of this difference can rescue philosophy from the shameful decay into which it has sunk in our times. People have indeed recognized, or rather felt more than recognized, that the forms and rules of the older logic are inadequate for speculative science. These are the rules of defining, classifying and inferring, which contain the rules of the understanding's knowledge. But people have then simply thrown these rules away as fetters, in order to speak arbitrarily from the heart, from imagination, from chance intuition. And since reflection and relations of thought must come in after all, they fall back without knowing it on the despised method of quite ordinary inference and argumentation.—I have set out the nature of speculative knowledge in detail in my *Science of Logic*. In this outline, therefore, I have added only an occasional explanation of the progression and the method.[3] Given how concrete and inherently diverse the subject matter is, I have, it is true, not taken the trouble to demonstrate and bring out the logical progression in each and every detail. In part this could be regarded as superfluous, since familiarity with scientific method is presupposed. In part, however, it will be evident of itself that the whole, as well as the elaboration of its members, rests on the logical spirit. It is chiefly from this side, too, that I should like this treatise to be taken and judged.

2 In Homer's *Odyssey*, Penelope puts off her suitors by weaving a shroud by day and unraveling it by night.

3 Hegel's *Science of Logic* (1812–16) is the foundation of his whole system.

For what it is concerned with is *science*, and in science the content is essentially bound to the *form*. It is true that one may hear from those who seem to be the most thorough that form is something external and indifferent to the matter itself, and that only the matter counts. One may further hold that the task of a writer, and especially of a philosophical writer, is to discover *truths*, to tell *truths*, to spread *truths* and correct concepts. But if we look at how this task is actually carried on, we see, on the one hand, the same old dish reheated again and again and served up on all sides. This task will no doubt have its merit in the culture and awakening of minds, though it might rather be regarded as a busy superfluity—"for they have Moses and the prophets; let them hear them."[4] Above all, one has ample occasion to marvel at the tone and the pretension that this reveals: as if the world had lacked nothing but these zealous disseminators of truths, and as if the reheated dish brought new and unheard-of truths that must above all be taken to heart "at the present time." On the other hand, we see the truths handed out from one side displaced and swept away by truths of just the same sort dispensed from other sides. Now, in this crush of truths, how is what is neither old nor new but abiding to rise out of these formless reflections drifting back and forth—how else is it to be distinguished and proved than by *science!*

Besides, the *truth* about *right, ethical life and the state* is *as old* as it is *openly set forth and known in the public laws, public morality and religion*. The thinking spirit is not content to possess this truth in this immediate way. What more, then, does the truth need than to be *comprehended* as well, and for the content, already rational in itself, to gain a rational form too, so that it may appear justified to free thinking? For free thinking does not stop at what is *given*, whether the given is supported by the external positive authority of the state or of human agreement, or by the authority of inner feeling and the heart and the immediately assenting witness of the spirit. Instead it starts from

4 Luke 16:29. *Bildung*, rendered "culture," means the formation of mind and character as well as education.

itself, and precisely for that reason demands to know itself united with the truth in its innermost being.

The simple attitude of an unprejudiced mind is to hold with trusting conviction to the publicly acknowledged truth and to build its way of acting and its settled position in life on this firm foundation. Against this simple attitude there may arise the supposed difficulty of how, amid the infinitely *various opinions*, one is to distinguish and discover what among them is universally recognized and valid. And this perplexity can easily be taken for a proper and genuine earnestness about the matter. In fact, however, those who pride themselves on this perplexity cannot see the forest for the trees; the only perplexity and difficulty present are the ones they themselves create. Indeed, this perplexity and difficulty of theirs are rather proof that they want something other than what is universally recognized and valid, other than the substance of what is right and ethical. For if they were truly concerned with that, and not with the *vanity* and *particularity* of their opinions and their being, they would hold to what is substantially right, namely to the commandments of ethical life and of the state, and arrange their lives accordingly. —The further difficulty, however, comes from the fact that human beings *think* and seek in thinking their freedom and the ground of ethical life. But this right, however lofty and divine it is, is turned into wrong if only this counts as thinking: if thinking knows itself to be free only when it *deviates from what is universally recognized and valid* and has managed to invent something *particular* for itself.

In our time, the notion that freedom of thought, and of spirit in general, proves itself only by deviating from what is publicly recognized, and even by hostility toward it, has been able to take root most firmly *in relation to the state*. Accordingly, a philosophy of the state in particular has seemed to have the essential task of inventing and putting forward a *theory* of its own *as well*—and a new and particular one at that. Seeing this notion and the activity that goes with it, one would think that no state and no constitution had ever existed in the world or existed at present;

as if we had *now*—and this *now* goes on forever—to start completely from the beginning, and as if the ethical world had just been waiting for such *present-day* devising, fathoming and founding. As regards *nature*, it is conceded that philosophy must know it *as it is*; that the philosopher's stone lies hidden *somewhere*, but *in nature itself*; that nature is *rational within itself*; and that knowledge must investigate and conceptually grasp this *actual* reason present in nature—not the shapes and contingencies that appear on the surface, but nature's eternal harmony, understood as its *immanent* law and essence. The *ethical world*, by contrast—the state, which is reason as it actualizes itself in the element of self-consciousness—is not supposed to enjoy the good fortune of its being reason that has in fact achieved power and force in this element, and that asserts itself and dwells there. The spiritual universe is instead supposed to be abandoned to chance and arbitrariness; it is supposed to be *godforsaken*. On this atheism of the ethical world, the *true* is to be found *outside* it; and at the same time, since there is supposed to be reason in it *too*, the true is only ever a problem. This, we are told, gives every kind of thinking the right, indeed the duty, to take its own run at it—not, however, in order to *seek* the philosopher's stone. For the philosophizing of our time has spared us the search, and everyone is sure, just as they stand, that they already have this stone in their power. Now of course it happens that those who find their life in this actuality of the state, and their knowing and willing satisfied in it—and there are many of them, more than think or know it, for *fundamentally* it is *everyone*—that at least those who *consciously* find their satisfaction in the state laugh at these running starts and assurances. They take them for an empty game, now more amusing, now more serious, now entertaining, now dangerous. This restless activity of reflection and vanity, together with the reception and response it meets with, would be a matter in its own right, developing in its own way. But it is *philosophy* in general that this bustle has brought into manifold contempt and discredit. The worst of these forms of contempt is this: that, as I said, everyone, just as

they stand, is convinced that they know all about philosophy in general and are able to pass judgment on it. No other art or science is shown this ultimate contempt of supposing that one possesses it outright.

Indeed, what we have seen issue, with the greatest pretension, from recent philosophy on the subject of the state may well have entitled anyone who felt like joining in to this conviction: that they could produce the same sort of thing straight out of their own heads, and thereby prove to themselves that they possessed philosophy. Besides, this self-styled philosophy has expressly declared that *the true itself cannot be known*. The true, it says, is whatever each person allows *to rise up from their heart, feelings and enthusiasm* about ethical matters, above all about the state, government and constitution. What has not been said on this score to flatter the young in particular? And the young have certainly taken it to heart. *He gives to his own in their sleep* has been applied to science, and so every sleeper has counted himself among *his own*; what he received in this way in the sleep of concepts was, of course, goods of the corresponding quality.—One of the generals of this shallowness that calls itself philosophizing, Herr *Fries*[5], had the effrontery, at a solemn public occasion that has since become notorious, to present in a speech on the state and the constitution the notion that "in a people among whom a genuine communal spirit prevails, *life would come from below, from the people*, to every task of public affairs; *living* associations, indissolubly united *by the holy chain of friendship*, would devote themselves to every single work of popular education and popular service"—and so on.[6] —This is the main drift of this shallowness: to base science not on the development of thought and the concept, but on immediate perception and chance imagination. It likewise takes the rich inner articulation of the ethical that is the state—the architectonic of its rational-

5 HEGEL'S NOTE. I have given evidence elsewhere of the shallowness of his science; see *Science of Logic* (Nuremberg 1812), Introduction, p. xvii.

6 Psalm 127:2. Jakob Friedrich Fries (1773–1843), Hegel's philosophical rival, gave this speech at the Wartburg Festival of nationalist student fraternities in 1817.

ity, which, through the determinate distinction of the spheres of public life and their rights, and through the strict proportion in which every pillar, arch and buttress is held, makes the strength of the whole arise from the harmony of its members—and lets this well-formed edifice melt into the mush of "heart, friendship and enthusiasm."

> The ethical world, of course, *is* not surrendered to the subjective contingency of opinion and arbitrariness, as the world in general is according to Epicurus; but on this view it should be. With the simple household remedy of basing on *feeling* what is the labor of reason and its understanding—a labor of several thousand years—all the effort of rational insight and knowledge guided by the thinking concept is, of course, spared. *Mephistopheles* in Goethe—a good authority—says roughly what I have also quoted elsewhere: "Just despise understanding and science,
>
> humanity's very highest gifts—
> then you have given yourself to the devil
> and must perish."[7]

It is only a short step for such a view to take on the guise of *piety* as well; for what has this bustle not tried to invoke as its authority! With godliness and the Bible, however, it has thought it could give itself the highest warrant for despising the ethical order and the objectivity of the laws. For it is indeed piety, too, that wraps up the truth—which in the world has unfolded into an organic realm—into the simpler intuition of feeling. But if piety is of the right kind, it gives up the form of this region as soon as it steps out of the inner life into the daylight of the unfolding and the revealed wealth of the Idea. And from its inner worship it brings with it reverence for a truth and for laws that are in and for themselves, raised above the subjective form

7 Epicurus (341–270 BC) held that the world arises from chance collisions of atoms. The lines paraphrase, from memory, Mephistopheles in Goethe's *Faust*, Part One.

of feeling.[8] The particular form of bad conscience revealed in the kind of eloquence this shallowness puffs itself up with may be pointed out here. First of all, where it is most *spiritless*, it speaks most of *spirit*; where its talk is deadest and most leathery, the words *life* and *bringing into life* are most often on its lips; where it displays the greatest selfishness of empty arrogance, the word *people* is most constantly in its mouth. But the distinctive mark it bears on its forehead is hatred of law. Right and ethical life, and the actual world of right and of the ethical, grasp themselves through *thought*, and through thought give themselves the form of rationality, namely universality and determinacy. This, *law*, is what that feeling which reserves to itself its own good pleasure, and that conscience which locates right in subjective conviction, rightly regard as their greatest enemy. They experience the form of right as a *duty* and as a *law* as a *dead, cold letter* and as a *fetter*. For they do not recognize themselves in it, and hence are not free in it; because law is the reason of the matter, and this reason does not permit feeling to warm itself at its own particularity. *Law*, therefore, as I have noted somewhere in the course of this textbook, is above all the shibboleth by which the false brothers and friends of the so-called people are told apart.[9]

PHILOSOPHY AND THE STATE

Hegel defends a philosophical treatment of the state against shallow theorizing and government suspicion.

Now that the pettifoggery of arbitrariness has seized the name of *philosophy* and has managed to persuade a large public that such activity is philosophy, it has almost become a disgrace to speak philosophically about the nature of the state at all; and upright men cannot be blamed if they grow impatient as soon as

8 "Idea" (*Idee*) is capitalized as Hegel's technical term: the concept together with its actualization (see § 1).

9 Judges 12:5–6, where a password's pronunciation betrayed the enemy. The passage meant is the Remark to § 258.

they hear talk of a philosophical science of the state. Still less is it surprising that governments have at last turned their attention to such philosophizing. For among us, in any case, philosophy is not practiced as a private art, as it was, say, among the Greeks; it has a public existence that touches the public, chiefly or exclusively in the service of the state.[10] Governments have shown the scholars devoted to this field the trust of relying on them entirely for the development and content of philosophy. Here and there, if you like, this may have been not so much trust as indifference toward science itself, and the teaching post may have been kept on merely out of tradition (as in France, so far as I know, they have let at least the chairs of metaphysics lapse). Either way, that trust has often been poorly repaid; or, where one preferred to see indifference, the result—the decay of thorough knowledge—would have to be regarded as the penalty for that indifference. At first sight, shallowness may seem the most compatible of all with at least external order and quiet, since it never gets as far as touching the substance of things, or even suspecting it. It would therefore, at least at first, have nothing to fear from the police—were it not that the state also contains within itself the need for a deeper culture and insight, and demands that science satisfy this need.[11] But with regard to the ethical, to right and duty in general, shallowness leads of its own accord to the principles that constitute shallowness in this sphere: the principles of the *Sophists,* which we come to know so decisively from *Plato*. These are the principles that base what is right on *subjective ends and opinions*, on *subjective feeling* and *particular conviction*—principles from which there follows the destruction of inner ethical life and upright conscience, of love and right among private persons, as much as the destruction of public order and the laws of the state. The significance that such phenomena must acquire for governments is not to be brushed

10 Hegel alludes to the Carlsbad Decrees (1819), which placed German universities under state supervision after a student assassinated the writer August von Kotzebue.

11 *Polizei* in Hegel's day covered all public regulation and welfare provision, not only law enforcement (see §§ 231 ff.).

aside by appealing to the trust bestowed and to the authority of an office. Such an appeal would demand that the state let whatever corrupts the substantial source of deeds—universal principles—go on and have its way, and even tolerate its defiance, as though that were only proper. *To whom God gives an office, he also gives understanding* is an old joke that surely no one in our times will want to maintain in earnest.

In the importance that circumstances have renewed in the eyes of governments for the manner of philosophizing, one cannot fail to recognize a moment of protection and support, which the study of philosophy seems to have come to need in many other respects. For when one reads in so many productions from the field of the positive sciences, as well as of religious edification and other indeterminate literature, how not only is the contempt for philosophy mentioned above displayed—people who at the same time show that they are completely backward in the cultivation of thought, and that philosophy is utterly foreign to them, nonetheless treat it as something they are done with—but how philosophy is there expressly attacked, and its content, the *comprehending knowledge of God* and of physical and spiritual nature, *the knowledge of truth*, is declared a foolish, indeed sinful presumption; how *reason*, and again *reason*, and in endless repetition *reason*, is accused, disparaged and condemned— or how at least it is made plain how inconvenient the claims of the concept, unavoidable as they are, prove to be for much of what is supposed to be scientific activity—when, I say, one has such phenomena before one, one might almost entertain the thought that *from this side* tradition was no longer venerable or sufficient to secure *toleration* and a public existence for the study of philo-

sophy.[12]—The declamations and presumptions against philosophy current in our time present the strange spectacle of being, on the one hand, in the right, because of the shallowness to which this science has been degraded, and, on the other, of being themselves rooted in the very element against which they ungratefully turn. For that self-styled philosophizing, by declaring knowledge of the truth a foolish endeavor, has *leveled* all thoughts and all materials, just as the despotism of the *Roman* emperors *made equal* nobles and slaves, virtue and vice, honor and dishonor, knowledge and ignorance. As a result, the concepts of the true and the laws of the ethical are likewise nothing more than opinions and subjective convictions, and the most criminal principles, as *convictions*, are placed on a par with those laws. And likewise any objects, however barren and particular, and any materials, however strawlike, are placed on a par with—what constitutes the interest of all thinking people and the bonds of the ethical world.

It is therefore to be counted a *stroke of luck* for science—in fact, as I have noted, it is the *necessity* of the *matter*—that this philosophizing, which might have gone on spinning itself out as a piece of *academic wisdom*, has been brought into closer relation with actuality. For in actuality the principles of rights and duties are taken seriously, and actuality lives in the daylight of consciousness of them. And so it has come to a *public* break.

12 HEGEL'S NOTE. Such views occurred to me in connection with a letter by Johannes von Müller (*Works*, Part VIII, p. 56), where he says, among other things, about the state of *Rome* in 1803, when the city was under French rule: "Asked how the public institutions of learning were faring, a professor replied: *On les tolère comme les bordels* [They are tolerated, like the brothels]."—One can even still hear the so-called *doctrine of reason*, namely *logic*, being *recommended*, perhaps in the conviction that, as a dry and barren science, it is either no longer studied anyway or, if it is now and then, that it yields only formulas without content, which give nothing and spoil nothing—so that the recommendation can in any case do no harm, just as it will do no good.

TRANSLATOR'S NOTE. Johannes von Müller (1752–1809), Swiss historian.

PHILOSOPHY AND ACTUALITY

Philosophy grasps the present and actual instead of setting up a beyond somewhere else.

It is precisely *this relation of philosophy to actuality* that the misunderstandings concern. And so I return to what I remarked earlier: that philosophy, because it is the *fathoming of the rational*, is for that very reason the *grasping of the present and the actual*, not the setting up of a *beyond* that is supposed to be God knows where—though in fact one can well say where it is, namely in the error of one-sided, empty argumentation. In the course of the following treatise I have remarked that even *Plato's Republic*, which is proverbial as an *empty ideal*, essentially grasped nothing but the nature of Greek ethical life. Plato was conscious of a deeper principle breaking in upon that ethical life, a principle that could appear within it, immediately, only as a still unsatisfied longing, and therefore only as corruption. He had to seek help against it from that very longing. But this help, which had to come from above, he could at first seek only in a particular *external* form of that ethical life. By this form he thought to master that corruption, and by it he most deeply violated the deeper drive of that ethical life: free infinite personality.[13] But he proved himself a great spirit precisely in this: that the very principle around which the distinctive character of his Idea turns is the pivot on which the impending upheaval of the world turned.

What is rational is actual; and what is actual is rational.

Every unprejudiced consciousness holds this conviction, as does philosophy; and philosophy starts from it in considering the *spiritual* universe as much as the *natural*. If reflection, feeling, or whatever shape subjective consciousness may take, regards the *present* as something *vain*, is beyond it and knows better, then it finds itself in what is vain; and since it has actuality only in the present, it is thus itself nothing but vanity. If, con-

13 Hegel refers to the Remark to § 185.

versely, the *Idea* is taken to be "merely an idea," a representation in someone's opinion, philosophy by contrast affords the insight that nothing is actual except the Idea. What matters, then, is to recognize, in the semblance of the temporal and transient, the substance that is immanent and the eternal that is present. For the rational, which is synonymous with the Idea, also enters external existence in its actuality, and so emerges in an infinite wealth of forms, appearances and shapes. It surrounds its kernel with the motley rind in which consciousness first dwells, and which only the concept penetrates, to find the inner pulse and to feel it still beating in the external shapes too. But the infinitely varied relations that form in this externality through the shining of essence into it—this infinite material and its regulation—are not the object of philosophy. Philosophy would thereby meddle in things that do not concern it; it can spare itself the trouble of giving good advice about them. *Plato* could have refrained from recommending to nurses that they never stand still with children but always rock them in their arms. And *Fichte* likewise could have refrained from *constructing*, as it was called, the perfection of the *passport police* to the point where suspects were to have not only their description entered in their passports but their portrait painted there. In elaborations of this sort there is no trace of philosophy left, and philosophy can leave such ultra-wisdom aside all the more readily since it ought to show itself most liberal precisely with regard to this infinite mass of objects.[14] Science will thereby also show itself farthest removed from the hatred that the vanity of knowing better heaps on a host of circumstances and institutions—a hatred in which pettiness takes the greatest delight, because only through it does it gain a sense of self.

14 Plato, *Laws* 789e; Johann Gottlieb Fichte, *Foundations of Natural Right* (1796–97).

COMPREHENDING WHAT IS

The book aims to comprehend the state as rational, not to instruct it how it ought to be.

This treatise, then, insofar as it contains the science of the state, is to be nothing other than the attempt to *comprehend and portray the state as something inherently rational*. As a philosophical work, it must be as far as possible from trying to construct a *state as it ought to be*. The instruction it may contain cannot aim at instructing the state how it ought to be; rather, it aims to show how the state, the ethical universe, is to be known.

Idou Rhodos, idou kai to pêdêma [Look, here is Rhodes, and here is the jump].[15]

Hic Rhodus, *hic* saltus [Here is Rhodes, jump here].

To comprehend *what is* is the task of philosophy, for *what is* is reason. Just as every individual is in any case a *child of their time*, so philosophy too is *its own time comprehended in thoughts*. It is just as foolish to imagine that any philosophy goes beyond its present world as that an individual can leap over their time, leap beyond Rhodes. If an individual's theory does in fact go beyond it, if it builds itself a world *as it ought to be*, then that world certainly exists—but only in the individual's opinion, a soft medium into which anything one pleases can be molded.

With a slight change, that saying would read: *Here* is the rose, dance *here*.[16]

What lies between reason as self-conscious spirit and reason as present actuality—what separates the former from the latter and keeps it from finding satisfaction there—is the fetter of some abstraction that has not been freed into the concept. To recognize reason as the rose in the cross of the present, and thereby to take joy in the present: this rational insight is the

15 From Aesop's fable of a boaster who claimed he had once made a huge jump on Rhodes, and was told to jump here and now.

16 Hegel puns on Greek *rhodon*, "rose," and on Latin *saltus*, "leap," read as *salta*, "dance."

reconciliation with actuality *that* philosophy grants to those who have once felt the inner demand *to comprehend*. They are to preserve their subjective freedom in what is substantial, and with their subjective freedom to stand not in something particular and contingent but in what is in and for itself.[17] This is also the more concrete meaning of what was called above, more abstractly, the *unity of form and content*. For *form* in its most concrete meaning is reason as comprehending knowledge, and *content* is reason as the substantial essence of ethical and natural actuality alike; the conscious identity of the two is the philosophical Idea.—It is a great obstinacy, the obstinacy that does honor to human beings, to refuse to recognize anything in one's disposition that is not justified by thought. This obstinacy is the characteristic feature of the modern age, and indeed the distinctive principle of Protestantism. What *Luther* began as faith, in feeling and in the witness of the spirit, is the same thing that spirit, having matured further, strives to grasp in the *concept*, and so to free itself in the present and thereby to find itself there. It has become a famous saying that a half-philosophy leads away from God—and it is the same halfness that makes knowing an *approximation* to truth—while true philosophy leads to God. The same holds for the state.[18] Reason is not content with approximation, which is neither cold nor hot and is therefore spewed out. Just as little is it content with the cold despair which concedes that in this temporal world things go badly, or at best middlingly, but that nothing better is to be had here, and that for this reason alone one must keep the peace with actuality. It is a warmer peace with actuality that knowledge procures.[19]

To say one more word about *instructing* the world as to how it ought to be: for that, philosophy in any case always comes too late. As the *thought* of the world, it appears only when actuality

17 The rose in the cross evokes the emblem of the Rosicrucians and Luther's seal, a rose enclosing a cross.

18 The saying goes back to Francis Bacon's essay "Of Atheism."

19 Revelation 3:16.

has completed its process of formation and made itself ready. What the concept teaches, history necessarily shows as well: that only in the ripeness of actuality does the ideal appear over against the real, and build up for itself this same world, grasped in its substance, in the shape of an intellectual realm. When philosophy paints its gray in gray, then a shape of life has grown old, and with gray in gray it cannot be rejuvenated, but only known; the owl of Minerva begins its flight only with the falling of dusk.[20]

But it is time to close this preface. As a preface, in any case, its only business was to speak externally and subjectively about the standpoint of the work it introduces. If a content is to be discussed philosophically, it admits only of a scientific, objective treatment. So too, for the author, any objection of a kind other than a scientific treatment of the matter itself can count only as a subjective postscript and an arbitrary assurance, and must be a matter of indifference to him.

Berlin, 25 June 1820.

20 The owl was the emblem of Minerva (Athena), goddess of wisdom. "Gray" may echo Mephistopheles in Goethe's *Faust*: "All theory, dear friend, is gray."

Introduction

The philosophical science of right; the concept of the free will.

[1] *The philosophical science of right* has as its object the *Idea of right*: the concept of right and its actualization.

[1R] Philosophy has to do with Ideas, and therefore not with what are usually called *mere concepts*. On the contrary, it exposes their one-sidedness and untruth. It shows that the *Concept* (not what one often hears so called, which is merely an abstract determination of the understanding) alone is what has *actuality*, and has it in such a way that it gives this actuality to itself. Everything that is not this actuality posited by the Concept itself is transient *existence*, external contingency, opinion, unessential appearance, untruth, deception and so on. The *shape* that the Concept gives itself in its actualization is, for the knowledge of the *Concept* itself, the other essential moment of the Idea, distinct from the *form* of being only as *Concept*.[1]

[2] The science of right is *a part of philosophy*. *It* must therefore develop the *Idea*, which is the reason of an object, out of the concept—or, what amounts to the same thing, it must look on at the thing's own immanent development. As a part, it has a determinate *starting point*, which is the *result* and the truth of what *precedes* it; and what precedes it constitutes the so-called *proof* of that starting point. So far as its *coming to be* is concerned, therefore, the concept of right falls outside the science of right. Its deduction is presupposed here, and it is to be taken up as *given*.

1 *Begriff* is rendered "concept"; it is capitalized, as here, where Hegel means the speculative Concept, which gives itself actuality.

[2R] According to the formal, non-philosophical method of the sciences, the first thing sought and demanded is the *definition*, at least for the sake of external scientific form. The positive science of right, incidentally, cannot be much concerned with this either, since it aims chiefly at stating *what* is legally right, that is, what the particular legal provisions are. That is why people used to warn: *omnis definitio in iure civili periculosa* [every definition in civil law is dangerous]. And in fact, the more incoherent and self-contradictory the provisions of a body of law are, the less possible are definitions within it. For definitions are supposed to contain universal determinations, and these immediately lay bare the contradictory—here, what is contrary to right—in all its nakedness. Thus, for example,[2] no definition of a *human being* would be possible in Roman law, for the slave could not be subsumed under it; rather, the slave's status violates that concept. The definition of property and of owner would appear just as perilous in many relations.—The deduction of a definition, however, is carried out, say, from etymology, and above all by abstracting it from particular cases, taking human feeling and representation as the basis. The correctness of the definition is then made to lie in its agreement with existing representations. This method sets aside what alone is scientifically essential: as regards content, the *necessity of the thing* in and for itself (here, of right), and as regards form, the nature of the concept. In philosophical knowledge, by contrast, the *necessity* of a concept is the main thing, and the path by which it has come to be, as a *result*, is its proof and deduction. Once its *content* is thus necessary *for itself*, the second step is to look around for what corresponds to it in our representations and in language. But how this concept is for itself in its *truth*, and how it is in *representation*, not only can differ from each other but must differ in form and shape. If, however, the representation is not also false in its content, the concept can indeed be shown to be contained in it and to be present in it in its essence; that is, the representation can be

2 A maxim from Justinian's *Digest* (50.17.202), attributed to the Roman jurist Javolenus.

raised to the form of the concept. But representation is so far from being the measure and criterion of the concept, which is necessary and true for itself, that it must rather take its truth from the concept, correct itself by it and know itself through it. —Now if that manner of knowing, with its formalities of definitions, inferences, proofs and the like, has more or less disappeared on the one hand, it has on the other been poorly replaced by another manner: that of seizing on Ideas in general, including the Idea of right and its further determinations, immediately as *facts of consciousness*, asserting them as such, and making natural or heightened feeling, *one's own breast* and *enthusiasm*, the source of right. If this method is the most convenient of all, it is at the same time the most unphilosophical—not to mention here other aspects of such a view, which bears not merely on knowing but directly on acting. The first method, formal though it is, still demands the *form* of the concept in definition and, in proof, the *form* of a *necessity* of knowing. The manner of immediate consciousness and feeling, by contrast, makes the subjectivity, contingency and arbitrariness of knowing its principle.—What the scientific procedure of philosophy consists in must be presupposed here from philosophical logic.

[3] Right is *positive* in general a) through its *form* of having validity in a state; and this legal authority is the principle for knowing it, *the positive science of right*. b) As to its *content*, this right acquires a positive element α) through the particular *national character* of *a* people, the stage of its *historical* development and the interconnection of all the relations that belong to *natural necessity*; β) through the necessity that a system of legal right must contain the *application* of the universal concept to the particular character of objects and cases, a character given *from outside*—an application that is no longer speculative thinking and development of the concept, but subsumption by the understanding; γ) through the *final* determinations required for *decision* in actuality.

[3R] If the feelings of the heart, inclination and arbitrary will are set against positive right and the laws, it at least cannot be

philosophy that recognizes such authorities.—That force and tyranny can be an element of positive right is contingent to it and does not affect its nature. Later on, in §§ 211–214, I shall show the point at which right must become positive. The determinations that will emerge there have been mentioned here only to mark the limit of philosophical right, and to dispel at once any notion, let alone demand, that its systematic development should yield a positive legal code, that is, one such as an actual state requires. —Natural right, or philosophical right, differs from positive right; but it would be a great misunderstanding to twist this into the claim that they are opposed and in conflict with each other. Rather, the former stands to the latter in the relation of Institutes to Pandects.—With regard to the historical element in positive right, mentioned first in the Paragraph, *Montesquieu* stated the true historical view, the genuinely philosophical standpoint. Legislation in general and its particular provisions are to be considered not in isolation and in the abstract, but as a dependent moment of *one* totality, in connection with all the other determinations that make up the character of a nation and an age. It is in this connection that they receive their true meaning, and with it their justification.[3] —To consider how legal determinations emerge and develop *as they appear in time*—this *purely historical* endeavor—and likewise to recognize the consistency the understanding finds in them by comparing them with legal relations already in existence, has its merit and its value in its own sphere. It stands outside any relation to philosophical consideration—insofar, that is, as development from historical grounds is not confused with development from the concept, and historical explanation and justification are not stretched to mean a justification valid *in and for itself*. This distinction, which is very important and must be firmly kept in mind, is at the same time very evident. A legal provision can be shown to be perfectly *grounded* in, and *consistent* with, the

3 Justinian's *Institutes* was an introductory textbook of principles; the *Pandects* (*Digest*) compiled the detailed rulings of the jurists. Montesquieu set out this view in *The Spirit of the Laws* (1748).

circumstances and *existing* legal institutions, and yet be contrary to right and irrational in and for itself. Such is the case with a host of provisions of Roman private law that followed quite consistently from such institutions as Roman paternal power and Roman marriage. But even if legal provisions are in accordance with right and rational, it is one thing to demonstrate that they are, which can truly be done only through the concept, and quite another to present the history of their emergence: the circumstances, cases, needs and events that brought about their establishment. Such a demonstration, and (pragmatic) knowledge from proximate or remote historical causes, is often called *explaining*, or, better still, *comprehending*. The belief is that this demonstration of the historical accomplishes everything—or rather the essential, which alone matters—needed to *comprehend* the law or legal institution; whereas what is truly essential, the concept of the thing, has not even come up.—In the same way people commonly speak of Roman or Germanic *legal concepts*, of legal *concepts* as defined in this or that legal code, when in fact no concepts appear there at all, but only general *legal determinations, propositions of the understanding*, principles, laws and the like. —By disregarding this distinction, one manages to shift the standpoint and to slip the question of true justification over into a justification from circumstances, into a consistency derived from presuppositions that may be no better in themselves, and so on; in general, to put the relative in place of the absolute, and external appearance in place of the nature of the thing. When historical justification confuses external origin with origin from the concept, it ends up unconsciously doing the opposite of what it intends. Suppose the emergence of an institution under its specific circumstances proves to be perfectly purposive and necessary, and so what the historical standpoint requires has been achieved. If this is supposed to count as a general justification of the thing itself, then the opposite follows: namely, that since those circumstances no longer exist, the institution has thereby lost its meaning and its right. Thus if, for example, in defense of maintaining the *monasteries*, their services in clearing

and settling wildernesses, in preserving learning through teaching and copying, and so on, have been cited, and these services regarded as the reason and purpose for their continued existence, then what follows from them is rather that under completely changed circumstances the monasteries have become, to that extent at least, superfluous and without purpose. —Now, historical significance—the historical demonstration of the origin of a thing and the making of it intelligible—and the philosophical view, likewise of the origin and of the concept of the thing, are at home in different spheres; and to that extent they can maintain an attitude of indifference toward each other. But since they do not always keep to this tranquil attitude, even in scholarship, I shall mention something further concerning their contact, as it appears in Herr Hugo's *Textbook of the History of Roman Law*; this may at the same time shed further light on that manner of opposing them. Herr *Hugo* states there (5th edition, § 53) "that *Cicero* praises the Twelve Tables with a *sidelong glance* at the philosophers," "but that the philosopher *Favorinus* treats them just as many a great philosopher has since treated positive right."[4] In the same place Herr *Hugo* gives the ready-made reply to such treatment, once and for all, on the ground "that *Favorinus understood* the Twelve Tables *just as little* as the philosophers understood positive right."—As for the rebuke of the philosopher *Favorinus* by the jurist *Sextus Caecilius* in Gellius, *Attic Nights*, XX, 1, it expresses first of all the enduring and true principle for justifying what is merely positive in its content. "Non ignoras," Caecilius says very aptly to *Favorinus*, "legum *opportunitates* et medelas pro *temporum* moribus et pro rerum publicarum *generibus*, ac pro utilitatum *praesentium* rationibus, proque *vitiorum*, quibus medendum est, *fervoribus, mutari* ac *flecti, neque uno statu consistere*, quin, ut facies coeli et maris, ita *rerum* atque *fortunae* tempestatibus *varientur*." ["You are not unaware that the advantages and remedies offered by laws

4 Gustav Hugo (1764–1844), Göttingen jurist and forerunner of the Historical School of law. The Twelve Tables (c. 450 BC) were Rome's earliest written code of law.

change and bend according to the customs of the times, the kinds of constitution, considerations of present advantage and the violence of the vices to be remedied; that they do not remain in one state, but, like the face of the sky and the sea, vary with the storms of circumstance and fortune."][5] "Quid salubrius visum est rogatione illa Stolonis..., quid utilius plebiscito Voconio..., quid tam necessarium existimatum est..., quam lex Licinia...? Omnia *tamen* haec *obliterata* et *operta* sunt civitatis opulentia..." ["What seemed more salutary than that bill of Stolo's..., what more useful than the Voconian plebiscite..., what was thought so necessary... as the Licinian law...? *Yet* all these have been *obliterated* and *buried* by the wealth of the state..."] These laws are positive insofar as they have their meaning and purposiveness in *circumstances*, and therefore have only a historical value in general; for that reason they are also transient by nature. The wisdom of legislators and governments in what they did for existing circumstances and laid down for the conditions of their time is a matter in its own right. It belongs to the assessment of history, and history will appreciate it all the more deeply, the more such an assessment is supported by philosophical points of view.[6] —Of the further justifications of the Twelve Tables against *Favorinus*, however, I want to give one example, because in it *Caecilius* employs the immortal fraud of the method of the understanding and its argumentation: namely, *to give a good reason for a bad thing* and to believe that one has thereby justified it. There was the abominable law that gave the creditor, once the set time limits had expired, the right to kill the debtor or sell him as a slave—indeed, if there were several creditors, *to cut pieces off him and so divide him among themselves*, and in such a way that *if one of them had cut off too much or too little, he should incur no legal liability for it* (a clause that would have benefited *Shakespeare's Shylock* in *The Merchant of Venice*,

5 Aulus Gellius (2nd century AD) records this debate between the philosopher Favorinus and the jurist Sextus Caecilius Africanus.

6 Stolo's bill (4th century BC) limited landholdings; the Voconian law (169 BC) restricted inheritance by women.

and that he would most gratefully have accepted). For this law *Caecilius* cites the *good reason* that good faith was all the better secured by it, and that, precisely because the law was so abominable, it was never meant to be applied. In his thoughtlessness he fails to reflect not only that this very provision destroys its purpose, the securing of good faith, but also that he himself, immediately afterward, cites an example of the law on false testimony failing in its effect because of its excessive punishment.—What Herr *Hugo* means, however, by saying that Favorinus did not *understand* the law is impossible to see. Any schoolchild is surely capable of understanding it, and the Shylock just mentioned would have understood best of all the clause in question, so advantageous to him. By *understanding*, Herr Hugo can only mean that culture of the understanding which, faced with such a law, is set at rest by a *good reason*. — Another failure to understand that *Caecilius* demonstrates in *Favorinus* in the same place is one a philosopher may readily admit to without blushing: namely, that *iumentum* [draft animal] —which, according to the law, was all that had to be provided, "and not an *arcera*" [a covered wagon], for a sick person in order to bring him to court as a witness—is supposed to have meant not only a horse but also a carriage or wagon. Caecilius could draw from this legal provision a further proof of the excellence and precision of the old laws: in providing for bringing a sick witness before the court, they went so far as to carry the provision not merely to the distinction between a horse and a wagon, but to the distinction between one wagon and another—one covered and upholstered, as Caecilius explains, and one not so comfortable. One would thus have a choice between the harshness of that earlier law and the triviality of such provisions. But to call such things trivial—and still more the learned explanations of them—would be one of the gravest offenses against this and other erudition.

In the textbook I have cited, Herr *Hugo* also comes to speak of *rationality* with respect to Roman law, and what has struck me in this regard is the following. In his treatment of *the period from*

the origin of the state to the Twelve Tables, §§ 38 and 39, he says "that people (in Rome) had many needs and were compelled to work, and for this they needed draft animals and beasts of burden as *helpers, such as are found among us*; that the terrain was an alternation of hills and valleys, and that the city lay on a hill, etc." These remarks were perhaps meant to fulfill *Montesquieu*'s intention, but one will hardly find that they capture his spirit. Having said this, he then does state in § 40 "that the *legal* condition was still very far from satisfying the *highest* demands of *reason*" (quite right; Roman family law, slavery, etc. do not satisfy even very modest demands of reason either). But for the subsequent periods Herr *Hugo* forgets to say in which of them—or whether in any of them at all—Roman law *satisfied the highest demands of reason*. Yet about the classical jurists, in the period of *the highest development of Roman law as a science*, he says in § 289 "that it has long been noticed that the classical jurists were educated in philosophy"; but "few know (thanks to the many editions of Herr *Hugo*'s textbook, rather more know it now) that there is no kind of writer who so deserves to be *placed alongside* the mathematicians for consistent deduction from principles, and alongside the modern creator of metaphysics for a quite striking peculiarity in the development of concepts, as precisely the Roman jurists. The latter is attested by the *remarkable* fact that nowhere do so many *trichotomies* occur as in the classical jurists and in *Kant*." —The consistency praised by *Leibniz* is certainly an essential property of the science of right, as it is of mathematics and of every other science of the understanding. But this consistency of the understanding has as yet nothing to do with satisfying the demands of reason or with philosophical science. Besides, the *inconsistency* of the Roman jurists and praetors should probably be counted among their greatest virtues, for through it they departed from unjust and abhorrent institutions. But they found themselves compelled to devise, *callide* [cunningly], empty verbal distinctions (such as calling what was nonetheless also an inheritance a *Bonorum possessio* [possession of the goods]) and even a silly evasion (and silliness is like-

wise an inconsistency), in order to save the letter of the Tables—as when, by the *fictio* or *hypokrisis* [fiction, pretense], a *filia* [daughter] was declared to be a *filius* [son] (Heineccius, *Antiquitatum Romanarum … liber* I, tit.[7] II, § 24).—But it is comical to see the classical jurists put on a level with *Kant* because of a few *trichotomous* divisions—especially judging by the examples cited there in note 5—and to see that sort of thing called a development of concepts.

THE FREE WILL

Right is grounded in the free will, and Hegel sets out the will's three moments.

4 The basis of right is, in general, *the spiritual*; its more precise location and point of departure is the *will*, which is *free*. Freedom thus constitutes the will's substance and destiny, and the system of right is the realm of actualized freedom, the world of spirit brought forth out of spirit itself as a second nature.

4R With regard to the freedom of the will, we may recall the former method of cognition. It presupposed the *representation* of the will and tried to extract a definition of the will from it and fix that definition. Then, in the manner of the former empirical psychology, the so-called *proof* that the will is free was derived from the various feelings and phenomena of ordinary consciousness, such as remorse, guilt and the like, which could supposedly be *explained* only by a *free* will. It is more convenient, however, simply to hold that freedom is *given* as a *fact* of consciousness and must be *believed* in. *That* the will is free, and *what* will and freedom are—the deduction of this can take place, as has already been noted (§ 2), only in the context of the whole. The main lines of this premise are that *spirit* is first *intelligence*, and that the determinations through which intelligence pro-

7 Leibniz had compared the Roman jurists' rigor to that of the geometers. *Bonorum possessio* was a praetorian grant of an estate to heirs not recognized by the old civil law; Johann Gottlieb Heineccius (1681–1741) was a German jurist and historian of Roman law.

ceeds in its development, from *feeling* through *representation* to *thinking*, are the path by which it brings itself forth as *will*, which, as practical spirit in general, is the proximate truth of intelligence. I have set these out in my *Encyclopedia of the Philosophical Sciences* (Heidelberg, 1817), §§ 363–399, and I hope one day to be able to elaborate them further. I feel all the more need to contribute my share, as I hope to do, toward a more thorough knowledge of the nature of spirit, since, as I noted there (§ 367 Remark), hardly any philosophical science is in so neglected and poor a state as the *doctrine of spirit*, usually called psychology.—As for the moments of the concept of the will set out in this and the following paragraphs of the Introduction, which are the result of that premise, one may, to help form a representation of them, appeal to everyone's self-consciousness. Each of us will find, first, that we can abstract from anything whatever, and likewise that we can determine ourselves, positing any content in ourselves by our own agency; and we will likewise find in our own self-consciousness the example for the further determinations.

[5] The will contains α) the element of *pure indeterminacy*, or of the I's pure reflection into itself. In this element every limitation is dissolved, every content, whether immediately present through nature, needs, desires and drives, or given and determined by whatever means. It is the limitless infinity of *absolute abstraction* or *universality*, the pure *thinking* of itself.

[5R] Those who regard thinking as a particular, distinctive *faculty*, separate from the will as another distinctive *faculty*, and who even go on to consider thinking harmful to the will, especially the good will, show from the very outset that they know nothing whatever about the nature of the will—a remark that will often have to be made on this same subject. —The *one side* of the will determined here is this *absolute possibility* of *abstracting* from every determination in which I find myself or which I have posited in myself, the flight from every content as a limitation. If it is to this side that the will determines itself, or if representation holds fast to this side by itself as freedom, then this is *negat-*

ive freedom, or the freedom of the understanding. —It is the freedom of the void, raised to an actual shape and to a passion. If it remains purely theoretical, it becomes, in religion, the fanaticism of pure Indian contemplation. But if it turns to actuality, it becomes, in politics as in religion, the fanaticism of destroying every existing social order, of eliminating individuals suspected of adhering to an order, and of annihilating every organization that tries to emerge again. Only by destroying something does this negative will have the feeling of its own existence. It may well believe that it wills some positive condition—for example, the condition of universal equality or of universal religious life—but in fact it does not will the positive actuality of that condition. For that actuality would at once bring some order with it, a particularization both of institutions and of individuals; yet it is precisely from the annihilation of particularization and objective determination that this negative freedom's self-consciousness arises. So what it believes it wills can, taken by itself, be only an abstract representation, and the realization of that representation can be only the fury of destruction.

[6] β) Equally, the *I* is the transition from undifferentiated indeterminacy to the *differentiation, determining* and *positing* of a determinacy as a content and object.—This content may, further, be either given by nature or produced from the concept of spirit. Through this positing of itself as something *determinate*, the *I* enters into *existence* in general—the absolute moment of the *finitude* or *particularization* of the I.

[6R] This second moment, *determination*, is *negativity* and sublation just as much as the first: it is, namely, the sublation of the first, abstract negativity.—Just as the particular in general is contained in the universal, so this second moment is therefore already contained in the first, and is only a *positing* of what the first already is *in itself*. For the first moment, taken as first and for itself, is not true infinity, or *concrete* universality, the concept, but only something *determinate* and one-sided. Precisely because it is abstraction from all determinacy, it is itself not *without* determinacy; and being something abstract and

one-sided constitutes its determinacy, its deficiency and its finitude.[8] —The distinction and determination of these two moments is found in *Fichte*'s philosophy, as well as in *Kant*'s, and so on. But, to stay with Fichte's presentation, the *I* as the unlimited (in the first principle of Fichte's *Science of Knowledge*) is taken purely as something *positive* (and so it is the universality and identity of the understanding). This abstract I is thus supposed to be, *for itself, the true*; and therefore the *limitation*—the *negative* in general, whether as a given, external limit or as the I's own activity—is *added* to it (in the second principle).[9] —To grasp the *negativity* immanent in the universal or identical, as in the *I*, was the further step that speculative philosophy had to take—a need of which they have no inkling who do not even grasp, as Fichte did, the *dualism* of *infinity* and *finitude* in its immanence and abstraction.

[7] γ) The will is the unity of these two moments: *particularity* reflected *into itself* and thereby brought back to *universality*—*individuality*. It is the *self-determination* of the I: in one and the same act, the I posits itself as the negative of itself, namely as *determinate* and *limited*, and yet remains with itself, that is, in its *identity with itself* and its universality; and in this determination it joins together only with itself.—The I determines itself insofar as it is the relation of negativity to itself. As this *self-relation*, it is equally indifferent to this determinacy: it knows the determinacy as its own and as *ideal*, as a mere *possibility* by which it is not bound, and in which it is only because it posits itself in it. —This is the *freedom* of the will, which constitutes the will's concept or substantiality, its gravity, just as gravity constitutes the substantiality of a body.

[7R] Every self-consciousness knows itself as universal—as the possibility of abstracting from everything determinate—and as particular, with a determinate object, content and end. These

8 "Sublate" renders *aufheben*, which for Hegel means at once to cancel, to preserve and to raise to a higher level.

9 In Fichte's *Science of Knowledge* (1794), the first principle is that the I posits itself; the second, that it opposes a not-I to itself.

two moments, however, are only abstractions. The concrete and true (and everything true is concrete) is universality that has the particular as its opposite, but a particular that, through its reflection into itself, has been reconciled with the universal.—This unity is *individuality*—not in its immediacy, as a single unit, which is how individuality appears in representation, but according to its concept (*Encyclopedia of the Philosophical Sciences*, §§ 112–114). In other words, this individuality is really nothing other than the concept itself. The first two moments—that the will can abstract from everything, and that it is *also* determined, whether by itself or by something else—are readily admitted and grasped, because taken by themselves they are untrue moments, moments of the understanding. But the third, the true and speculative moment (and everything true, insofar as it is comprehended, can be thought only speculatively), is the one the understanding refuses to enter into—the understanding, which always calls the concept, of all things, the incomprehensible. The proof and more detailed discussion of this innermost core of speculation—infinity as self-relating negativity, this ultimate wellspring of all activity, life and consciousness—belongs to *logic*, as the purely speculative philosophy. —Here it can only be pointed out that when we say "*the will is* universal," "*the will* determines itself," we are already expressing the will as a presupposed *subject* or *substrate*. But the will is not something complete and universal prior to its determining and prior to the sublation and ideality of this determining; it is will only as this self-mediating activity and return into itself.

[8] The further determination of *particularization* (β, § 6) constitutes the difference between the forms of the will. a) Insofar as the determinacy is the *formal* opposition of *subjective* and *objective*—the objective taken as external, immediate existence—this is the *formal* will as self-consciousness. This will *finds* an external world *before it*; and, as individuality returning into itself in determinacy, it is the process of *translating* the *subjective end* into *objectivity* through the mediation of activity and of a means. In spirit as it is in and for itself, where the determinacy is wholly

spirit's *own* and true (*Encyclopedia*, § 363), the relationship of consciousness constitutes only *the side of the will's appearance*, which is no longer considered for itself here.

[9] b) Insofar as the determinations of the will are the will's *own*, its particularization reflected *into itself* in general, they are *content*. This content, as content of the will, is for the will, according to the form given in a), an *end*: partly an inner or subjective end in representational willing, partly an end actualized and carried out through the mediation of the activity that translates the subjective into objectivity.

[10] This content, or the distinct determination of the will, is at first *immediate*. Thus the will is free only *in itself*, or *for us*; or, in general, it is the will in *its concept*. Only when the will has itself as its object is it *for itself* what it is *in itself*.

[10R] According to this determination, finitude consists in the fact that what something is *in itself*, or according to its concept, is an existence or appearance different from what it is *for itself*. Thus, for example, the abstract mutual externality of nature is *in itself* space, but *for itself* time. Two points should be noted here. First, since the true is only the Idea, if one grasps an object or determination only as it is *in itself* or in its concept, one does not yet have it in its truth. Second, what something is as *concept* or *in itself* likewise exists, and this existence is a distinctive shape of the object (as space was just now). The separation of being-in-itself and being-for-self that is present in the finite at the same time constitutes the finite's mere *existence* or *appearance*—(an example of this will occur directly with the natural will, and then with formal right, etc.). The understanding stops short at mere *being-in-itself*, and so, on the basis of this being-in-itself, calls freedom a *faculty*—as indeed, taken in this way, freedom is in fact only a *possibility*. But the understanding regards this determination as absolute and perennial, and takes freedom's relation to what it wills, and in general to its reality, only as an *application* to a given material, one that supposedly does not belong to the essence of freedom itself. In this way the

understanding deals only with the abstraction, not with freedom's Idea and truth.

[11] The will that is free only *in itself* is the *immediate* or *natural* will. The determinations of difference that the self-determining concept posits in the will appear in the immediate will as an *immediately* present content: they are the *drives*, *desires* and *inclinations* by which the will finds itself determined by nature. This content, together with its developed determinations, does indeed stem from the rationality of the will and is thus rational in itself; but released into the form of immediacy in this way, it is not yet in the form of rationality. This content is indeed *mine* in general *for me*; but this form and that content are still different—the will is thus a will that is *finite within itself*.

[11R] Empirical psychology recounts and describes these drives and inclinations, and the needs based on them, as it finds them, or believes it finds them, in experience, and tries to classify this given material in the usual way. What the *objective* element in these drives is, what that element is in its truth without the form of irrationality in which it is a drive, and how it is at the same time shaped in its existence—of this, more below.

[12] The system of this content, as it is immediately *found* in the will, is present only as a multitude and variety of drives. Each of them is mine *in general*, alongside others, and at the same time something universal and indeterminate that has many kinds of objects and ways of being satisfied. In giving itself the form of *individuality* within this twofold indeterminacy (§ 7), the will is deciding; and only as a deciding will in general is it actual will.

[12R] Instead of *etwas beschließen* [to decide on something]—that is, to sublate the indeterminacy in which one content, as well as another, is at first only possible—our language also has the expression *sich entschließen* [to resolve oneself]. For the indeterminacy of the will itself, as the neutral yet infinitely fertile, the primal seed of all existence, contains the determinations and ends within itself and only brings them forth out of itself.[10]

10 Hegel plays on the prefixes: *beschließen* suggests closing in on something, *entschließen* an unclosing or unfolding of oneself from within.

[13] By deciding, the will posits itself as the will of a determinate individual, and as a will that distinguishes itself outwardly from others. But apart from this *finitude* as consciousness (§ 8), the immediate will is *formal* because of the difference between its form and its content (§ 11). Only *abstract deciding* as such belongs to it, and the content is not yet the content and work of its freedom.

[13R] For intelligence as *thinking*, the object and content remain *universal*, and intelligence itself behaves as universal activity. In the will, the universal at the same time essentially means *mine*, as *individuality*; and in the immediate, that is, formal will, it means abstract individuality not yet filled with its free universality. It is therefore in the will that the *proper finitude* of intelligence begins. Only by raising itself to thinking again and giving its ends immanent universality does the will sublate the difference of form and content and make itself the objective, infinite will. So those who think that human beings are infinite in willing in general, but that in thinking they—or even reason—are limited, understand little of the nature of thinking and willing. Insofar as thinking and willing are still distinct, the reverse is rather the truth: thinking reason, as will, is precisely this—resolving itself to *finitude*.

[14] The finite will, as the *infinite I* (§ 5) that is reflected into itself and is with itself only as regards form, *stands above* its content, the various drives, and above the further individual ways of actualizing and satisfying them. At the same time, since it is only formally infinite, it is *bound* to this content as the determinations of its nature and of its external actuality—though, being indeterminate, it is not bound to this or that particular content (§§ 6, 11). For the reflection of the *I* into itself, this content is to that extent only something possible, which may be mine or may not; and I am the *possibility* of determining myself to this or to some other content—of *choosing* among these determinations, which in this respect are external to the I.

ARBITRARY WILL

Choosing among given contents is the common idea of freedom, but only its contradictory form.

15 According to this determination, the freedom of the will is *arbitrary will*. It contains both elements: free reflection, which abstracts from everything, and dependence on content and material given inwardly or outwardly. Because this content, which *in itself* is necessary as an end, is at the same time determined as possible in relation to that reflection, arbitrary will is *contingency* in the form of will.[11]

15R The most common idea people have of freedom is that of *arbitrariness*—the midpoint of reflection between the will determined merely by natural drives and the will that is free in and for itself. When we hear it said that freedom in general consists in *being able to do as one pleases*, such an idea can only be taken as an utter lack of culture in thought, one that shows as yet no inkling of what the will free in and for itself, right, ethical life, and so on, are. Reflection, the *formal* universality and unity of self-consciousness, is the will's *abstract* certainty of its freedom. But it is not yet the *truth* of that freedom, because it does not yet have itself as its content and end, so that the subjective side is still something other than the objective side. The content of this self-determination therefore also remains simply and solely something finite. Instead of being the will in its truth, arbitrary will is rather the will as *contradiction*.—In the dispute conducted chiefly at the time of *Wolffian* metaphysics—whether the will is actually free or whether the knowledge of its freedom is only an illusion—it was arbitrary will that people had in view.[12] *Determinism* was right to oppose to the certainty of that abstract self-determination the *content*, which, as something

11 "Arbitrary will" (or "arbitrariness") renders *Willkür*, the capacity to choose among given options.

12 Christian Wolff (1679–1754) systematized Leibniz's rationalism and dominated German university philosophy before Kant.

found already there, is not contained in that certainty and therefore comes to it *from outside*. This "outside" is, to be sure, drive, representation—in general, consciousness filled in whatever way—but filled in such a way that the content is not the property of the self-determining activity as such. Since only the formal element of free self-determination is immanent in arbitrary will, while the other element is something given to it, arbitrary will can indeed be called an illusion if it is supposed to be freedom. Freedom in all philosophy of reflection—as in *Kant*'s, and then in *Fries*'s consummate trivialization of Kant's—is nothing other than this formal self-activity.

[16] What has been chosen in the resolution (§ 14), the will can equally give up again (§ 5). But with this possibility of going beyond any other content that it puts in its place as well, and so on to *infinity*, it does not get beyond finitude. For each such content is something different from the form, and hence something finite; and the opposite of determinacy—indeterminacy, irresolution or abstraction—is only the other moment, equally one-sided.

[17] The contradiction that arbitrary will is (§ 15) *appears*, as the *dialectic* of drives and inclinations, in this way: they interfere with one another, the satisfaction of one demands the subordination or sacrifice of the satisfaction of another, and so on. And since a drive is only the simple direction of its own determinacy, and so does not have its measure within itself, this determining that subordinates or sacrifices is the contingent decision of arbitrary will—whether it proceeds by calculating understanding, asking which drive will yield more satisfaction, or by any other consideration it pleases.

[18] With regard to the *judging* of drives, the dialectic appears as follows. As *immanent*, and hence *positive*, the determinations of the immediate will are *good*; so *human beings* are said to be *good by nature*. But insofar as these determinations are *natural determinations*, and thus opposed to freedom and to the concept of spirit in general, they are the *negative* and must be *eradicated*; so *human beings* are said to be *evil by nature*. At this standpoint,

what decides for one assertion or the other is likewise subjective arbitrariness.

[19] The demand for the *purification of the drives* contains the general notion that they should be freed from the *form* of their immediate natural determinacy and from the subjective and contingent element in their *content*, and be led back to their substantial essence. What is true in this indeterminate demand is that the drives should exist as the rational system of the will's determination. To grasp them in this way, from the concept, is the content of the science of right.

[19R] The content of this science could be set out, in all its individual moments—for example, right, property, morality, family, state, and so on—in the form of saying that human beings by nature *have* a *drive* toward right, *also* a drive toward property and toward morality, *also* the drive of love between the sexes, the drive toward sociability, and so on. If, instead of this form of empirical psychology, one wants something grander, a philosophical shape, then, in keeping with what (as noted above) has passed and still passes for philosophy in recent times, this can be had *cheaply*: one simply says that people find in themselves, as a *fact of their consciousness*, that they will right, property, the state, and so on. Later on, another form of this same content, which appears here in the shape of drives, will come in: namely, the form of *duties*.

[20] Reflection, when it relates to the drives, represents them, calculates, compares them with one another, then with their means, consequences, and so on, and with a whole of satisfaction—*happiness*. In this way it brings *formal universality* to this material and, in this external manner, purifies it of its crudity and barbarism. This drawing out of the universality of thought is the absolute value of *culture* (cf. § 187).

[21] But the truth of this formal universality—which is indeterminate for itself and finds its determinacy in that material—is *self-determining universality, the will, freedom*. Since the will has universality, that is, itself, as infinite form, for its content, object

and end, it is not only the will that is free *in itself* but equally the will that is free *for itself*—the true Idea.

21R The self-consciousness of the will, as desire and drive, is *sensuous*, just as the sensuous in general signifies externality, and hence self-consciousness being outside itself. The *reflecting* will has two elements: that sensuous element and thinking universality. The will that is *in and for itself* has as its object the will itself as such, and hence itself in its pure universality. This universality consists precisely in the fact that the *immediacy* of naturalness is sublated in it, and so is the *particularity* that attaches to naturalness just as much as it is produced by reflection. But this sublating and raising into the universal is what is called the activity of *thinking*. The self-consciousness that purifies its object, content and end and raises them to this universality does so as *thinking that asserts itself* in the will. Here is the *point at which it becomes clear* that the will is true, free will only as *thinking* intelligence. The slave does not know his essence, his infinity, his freedom; he does not know himself as essence—and not knowing himself in this way means that he does not *think* himself. This self-consciousness, which through thinking grasps itself as essence and thereby rids itself of the contingent and untrue, constitutes the principle of right, of morality and of all ethical life. Those who speak philosophically of right, morality and ethical life while wanting to exclude thinking, and who refer us instead to feeling, to heart and breast, to enthusiasm, thereby express the deepest contempt into which thought and science have fallen. For in this way science itself, sunk in despair about itself and in utter exhaustion, even makes barbarism and thoughtlessness its principle, and, as far as it could, would rob human beings of all truth, worth and dignity.

22 The will that is in and for itself is *truly infinite*, because its object is itself. Its object is therefore for it neither an *other* nor a *limit*; rather, in its object it has simply returned into itself. Further, it is not mere possibility, predisposition, *faculty* (*potentia*), but the *actual infinite* (*infinitum actu*), because the existence of the concept, or its objective externality, is the inward itself.

[22R] If, therefore, one speaks only of the free will as such, without the determination that it is the will free in and *for itself*, one speaks only of the *predisposition* to freedom, or of the natural and finite will (§ 11), and precisely for that reason—whatever one's words and opinion—not of the free will.—Because the understanding grasps the infinite only as something negative and hence as a *beyond*, it thinks it does the infinite all the more honor the further it pushes it away from itself into the distance and removes it from itself as something alien. In the free will, the truly infinite has actuality and presence—the free will itself is this Idea present within itself.

[23] Only in this freedom is the will completely *with itself*, because it relates to nothing but itself, and so every relation of *dependence* on something *other* falls away.—It is *true*, or rather it is *truth* itself, because its determining consists in being, in its *existence*—that is, as what stands over against itself—what its concept is; or, in other words, the pure concept has the intuition of itself as its *end* and reality.

[24] It is *universal*, because in it all limitation and particular individuality are sublated. These lie solely in the difference between the concept and its object or content—or, to put it in another form, in the difference between its subjective being-for-self and its being-in-itself, between its *excluding* and deciding individuality and its universality itself.

[24R] The various determinations of *universality* are set out in logic (see *Encyclopedia of the Philosophical Sciences*, §§ 118–126). When this expression is used, representation first thinks of abstract, external universality. But in the case of universality that is in and for itself, as it has been determined here, one should think neither of the universality of reflection—*commonality* or *allness*—nor of *abstract* universality, which stands on the other side, outside the individual: the abstract identity of the understanding (§ 6 Remark). It is universality that is *concrete* within itself and thus for itself, which is the substance, the immanent genus or immanent Idea, of self-consciousness—the concept of the free will as the universal that *reaches over* its

object and *passes through its determination*, remaining identical with itself in that determination.—The universal that is in and for itself is, in general, what is called the *rational*, and it can be grasped only in this speculative way.

[25] With respect to the will in general, the *subjective* means the side of its self-consciousness, of individuality (§ 7), as *distinct* from its concept as it is *in itself*. The will's subjectivity therefore means α) the *pure form*, the *absolute unity* of self-consciousness with itself, in which, as I = I, self-consciousness is purely inward and an *abstract* resting on itself—the pure *certainty* of itself, as distinct from truth; β) the *particularity* of the will, as arbitrary will and the contingent content of whatever ends it pleases; γ) in general, the one-sided form (§ 8), insofar as what is willed, whatever its content, is as yet only a content belonging to self-consciousness, an end not yet carried out.

[26] The will α) insofar as it has itself for its determination, and so accords with its concept and is true, is the *absolutely objective will*. β) But the *objective* will, as *lacking the infinite form* of self-consciousness, is the will immersed in its object or condition, whatever the nature of its content—the childlike will, the ethical will, as well as the slavish, the superstitious will, and so on. γ) Finally, *objectivity* is the one-sided form opposed to the subjective determination of the will, and hence the immediacy of existence as *external* existence. In this sense the will first becomes *objective* by carrying out its ends.

[26R] These logical determinations of subjectivity and objectivity have been set out here in particular so that, since they will often be used in what follows, it can be explicitly pointed out that they fare like other distinctions and opposed determinations of reflection: because of their finitude, and hence their dialectical nature, they pass over into their opposites. For other such determinations of opposition, however, their meaning remains fixed for representation and understanding, because their identity is still only something *inner*. In the will, by contrast, such opposites—which are supposed to be abstract and at the same time determinations *of the will*, which can be known

only *as the concrete*—lead of their own accord to their identity and to the confusion of their meanings: a confusion that merely befalls the understanding without its being aware of it. —Thus the will, as freedom that is *within itself*, is subjectivity itself; subjectivity is therefore its concept and so its objectivity. But its subjectivity, as opposed to objectivity, is finitude; and precisely in this opposition the will is not with itself but entangled with the object, so that its finitude consists just as much in not being subjective, and so on.—What meaning the subjective or objective aspect of the will is to have in what follows must therefore become clear each time from the context, which contains their position in relation to the totality.

[27] The absolute determination or, if you like, the absolute drive of free spirit (§ 21) is that its freedom should be its object—objective both in the sense that freedom should be spirit's own rational system, and in the sense that this system should be immediate actuality (§ 26)—so that spirit may be for itself, as Idea, what the will is in itself. The abstract concept of the Idea of the will is, in general, *the free will that wills the free will*.

[28] The activity of the will consists in sublating the contradiction of subjectivity and objectivity, translating its *ends* from the former determination into the latter, and at the same time remaining *with itself* in objectivity. Apart from the formal mode of consciousness (§ 8), in which objectivity exists only as immediate actuality, this activity is the *essential development* of the substantial content of the Idea (§ 21). It is a development in which the concept determines the Idea, at first *itself abstract*, into the totality of its system; and this totality, as the substantial, independent of the opposition between a merely subjective end and its realization, is *the same* in both these forms.

RIGHT AS THE EXISTENCE OF FREEDOM

Right is any existence of the free will, and each stage of freedom has its own right.

29 That an existence in general is the *existence of the free will*—this is *right*.—Right is therefore, in general, freedom as Idea.

29R Kant's definition (Kant, *Doctrine of Right*, Introduction), which is also more generally accepted, takes as its main moment "the *limitation* of my freedom or *arbitrary will*, so that it can coexist with everyone's arbitrary will according to a universal law." On the one hand, this contains only a *negative* determination, that of limitation. On the other, its positive element—the universal law, or so-called law of reason, the agreement of one person's arbitrary will with another's—comes down to the familiar formal identity and the principle of contradiction. This definition of right contains the view, widespread especially since *Rousseau*, according to which what is supposed to be the substantial basis and first principle is not the will as rational will in and for itself, not spirit as *true* spirit, but spirit as a *particular* individual, as the will of the single person in his own peculiar arbitrariness.[13] Once this principle has been adopted, the rational can of course appear only as a limitation on this freedom, and not as something immanently rational, but only as an external, formal universal. This view is as devoid of all speculative thought, and as firmly rejected by the philosophical concept, as it has produced phenomena, in people's heads and in actuality, whose terribleness is matched only by the shallowness of the thoughts on which they were based.

30 Right is something *sacred as such*, solely because it is the existence of the absolute concept, of self-conscious freedom.—But the *formalism* of right (and, further on, of duty) arises from the differences in the development of the concept of freedom. As against more formal—that is, more *abstract* and hence more limited—right, the sphere and stage of spirit at which spirit has

13 Kant's *Doctrine of Right* is the first part of his *Metaphysics of Morals* (1797).

brought the further moments contained in its Idea to determination and actuality within itself is the *more concrete* sphere, richer within itself and more truly universal, and precisely for that reason it also has a higher right.

30R Each stage in the development of the Idea of freedom has its own distinctive right, because it is the existence of freedom in one of its own determinations. When people speak of morality or ethical life as opposed to *right*, right is understood only as the first, formal right of abstract personality. Morality, ethical life and the interest of the state are each a distinctive right, because each of these shapes is a determination and existence of *freedom*. They can come into *collision* only insofar as they stand on the same level, as rights. If the moral standpoint of spirit were not also a right, freedom in one of its forms, it could not come into collision with the right of personality or with any other right at all. For every such right contains within it the concept of freedom, the highest determination of spirit, in contrast to which anything else is without substance. But collision also contains this other moment: that these rights are limited, and hence also that one is subordinated to another. Only the right of the world spirit is unrestrictedly absolute.

31 The method by which, in science, the concept develops out of itself and is only an *immanent* progression and production of its determinations—where the advance does not come about by assuring us that there *are* various relations and then *applying* the universal to material of this kind taken up from elsewhere—is here likewise presupposed from logic.

31R The moving principle of the concept, which not only dissolves the particularizations of the universal but also produces them, I call *dialectic*. Dialectic, then, not in the sense in which it dissolves, confuses, and leads this way and that an object, proposition, or the like given to feeling or to immediate consciousness in general, and is concerned only with deriving its opposite —a negative manner that often appears in *Plato* too. Dialectic of this kind may regard as its final result the opposite of a representation, or, decisively, like ancient skepticism, its contradic-

tion, or else, more feebly, an *approximation* to truth—a modern half-measure. The higher dialectic of the concept consists in producing and grasping the determination not merely as a limit and an opposite, but in producing and grasping from it the *positive* content and result; for only in this way is dialectic *development* and immanent progression. This dialectic, then, is not the *external* doing of a subjective thinking, but the *very soul* of the content, which organically puts forth its branches and fruits. Thinking, as subjective, merely looks on at this development of the Idea as the proper activity of the Idea's own reason, without adding anything of its own. To consider something rationally means not to bring reason to the object from outside and thereby work upon it; rather, the object is rational for itself. Here it is spirit in its freedom, the highest summit of self-conscious reason, that gives itself actuality and produces itself as an existing world. The only business of science is to bring to consciousness this work that is proper to the reason of the thing itself.

[32] The *determinations* in the development of the Concept are, on the one hand, themselves concepts. On the other hand, because the Concept is essentially as Idea, they are in the form of existence. The series of concepts that results is thus at the same time a series of *shapes*, and this is how they are to be considered in science.

[32R] In a more speculative sense, the *mode of existence* of a concept and its *determinacy* are one and the same. It should be noted, however, that the moments whose result is a further determined form precede that form as determinations of the concept in the scientific development of the Idea. They do not, however, come before it as shapes in its temporal development. Thus the Idea, as it is determined as the family, presupposes the conceptual determinations of which it will be shown, in what follows, to be the result. But that these inner presuppositions should also already be present for themselves as *shapes*—as the right of property, contract, morality, and so on—is the other side of the development. Only in a more highly perfected culture has

this development advanced so far as to give its moments this distinctively shaped existence.

DIVISION OF THE WORK

Hegel lays out the three spheres of abstract right, morality and ethical life.

[33] Following the stages in the development of the Idea of the will that is free in and for itself, the will is A. *immediate*. Its concept is therefore abstract, namely *personality*, and its *existence* is an immediate external thing—the sphere of *abstract* or *formal right*. B. The will is reflected *into itself* out of external existence and determined as *subjective individuality* in opposition to the *universal*. This universal is partly something inner, the *good*, and partly something outer, a *world that is present*, and these two sides of the Idea are *mediated only through each other*. This is the Idea in its split or *particular* existence, *the right of the subjective will* in relation to the right of the world and to the *right* of the Idea—but of the Idea only as it is *in itself*: *the sphere of morality*. C. The *unity* and *truth* of these two abstract moments—the thought Idea of the good realized both in the *will reflected into itself* and in the *external world*—so that freedom, as *substance*, exists just as much as *actuality* and *necessity* as it does as *subjective* will: the *Idea* in its universal existence in and for itself, *ethical life*.

Ethical substance, in turn, is likewise a) *natural* spirit—the *family*; b) in its *split* and *appearance—civil society*; c) the *state*, as the freedom that is equally universal and objective in the free self-sufficiency of the particular will. This actual and organic spirit α) of a people, β) passing through the relations between the particular spirits of peoples, γ) becomes actual and reveals itself in world history as the universal world spirit, whose *right* is the *highest*.

[33R] That a thing or content which is posited only according to its *concept*, or as it is *in itself*, has the shape of *immediacy* or of *being* is presupposed from speculative logic. The concept that is for itself in the *form of the concept* is another matter: it is no

longer something immediate.—The principle that determines the division is likewise presupposed. The division may also be regarded as a *historical* preview of the parts, for the various stages, as moments in the development of the Idea, must bring themselves forth out of the nature of the content itself. A philosophical division is in general not an external classification of material already at hand, made according to one or more adopted principles of division. It is the immanent differentiation of the Concept itself. —*Morality* and *ethical life*, which are usually taken to mean roughly the same thing, are taken here in essentially different senses. Ordinary thinking, meanwhile, also seems to distinguish them. Kant's usage prefers the expression *morality*, just as the practical principles of his philosophy are confined entirely to this concept. They even make the standpoint of *ethical life* impossible; indeed, they expressly annihilate it and do it outrage. But even if morality and ethical life were synonymous by etymology, this would not prevent us from using these words, since they are after all different words, for different concepts.[14]

14 *Moralität* derives from Latin *mos*, *Sittlichkeit* from German *Sitte*; both root words mean "custom."

Abstract Right

The person and property, contract, and wrong: fraud, crime and punishment.

[34] The will that is free in and for itself, as it is in its *abstract* concept, is in the determinacy of *immediacy*. In this determinacy it is its own actuality, negative toward reality and relating itself to itself only abstractly—the *inwardly individual* will of a *subject*. In accordance with the moment of the will's *particularity*, it has a further content of determinate ends; and, as *exclusive individuality*, it has this content before it at the same time as an external world that it immediately finds there.

[35] The *universality* of this will that is free for itself is formal: the self-conscious but otherwise contentless *simple* relation to itself in its individuality. To this extent the subject is a *person*. It is inherent in *personality* that I, as *this one*, am completely determined in every respect (in my inner arbitrary will, drive and desire, as well as in my immediate external existence) and finite, yet am purely and simply self-relation; and so, in finitude, I know myself as what is *infinite, universal* and *free*.

[35R] Personality begins only at the point where the subject has not merely a self-consciousness of itself in general as something concrete, determined in some way or other, but rather a self-consciousness of itself as a completely abstract I, in which all concrete limitation and validity are negated and invalid. In personality, therefore, there is knowledge of *oneself* as an *object*—but as an object raised by thinking into simple infinity and thereby purely identical with itself. Individuals and peoples have no personality as yet insofar as they have not yet arrived at this pure

thinking and knowing of themselves. Spirit that is in and for itself differs from spirit as it appears in the following way. In the same determination in which appearing spirit is only *self-consciousness*—consciousness *of itself*, but only in terms of the natural will and its still external oppositions (*Phenomenology of Spirit*, Bamberg and Würzburg 1807, pp. 101 ff., and *Encyclopedia of the Philosophical Sciences*, § 344)—spirit in and for itself has itself, as an abstract and indeed free I, for its object and end, and is thus a *person*.

[36] 1. Personality contains in general the capacity for rights, and constitutes the concept and the (itself abstract) basis of abstract and therefore *formal* right. The commandment of right is therefore: *be a person and respect others as persons*.

[37] 2. The *particularity* of the will is indeed a moment of the will's entire consciousness (§ 34), but it is not yet contained in abstract personality as such. It is therefore present, but as still distinct from personality, from the determination of freedom: as desire, need, drives, contingent preference, and so on.—In formal right, therefore, what matters is not particular interest, my advantage or my welfare—and just as little the particular ground that determines my will, my insight and intention.

[38] With respect to *concrete* action and to moral and ethical relations, abstract right, as against their further content, is only a *possibility*, and a determination of right is therefore only a *permission* or *warrant*. For the same reason, its abstractness, the necessity of this right is restricted to the negative: *not to violate* personality and what follows from it. There are therefore only *prohibitions of right*, and the positive form of commandments of right is, in its ultimate content, based on prohibition.

[39] 3. The deciding and *immediate* individuality of the person relates itself to a nature that it finds before it; the personality of the will thereby stands opposed to this nature as something *subjective*. But for personality, which is infinite and universal within itself, the limitation of being only subjective is contradictory and *null*. Personality is the activity of sublating this limitation

and giving itself reality, or—what is the same thing—of positing that existence as its own.

[40] Right is at first the immediate existence that freedom gives itself in an immediate way: a) *possession*, which is *property*. Freedom here is that of the abstract will *in general*, or, by the same token, that of an *individual* person relating only to itself. b) The person, distinguishing itself from itself, relates to *another person*, and indeed the two have existence for each other only as owners. Their identity, which is *in itself*, attains existence through the transfer of the property of the one into that of the other by common will and with the preservation of their right—in *contract*. c) The will as in (a), in its relation to itself, distinguished not from another person (b) but within itself, is, as a *particular* will, different from and opposed to itself *as a will that is in and for itself*: *wrong* and *crime*.

[40R] The division of right into the right of *persons*, the right of *things*, and the right to *actions* has, like the many other divisions of this sort, primarily the aim of bringing the mass of inorganic material at hand into an external order. Above all, this way of dividing involves the confusion of mixing up indiscriminately rights that presuppose substantial relations, such as family and state, with rights that relate only to mere abstract personality. To this confusion belongs the division—Kant's, and popular elsewhere too—into rights *to things*, *personal* rights, and rights *to persons akin to rights to things*. To expound what is skewed and conceptless in the division into the right of *persons* and the right of *things*, which underlies Roman law, would lead us too far (the right to actions concerns the administration of justice and does not belong in this order).[1] This much is already clear here: only *personality* gives a right to *things*, and personal right is therefore essentially a *right to things*—"thing" in the general sense of whatever is external to freedom as such, which includes my body and my life as well. This right to things is the right of *personality as such*. As for what Roman law calls the *right of persons*,

1 The Roman division into persons, things and actions goes back to the *Institutes* of Gaius and of Justinian.

however, a human being there counts as a person only when regarded as having a certain *status* (Heineccius, *Elementa iuris civilis* [Elements of Civil Law], § 75). In Roman law, therefore, even personality itself, as opposed to slavery, is only a *standing*, a *condition*. Besides the right over *slaves*, to whom children more or less belong as well, and the condition of *rightlessness* (*capitis diminutio* [loss of civil status]), the content of the so-called Roman right of persons then concerns *family relations*. In Kant, to crown it all, family relations are *rights to persons akin to rights to things*.—The Roman right of persons is therefore not the right of the person as such, but at any rate that of the *particular* person. Later it will become apparent that the family relation has, rather, the surrender of personality as its substantial basis. It cannot but appear perverse, then, to treat the right of the *particularly determined* person before the universal right of personality.—The *personal rights* in *Kant* are the rights arising from a contract by which I give or perform something: the *ius ad rem* [right to a thing] of Roman law, which springs from an *obligatio* [obligation]. It is, admittedly, only a person who has to perform under a contract, and likewise only a person who acquires the right to such a performance. But such a right cannot for that reason be called a personal one. *Every* kind of right belongs only to a person, and objectively a right arising from contract is not a right to a person, but only to something external to that person or something the person can alienate—always to a thing.

PROPERTY

The person must give itself an external sphere of freedom by placing its will in things.

41 The person must give itself an external *sphere of its freedom* in order to be as Idea. The person is the infinite will, the will that is in and for itself, in this first and still wholly abstract determination. Therefore what is distinct from this will, and can make up the sphere of its freedom, is likewise determined as what is *immediately different* and *separable* from it.

[42] What is immediately different from free spirit is, both for spirit and in itself, the external in general—a *thing*, something unfree, impersonal and without rights.

[42R] *Thing*, like "the objective," has opposite meanings. On the one hand, when we say *that's the thing*, or that what counts is the *thing* itself and not the person, it means the *substantial*. On the other hand, as opposed to the person (not, that is, to the particular subject), the thing is the *opposite of the substantial*: what by its determination is merely external.—What is external for free spirit, which must be clearly distinguished from mere consciousness, is external in and for itself. That is why the conceptual determination of *nature* is to be *what is external in itself*.

[43] As the *immediate* concept, and hence also as essentially individual, the person has a *natural* existence, partly within itself and partly as an existence to which it relates as to an external world.—What is under discussion here, where we are dealing with the person still in its first immediacy, is only these things, which are things immediately—not determinations that are capable of becoming things through the mediation of the will.

[43R] Intellectual skills, sciences, arts, even religious matters (sermons, masses, prayers, blessings of consecrated objects), inventions and so on become objects of contract; in buying, selling and the like, they are treated as equivalent to acknowledged *things*. One may ask whether the artist, the scholar and so on is in legal possession of his art, his science, his ability to preach a sermon, to say mass and so forth—that is, whether such objects are *things*. We will hesitate to call such skills, knowledge, abilities and so on *things*. On the one hand, such possessions are negotiated and contracted over as if they were things; on the other hand, they are something inner and spiritual. The understanding may therefore be at a loss as to how to classify them legally, since all it has in mind is the opposition that something is *either* a thing *or* not a thing (like *either* infinite *or* finite). Knowledge, sciences, talents and so on are of course proper to free spirit and something inward to it, not something external. But

spirit can just as well give them an external existence by expressing them, and can *alienate* them (see below); in this way they are placed under the determination of *things*. They are therefore not immediate from the start, but become so only through the mediation of spirit, which lowers what is inward to it to immediacy and externality.—Under the unrightful and unethical provision of Roman law, children were *things* for their father, who was thus in legal possession of his children. And yet he surely also stood to them in the ethical relation of love (a relation that was bound, of course, to be greatly weakened by that wrong). Here, then, a union of the two determinations of thing and not-thing did take place, but a wholly unrightful one. —Abstract right has as its object only the person as such. It therefore takes the particular that belongs to the existence and sphere of the person's freedom as its object only insofar as that particular is something separable from the person and immediately different from it—whether this makes up its essential determination, or whether it can acquire this determination only by means of the subjective will. In abstract right, therefore, intellectual skills, sciences and so on come into consideration solely as legally possessed. The possession of body and spirit that is acquired through education, study, habituation and so on, and exists as an *inner property* of spirit, is not to be dealt with here. The *transition* of such spiritual property into externality, where it falls under the determination of property in the legal sense, is to be discussed only when we come to *alienation*.

[44] The person has the right to place its will in any thing. The thing thereby becomes *mine* and receives my will as its substantial end (since it has no such end in itself), as its determination and soul. This is the absolute *right of appropriation* that human beings have over all things.

[44R] The so-called philosophy that ascribes reality, in the sense of self-sufficiency and genuine being-for-self and being-within-itself, to immediate individual things, to the impersonal, is immediately refuted by the conduct of the free will toward these things. So too is the philosophy that assures us that spirit cannot

know the truth and cannot know what the thing is *in itself*. If for consciousness, for intuition and representation, so-called *external things* have the semblance of self-sufficiency, the free will, by contrast, is the idealism, the truth, of such actuality.[2]

45 That I have something in my power, a power that is itself external, constitutes *possession*; and the particular aspect—that I make something my own out of natural need, drive and arbitrary will—is the particular interest of possession. But the aspect that I, as free will, am objective to myself in possession, and only thereby am an actual will, constitutes what is genuine and rightful in it: the determination of *property*.

45R With respect to need—when need is taken as primary—having property appears as a means. But the true position is that, from the standpoint of freedom, property, as the first *existence* of freedom, is an essential end for itself.

46 Since in property my will becomes objective to me as a personal will, and hence as the will of an individual, property acquires the character of *private property*. Common property, which by its nature can be owned by individuals separately, acquires the determination of a partnership that is *dissoluble in itself*, in which leaving my share is in itself a matter of arbitrary will.

46R The use of *elemental* objects cannot, by its nature, be particularized into private possession.—The *agrarian laws* in Rome contain a struggle between common and private ownership of land; private ownership, as the more rational moment, had to prevail, even at the expense of other right.—Property held under a *family entail* contains a moment to which the right of personality, and hence of private property, is opposed. But the determinations concerning private property may have to be subordinated to higher spheres of right—to a community, to the state—as is the case with regard to private ownership in the property of a so-called moral person, property in mortmain. Yet such exceptions cannot be grounded in chance, in private arbitrariness or private advantage, but only in the rational organism of the

2 The second view is Kant's doctrine that the "thing in itself" cannot be known.

state.[3] —The Idea of the *Platonic* state contains, as a universal principle, the wrong against the person of holding it incapable of private property. The idea of a pious or friendly, or even an enforced, brotherhood of human beings, with *community of goods* and the banishment of the principle of private property, can readily present itself to a disposition that mistakes the nature of the freedom of spirit and of right and does not grasp it in its determinate moments. As for the moral or religious consideration: when his friends intended to set up such a league with community of goods, *Epicurus* dissuaded them precisely on the grounds that this would show mistrust, and those who mistrust one another are not friends (Diogenes Laertius, I, X, no. VI).[4]

47 As a person, I am myself *immediately an individual*. In its further determination, this means first of all that I am *alive* in this *organic body*, which is my external existence, *universal* in content and undivided, the real possibility of all further determined existence. But as a person I at the same time possess *my life and body*, like other things, only *insofar as it is my will*.

47R That I am *alive* and have an organic body—in the respect in which I exist not as the concept that is for itself but as the immediate concept—rests on the concept of life and on that of spirit as soul. These are moments taken over from the philosophy of nature (*Encyclopedia of the Philosophical Sciences*, § 259 ff., cf. §§ 161, 164 and 298) and from anthropology (ibid., § 318). I possess these limbs, and life, only *insofar as I will it*. The animal cannot maim or kill itself; a human being can.

48 Insofar as the body is immediate existence, it is not adequate to spirit. To be the willing organ and ensouled instrument of spirit, it must first be *taken possession of* by spirit (§ 57).—

3 The Roman agrarian laws (notably those of the Gracchi, 133–123 BC) redistributed public land. An entail (*Fideikommiss*) bound an estate inalienably to a family line.

4 Plato's *Republic* denies private property to the guardians. Diogenes Laertius (3rd century AD) wrote the *Lives of the Eminent Philosophers*; the Epicurus anecdote is in Book X.

But *for others* I am essentially a free being in my body, just as I immediately have it.

[48R] It is only because I am alive as a free being in my body that this living existence may not be misused as a beast of burden. Insofar as I live, my soul (the concept and, at a higher level, what is free) and my body are not separated. The body is the existence of freedom, and I feel in it. It is therefore only an understanding devoid of the Idea, a sophistical understanding, that can draw the distinction that the *thing in itself*, the soul, is not touched or attacked when the *body* is mistreated and the *existence* of the person is subjected to the power of another. *I* can withdraw into myself out of my existence and make it into something external—I can hold particular sensation away from me and be free in chains. But this is *my* will; *for the other*, I am in my body. That I am *free for the other* only as free in *existence* is an identical proposition (see my *Science of Logic*, vol. I, pp. 49 ff.). Violence done to *my body* by others is violence done to *me*.

Because I feel, touching my body or doing it violence affects me immediately as *actual* and *present*. This is what makes the difference between personal injury and damage to my external property, for in the latter my will is not present in this immediate presence and actuality.

[49] In relation to external things, the *rational* aspect is that I possess property. The aspect of the *particular*, however, comprises subjective ends, needs, arbitrary will, talents, external circumstances and so on (§ 45). On these, possession as such merely depends; but in this sphere of abstract personality, this particular aspect is not yet posited as identical with freedom. *What* and *how much* I possess is therefore contingent as far as right is concerned.

[49R] In respect of personality, *several* persons—if one wants to speak of several here, where no such distinction yet exists—are equal. But this is an empty, tautological proposition; for the person, as the abstract, is precisely what is not yet particularized and posited in determinate distinction.—*Equality* is the abstract identity of the understanding. Reflective thinking, and with it

mediocrity of spirit in general, falls back on it first whenever it encounters the relation of unity to a difference. Here, equality would only be the equality of abstract persons as such; and precisely for that reason everything that concerns possession, this *ground of inequality*, falls *outside* it. —The demand sometimes made for *equality* in the distribution of land, or even of other existing resources, springs from an understanding that is all the emptier and more superficial because this particularity includes not only external natural contingency but also the whole range of spiritual nature, in its infinite particularity and diversity and in its reason developed into an organism.—One cannot speak of an *injustice of nature* in the unequal distribution of possessions and resources, for nature is not free and therefore neither just nor unjust. That all human beings ought to have a livelihood sufficient for their needs is, on the one hand, a moral *wish*. Expressed in this indeterminate way, it is well meant; but, like everything merely well meant, it is nothing objective. On the other hand, livelihood is something other than *possession* and belongs to another sphere, that of civil society.

[50] That a thing belongs to whoever *happens to be first* in time to take possession of it is a superfluous determination that goes without saying, since a second person cannot take possession of what is already the property of another.

[51] For property as the *existence* of personality, my *inner* representation and will that something should be *mine* is not sufficient; *taking possession* is also required. The *existence* that this willing thereby attains includes its recognizability by others.—That the thing of which I can take possession must be *ownerless* is (as in § 50) a negative condition that goes without saying, or rather it refers to the anticipated relation to others.

[52] Taking possession makes the *matter* of the thing my property, since matter for itself does not belong to itself.

[52R] Matter offers me resistance (and it is nothing but this: offering me resistance). That is, it shows me its abstract being-for-self only insofar as I am abstract spirit, namely *sensuous* spirit (sensuous representation perversely takes the sensuous

being of spirit for the concrete and the rational for the abstract). But in relation to the will and to property, this being-for-self of matter has no truth. Taking possession, as an *external act* by which the universal right to appropriate natural things is actualized, becomes subject to the conditions of physical strength, cunning, dexterity—of mediation of every kind by which one gets hold of something physically. Given the qualitative diversity of natural things, mastering them and taking possession of them has an infinitely varied meaning and an equally infinite limitation and contingency. In any case, the genus and the elemental as such are not *objects for personal individuality*. To become such objects and to be capable of being seized, they must first be individualized (a breath of air, a gulp of water). In the impossibility of taking possession of an external genus as such, or of the elemental, the external physical impossibility is not to be regarded as the ultimate factor. The ultimate factor is that the person, as will, determines itself as individuality and, as person, is at the same time immediate individuality, and hence also relates as such to the external as to individual things (Remark to § 13, § 43).—Mastery and external possession therefore also become, in infinite ways, more or less indeterminate and incomplete. Yet matter is never without essential form, and only through form is it something. The more I appropriate this form, the more I come into *actual* possession of the thing. Consuming food is a penetration and alteration of its qualitative nature, by virtue of which it is what it is before being consumed. The training of my organic body in skills, as well as the cultivation of my spirit, is likewise a more or less complete taking possession and penetration; spirit is what I can make most completely my own. But this *actuality of taking possession* is different from property as such, which is completed by the free will. As against the free will, the thing has not kept back anything of its own for itself, even though in possession, as an external relation, some externality still remains. Thought must master the empty abstraction of a matter without properties, which in

property is supposed to remain outside me and to belong to the thing itself.

53 Property has its more precise determinations in the relation of the will to the thing. This relation is α) immediately *taking possession*, insofar as the will has its existence in the thing as something *positive*; β) insofar as the thing is something negative as against the will, the will has its existence in it as something to be negated—*use*; γ) the reflection of the will into itself out of the thing—*alienation*. These are the *positive, negative* and *infinite judgment* of the will on the thing.[5]

TAKING POSSESSION

Possession is taken by physical seizure, by forming a thing, or by marking it with a sign.

54 Taking possession is partly immediate *physical seizure*, partly forming, partly mere *marking*.

55 α) From the sensuous point of view, *physical seizure* is the most complete mode, since in this possession I am immediately present and my will is therefore equally recognizable. But it is in general only subjective and temporary, and highly restricted in scope, as well as by the qualitative nature of the objects.—Through the connection into which I can bring something with things that are already my property in some other way, or into which something otherwise comes by chance—through other mediations, that is—the scope of this taking possession is somewhat extended.

55R Mechanical forces, weapons and instruments extend the range of my power.—Then there are connections such as that of the sea or river washing my land; of land suitable for hunting, grazing and other uses that borders on my fixed property; of stone and other mineral deposits under my fields; of treasure in or under my landed property, and so on. Or there are connections that arise only in the course of time and by chance, such as

5 Terms from Hegel's logic of judgment; in the "infinite" judgment the predicate negates the subject entirely, not merely one of its features.

some of the so-called natural accessions, alluvion and the like, and also stranding. (*Foetura* [the offspring of animals] is indeed an accession to my resources; but, as an organic relation, it is not an external addition to another thing I possess, and is therefore of a quite different kind from the other accessions.) Such connections are, on the one hand, easier and in part exclusive *possibilities* for one owner, as against another, of taking possession of or using something. On the other hand, what has been added can be regarded as a non-self-sufficient *accident of the thing* to which it has been added.[6] These are in general *external* links, which do not have the concept and life as their bond. They therefore fall to the understanding, which adduces and weighs reasons and counter-reasons, and to positive legislation for decision, according to the greater or lesser essentiality or inessentiality of the relations.

56 β) Through *forming*, the determination that something is mine acquires an externality that *subsists for itself*, and ceases to be limited to my presence in *this* space and *this* time and to the presence of my knowing and willing.

56R Forming is, to this extent, the mode of taking possession most adequate to the Idea, because it unites the subjective and the objective within itself. For the rest, it varies infinitely according to the qualitative nature of the objects and the diversity of subjective ends.—Here too belongs the forming of the organic, in which what I do to it does not remain something external but is assimilated: tilling the soil, cultivating plants, taming, feeding and tending animals; further, arrangements that mediate the use of elemental materials or forces, contrived action of one material on another, and so on.

57 In his *immediate* existence within himself, the human being is something natural, external to his concept. Only through the *development* of his own body and spirit—*essentially* through *his self-consciousness apprehending itself as free*—does he take possession of himself and become his own property as against others.

6 Alluvion is land gradually deposited by a river; stranding refers to goods washed ashore. Roman law treated both as acquisition by accession.

Conversely, this taking possession is equally the translation into *actuality* of what he is according to his concept (as a *possibility*, capacity, predisposition). Only in this way is it posited as his own, and also as an object distinct from simple self-consciousness; and thereby it becomes capable of receiving the *form of a thing* (cf. Remark to § 43).

[57R] The alleged justification of *slavery* (in all its more specific grounds: physical force, capture in war, the saving and preservation of life, sustenance, upbringing, benefits received, one's own consent and so on), as well as the justification of *dominion* as mere lordship in general, and every *historical* view of the right of slavery and lordship, rests on the standpoint of taking the human being as a *natural being* in general, in terms of *an existence* (to which arbitrary will also belongs) that is not adequate to his concept. The assertion that slavery is absolutely wrong, on the other hand, holds fast to the *concept* of the human being as spirit, as what is free *in itself*. It is one-sided in that it takes the human being as free *by nature*—or, what is the same thing, it takes the concept as such in its immediacy, not the Idea, as the true. This *antinomy*, like every antinomy, rests on formal thinking, which holds fast to and asserts the two moments of an Idea in separation, each for itself, and hence as inadequate to the Idea and in its untruth. Free spirit consists precisely in this (§ 21): not to be as the mere concept, or *in itself*, but to sublate this formalism of itself, and with it its immediate natural existence, and to give itself existence only as its own, as free existence. The side of the antinomy that asserts the concept of freedom therefore has the advantage of containing the absolute *starting point* for the truth—but only the starting point. The other side, which stops at conceptless existence, does not contain the point of view of rationality and right at all. The standpoint of the free will, with which right and the science of right begin, is already beyond the untrue standpoint on which the human being, as a natural being and only as a concept that is in itself, is capable of being enslaved. This earlier, untrue appearance concerns spirit that is as yet only at the standpoint of its conscious-

ness. There, the dialectic of the concept and of the as yet only immediate consciousness of freedom brings about the *struggle for recognition* and the relation of *lordship* and *bondage* (see *Phenomenology of Spirit*, pp. 115 ff., and *Encyclopedia of the Philosophical Sciences*, § 325 ff.). But objective spirit, the content of right, must not itself be grasped once again only in its subjective concept; and so the principle that the human being is not destined for slavery in and for himself must not be grasped once again as a mere *ought*. This happens only through the knowledge that the Idea of freedom truly exists only as *the state*.

[58] γ) Taking possession that is not actual for itself but only *represents* my will is a *sign* on the thing, whose meaning is supposed to be that I have placed my will in it. This taking possession is very indeterminate in its objective scope and its meaning.

THE USE OF THE THING

Using a thing realizes ownership; full use is full property, and value is the thing's universality.

[59] Through taking possession, the thing acquires the predicate of being *mine*, and the will has a *positive* relation to it. In this identity, the thing is equally posited as something *negative*, and my will in this determination is a *particular* will: need, preference and so on. But my need, as the particularity of *a* will, is the positive, which satisfies itself; and the thing, as what is negative in itself, exists only *for* that need and *serves* it.—*Use* is this realization of my need through the alteration, destruction or consumption of the thing. The thing's selfless nature is thereby revealed, and it thus fulfills its determination.

[59R] That use is the *real* side and actuality of property hovers before ordinary representation when it regards property that is not being used as dead and ownerless, and when, in seizing such property unlawfully, it cites as its ground that the owner has not used it.—But the will of the owner, according to which a thing is his, is the primary substantial basis. The further

determination, use, is only the appearance and particular mode of that universal basis, and ranks below it.

[60] The *utilization* of a thing by immediate seizure is for itself an *individual* taking possession. But the utilization may be based on a continuing need and consist in the repeated utilization of a self-renewing product, perhaps even limiting itself so as to preserve this renewal. Insofar as this is so, these and other circumstances make that immediate individual seizure into a *sign* that it is meant to signify a universal taking possession—and hence the taking possession of the elemental or organic *basis* of such products, or of their other conditions.

[61] The substance for itself of the thing that is my property is its externality, that is, its non-substantiality: as against me, it is not a final end in itself (§ 42). This realized externality is the use or utilization I make of the thing. It follows that *the whole use* or utilization *is the thing in its entire extent*. So if the whole use belongs to me, I am the owner of the thing, and beyond the whole extent of its use nothing remains of it that could be the property of another.

[62] Only a *partial* or *temporary use*, and likewise a *partial* or *temporary possession* (as the equally partial or temporary *possibility* of using the thing), that belongs to me is therefore *distinct* from *property* in the thing itself. If the whole extent of the use were mine, while the abstract property was supposed to belong to another, then the thing, as mine, would be wholly penetrated by my will (preceding § and § 52), and at the same time would contain something impenetrable to me: the will of another, and an empty will at that. I would be objective to myself in the thing as positive will and at the same time not objective—the relation of an absolute contradiction.—Property is therefore essentially *free, full* property.

[62R] The distinction between the right to the *whole extent of use* and *abstract property* belongs to the empty understanding. For this understanding, the Idea—here as the unity of property, or of the personal will in general, and its *reality*—is not the true; instead, these two moments in their separation from each other

count for it as something true. As an actual relation, therefore, this distinction is that of an empty lordship. It could be called a derangement of personality (if "derangement" were not applied only to a subject's mere representation and its actuality being one in immediate contradiction), because what is *mine* in *one* object was supposed to be, without mediation, both my individual exclusive will and another individual exclusive will.—In the *Institutes*, Book II, Title IV, it is said: "Usufructus est ius *alienis* rebus utendi fruendi salva rerum *substantia*" [Usufruct is the right to use and enjoy the things of *another* without impairing their *substance*]. Further on, the same passage says: "ne tamen in universum *inutiles* essent proprietates *semper* abscedente usufructu, *placuit* certis modis extingui usumfructum et ad proprietatem reverti" [lest, however, property be altogether *useless* if the usufruct were *always* separated from it, *it has been decided* that the usufruct should be extinguished in certain ways and revert to the property].—*Placuit* [it has been decided]—as if it were first a matter of preference or decision to give that empty distinction some meaning through this provision. A *proprietas semper abscedente usufructu* [property from which the usufruct is always separated] would not only be *inutilis* [useless]; it would no longer be *proprietas* [property] at all. —To discuss other distinctions within property itself, such as that between *res mancipi* and *nec mancipi* [things transferable only by formal conveyance, and those that are not], *dominium Quiritarium* and *Bonitarium* [ownership under Roman civil law, and ownership protected by the praetor], and the like, does not belong here: they relate to no conceptual determination of property and are merely historical delicacies of this law.—But consider the relations of *dominium directum* and *dominium utile* [direct ownership and ownership of use], the *emphyteutic* contract, and the further relations of fiefs, with their hereditary and other quitrents, dues, transfer fees and so on, in their various forms, where such burdens are irredeemable. In one respect these relations contain the above distinction, but in another they do not—precisely insofar as burdens are attached to the *dominium utile*, whereby the *dominium*

directum becomes at the same time a *dominium utile*.[7] If such relations contained nothing but that distinction in its strict abstraction, then what would confront each other in them would not really be *two lords* (*domini*), but an *owner* and an empty *lord*. On account of the burdens, however, it is *two owners* who stand in the relation. Yet they are not in a relation of *common* property. The transition from that relation to common property lies very close at hand. This transition has already begun when the yield of the *dominium directum* is calculated and regarded as the *essential* thing, so that what is incalculable in lordship over a property, which may have been held to be the *noble* element, is ranked below the *utile* [the useful], which here is the rational.

It is perhaps some fifteen hundred years since the *freedom of the person* began to blossom through Christianity and became a universal principle among what is, incidentally, only a small part of the human race. *Freedom of property*, however, has been recognized as a principle here and there only since yesterday, one might say.—An example from world history of how long spirit needs to advance in its self-consciousness—and one against the impatience of opinion.

63 The thing in use is an individual thing, determined in quality and quantity and related to a specific need. But its specific usefulness, being determined *quantitatively*, is at the same time *comparable* with other things of the same usefulness. Likewise, the specific need that it serves is at the same time *need in general*, and as such, in its particularity, it is equally comparable with other needs. Accordingly, the thing is also comparable with things that are useful for other needs. This *universality* of the thing is its *value*. The simple determinacy of this universality arises from the particularity of the thing in such a way that the thing's specific quality is at the same time abstracted from. In value, the thing's true substantiality is *determined and* is an

7 Emphyteusis was a heritable long lease of land for an annual rent; the lord retained the *dominium directum*, the tenant held the *dominium utile*.

object of consciousness. As full owner of the thing, *I* am owner of its *value* just as much as of its use.

63R The feudal tenant has this difference within his property: he is supposed to be owner only of the *use* of the thing, not of its *value*.

64 The form given to possession and the sign are themselves external circumstances. Without the subjective presence of the will, which alone constitutes their meaning and value, they are nothing. This presence, however, which consists in use, utilization or some other expression of the will, falls within *time*, and with respect to time *objectivity* is the *continuation* of this expression. Without that continuation the thing is abandoned by the actuality of will and possession, and it becomes ownerless. Hence I lose or acquire property through *prescription*.[8]

64R Prescription, therefore, was not introduced into right merely out of an external consideration that runs counter to strict right. That consideration is the wish to cut short the disputes and confusions that old claims would bring into the security of property, and so on. Rather, prescription is grounded in the determination of the *reality* of property, in the necessity that the will to have something should express itself.—*Public monuments* are national property. Or rather, like works of art in general with respect to their *use*, they count as living and self-standing ends by virtue of the soul of remembrance and honor that dwells in them. But once this soul has abandoned them, they become in this respect ownerless for a nation and the contingent private possession of whoever holds them—like the Greek and Egyptian works of art in Turkey. —The *private property right* of an *author's* family in his productions lapses by prescription for a similar reason. These productions become ownerless in the sense that (in the opposite way from those monuments) they pass into universal property and, according to the particular use made of them as things, into contingent private possession.—Mere *land* dedicated to graves, or dedicated in its own right to *non-use* for all eternity, embodies an empty arbitrary will that is

8 Prescription: the acquisition or loss of a right through the lapse of time.

not present. Violating it violates nothing actual, and for that reason respect for it cannot be guaranteed either.

ALIENATION OF PROPERTY

External things can be given up, but personality, freedom, ethical life and religion cannot.

65 I can *alienate* my property, since it is mine only insofar as I put my will into it. So I may leave my thing to itself as ownerless (*derelinquere* [to abandon]) or hand it over to the will of another for him to possess—but only insofar as the thing is, by *its nature*, something *external*.

66 Therefore those goods, or rather substantial determinations, which constitute my ownmost person and the universal essence of my self-consciousness are *inalienable*, and the right to them is *imprescriptible*. Such are my personality in general, my universal freedom of will, my ethical life and my religion.

66R Spirit is something according to its concept, or *in itself*. That it should also be this in existence and for itself (and so be a person, capable of property, and have ethical life and religion)—this Idea is itself spirit's concept. (As *causa sui* [cause of itself], that is, as free cause, spirit is that *cuius natura non potest concipi nisi existens* [whose nature cannot be conceived except as existing]; Spinoza, *Ethics* I, Def. 1.)[9] Spirit's concept is to be what it is *only through itself*, as an *infinite return into itself* out of the natural immediacy of its existence. In this very concept lies the possibility of an opposition between what spirit is only *in itself* and not also *for itself* (§ 57), and conversely between what it is only *for itself* and *not in itself* (in the will, evil). And herein lies the *possibility of the alienation of personality* and of spirit's substantial being, whether this alienation takes place unconsciously or explicitly. —Examples of the alienation of personality are slavery, serfdom, incapacity to own property, the unfreedom of property, and so on. The alienation of intelligent rationality, of

9 Baruch Spinoza (1632–1677), Dutch philosopher; his *Ethics* appeared posthumously in 1677.

morality, ethical life and religion occurs in superstition. It also occurs when I grant to others the authority and full power to determine and prescribe for me what actions I am to commit (as when someone expressly hires himself out for robbery, murder and so on, or for the possibility of crime), or what is a duty of conscience, what is religious truth, and so on.—The right to such inalienable things is imprescriptible. For there is an act by which I take possession of my personality and my substantial essence, and make myself a being capable of rights and accountability, a moral and religious being. This act removes these determinations from the very externality that alone gave them the capacity to be in the possession of another. With this sublation of externality, the determination of time falls away, and so do all the grounds that might be drawn from my earlier consent or acquiescence. This return of mine into myself, by which I make myself exist as Idea, as a legal and moral person, sublates the previous relationship. It also sublates the wrong that I and the other had done to my concept and my reason: letting the infinite existence of self-consciousness be treated as something external, and having so treated it.—This return into myself exposes a contradiction. I had given others possession of my capacity for rights, my ethical life, my religiosity—things that I myself did not possess, and that, as soon as I do possess them, exist essentially only as mine and not as something external.

67 From my *particular physical and mental skills* and capacities for activity I can *alienate* to another *individual* products, and a use of these abilities that is *limited in time*. I can do so because, given this limitation, they acquire an external relation to my *totality* and *universality*. If I were to alienate the *whole* of my time, made concrete through work, and the totality of my production, I would make what is substantial in them—my *universal* activity and actuality, my personality—the property of another.

67R It is the same relation as that discussed above (§ 61) between the substance of the *thing* and its *use*. Use is distinct from the substance only insofar as it is limited. In the same way, the use of my powers is distinguished from the powers them-

selves, and hence from me, only insofar as it is quantitatively limited.—The *totality* of the expressions of a power is the power itself; the totality of the accidents is the substance; the totality of the particularizations is the universal.

[68] What is distinctively one's own in intellectual production can, through the manner in which it is expressed, turn immediately into the externality of a thing, which can then be produced by others as well. By acquiring such a thing, its new owner can make the communicated thoughts or the technical invention his own; and this possibility in part (in the case of literary works) constitutes the sole point and value of the acquisition. But besides this, he at the same time comes into possession of the *universal way and means* of expressing oneself in this way and of producing such things in quantity.

[68R] In works of art, the form that gives thought an image in an external material is, as a thing, so much the distinctive property of the individual who produces it that an imitation of it is essentially the product of the imitator's own intellectual and technical skill. In a literary work, as in the invention of a technical device, the form by which it is an external thing is of a *mechanical kind*. In the literary work this is because the thought is presented only in a series of discrete abstract *signs*, not in concrete figuration; in the invention it is because the thought has a mechanical content as such. And the way of producing such things as things belongs among ordinary skills. —Between the extremes of the work of art and craft production there are, moreover, transitional forms, which have sometimes more, sometimes less of the one or the other.

[69] The acquirer of such a product possesses the full use and value of the copy as an *individual* thing, and so he is its complete and free owner as an individual thing. The author of the writing or the inventor of the technical device, however, remains owner of the *universal* way and means of reproducing such products and things. He has not immediately alienated this universal way and means, but can reserve it for himself as his own distinctive expression.

69R What is substantial in the right of the author and the inventor is not, in the first instance, to be sought in the following: that when he alienates an individual copy, he arbitrarily makes it a *condition* that a certain possibility should not become the other's property but should remain the inventor's. This is the possibility of now producing such products as things in the same way, which comes into the other's possession along with the copy. The first question is whether such a separation—between ownership of the thing and the possibility, given with it, of producing it likewise—is admissible in terms of the concept, and does not sublate full, free property (§ 62). Only after that does it come down to the arbitrary will of the original intellectual producer whether to keep this possibility for himself, to alienate it as something of value, or to set no value on it himself and give it up together with the individual thing. For this possibility has the peculiarity of being the aspect of the thing by which the thing is not merely a possession but *wealth* (see below, § 170 ff.). This aspect lies in the particular manner of external use that is made of the thing, a use that is distinct and separable from the use for which the thing is immediately intended. (It is not, as the expression goes, an *accessio naturalis* [natural accession] like the *foetura* [the young of animals].) Now since the difference falls within what is by nature divisible, namely external use, to retain one part of the use while alienating the other is not to reserve a lordship without *utile* [use]. — The first way of promoting the sciences and the arts, merely negative though it is, is to secure those who work in them against *theft* and to grant them the protection of their property—just as the very first and most important way of promoting trade and industry was to secure them against robbery on the highways.—Moreover, the product of the intellect has the purpose of being grasped by other individuals and made their own in their representation, memory, thinking and so on. Their expression, by which they in turn make what they have *learned* into an *alienable thing*, therefore easily takes on some distinctive *form* of its own. (For learning does not mean merely memorizing words;

the thoughts of others can be grasped only by thinking, and this re-thinking is also learning.) As a result, they can regard the resources that grow out of it as their property, and claim for themselves the right to such production. The propagation of the sciences in general, and the specific business of teaching in particular, is by its purpose and duty the *repetition* of thoughts that are fixed, already expressed, and taken up from outside. This holds most definitely in the positive sciences, the doctrine of a church, jurisprudence and so on. It therefore holds also of writings whose purpose is this business of teaching and the propagation and dissemination of the sciences. The *form* that arises in repeated expression may transform the existing treasury of knowledge—in particular the thoughts of others who still hold external property in their intellectual products—into the special intellectual property of the individual who reproduces them. It may thereby give him the right to make them his external property as well. To what extent this is so or is not so, and to what extent such repetition in a literary work becomes *plagiarism*, cannot be stated by any precise determination, and so cannot be fixed in right and in law. Plagiarism would therefore have to be a matter of *honor*, and be held in check by honor. —Laws against *pirated reprinting* thus fulfill their purpose of securing the property of authors and publishers in right, but only within a definite and very limited scope.[10] Consider how easy it is to change something in the form deliberately, or to invent a tiny little modification to a great science or a comprehensive theory that is another's work. Consider, too, the mere impossibility of keeping to the author's words when presenting what one has grasped. Quite apart from the particular purposes for which such repetition becomes necessary, these facts by themselves bring about an endless multiplicity of alterations, which stamp another's property with the more or less superficial mark of being one's *own*. This is shown by the hundreds upon hundreds of compendia, excerpts, anthologies and so on,

10 Unauthorized reprints of books were a chronic problem in the German states, which then had no common law of copyright.

arithmetic books, geometries, devotional writings and so on. It is shown also by how every bright idea in a critical journal, a poetry almanac, a popular encyclopedia and so on can at once be repeated under the same or an altered title, and yet be claimed as something original. As a result, the profit that his work or idea promised the author or the inventive entrepreneur is easily brought to nothing, or depressed for both sides, or ruined for one of them alone. —As for the *effect of honor* against plagiarism, what is striking is that the word *plagiarism*, let alone *scholarly theft*, is no longer heard. This may be because honor has done its work and driven out plagiarism. Or plagiarism may have ceased to be contrary to honor, and the feeling about it may have disappeared. Or a trifling little idea and a change in an external form may rate themselves so highly as originality and independent thought that the thought of plagiarism never even occurs to them.

[70] The *comprehensive* totality of external activity, *life*, is not something external to personality, which is itself *this* personality and is *immediate*. On the contrary: since life is the existence of *this* personality, alienating or sacrificing it is the very opposite of something external. I therefore have no *right* whatever to that alienation. Only an ethical Idea has a right to it, since in that Idea *this immediately* individual personality has in itself perished, and the Idea is its *actual* power. Accordingly, just as life as such is *immediate*, so death is life's *immediate* negativity. Death must therefore be received from outside, either as a natural event or, in the service of the Idea, at another's hand.

FROM PROPERTY TO CONTRACT

Property exists for the will of another person, which leads into the sphere of contract.

[71] Existence, as determinate being, is essentially being for another (see above, Remark to § 48). In the aspect in which property is an existence as an external thing, it exists for other external things and within the nexus of their necessity and con-

tingency. But as the existence of the *will*, property exists for another only *for the will* of another person. This relation of will to will is the true and proper ground on which freedom has *existence*. This mediation constitutes the sphere of *contract*: I have property no longer merely by means of a thing and my subjective will, but equally by means of another will, and so within a common will.

71R Reason makes it just as necessary that human beings enter into contractual relations—giving gifts, exchanging, trading and so on—as that they possess property (Remark to § 45). As far as their consciousness goes, what leads them to contracts is need in general, benevolence, advantage and so on. But in itself it is reason: namely, the Idea of the real existence of free personality (that is, existence present only in the will). Contract presupposes that those entering into it *recognize* each other as persons and property owners. Since contract is a relation of objective spirit, the moment of recognition is already contained and presupposed in it (cf. § 35; Remark to § 57).

CONTRACT

Two wills form a common will in transferring property; marriage and the state are not contracts.

72 Property whose aspect of existence or *externality* is no longer merely a thing, but contains within it the moment of a will (and hence of another will), comes about through *contract*. Contract is the process in which a contradiction is displayed and mediated. The contradiction is this: I *am* and *remain* an owner existing for myself and excluding the other will only insofar as, in a will identical with the other's, I *cease* to be an owner.

73 Not only *can* I alienate a property as an external thing (§ 65); I *must*, by virtue of the concept, alienate it as property, so that *my* will, as *existent*, may become objective to me. But in this moment my will, as alienated, is at the same time an *other* will. That in which this necessity of the concept is real is thus *the unity* of distinct wills, a unity in which their distinctness and

peculiarity are given up. Yet this identity of their will equally contains (at this stage) the fact that each is and remains a will *not identical* with the other, a will peculiar to itself.

[74] This relation is thus the mediation of a will that is identical within the absolute distinction of owners existing for themselves. It implies that each, by his own will and the will of the other, *ceases* to be an owner, *remains* one and *becomes* one. It is the mediation of two wills: the will to give up a property, and indeed an individual property, and the will to accept such a property, namely one that belongs to another. And this takes place in an identical connection, in which the one volition comes to a decision only insofar as the other volition is present.

[75] The two contracting parties relate to each other as *immediate* self-standing persons. It follows that (α) contract proceeds from *arbitrary will*; (β) the identical will that enters into existence through the contract is only a will *posited by the parties*, and hence only a *common* will, not a will universal in and for itself; (γ) the object of the contract is an *individual external* thing, for only such a thing is subject to the parties' mere arbitrary will to alienate it (§ 65 ff.).

[75R] *Marriage*, therefore, cannot be subsumed under the concept of contract. This subsumption is set out in all its—infamy, one has to call it—by *Kant* (*Metaphysical First Principles of the Doctrine of Right*, p. 106 ff.).—Just as little does the nature of the *state* lie in the contractual relation, whether the state is taken as a contract of all with all or as a contract of all these with the prince and the government.—The intrusion of this relation, and of the relations of private property in general, into the relation of the state has produced the greatest confusions in constitutional law and in actuality.[11] In earlier periods, the rights and duties of the state were regarded and asserted as the immediate private property of particular individuals, in opposition to the right of the prince and the state. In a more recent period, by contrast, the rights of the prince and of the state have

11 Kant there treats marriage as a contract for the lifelong reciprocal possession of each other's sexual attributes.

been regarded as objects of contract and as founded on contract —as something merely *common* to the wills of those united in a state and arising from their arbitrary will.—However different these two standpoints are in one respect, they have this in common: they have carried the determinations of private property over into a sphere of a wholly different and higher nature.—See below: Ethical Life and the State.

[76] Contract is *formal* insofar as the two consents by which the common will comes about—the negative moment of alienating a thing and the positive moment of accepting it—are divided between the two contracting parties: the *contract of gift*.—But contract may be called *real* insofar as *each* of the *two* contracting wills is the totality of these mediating moments, and in it therefore both becomes and remains an owner: the *contract of exchange*.

[77] In a real contract, each party retains the *same* property with which he enters it and which he at the same time gives up. What remains *identical* in this way, as the property that is *in itself* in the contract, is therefore distinct from the external things that change owners in the exchange. It is the *value*, in which the objects of the contract are *equal* to one another despite all the qualitative external differences between the things; it is their *universal* aspect (§ 63).

[77R] The provision that a *laesio enormis* [excessive injury] cancels the obligation entered into in a contract therefore has its source in the concept of contract. More precisely, it lies in the moment by which the contracting party, through the alienation of his property, *remains* an *owner* and, more specifically, quantitatively the same owner. But the injury is not merely enormous (it is taken to be so when it exceeds *half* the value); it is *infinite* if a contract, or any stipulation at all, were entered into for the alienation of an *inalienable* good (§ 66).—A *stipulation*, moreover, differs from a contract first in its content, in that it signifies some individual part or moment of the whole contract; and also in that it is the *formal* settlement of the contract, of which more

later.[12] In the first respect, a stipulation contains only the formal determination of contract: the consent of one party to give something and the consent of the other to accept it. For this reason it has been counted among the so-called *unilateral* contracts. The distinction between unilateral and bilateral contracts, like other classifications of contracts in Roman law, is partly a superficial grouping by some single, often external consideration, such as the manner of their formality. In part, these classifications also confuse, among other things, determinations that concern the nature of contract itself with determinations that relate only to the administration of justice (*actiones* [actions at law]) and to legal effects under positive law. The latter often stem from wholly external circumstances and violate the concept of right.

78 The distinction between property and possession, between the substantial and the external aspect (§ 45), becomes in contract the distinction between the common will as *agreement* and the realization of this agreement through *performance*. Once concluded, the agreement, taken by itself in distinction from performance, is something represented. It must therefore be given a particular *existence*, in keeping with the peculiar way in which *representations exist in signs* (*Encyclopedia of the Philosophical Sciences*, § 379 f.). This existence lies in the expression of the *stipulation*, through formalities of *gesture* and other symbolic acts, and especially in a definite declaration through *language*, the element most worthy of intellectual representation.

78R According to this determination, the stipulation is indeed the form through which the content *concluded* in the contract has its existence as something as yet only *represented*. But representing is only a form. It does not mean that the content is still something subjective, to be wished for and willed in this way or that. Rather, the content is the conclusion on the matter that the will has accomplished.

79 The stipulation contains the aspect of the will, and hence the *substance* of what is legal in the contract. Compared with it,

the possession that still persists as long as the contract is not yet fulfilled is by itself only the external aspect, which has its determination solely in the aspect of the will. Through the stipulation I have given up a property and my particular arbitrary will over it, and it has *already become the property of the other*. The stipulation therefore binds me in right immediately to *performance*.

79R The difference between a mere promise and a contract lies in this. In a promise, what I intend to give, do or perform is expressed as something *future*, and remains a *subjective* determination of my will, which I can therefore still change. The stipulation of a contract, by contrast, is itself already the *existence* of my will's decision. By it I have alienated my thing; it has *now* ceased to be my property, and I already recognize it as the property of the other. The Roman distinction between *pactum* [pact] and *contractus* [contract] is a poor one. —*Fichte* once put forward the claim that the *obligation* to keep a contract *begins* only when the other *begins* to perform for me. His reason was that before performance I do not know whether the other *meant* his declaration *seriously*; hence the obligation before performance is only *moral* in nature, not legal. But the declaration made in the stipulation is not a declaration in general. It contains the *common will* that has come about, in which the arbitrariness of *disposition* and of changing it has been sublated. The question is therefore not whether it is possible that the other was, or has become, *inwardly* differently disposed, but whether he has the right to be so. And even if the other begins to perform, the arbitrary will to do wrong is still open to me as well.[13] That view shows its nullity at once in the fact that it would make the legal force of contract depend on the bad infinity, the infinite progression—on the infinite divisibility of time, of matter, of action and so on. The *existence* that the *will* has in the formality of gesture, or in language determinate in itself, is already its complete existence as

12 *Laesio enormis*: the Roman-law rule that a sale could be rescinded if the price was less than half the true value.

13 The argument appears in Fichte's early defense of the French Revolution (1793).

an intellectual will; performance is only its selfless consequence.—Positive law, it is true, has so-called *real contracts*, as distinct from so-called *consensual* contracts, in the sense that the former count as fully valid only when actual performance (*res, traditio rei* [the thing, delivery of the thing]) is added to consent. But this makes no difference to the matter.[14] Such contracts are, in part, the particular cases in which only this handing over puts me in a position to perform on my part, and my obligation to perform relates solely to the thing insofar as I have received it into my hands. This is so with a loan for consumption, a loan for use, and a deposit (and it can also be so with other contracts). This circumstance concerns not the nature of the relation of stipulation to performance, but the manner of performing. In part, it is simply left to arbitrary will to stipulate in a contract that one party's obligation to perform should lie not in the contract as such, but should depend on the other party's performance first.

[80] The *classification* of contracts, and an intelligible treatment of their kinds based on it, must be drawn not from external circumstances but from distinctions that lie in the nature of contract itself.—These distinctions are those between formal and real contract; then between property on the one hand and possession and use on the other; and between value and the specific thing. This yields the *following kinds*. (The classification given here coincides on the whole with Kant's, *Metaphysical First Principles of the Doctrine of Right*, p. 120 ff. One might long since have expected the usual routine of classifying contracts into real and consensual, nominate and innominate contracts, and so on, to be abandoned in favor of the rational classification.) A. *Contract of gift*, namely: 1. of a thing—a *gift* properly so called; 2. the *lending* of a thing, as the gift of a *part* of it, or of its *limited enjoyment* and *use*; here the lender remains *owner* of the thing (*mutuum* and *commodatum* [loan for consumption and loan for use] without interest). The thing here is either a *specific* one; or, even

14 Bad infinity: Hegel's term for an endless series that never reaches completion, as opposed to true infinity.

if it is specific, it is nevertheless regarded as a universal one; or it counts (like money) as universal in its own right. 3. *Gift* of a *service* in general, e.g. the mere safekeeping of a property (*depositum* [deposit]).—There is also the gift of a thing on the special condition that the other becomes owner only at *the time of the donor's death*, that is, at the time when the donor is no longer an owner anyway: *testamentary* disposition. This is not contained in the concept of contract, but presupposes civil society and positive legislation. B. *Contract of exchange*: 1. Exchange as such: (α) of a *thing* in general, that is, of one *specific* thing for another specific thing; (β) *purchase* or *sale* (*emtio venditio*): the exchange of a *specific* thing for one that is determined as the universal thing, that is, one that counts only as *value*, without any other specific determination for use—for *money*. 2. *Letting and hiring* (*locatio conductio*): the alienation of the *temporary use* of a property in return for *rent*, namely (α) of a *specific* thing—renting proper; or (β) of a *universal thing*, so that the lender remains owner only of this, or, what is the same, of its *value*—a *loan* (*mutuum*; the former, α, may also be *commodatum* with rent. The further empirical character of the thing—whether it is a floor of a building, an implement, a house and so on, a *res fungibilis* or *non fungibilis* [fungible or non-fungible thing]—brings with it (as with lending as a gift, no. 2) other particular determinations, which are not, however, important). 3. *Contract of wages* (*locatio operae* [hiring out of labor]): the alienation of my *producing* or *serving*, insofar, that is, as it is alienable, for a limited time or with some other limitation (see § 67).

80R Related to this are the *mandate* and other contracts in which performance depends on character and trust or on higher talents. Here an *incommensurability* arises between what is performed and an external value (which in this case is called not *wages* but an *honorarium*).

80 C. *Completion of a contract* (*cautio* [security]) *through pledge*.

In contracts in which I alienate the use of a thing, I am not in possession of it, but am still its owner (as in letting). Further, in contracts of exchange and purchase, and also of gift, I may have

become owner without yet being in possession. And in general this separation arises with respect to any performance where the two sides do not perform *simultaneously*. In the one case I remain, and in the other I am put, in actual *possession of the value*, which is still, or already, my property, without being in possession of the *specific* thing that I hand over or that is to become mine. This is brought about by the *pledge*. The pledge is a specific thing; but it is my property only to the extent of the *value* of the property I have handed over into another's possession, or of the property owed to me. According to its specific character and any excess value, it remains the property of the one who gives the pledge. Pledging is therefore not itself a contract but only a stipulation (§ 77), the moment that completes a contract with respect to the possession of property.—*Mortgage* and *surety* are particular forms of it.

[81] In the relation of immediate persons to one another in general, their will is *identical in itself* and is posited by them in contract as *common*; but it is just as much a *particular* will. Because they are *immediate* persons, it is contingent whether their *particular* will accords with the will *that is in itself*, which has its existence solely through the particular will. As particular, and *for itself distinct* from the universal will, the particular will steps forth in arbitrariness and contingency of insight and volition against what is right *in itself*. This is *wrong*.

[81R] The transition to wrong is made by the higher, logical necessity that the moments of the concept should be posited as *distinct for themselves*. Here these moments are right *in itself*, or the will as *universal*, and right in its *existence*, which is precisely the *particularity* of the will. That they are posited as distinct belongs to the *abstract reality* of the concept.—This particularity of the will for itself, however, is arbitrariness and contingency. In contract I have given it up only as arbitrary will over an *individual* thing, not as the arbitrariness and contingency of the will itself.

WRONG

In wrong, right becomes a mere semblance and restores itself by negating its own negation.

82 In contract, right *in itself* is present as something *posited*, and its inner universality as something *common* to arbitrary and particular wills. In this *appearance* of right, right and its essential existence, the particular will, agree immediately, that is, contingently. In *wrong*, this appearance goes on to become *semblance*: the opposition between right in itself and the particular will, in which right becomes a *particular right*. But the truth of this semblance is that it is null, and that right restores itself by negating this negation of itself. Through this process of mediation, returning to itself from its negation, right determines itself as *actual* and *valid*, whereas at first it was only *in itself* and something *immediate*.[15]

83 Right, as something *particular* and therefore manifold, takes on the form of a *semblance* in contrast to its universality and simplicity *in itself*. It is such a semblance in three ways: partly *in itself* or immediately; partly posited as semblance *by the subject*; and partly posited as *utterly null*. These are *unintentional or civil wrong*, *fraud*, and *crime*.

UNINTENTIONAL WRONG

In civil disputes both parties recognize right but each claims the thing on its own ground.

84 Taking possession (§ 54) and contract, both in themselves and in their particular kinds, are in the first place different expressions and consequences of my will in general. But because the will is what is universal in itself, they are, in relation to recognition by others, *grounds of right*. Because they are external to one another and manifold, they may belong, with respect to one and

15 Semblance renders *Schein* (illusory seeming), as distinct from *Erscheinung*, appearance.

the same thing, to different persons. Each of these regards the thing as his property on the basis of his own particular ground of right, and so *collisions of rights* arise.

[85] In this collision the thing is claimed *on a ground of right,* and the collision constitutes the sphere of *civil litigation*. It contains the *recognition* of right as the universal and decisive factor, so that the thing is to belong to whoever has the right to it. The dispute concerns only the *subsumption* of the thing under the property of one party or the other. This is a *simply negative* judgment, in which, in the predicate "mine," only the particular is negated.

[86] In the parties, the recognition of right is bound up with opposed particular interests and correspondingly opposed views. Against this *semblance*, and at the same time *within it* (preceding §), right *in itself* comes forward as represented and demanded. But at first it is only an *ought*. For the will is not yet present as a will that has freed itself from the immediacy of interest and, as particular, would have the universal will as its end. Nor is the will here yet determined as a recognized actuality of such a kind that, in face of it, the parties would have to renounce their particular view and interest.

FRAUD

In fraud the universal side of a contract is deliberately reduced to a false show.

[87] Right *in itself*, in its distinction from right as particular and existent, is indeed determined, as something *demanded*, to be the essential. But in this it is at the same time *only* something demanded, and in this respect something merely subjective, hence inessential and merely apparent. When the particular will thus reduces the universal to something merely apparent—in contract, first of all, to a merely external community of wills—this is *fraud*.

[88] In contract I acquire a property for the sake of the particular character of the thing, and at the same time according to its inner universality—partly as regards its *value*, partly as coming

from the *property* of the other. Through the other's arbitrary will, a false semblance may be presented to me in these respects. The contract is then in order as a mutual free consent to the exchange of *this* thing in its *immediate* individuality, but the aspect of the universal that is *in itself* is missing from it. (The infinite judgment in its positive expression or identical meaning; see *Encyclopedia of the Philosophical Sciences*, § 121.)

[89] Against this acceptance of the thing merely *as this* thing, and against the merely opining will as well as the arbitrary will, the objective or universal should be recognizable as *value* and should hold as right, and the subjective arbitrary will opposed to right should be sublated. But here this too is at first only a demand.

COERCION AND CRIME

Coercion destroys itself, so a second coercion that cancels the first is rightful.

[90] In property my will puts itself into an *external thing*. This implies that, just as much as my will is reflected in the thing, it can be seized in it and placed under necessity. In it, my will may partly suffer *force* in general. And partly, by means of force, some sacrifice or action may be made the condition of some possession or positive being, and so *coercion* may be done to it.

[91] As a living being, a human being can certainly be *subdued*, that is, his physical and otherwise external side can be brought under the power of others. But the free will in and for itself cannot be *coerced* (§ 5), except insofar as *it does not withdraw itself from the externality* in which it is held fast, or from its representation of that externality (§ 7). Only someone who *wills* to be *coerced* can be coerced into anything.

[92] The will is Idea, or actually free, only insofar as it has existence, and the existence into which it has put itself is the being of freedom. Therefore force or coercion immediately destroys itself in its concept, as the expression of a will that sublates the

expression or existence of a will. Force or coercion, taken abstractly, is therefore *contrary to right*.

[93] *That* coercion destroys itself in its concept has its real presentation in the fact *that coercion is sublated by coercion*. Coercion is therefore not only conditionally rightful but necessary—namely as a *second* coercion that is the sublation of a first coercion.

[93R] Violating a contract by not performing what was stipulated, or violating the duties of right toward the family or the state, whether by action or omission, is a first coercion, or at least force, insofar as I withhold from another, or take from him, a property that is his or a performance I owe him.—Pedagogical coercion, or coercion exercised against wildness and crudeness, does appear to be a first coercion, not one that follows a preceding first coercion. But the merely natural will is *in itself* force against the Idea of freedom that is in itself, and this Idea must be protected against such an uncultivated will and made to prevail in it. Either an ethical existence has already been posited in the family or the state, and that naturalness is an act of violence against it. Or there is only a state of nature, a state of force in general; and then the Idea establishes against it a *right of heroes*.

[94] Abstract right is *coercive right*, because the wrong done against it is a force against the *existence* of my freedom in an *external* thing. Hence the maintenance of this existence against the force is itself an external action, and a force that sublates the first force.

[94R] To define abstract or strict right from the outset as a *right* that one may enforce by coercion is to grasp it through a consequence that arises only by the detour of wrong.

[95] The first coercion, as force exercised by the free agent that violates the existence of freedom in its *concrete* sense, right as right, is *crime*. Crime is a *negatively infinite judgment* in its full sense (see my *Logic*, vol. II, p. 99). Through it, not only the particular—the subsumption of a thing under my will (§ 85)—is negated, but at the same time the universal, the infinite in the predicate "mine," namely *capacity for rights*. And this is negated

without the mediation of my opinion (as in fraud, § 88), indeed in defiance of it. This is the sphere of *criminal law*.

95R Up to this point, it is true, the right whose violation is crime has only the forms we have seen, and so crime too has at first only the more specific meaning that relates to these determinations. But what is substantial in these forms is the universal, which remains the same in its further development and formation. The same therefore holds of its violation, crime, according to its concept. Hence the determination to be considered in the following § also concerns the particular, more fully determined content, e.g. in perjury, crimes against the state, counterfeiting coins and bills of exchange, and so on.

96 It is the *existent* will alone that can be violated. But in existence this will has entered the sphere of quantitative extent and of qualitative determinations, and so varies accordingly. For this reason it likewise makes a difference to the objective side of crimes whether such an existence and its determinacy are violated in their entire extent, and hence in the infinity that is equal to their concept (as in murder, slavery, religious coercion and so on), or only in part; and also with respect to which qualitative determination they are violated.

96R The Stoic view that there is only *one* virtue and *one* vice, the Draconian legislation that punishes every crime with death, and the crudeness of formal honor, which lays infinite personality into every injury—these have in common that they stop at the abstract thought of free will and personality. They do not take free will and personality in the concrete and determinate existence that they must have as Idea.—The difference between *robbery* and *theft* concerns the qualitative. In robbery my I is violated also as present consciousness, hence as *this subjective* infinity, and personal violence is committed against me.[16] — Some qualitative determinations, such as *danger to public safety*, have their ground in more determinate relations. But they are also often grasped only by the roundabout route of con-

16 Draco, Athenian lawgiver of the 7th century BC, whose code was proverbially severe.

sequences rather than from the concept of the thing. In fact, the more dangerous crime is, taken for itself and in its immediate character, a more serious violation in extent or in quality.—The subjective, *moral* quality relates to the higher distinction of whether, and to what extent, an event and deed is an action at all. It concerns the subjective nature of the action itself; of this, more later.

[97] The violation of right as right, once it has occurred, is indeed a *positive*, external *existence*, but one that is null *in itself*. The *manifestation* of this nullity is the annihilation of that violation, which likewise enters into existence. This is the actuality of right, as its necessity, mediating itself with itself through the sublation of its violation.

[98] The violation, as affecting only external existence or possession, is a harm, *damage* to some form of property or resources. The sublation of the violation, insofar as it is damage, is civil satisfaction in the form of *compensation*, insofar as compensation can take place at all.

[98R] In this aspect of satisfaction, insofar as the damage is a destruction and altogether irreparable, the *universal* character of the damage, as *value*, must already take the place of its qualitative, specific character.

[99] But the violation has befallen the will that is *in itself*, and thus equally the will of the violator, of the injured party and of everyone. This violation has no *positive existence* in the will that is *in itself* as such, any more than it has in the mere product. *For itself*, this will that is in itself (right, law in itself) is rather what does not exist externally, and is to that extent inviolable. Likewise, for the particular will of the injured party and of the others, the violation is only something negative. The *positive existence of the violation* is only as the *particular will of the criminal*. The violation of this will, as an existent will, is therefore the sublation of the crime, *which would otherwise be valid*, and is the restoration of right.

THE THEORY OF PUNISHMENT

Punishment cancels crime and honors the criminal as rational, rather than merely deterring him.

99R The theory of punishment is one of the topics that have fared worst in the positive science of right of recent times. The reason is that in this theory the understanding is not enough; what essentially matters is the concept.—If crime and its sublation (which is further determined as punishment) are regarded only as a *harm* in general, then one may indeed consider it irrational to will a harm merely *because another harm is already present* (Klein, *Principles of Criminal Law*, § 9 f.). This superficial character of a *harm* is presupposed as the first thing in the various theories of punishment: the theories of prevention, deterrence, threat, reform and so on. And what is supposed to result from punishment, by contrast, is determined just as superficially as a *good*.[17] But what is at issue is neither merely a harm nor this or that good; it is a matter, precisely, of *wrong* and of *justice*. Through those superficial points of view, however, the objective consideration of *justice*, which is the first and substantial point of view in regard to crime, is set aside. It follows of itself that the moral point of view, the subjective side of crime, becomes the essential thing. And this point of view is mixed with trivial psychological notions: about stimuli, and the strength of sensuous drives against reason, about psychological coercion and influence on the mind (as if such influence were not equally reduced by freedom to something merely contingent).[18] The various considerations that belong to punishment as appearance and to its relation to particular consciousness, and that concern its effects on the mind (to deter, to reform and so on), are certainly of essential importance in their proper place—chiefly, in fact,

17 Ernst Ferdinand Klein (1744–1810), Prussian jurist; his *Grundsätze des gemeinen deutschen und preussischen peinlichen Rechts* appeared in 1796.

18 "Psychological coercion" was the theory of Paul Johann Anselm Feuerbach (1775–1833): the threat of punishment deters by acting on the mind of the would-be offender.

merely with regard to the *modality* of punishment. But they presuppose the grounding that punishing is *just* in and for itself. In this discussion the only point is, first, that crime is to be sublated—not as the production of a *harm*, but as a violation of right as right. The second point is what the *existence* is that crime has and that is to be sublated. This existence is the true harm that has to be removed, and where it lies is the essential point. As long as the concepts on this matter are not definitely grasped, confusion must reign in the view of punishment.

[100] The violation that befalls the criminal is not only just *in itself*—as just, it is at the same time his will that is *in itself*, an existence of his freedom, *his* right. It is also a *right posited in the criminal* himself, that is, in his *existent* will, in his action. For it lies in his action, as the action of a *rational being*, that it is something universal: through it a law is set up which he has recognized in it for himself, and under which, therefore, he may be subsumed as under *his* right.

[100R] *Beccaria*, as is well known, denied the state the right to impose the death penalty. His ground was that it cannot be presumed that the social contract contains the individuals' consent to be killed; rather, the opposite must be assumed. But the state is not a contract at all (see § 75). Nor is the *protection* and *security* of the lives and property of individuals as individuals so unconditionally its substantial essence. Rather, the state is the higher entity, which also lays claim to this very life and property and demands their sacrifice.[19] —Further, what the state has to enforce is not only the *concept* of crime, what is rational in it *in and for itself*, *with* or *without* the consent of individuals. The formal rationality, the *willing* of the *individual*, also lies in *the action* of the criminal. In that punishment is regarded as containing *his* own *right*, the criminal is *honored* as a rational being. —He is not granted this honor if the concept and the measure of his punishment are not taken from his deed itself;—nor, equally, if he is regarded merely as a harmful animal that has to be

19 Cesare Beccaria (1738–1794), Italian jurist, whose *On Crimes and Punishments* (1764) argued against the death penalty.

rendered harmless, or with a view to the ends of deterrence and reform. —Further, with regard to the mode of existence of justice: the form it has in the state, namely as *punishment*, is in any case not its only form, and the state is not the conditioning presupposition of justice in itself.

[101] The sublation of crime is *retribution* insofar as, according to its concept, it is a violation of the violation. And insofar as, in its existence, crime has a determinate qualitative and quantitative extent, its negation, as existence, has one likewise. This identity, which rests on the concept, is not, however, *equality* in the specific character of the violation, but in its character *in itself*—according to its *value*.

[101R] In ordinary science, the definition of a determination (here, of punishment) is supposed to be taken from the *general representation* of the psychological experience of consciousness. That experience would surely show that the general feeling of peoples and individuals about crime is, and has been, that it *deserves* punishment, and that *what the criminal has done should be done to him*. It is hard to see how these sciences, which have the source of their determinations in general representation, at other times accept propositions that contradict such a so-called universal *fact* of consciousness.—A major difficulty, however, has been introduced into the notion of retribution by the determination of *equality*. But the justice of penal provisions, as to their qualitative and quantitative character, is in any case a later matter than the substance of the thing itself. Even if one had to look around for principles other than those governing the universal aspect of punishment in order to arrive at these further determinations, that universal aspect remains what it is. But the concept itself must in general contain the fundamental principle for the particular too. This determination of the concept, however, is precisely that connection of necessity whereby crime, as the will that is null in itself, contains within itself its own annihilation—which appears as punishment. It is the inner *identity* that is reflected for the understanding, in external existence, as *equality*. Now the qualitative and quantit-

ative character of crime and of its sublation falls within the sphere of externality; and in this sphere no absolute determination is possible in any case (cf. § 49). *In the field of finitude*, absolute determination remains only a requirement. The understanding must keep delimiting it more and more, which is of the highest importance; but the requirement goes on to infinity and admits only of an *approximation* that is perpetual. —Suppose one not only overlooks this nature of finitude but also stops short altogether at abstract, *specific equality*. Then there arises not only an insuperable difficulty in determining punishments (all the more so when psychology adds the magnitude of the sensuous drives and, bound up with it—*as one pleases*—either the *all the greater strength* of the evil will or else the *all the lesser strength* and freedom of the will in general). It also becomes very easy to present the retribution of punishment as an absurdity (as theft for theft, robbery for robbery, eye for eye, tooth for tooth—where one can, on top of that, imagine the offender as one-eyed or toothless). The concept, however, has nothing to do with this absurdity; it is due solely to that *specific equality* which has been brought in. *Value*, as the *inner equality* of things that are specifically quite different in their existence, is a determination that already occurs in contracts (see above), and likewise in the civil action against crimes (§ 95). Through it, representation is lifted from the *immediate* character of the thing to the universal. In crime, where the *infinite* aspect of the deed is the basic determination, the merely external specific character disappears all the more. Equality remains only the basic rule for the *essential* thing that the criminal has deserved, not for the external specific shape of this recompense. Only in terms of that shape are theft, robbery, fines, imprisonment and so on simply unequal. In terms of their value, their universal property of being violations, they are *comparable*. It is then, as remarked, the business of the understanding to seek an approximation to the equality of their value. If the connection in itself between crime and its annihilation is not grasped, and then the thought of *value* and of the comparability of the two in terms of value, it can come

about that one sees in punishment proper only an *arbitrary* connection of a harm with an unlawful action (Klein, *Principles of Criminal Law*, § 9).

[102] In this sphere of the immediacy of right, the sublation of crime is at first *revenge*. In its *content*, revenge is just, insofar as it is retribution. But in its *form* it is the action of a *subjective* will, which can lay *its infinity* into every violation that has occurred. Its justice is therefore altogether contingent, just as, for *the other*, this will is only a *particular* will. Because revenge is the positive action of a *particular* will, it thereby becomes *a new violation*. As this contradiction, it falls into a progression to infinity and is inherited from generation to generation without limit.

[102R] Where crimes are prosecuted and punished not as *crimina publica* [public crimes] but as *privata* [private ones] (as among the Jews; among the Romans in the case of theft and robbery; among the English still in some respects; and so on), punishment still has at least something of revenge in it. The exercise of revenge by heroes, knights errant and the like, which belongs to the period when states arise, is different from private revenge.

[103] The contradiction here lies in the manner in which wrong is sublated (as with the contradiction in the other kinds of wrong; § 86, 89). The demand that it be resolved is the demand for a justice freed from subjective interest and subjective shape, and from the contingency of power: a justice that is thus not *avenging* but *punishing*. This implies, *first of all*, the demand for a will that, as a particular, *subjective* will, wills the universal as such. This concept of *morality*, however, is not merely something demanded; it has emerged in this very movement.

FROM RIGHT TO MORALITY

The demand for punishing rather than avenging justice points to a will that wills the universal.

[104] Crime and avenging justice, that is, display the *shape* of the will's development as having gone out into the distinction between the *universal* will that is *in itself* and the *individual* will

that is *for itself* in opposition to it. They further display that the will that is *in itself* has returned into itself by sublating this opposition, and has thereby itself become *for itself* and *actual*. In this way right, upheld against the individual will that is *merely for itself*, *is* and *is valid* as *actual* through its necessity.—This shaping is at the same time also the further developed inner conceptual determinacy of the will. According to its concept, the will's actualization in itself consists in sublating its being-in-itself and the form of immediacy in which it at first exists and which it has as its shape in abstract right (§ 21). It thus consists, first, in positing itself in the opposition between the universal will that is *in itself* and the individual will that is *for itself*. Then, through the sublation of this opposition, the negation of the negation, it consists in determining itself as will *in its existence*—such that it is free will not only in itself but *for itself*—as self-relating negativity. Its *personality*, which is all the will is in abstract right, the will now has as its *object*. The subjectivity of freedom, infinite *for itself* in this way, constitutes the principle of the *moral standpoint*.

104R Let us look back more closely at the moments through which the concept of freedom develops from the will's initially abstract determinacy to its self-related determinacy, and thus to the *self-determination of subjectivity*. In property, this determinacy is the *abstract "mine,"* and is therefore in an external thing. In contract, it is the "mine" *mediated by will*, and only *shared*. In wrong, the will of the sphere of right, its abstract being-in-itself or immediacy, is posited as *contingency* by the individual will, which is itself *contingent*. In the moral standpoint this contingency is overcome in such a way that the contingency itself, as *reflected into itself* and *identical with itself*, *is* the infinite contingency of the will within itself—its *subjectivity*.

Morality

Purpose and responsibility, intention and welfare, the good and conscience.

[105] The moral standpoint is the standpoint of the will insofar as it is infinite not merely *in itself* but *for itself* (previous §). This reflection of the will into itself, and its identity that is for itself—as against being-in-itself and immediacy, and the determinacies that develop within them—determine the *person* as a *subject*.

[106] Subjectivity now constitutes the determinacy of the concept and is distinct from the concept as such, from the will that is in itself. And the will of the subject, as the individual that is for itself, at the same time *is* (it still has immediacy in it as well). For these reasons subjectivity constitutes the *existence* of the concept.—A higher *ground* has thereby been determined for freedom: the side of *existence* in the Idea, its real moment, is now the *subjectivity* of the will. Only in the will as subjective can freedom, or the will that is *in itself*, be actual.

[106R] The second sphere, morality, therefore represents on the whole the real side of the concept of freedom. The will is at first only for itself, and is immediately identical only *in itself* with the will that is *in itself*, the universal will. The process of this sphere is to sublate this will with respect to this difference, in which it deepens itself within itself, and to posit it *for itself* as *identical* with the will that is in itself. This movement is accordingly the cultivation of this present ground of freedom, subjectivity. Subjectivity is at first *abstract*, that is, distinct from the concept; the task is to make it equal to the concept, and thereby to obtain for

the Idea its true realization—so that the subjective will determines itself as equally objective, and hence as truly concrete.

[107] The *self-determination* of the will is at the same time a moment of its concept, and subjectivity is not only the side of its existence but its own determination (§ 104). The will that is free for itself and determined as subjective is at first a concept; in order to be as *Idea*, it itself has *existence*. The moral standpoint is therefore, in its shape, the *right of the subjective will*. According to this right, the will *recognizes* something, and *is* something, only insofar as that thing is its *own* and the will is present to itself in it as something subjective.

From this side, the same process of the moral standpoint (see Remark to the previous §) has the shape of being the development of the *right* of the subjective will—or of its mode of existence. In this development the will further determines what it recognizes as its own in its object to be its true concept, the objective in the sense of its universality.

[108] The subjective will, as immediately for itself and distinct from the will that is in itself (Remark to § 106), is therefore abstract, limited and formal. But subjectivity is not only formal; as the infinite self-determining of the will, it constitutes the *formal* aspect of the will. In this first appearance of it in the individual will, this self-determining is not yet posited as identical with the concept of the will. The moral standpoint is therefore the standpoint of *relation*, of *ought* or of *demand*.—And since the difference of subjectivity also contains the determination of being opposed to objectivity as external existence, the standpoint of *consciousness* also enters here (§ 8)—the standpoint, in general, of the difference, *finitude* and *appearance* of the will.

[108R] The moral is not at first already determined as what is opposed to the immoral, just as right is not immediately what is opposed to wrong. Rather, it is the general standpoint of the moral as well as of the immoral, resting on the subjectivity of the will.

[109] This formal element, in its universal determination, contains first the opposition of subjectivity and objectivity, and the

activity relating to that opposition (§ 8). Its moments, more precisely, are these: *existence* and *determinacy* are identical in the concept (cf. § 104), and the will as subjective is itself this concept; the moments are to distinguish the two, and indeed to distinguish them *for itself*, and to posit them as identical. In the self-determining will, determinacy is α) at first posited *in the will* by the will itself—the will's particularization of itself within itself, a *content* that it gives itself. This is the *first* negation, and its formal limit is to be only something *posited*, something subjective. As *infinite reflection* into itself, this limit is there *for the will itself*, and the will is β) the willing to sublate this restriction —the *activity* of translating this content from subjectivity into objectivity in general, into an *immediate existence*. γ) The simple *identity* of the will with itself in this opposition is the *content* that remains the same in both and is indifferent to these differences of form: the *end*.

[110] On the moral standpoint, however, freedom—this identity of the will with itself—is for the will (§ 105). Here this identity of content receives its more precise and distinctive determination.

a) The content is determined for me as *mine* in such a way that, in its identity, it *contains* my subjectivity *for me*—not only as my *inner* end, but also insofar as it has acquired *external objectivity*.

[111] b) The content contains something particular (let this be taken from wherever it may). But as content of the will that is *reflected into itself* in its determinacy, and hence identical with itself and universal, it has α) the determination within itself of being adequate to the will that is *in itself*, or of having the *objectivity of the concept*. But β) since the subjective will, as a will that is for itself, is at the same time still formal (§ 108), this is only a *demand*; and the will equally contains the possibility of not being adequate to the concept.

[112] c) In carrying out my ends I *preserve* my subjectivity (§ 110). In so doing, in objectifying it, I *at the same time* sublate this subjectivity as *immediate*, and thus as this individual subjectivity of mine. But the external subjectivity that is thus identical with me

is the *will* of others (§ 73).—The ground of the will's *existence* is now *subjectivity* (§ 106), and the will of others is the existence, at the same time other than me, that I give to my end.—The carrying out of my end therefore contains within it this identity of my will and the will of others;—it has a *positive* relation to the will of others.

112R The *objectivity* of the end carried out therefore includes three meanings, or rather contains in one the three moments of being: α) *external* immediate existence (§ 109); β) adequate to the *concept* (§ 112); γ) *universal* subjectivity. The *subjectivity* that *preserves* itself in this objectivity consists in: α) the objective end's being *mine*, so that I preserve myself in it as *this* individual (§ 110); moments β) and γ) of subjectivity have already coincided with moments β) and γ) of objectivity. —These determinations, distinguishing themselves in this way on the moral standpoint, are united only in a *contradiction*. This, more precisely, constitutes the character of *appearance*, or the *finitude*, of this sphere (§ 108). The development of this standpoint is the development of these contradictions and of their resolutions—which, however, can only be *relative* within it.

113 The expression of the will as *subjective* or *moral* is *action*. Action contains the determinations indicated: α) that it is known by me, in its externality, as mine; β) that it is essentially related to the concept as an ought; and γ) that it is essentially related to the will of others.

113R Only the expression of the moral will is *action*. The *existence* that the will gives itself in formal right lies in *an immediate thing*. It is itself immediate and has, for itself, at first no *explicit* relation to the concept—which, not yet being opposed to the subjective will, is not distinguished from it—nor any *positive* relation to the will of others. In its basic determination, the command of right is only a *prohibition* (§ 38). Contract and wrong do begin to have a relation to the will of others. But the *agreement* reached in contract is based on arbitrary will; and the *essential* relation to the will of the other contained in it is, as a relation of right, the negative one: keeping my property (in

terms of value) and leaving the other his. The side of crime, on the other hand—as proceeding from the *subjective will*, and in regard to the manner in which it has its existence in that will—comes into consideration only here. —A legal *action* (*actio* [action at law]) is not imputable to me as regards its content, which is determined by rules of procedure. It therefore contains only some moments of moral action proper, and those *in an external manner*. Its being moral action proper is therefore an aspect distinct from it as a legal action.

[114] The right of the moral will contains three aspects. a) The *abstract* or *formal* right of action: that, as the action is carried out in *immediate* existence, its content should in general be *mine*, so that the action is the *purpose* of the subjective will. b) The *particular* aspect of action is its *inner* content: α) how its universal character is determined *for me*—this constitutes the *value* of the action and what makes it count for me, the *intention*;—β) its content as *my particular* end, the end of my particular subjective existence, is *welfare*. c) This content, as something *inner*, raised at the same time into its *universality*, into the *objectivity* that is in and for itself, is the absolute end of the will, the *good*. In the sphere of reflection it stands in opposition to *subjective* universality, which is partly *evil* and partly *conscience*.

PURPOSE AND RESPONSIBILITY

The will is responsible only for what it knew and what lay in its purpose.

[115] The *finitude* of the subjective will in the immediacy of acting consists immediately in this: for its acting it has a *presupposed* external object with manifold circumstances. The *deed* posits an alteration in this existence that lies before it, and the will is *responsible* for this alteration in general insofar as the abstract predicate of *mine* lies in the altered existence.

[115R] An event, a situation that has come about, is a *concrete* external actuality, which therefore has indeterminably many circumstances attached to it. Every individual moment that

shows itself to be a *condition*, *ground* or *cause* of such a circumstance, and has thus contributed its *share*, can be regarded as *being* responsible for it, or at least as *bearing* responsibility for it. Hence, in the case of a complex event (the French Revolution, for example), the formal understanding can choose from among a countless multitude of circumstances which one it wishes to declare responsible.

[116] It is not my own deed, to be sure, if things of which I am the owner cause damage to others. As external things they stand and act in manifold connections (as can also be the case with myself as a mechanical body or as a living being). But the damage is chargeable to me *more* or *less*, because those things are, after all, mine—though, owing to their distinctive nature, they are also only more or less subject to my control, attention and so on.

[117] The will that itself acts has, in its end directed at the existence lying before it, a *representation of the circumstances* of that existence. But because the will is *finite* on account of this presupposition, the objective appearance is *contingent* for it and can contain something other than what is in its representation. The right of the will, however, is to recognize in its *deed* as its *action*, and to be *responsible* for, only what it knows of the deed's presuppositions in its end—what of them lay in its *purpose*.—The deed can be *imputed* only as the *responsibility of the will*:—*the right of knowledge*.

[118] Further, the action, as transposed into external existence—which develops on all sides in accordance with its connections in external necessity—has manifold *consequences*. The consequences, as the *shape* whose *soul* is the *end* of the action, are the action's own (they belong to the action). But at the same time the action, as the end posited in *externality*, is abandoned to external powers. These attach to it something quite different from what it is for itself, and roll it on into remote, alien consequences. It is equally the right of the will to *impute* to itself only the former consequences, because only they lie in its *purpose*.

[118R] Which consequences are *contingent* and which are *necessary* is indeterminate. The reason is that in the finite, inner necessity enters existence as *external* necessity: as a relation of individual things to one another, which, as independent, are indifferent to one another and come together externally. The principle "In acting, scorn the consequences" and the other principle "Judge actions by their consequences and make these the measure of what is right and good" are both equally the abstract understanding. The consequences, as the action's own *immanent* shaping, manifest only its nature and are nothing but the action itself; hence the action cannot disown or scorn them. But conversely, they also include what intervenes from outside and is added contingently, which has nothing to do with the nature of the action itself. —The development of the contradiction contained in the *necessity of the finite* is, in existence, precisely the reversal of necessity into contingency and vice versa. From this side, therefore, to act means *to surrender oneself to this law*.—This implies that it benefits the criminal if his action has less harmful consequences, just as the good action must put up with having had no consequences or fewer ones; and that the crime whose consequences have developed more fully is charged with them.—The *heroic* self-consciousness (as in the tragedies of the ancients, Oedipus and so on) has not yet advanced from its solidity to reflection on the distinction between *deed* and *action*, between the external event and the purpose and knowledge of the circumstances, nor to the fragmentation of consequences. Rather, it takes on responsibility for the whole extent of the deed.

INTENTION AND WELFARE

An action's universal side is its intention, and the subject has a right to find satisfaction in it.

[119] The external existence of the action is a manifold connection, which can be regarded as infinitely divided into *individual details*; and the action can be regarded as having *first touched*

only one such detail. But the truth of the *individual* is the *universal*. The determinacy of the action is, for itself, not a content isolated to an external detail, but a *universal* content containing the manifold connection within itself. The purpose, as proceeding from a *thinking* being, contains not merely the individual detail but essentially that *universal side*—the *intention*.

119R Etymologically, *Absicht* [intention] contains *abstraction*: on the one hand the form of *universality*, on the other the extraction of a *particular* side of the concrete thing. The effort to justify oneself by intention is the isolation of an individual side in general, which is asserted to be the subjective essence of the action. —The judgment on an action as external deed, still without determining whether it is rightful or wrongful, gives it a *universal* predicate: that it is arson, killing and so on.—The *individualized* determinacy of external actuality shows what its *nature* is as external *connection*. Actuality is at first touched only at an individual point (as arson directly affects only a small point of the wood, which yields only a proposition, not a judgment); but the universal nature of this point contains its extension.[1] In a living being the individual is immediately present not as a part but as an organ, in which the universal as such is present and exists. So in murder it is not a piece of flesh, as something individual, that is violated, but life itself in it. On the one hand, it is subjective reflection—ignorant of the logical nature of the individual and the universal—that indulges in fragmentation into individual details and consequences. On the other hand, it is the nature of the finite deed itself to contain such separations of contingencies.—The invention of *dolus indirectus* [indirect intent] has its ground in what we have just considered.[2]

120 The *right of intention* is that the *universal* quality of the action should not only be *in itself* but should be *known* by the agent, and so should already have lain in his subjective will.

1 Hegel reads *Ab-sicht* as a "looking away from": to intend is to abstract one aspect from the concrete whole.

2 *Dolus indirectus*: a doctrine of older criminal law holding an agent to have intended the likely consequences of a deliberate act, even if they were not directly aimed at.

Conversely, what may be called the right of the *objectivity* of the action is to assert itself as known and willed by the subject as a *thinking* being.

120R This right to such insight entails that children, people with intellectual disabilities, people with mental illnesses and so on are wholly or partly *incapable of being held accountable* for their actions.—But just as actions, in their external existence, include contingent consequences, so too *subjective* existence contains an indeterminacy. It relates to the power and strength of self-consciousness and self-possession. This indeterminacy, however, can be taken into account only in cases of intellectual disability, derangement and the like, and of childhood. Only such clear-cut conditions sublate the character of thought and freedom of will, and permit us to treat the agent otherwise than in accordance with the honor of being a thinking being and a will.

121 The universal quality of the action is the manifold *content* of the action in general, brought back to the *simple form* of universality. But the subject, as reflected into itself and thus as something *particular* over against objective particularity, has in its end its own particular content, which is the determining soul of the action. That this moment of the agent's *particularity* is contained and carried out in the action constitutes *subjective freedom* in its more concrete determination: the *right* of the *subject* to find its *satisfaction* in the action.

122 Through this particular aspect the action has subjective *value*, *interest*, for me. In contrast with this end—the *intention* as regards its *content*—what is immediate in the action is, in its further content, reduced to a means. Insofar as such an end is something finite, it can in turn be reduced to a means for a further intention, and so on to infinity.

123 For the content of these ends, all that is present here is α) formal activity itself: that the subject is present with his *activity* in what he is to regard and promote as his end. People want to be active on behalf of what interests them, or should interest them, as their own. β) But the still abstract and formal freedom

of subjectivity has a more determinate content only in its *natural subjective existence*—needs, inclinations, passions, opinions, fancies and so on. The satisfaction of this content is *welfare* or *happiness*, in its particular determinations and in general: the ends of finitude as such.

123R This is the standpoint of *relation* (§ 108), on which the subject is determined in its distinctness and thus counts as something *particular*; and as such it is the place where the content of the natural will (§ 11) enters. Here, however, this content is not as it is immediately. As belonging to the will reflected into itself, it is raised to a *universal* end, that of *welfare* or *happiness* (*Encyclopedia of the Philosophical Sciences*, § 395 ff.). This is the standpoint of a thinking that does not yet grasp the will in its freedom but *reflects* on its content as something natural and given—as, for example, in the time of *Croesus* and *Solon*.[3]

124 The *subjective* satisfaction of the individual himself (including his recognition in honor and fame) is also contained in the carrying out of ends that are *valid in and for themselves*. Hence two things are empty assertions of the abstract understanding: the demand that only such an end should appear as willed and attained, and the view that objective and subjective ends exclude each other in willing. Indeed, this assertion becomes something bad when it goes on to maintain that the subjective satisfaction—because it is present (as it *always* is in any accomplished work)—was the agent's *essential intention*, and that the objective end was for him only a *means* to that satisfaction.—What the subject *is, is the series of its actions*. If these actions are a series of worthless productions, then the subjectivity of the willing is likewise worthless; if, on the other hand, the series of its deeds is of a substantial nature, then so too is the inner will of the individual.

124R The right of the subject's *particularity* to find satisfaction—or, what is the same thing, the right of *subjective freedom*—is the pivot and center of the difference between *antiquity* and the

3 In Herodotus (*Histories* 1.30–33), the Athenian lawgiver Solon tells the Lydian king Croesus to call no one happy until he has seen how their life ends.

modern age. This right in its infinity is expressed in Christianity and has been made the universal actual principle of a new form of the world. Among its more specific shapes are love, the romantic, the end of the individual's eternal salvation and so on; then morality and conscience; and further the other forms. Some of these will come to the fore in what follows, as the principle of civil society and as moments of the political constitution; others appear in history in general, and especially in the history of art, of the sciences and of philosophy. —This principle of particularity is, to be sure, a moment of the opposition, and at first, at least, it is *just as much* identical with the universal as distinct from it. Abstract reflection, however, fixes this moment in its distinction from and opposition to the universal. It thus produces a view of morality according to which morality persists only as a hostile struggle against one's own satisfaction—the demand "to do with abhorrence what duty commands."[4] This same understanding produces that psychological view of history which knows how to belittle and disparage all great deeds and individuals. It does so by recasting as the chief intention and driving motive of their actions the inclinations and passions that likewise found their satisfaction in the substantial activity, together with fame, honor and other consequences—in short, the particular side, which it had previously decreed to be something bad in itself.—It assures us of the following. Great actions, and the activity that consisted in a series of such actions, have produced something great in the world and have brought the *acting individual* power, honor and fame as their consequence. Therefore, it claims, it is not that greatness that belongs to the individual, but only the particular and external element that fell to him from it. And because this particular element was a consequence, it was *therefore* also the end, and indeed the only end. —Such reflection holds on to the subjective side of great individuals, since it itself stands within the subjective; and in this self-made vanity it *overlooks* what is substantial in them. It is the

4 Adapted from Schiller's satirical verses on Kant's ethics of duty in "Die Philosophen" (1796).

view of "the psychological valets, for whom there are no heroes —not because these are not heroes, but because those are only valets" (*Phenomenology of Spirit*, p. 616).[5]

125 The subjective element with the *particular* content of *welfare*, being reflected into itself and infinite, stands at the same time in relation to the universal, the will that is in itself. This moment, posited at first in this particularity itself, is the *welfare of others too*—in its complete but wholly empty determination, the welfare of *all*. The welfare of *many other* particular beings in general is then also an essential end and right of subjectivity. But the *universal that is in and for itself*, as distinct from such particular content, has not yet been determined here any further than as *right*. Those ends of the particular, being distinct from it, may therefore accord with it—or may not.

126 But my particularity, like that of others, is a right at all only insofar as I am a *free being*. It cannot, therefore, assert itself in contradiction with this, its substantial basis. And an intention to promote my welfare or the welfare of others—in which case it is called, in particular, a *moral intention*—cannot justify a *wrongful action*.

126R It is, above all, one of the corrupt maxims of our time to arouse interest in the so-called *moral intention* behind *wrongful* actions, and to present bad characters as having a good heart that is supposed to be theirs, that is, a heart that wills its own welfare and perhaps also the welfare of others. This maxim partly derives from the pre-Kantian period of the good heart, and constitutes, for example, the quintessence of well-known touching dramatic works. Partly, however, this doctrine has been warmed up again in an intensified form, and inner enthusiasm and the heart, that is,[6] the *form* of particularity as such, have been made the criterion of what is right, rational and excellent. On this view crimes and the thoughts guiding them—

5 Hegel's twist on the proverb "No man is a hero to his valet," first made in the *Phenomenology of Spirit* (1807).

6 Hegel probably has in mind the sentimental plays of August von Kotzebue and August Wilhelm Iffland, popular around 1800.

even if they are the flattest, emptiest fancies and the most foolish opinions—would be right, rational and excellent because they come from the *heart* and from *enthusiasm*. For more on this, see below, Remark to § 140.—It should be noted, moreover, from what standpoint right and welfare are considered here: namely, as formal right and as the particular welfare of the individual. The so-called *general good*, the *welfare* of the state, that is, the right of actual, concrete spirit, is an entirely different sphere. In it formal right is just as much a subordinate moment as are the particular welfare and happiness of the individual. It has already been remarked above that it is one of the frequent errors of abstraction to assert private right and private welfare as valid *in and for themselves* against the universal of the state.

127 The *particularity* of the interests of the natural will, gathered together into their simple *totality*, is personal existence as *life*. In *extreme danger*, and in collision with the rightful property of another, this life can claim a *right of necessity* (not as equity but as right). On the one side stands the infinite injury to existence, and with it total rightlessness. On the other side stands only the injury to a single, limited existence of freedom. At the same time, right as such is recognized, and so is the capacity for rights of the person who is injured only in *this* property.[7]

127R From the right of necessity arises the benefit of competence. Under it a debtor is left his tools, farming implements and clothes, and in general as much of his resources (that is, of the creditors' property) as is regarded as needed to make his sustenance possible, even a sustenance befitting his station.[8]

128 Necessity reveals the finitude, and hence the contingency, both of right and of welfare. Right is the abstract existence of freedom without being the existence of the particular person. Welfare is the sphere of the particular will without the universality of right. The one-sidedness and ideality of right and wel-

7 Right of necessity (*Notrecht*): the right to take what belongs to another when one's life is in immediate danger.

8 The *beneficium competentiae* of Roman and German law, which exempted a debtor's basic means of livelihood from seizure.

fare are thereby *posited*, as these are already determined in them, in the concept. Right has already (§ 106) determined its *existence* as the particular will. Subjectivity in its comprehensive particularity is itself the existence of freedom (§ 127), just as, in itself, as the infinite relation of the will to itself, it is the universal of freedom. The two moments, thus integrated into their truth, their identity, but at first still in a *relative* relation to each other, are the *good* and *conscience*. The good is the *fulfilled* universal, determined in and for itself. Conscience is infinite subjectivity that knows within itself and determines its content within itself.

THE GOOD AND CONSCIENCE

The good is freedom realized; conscience is the subject's own certainty of what is good.

129 The *good* is the *Idea* as the unity of the *concept* of the will and the *particular* will. In this unity abstract right, welfare, the subjectivity of knowing and the contingency of external existence are sublated as *independent for themselves*. But for that very reason they are *contained* and *preserved* in it according to *their essence*. The good is *freedom realized, the absolute final end of the world*.

130 In this Idea, welfare has no validity for itself as the existence of the single particular will. It is valid only as *universal* welfare, and essentially as *universal in itself*, that is, in accordance with freedom. Welfare is not a good without *right*. Likewise, right is not the good without welfare (*fiat iustitia* [let justice be done] should not have *pereat mundus* [though the world perish] as its consequence). The good, then, is the necessity of being actual through the particular will, and at the same time it is the substance of that will. As such it has *absolute right* against the abstract right of property and against the particular ends of welfare. Each of these moments, insofar as it is distinguished from

the good, is valid only insofar as it accords with the good and is subordinate to it.[9]

131 For the *subjective* will, the good is likewise what is utterly essential. The subjective will has value and dignity only insofar as its insight and intention accord with the good. Insofar as the good here is still only this *abstract Idea* of the good, the subjective will is not yet posited as taken up into the good and in accord with it. It therefore stands in a *relationship* to the good. In this relationship the good *ought* to be the substantial for the subjective will, and the will *ought* to make the good its end and carry it out. The good, for its part, has only in the subjective will the mediation through which it enters actuality.

132 The *right of the subjective will* is this. Whatever the will is to recognize as valid must be *seen by it as good*. An action is the end as it enters external objectivity, and it must be imputed to the will as rightful or wrongful, good or evil, legal or illegal, according to the will's *knowledge* of the value the action has in this objectivity.

132R The *good* is, in general, the essence of the will in its *substantiality* and *universality*: the will in its truth. It therefore exists solely *in thinking* and *through thinking*. Hence there are assertions that human beings cannot know the true but have to do only with appearances, and that thinking harms the good will. These and similar notions take from spirit all ethical worth and dignity, as well as all intellectual worth and dignity.—The right to recognize nothing that I do not see to be rational is the highest right of the subject. But because it is a subjective determination, it is at the same time *formal*. Against it, the *right of the rational*, as the objective, over the subject remains firmly in place. —Because it is formal in character, insight is just as capable of being *true* as of being mere *opinion* and *error*. From the standpoint of the sphere that is still moral, it belongs to the individual's particular subjective culture whether he attains that right of his insight. I can demand of myself, and regard it as a

9 *Fiat iustitia, pereat mundus*: a Latin maxim, traditionally attributed to Emperor Ferdinand I (1503–1564).

subjective right within me, that I see an obligation on *good* grounds and have the *conviction* of it. I can demand, still more, that I know the obligation from its concept and nature. But what I demand for the satisfaction of my conviction that an action is good, permitted or not permitted, and hence that it is imputable in this respect, does not detract from the *right of objectivity*. — This right of insight into the *good* is distinct from the right of insight (§ 117) with regard to the *action* as such. With regard to the action, the right of objectivity takes this form: the action is an alteration that is to exist in an actual world and so seeks recognition there; it must therefore accord, in general, with what is *valid* in that world. Whoever wants to act in this actuality has, *by that very fact*, submitted to its laws and recognized the right of objectivity. —In the same way, in the *state*, as the *objectivity* of the concept of reason, *judicial imputation* must *not* stop at what someone holds to accord with his reason or not. It must not stop at subjective insight into what is right or wrong, good or evil, nor at the demands someone makes for the satisfaction of his conviction. In this objective field, the right of insight counts as insight into what is *legal* or *illegal*, into the right that is *valid*. It is confined to its most immediate meaning, namely *knowledge* in the sense of *acquaintance* with what is legal and to that extent obligatory. Through the publicity of the laws and through general customs, the state removes from the right of insight its formal aspect and the contingency it has for the subject, which this right still has at the present standpoint. The subject's right to know the action in its determination as *good* or *evil*, legal or illegal, has a consequence in the case of children, people with intellectual disabilities and people with mental illnesses: it diminishes or cancels their accountability in this respect too. No determinate boundary can be fixed, however, for these conditions and the accountability that goes with them. Momentary blindness, however, or the goading of passion, drunkenness, in general what is called the strength of sensuous impulses (excluding whatever grounds a right of necessity, § 120), may be made into grounds in imputation and in determin-

ing the *crime* itself and its *punishability*. Such circumstances may be regarded as if they took away the criminal's *responsibility*. To do this likewise (cf. § 100 and Remark to § 119) means not treating the criminal in accordance with the right and honor of a human being. For it is precisely the nature of a human being to be essentially something universal, not something abstractly momentary and isolated in knowing. —The arsonist did not set fire to the inch-wide patch of wood that he touched with the flame, taken in isolation. In it he set fire to the universal, the house. In the same way, as a subject he is not the individual of *this* moment, or this isolated feeling of the heat of revenge. If he were, he would be an animal that would have to be struck on the head, because it was dangerous and liable, unpredictably, to fits of rage. —Some demand that, at the moment of acting, the criminal must have *clearly represented* to himself the wrongness and punishability of the action for it to be imputable to him as a crime. This demand seems to preserve for him the right of his moral subjectivity, but in fact it denies him his indwelling intelligent nature. In its active presence, that nature is not bound to the Wolffian-psychological form of *clear representations*. Only in the case of insanity is it so deranged as to be cut off from knowing and doing individual things.—The sphere in which those circumstances come into consideration as grounds for mitigating punishment is a sphere other than that of right: the sphere of *clemency*.[10]

DUTY FOR DUTY'S SAKE

Kant's purely formal principle of duty yields no content and can justify any action.

133 The good stands to the particular subject in the relation of being the *essential* element of the subject's will. The will therefore has its *obligation* simply in the good. Since *particularity* is distinct from the good and falls within the subjective will, the

10 Christian Wolff's psychology graded representations by their clarity and distinctness.

good at first has only the determination of *universal abstract essentiality*: *duty*. Because duty is determined in this way, *duty* ought to be done for *duty's sake*.

[134] Action for itself requires a particular content and a determinate end, but the abstraction of duty does not yet contain any. So the question arises: *what is duty?* For this determination nothing is available at first but this: to do *right*, and to care for *welfare*, one's own welfare and welfare in its universal determination, the welfare of others (see § 119).

[135] These determinations, however, are not contained in the determination of duty itself. Both are conditioned and limited, and precisely for that reason they bring about the transition to the higher sphere of the *unconditioned*, the sphere of duty. Duty itself is the essential or universal element in moral self-consciousness, as that self-consciousness relates, within itself, only to itself. Insofar as it is this, all that remains to duty is abstract universality. Duty has *contentless identity*, or the abstract *positive*, the indeterminate, as its determination.

[135R] It is essential to bring out the pure, unconditioned self-determination of the will as the root of duty. Indeed, knowledge of the will first gained its firm foundation and starting point through the *Kantian* philosophy, through the thought of the will's infinite autonomy (see § 133). But to the same degree, clinging to the merely moral standpoint, without passing over into the concept of ethical life, reduces this gain to an *empty formalism*, and reduces the science of morals to rhetoric about *duty for duty's sake*. From this standpoint no immanent theory of duties is possible. One can, of course, bring in material *from outside* and so arrive at *particular* duties. But duty is here determined as *absence of contradiction*, as *formal agreement with itself*, and this is nothing but the establishment of *abstract indeterminacy*. From that determination no transition can be made to the determination of particular duties. Nor, when some particular content for action comes under consideration, does that principle contain any criterion of whether it is a duty or not. On the contrary, every wrongful and immoral mode of action can be

justified in this way. —The further *Kantian* form, the capacity of an action to be represented as a *universal* maxim, does bring in the *more concrete* representation of a state of affairs. But for itself it contains no principle beyond that absence of contradiction and formal identity.—That there is *no property* contains, for itself, no more of a contradiction than that this or that individual people, family, etc., should not exist, or that *no human beings should live* at all. If it is otherwise firmly established and presupposed that property and human life should exist and be respected, then it is a contradiction to commit theft or murder. A contradiction can arise only with something that is, with a content already laid down beforehand as a firm principle. Only in relation to such a content is an action either in agreement with it or in contradiction with it. But duty, which is to be willed only as duty and not for the sake of a content, is *formal identity*, and formal identity is precisely the exclusion of all content and determination.

The further antinomies and forms of the perennial *ought*, in which the merely moral standpoint of *relationship* only drifts about, unable to resolve them and get beyond the ought, I have developed in the *Phenomenology of Spirit*, pp. 550 ff.; cf. *Encyclopedia of the Philosophical Sciences*, §§ 420 ff.[11]

CONSCIENCE

Conscience claims to know from within what is right, but only its content shows whether it is true.

136 Because the good is abstract in character, the other moment of the Idea, *particularity* in general, falls within subjectivity. In its universality reflected into itself, subjectivity is the absolute certainty of itself within itself. It is what posits particularity, what determines and decides: *conscience*.

137 True conscience is the disposition to will what is good *in and for itself*. It therefore has fixed principles, and for it these

principles are determinations and duties that are objective for themselves. Distinguished from this content of its own, the truth, conscience is only the *formal aspect* of the activity of the will, which as *this* will has no content peculiar to it. But the objective system of these principles and duties, and the union of subjective knowing with that system, are present only at the standpoint of ethical life. Here, at the formal standpoint of morality, conscience lacks this objective content. It is thus, for itself, the infinite formal certainty of itself, which for that very reason is at the same time the certainty of *this* subject.

137R *Conscience* expresses the absolute entitlement of subjective self-consciousness to know *within itself* and *from itself* what is right and duty, and to recognize nothing but what it thus knows as the good. It also asserts that what it thus knows and wills is *in truth* right and duty. As this unity of subjective knowing and what is in and for itself, conscience is a sanctuary that it would be *sacrilege* to violate. But whether the conscience of a *particular individual* accords with this Idea of conscience, whether what it *takes to be* good or presents as good is actually good, can be known only from the *content* of this supposed good. What is right and duty is what is rational in and for itself in the determinations of the will. As such it is essentially neither the *particular* property of an individual, nor does it have the *form* of feeling or of any other individual, that is, sensuous, knowledge. It consists essentially of *universal*, thought determinations, that is, it has the form of *laws* and *principles*. Conscience is therefore subject to the judgment whether it is *true* or not. Its appeal solely *to its own self* is directly opposed to what it seeks to be, namely the rule of a rational, universal mode of action that is valid in and for itself. For this reason the state cannot recognize conscience in its peculiar form, that is, as *subjective knowing*, any more than subjective *opinion*, or the *assurance* of and *appeal* to a subjective opinion, has validity in science. What is not distinguished in

11 The page numbers refer to the first edition of the *Phenomenology* (1807), the section on the moral world-view; the *Encyclopedia* reference is to its first edition (1817).

true conscience is, however, distinguishable. It is the determining subjectivity of knowing and willing that can separate itself from the true content, set itself up for itself, and reduce that content to a *form* and a *semblance*. The ambiguity regarding conscience therefore lies in this. Conscience is presupposed as meaning that identity of subjective knowing and willing with the true good, and is so asserted and recognized as something sacred. Yet as the merely subjective reflection of self-consciousness into itself, it also lays claim to the entitlement that belongs to that identity only by virtue of its rational content, valid in and for itself. Only formal conscience falls within the moral standpoint as it is distinguished in this treatise from the ethical standpoint. True conscience has been mentioned only to indicate how it differs, and to remove a possible misunderstanding: as if here, where only formal conscience is under consideration, we were speaking of true conscience, which is contained in the ethical disposition that appears only later. Religious conscience, however, does not belong to this sphere at all.

[138] This subjectivity, as abstract self-determination and pure certainty only of itself, *evaporates* within itself all *determinacy* of right, of duty and of existence. At the same time it is the *judging* power that determines, solely from itself, what is good for a given content. And it is the power to which the good, at first only represented and something that *ought* to be, owes its *actuality*.

[138R] Self-consciousness that has, in general, attained this absolute reflection into itself knows itself in it as something that no existing and given determination can or should touch. As a more general shape in history (in Socrates, the Stoics, etc.), the tendency to look *inward*, into oneself, and to know and determine from oneself what is right and good appears in epochs when what counts as right and good in actuality and custom cannot satisfy the better will. When the existing world of freedom has become faithless to the better will, that will no longer finds itself in the duties in force, and must seek to regain in ideal inwardness alone the harmony lost in actuality. Once self-consciousness has thus grasped and acquired its formal right,

everything now depends on what the content it gives itself is like.

EVIL

The self-certain will can make its own particularity its principle and so become evil.

139 Self-consciousness, in the vanity of all otherwise valid determinations and in the pure inwardness of the will, is just as much the possibility of making the *universal in and for itself* its principle as the possibility of making *arbitrary will*, its *own particularity*, its principle over the universal, and realizing it through action: the possibility of being *evil*.

139R Conscience, as formal subjectivity, is simply this: being on the point of turning into *evil*. Morality and evil both have their common root in self-certainty that is for itself, that knows and resolves for itself.

The *origin of evil* in general lies in the mystery, that is, in the speculative nature, of freedom: in its necessity to emerge from the *naturalness* of the will and to be *inward* in contrast to it. It is this naturalness of the will that comes into existence in that opposition, as contradiction of itself and incompatible with itself. And so it is this *particularity* of the will itself that further determines itself as evil. For particularity exists only as something *doubled*: here, the opposition of naturalness to the inwardness of the will. In this opposition, that inwardness is only a *relative* and formal being-for-self, which can draw its content solely from the determinations of the natural will, from desire, drive, inclination, etc. Now, of these desires, drives, etc., it is said that they *can* be good *or* else evil. But the will takes them in the determination of *contingency* that they have as natural, and thereby takes the form it has here, particularity itself, as the determination of its content. In doing so it is opposed to *universality* as the inner objective, the good. The good enters together with the will's reflection into itself and with cognizing consciousness, as the other extreme to immediate objectivity, the

merely natural. And so this inwardness of the will is evil. The human being is therefore evil at once *in himself*, or *by nature*, and through his *reflection into himself*. Thus neither nature as such, that is, unless it were the naturalness of the will that remains in its particular content, nor reflection *going into itself*, cognition in general, unless it held fast in that opposition, is evil for itself.— With this aspect of the *necessity of evil* it is just as absolutely united that this evil is determined as what necessarily *ought not to be*, that is, that it ought to be sublated. It is *not* that the first standpoint of division ought not to emerge at all; on the contrary, that standpoint is what distinguishes the irrational animal from the human being. It is rather that one ought not to stop at it, ought not to cling to particularity as the essential against the universal, and that this standpoint ought to be overcome as null. Further, in this necessity of evil, it is *subjectivity*, as the infinity of this reflection, that has this opposition before it and is within it. If subjectivity stops at the opposition, that is, if it is evil, then it is *for itself*, holds itself as individual, and is itself this arbitrariness. For that reason the individual *subject* as such bears absolutely *the responsibility for evil*.

HYPOCRISY, PROBABILISM AND CONVICTION

Hegel traces how subjectivity passes off evil as good, from hypocrisy to the appeal to conviction.

[140] Self-consciousness knows how to bring out a *positive* aspect in its end (§ 135). The end necessarily has such an aspect, because it belongs to the purpose of *concrete, actual* action. For the sake of this aspect, taken as a *duty and excellent intention*, self-consciousness is able to assert as good, *for others* and *for itself*, an action whose *negative*, essential content lies at the same time *within* self-consciousness and stands in comparison with the universal. For self-consciousness is reflected into itself and hence conscious of the universal of the will. If it asserts the action as good *for others*, this is *hypocrisy*. If it asserts it as good

for itself, this is the still higher peak of *subjectivity asserting itself as the absolute*.

140R This last and most abstruse form of evil inverts evil into good and good into evil, and consciousness knows itself as this power and therefore as absolute. It is the highest peak of subjectivity at the moral standpoint. It is the form into which evil has grown in our time, and indeed through philosophy, that is, through a shallowness of thought that has *distorted* a profound concept into this shape. This shallowness arrogates to itself the name of philosophy, just as it arrogates to evil the name of good. In this Remark I will briefly indicate the main shapes of this subjectivity that have become current. As regards a) *hypocrisy*, it contains the following moments: α) knowledge of the true universal, whether merely in the form of a feeling of *right* and *duty* or in the form of more extensive knowledge and cognition of them; β) willing the *particular* that conflicts with this universal; and γ) doing so as *comparing* knowledge of both moments, so that for the willing consciousness itself its particular willing is determined as evil. These determinations express *acting with a bad conscience*, but not yet hypocrisy as such.—At one time the question *whether an action is evil only insofar as it is done with a bad conscience*, that is, with *developed* consciousness of the moments just indicated, became very important. —*Pascal* (*Les Provinciales*, fourth letter) very aptly draws the consequence of answering the question yes: "Ils seront tous damnés ces demi-pécheurs, qui ont quelque amour pour la vertu. Mais pour ces francs pécheurs, pécheurs endurcis, pécheurs sans mélange, pleins et achevés, l'enfer ne les tient pas: ils ont trompé le diable à force de s'y abandonner." ["They will all be damned, these half-sinners who have some love of virtue. But as for those outright sinners, hardened sinners, unmixed sinners, full and complete, hell cannot hold them: they have deceived the devil by

giving themselves up to him entirely."][12]—Self-consciousness has the subjective right to *know* the action in its determination as good or evil in and for itself. This right must not be thought to collide with the absolute right of the *objectivity* of this determination in such a way that the two are represented as *separable*, *indifferent* and *contingent* in relation to each other. That relationship was also the underlying assumption, in particular, in the former disputes about *efficacious grace*.[13] On its formal side, evil is what is most the individual's own, since it is precisely the individual's subjectivity positing itself as purely its own; and it is therefore simply the individual's responsibility (see § 139 and the Remark to the preceding §). On the objective side, the human being, *according to his concept* as spirit, is rational in general and has within himself, absolutely, the determination of self-knowing universality. It therefore means not treating him with the honor due to his concept if the aspect of the good, and with it the determination of his evil action as evil, were separated from him, and the action were not imputed to him as evil. How determinately, or with what degree of clarity or obscurity,

12 HEGEL'S NOTE. In the same place *Pascal* also cites Christ's intercession on the cross for his enemies: "*Father, forgive them, for they do not know what they are doing*." This would be a superfluous request if the fact that they did not know what they were doing had given their action the quality of not being evil, and so of not needing forgiveness. He likewise cites the view of *Aristotle* (the passage is *Ethica Nicom.* [*Nicomachean Ethics*] III, 2), who distinguishes whether the agent acts *ouk eidôs* [not knowing] or *agnoôn* [in ignorance]. In the former case of ignorance he acts *involuntarily* (this ignorance concerns *external circumstances*; see § 117 above), and the action is not to be imputed to him. About the other case, however, Aristotle says: "Every bad person fails to recognize what should be done and what should be avoided, and it is precisely this failing (*hamartia* [error]) that makes people unjust and bad in general. Not recognizing the choice between good and evil does not make an action involuntary (so that it could not be imputed), *but only makes it bad*." Aristotle, of course, had a deeper insight into the connection between cognition and willing than has become current in a shallow philosophy. That philosophy teaches that *not knowing*, the *heart* and *enthusiasm* are the true principles of ethical action.

TRANSLATOR'S NOTE. The passage is in *Nicomachean Ethics* III.1 in modern numbering (1110b–1111a).

13 Blaise Pascal's *Provincial Letters* (1656–57) attacked the moral casuistry of the Jesuits. "Efficacious grace" was the central issue in the seventeenth-century dispute between Jansenists and Jesuits.

consciousness of those moments in their distinctness has *developed into cognition*, and to what extent an evil action has been done more or less with a *formal* bad conscience: this is the less important aspect, concerned more with the empirical.

b) But to act evilly and with a bad conscience is not yet *hypocrisy*. In hypocrisy the formal determination of untruth is added: asserting *evil* as *good*, in the first place *for others*, and in general presenting oneself outwardly as good, conscientious, pious and the like. In this way it is merely a trick of fraud practiced *for others*. The evil person can go further, however, and find in his other good deeds or piety, in general in *good reasons*, a justification of evil *for himself*, since by means of these he inverts evil into good for himself. This possibility lies in subjectivity, which, as abstract negativity, knows all determinations as subject to it and as coming from it. To this inversion belongs, first, c) the shape known as *probabilism*.[14] Probabilism makes it a principle that an action is permitted, and that conscience can be secure about it, if consciousness can come up with *any* good reason for it. This reason may be merely the *authority* of a theologian, even if consciousness knows that other theologians differ from his judgment ever so widely. Even in this notion the correct awareness is still present that such a reason and such an authority give only *probability*, though this is enough for the security of conscience. It is admitted here that a good reason is only such that there could be other reasons, at least as good, alongside it. Here too a trace of objectivity can still be recognized: it is supposed to be a *reason* that determines. But the decision about good or evil is made to rest on the many *good reasons*, among which those authorities are included, and these reasons are so many and so contrary. It follows at the same time that it is *not* this objectivity of the matter but *subjectivity* that has to decide. This is the aspect through which whim and arbitrariness are

14 Probabilism: a doctrine of moral theology, associated above all with Jesuit casuists, holding that an action is permissible if it is supported by a "probable" opinion, such as that of a reputable theologian, even if the contrary opinion is more probable.

made decisive over good and evil, and ethical life, like religiousness, is undermined. But that it is one's own subjectivity with which the decision rests is not yet stated as the principle. Rather, as noted, a reason is passed off as what is decisive. To that extent probabilism is still a shape of hypocrisy.

d) The next higher stage is that the good will is supposed to consist in *its willing the good*. This willing of the *abstract good* is supposed to be sufficient for the action to be good, indeed to be the sole requirement. Since the action, as *determinate* willing, has a content, while the *abstract good* determines nothing, it is left to particular subjectivity to give the good its determination and fulfillment. In probabilism, for anyone who is not himself a learned *Révérend Père* [Reverend Father], it is the authority of such a theologian on the strength of which a determinate content can be subsumed under the universal determination of the *good*. Here, likewise, every subject is directly installed in this dignity: that of putting content into the abstract good or, what is the same thing, of subsuming a content under a universal. In the action, taken as concrete, this content is only one aspect among the several the action has. Other aspects may perhaps even give it the predicate of criminal and bad. But this subjective determination of the good that is mine is the good *known* by me in the action: *the good intention* (§ 114). An opposition of determinations thus arises: according to one, the action is good, according to others, criminal. With it the question also seems to arise, regarding the actual action, whether the *intention is actually good*. But that the good is the *actual* intention not only can be the case in general. At the standpoint where the subject has the abstract good as its determining ground, it must even always be able to be the case. What the good intention injures through such an action, determined in other respects as criminal and evil, is of course also good. It would seem to depend on which of these aspects is the *most essential*. But this objective question falls away here. Or rather, it is the subjectivity of consciousness itself whose decision alone constitutes what is objective. *Essential* and *good* mean the same in any case; the one is just as much

an abstraction as the other. Good is what is essential with regard to the will, and what is essential in this regard is supposed to be precisely that an action is determined as good for me. The subsumption of any content one likes under the good follows directly, for itself, from the fact that this abstract good has no content at all. It is reduced entirely to meaning something *positive* in general: something that counts in some respect and, in its immediate determination, can also count as an essential end, for example doing good to the poor, caring for myself, for my life, for my family, etc. Further, just as the good is the abstract, so the bad is likewise the contentless, which receives its determination from my subjectivity. From this side there also arises the moral end of hating and rooting out the indeterminate bad.—Theft, cowardice, murder, etc., as actions, that is, as carried out by a subjective will in general, directly have the determination of being the *satisfaction* of such a will, and hence of being something *positive*. To make the action a good one, all that is needed is to know this positive aspect as my *intention* in it. This aspect is the *essential* one for determining that the action is good, because I know it as the good in my intention. Theft in order to do good to the poor; theft, or running away from battle, for the sake of the duty to care for one's life, for one's (perhaps poor as well) family; murder out of hatred and revenge, that is, in order to satisfy one's sense of one's own right, of right in general, and one's feeling of the badness of the other, of his wrong against me or against others, against the world or the *people* at large, by destroying this bad person who has badness itself within him, thereby making at least some contribution to the end of rooting out the bad: in this way all of these are made, for the sake of the positive aspect of their content, into good intentions and hence into good actions. The *very slightest* cultivation of the understanding is enough to find, like those learned theologians, a positive aspect in every action, and so a good reason and intention. So it has been said that there is really no such thing as an *evil person*, since he does not will evil for evil's sake, that is, he does not will the *purely negative* as such. He always wills something

positive, and hence, on this view, something good. In this abstract good the distinction between *good* and *evil* has vanished, and so have all actual duties. For that reason, merely willing the good and having a good intention in an action is, on the contrary, evil, insofar as the good is willed only in this abstraction and its *determination* is thus left to the arbitrary will of the subject.

This is also the place for the notorious proposition: *the end sanctifies the means*.—Taken first just by itself, this expression is trivial and says nothing. One can reply, just as indeterminately, that a holy end may well sanctify the means, but an unholy end does not. "If the end is right, so are the means" is a tautology, insofar as the means is precisely what is nothing for itself but exists for the sake of something else, and has its determination and value in that other, in the end—*if, that is, it is truly a means*.[15] —But what is meant by that proposition is not the merely formal sense. Something more determinate is understood by it: that for a good end it is permitted, indeed perhaps even a duty, to use as a means something that for itself is not a means at all, to violate something that for itself is sacred, and so to make a crime the means to a good end. On the one hand, what hovers before the mind in that proposition is an indeterminate awareness of the dialectic of the *positive* noted above, in isolated legal or ethical determinations, or in equally indeterminate general propositions such as *you shall not kill*, or *you shall care for your welfare, for the welfare of your family*. Courts and soldiers have not only the right but the duty to kill human beings. Here, however, it is *precisely determined* what kind of people may be killed and under what circumstances this is permitted and a duty. So too my welfare and my family's welfare must be subordinated to higher ends and thus reduced to means. But what is designated as crime is not a universality of this kind, left indeterminate and still subject to a dialectic; it already has its determinate objective boundary. What is set against such a determination, in the

15 The maxim, usually rendered "the end justifies the means," was commonly attributed to Jesuit casuists.

end that is supposed to take away the crime's nature as a crime, is the holy end. And this is nothing but *subjective opinion* about what is good and better. What happens here is the same as what happens when willing stops at the abstract good. All determinacy of good and bad, of right and wrong, that is and is valid in and for itself is sublated, and this determination is ascribed to the feeling, representation and whim of the individual.—Finally, *subjective opinion* is expressly declared to be the rule of right and duty when e) *the conviction that holds something to be right* is supposed to be what determines the ethical nature of an action. The good that one wills does not yet have a content. The principle of conviction now adds the further specification that the subsumption of an action under the determination of the good belongs to the *subject*. With this even the semblance of ethical objectivity has completely vanished. Such a doctrine is directly connected with the self-styled philosophy, often mentioned already, that denies that the *true* can be known. The true of the willing spirit, its rationality insofar as it actualizes itself, consists in the ethical commandments. Such philosophizing passes off cognition of the true as an empty vanity that oversteps the domain of cognition, which is supposed to be only what appears. It must therefore directly make what appears the principle with regard to action too, and so place the ethical in the individual's *peculiar* worldview and in his *particular conviction*. The degradation into which philosophy has thus sunk may, of course, at first appear to the world as an utterly unimportant event that has befallen only idle academic chatter. But such a view necessarily works its way into the view of the ethical, as an essential part of philosophy; and only then does it become apparent, in actuality and for actuality, what those views really amount to. —The view has spread that subjective conviction alone determines the ethical nature of an action. As a result, although there used to be much talk of *hypocrisy*, there is little any longer today. For qualifying evil as hypocrisy presupposes that certain actions are offenses, vices and crimes *in and for themselves*. It presupposes that whoever commits them necessarily knows them as such, insofar as

he knows and recognizes the principles and outward acts of piety and rectitude, precisely in the semblance for which he misuses them. Or, with regard to evil in general, the presupposition held that it is a duty to know the good and to be able to distinguish it from evil. In any case, the absolute demand held that a human being should commit no vicious and criminal actions, and that such actions must be imputed to him as such, insofar as he is a human being and not a beast. But if the good heart, the good intention and subjective conviction are declared to be what gives actions their value, then there is no longer any hypocrisy, and no evil at all. For whatever one does, one knows how to make it into something good by reflecting on good intentions and motives, and through the moment of one's *conviction* it is good.[16] So there are no longer crimes and vices in and for themselves. In place of the outright, hardened, untroubled sinning cited above, there has come the consciousness of complete justification through intention and conviction. My intention of the good in my action, and my conviction that it is good, *make it good*. Insofar as there is any talk of assessing and judging the action, by virtue of this principle the agent is to be judged only by his intention and conviction, by his *faith*. This is not faith in the sense in which *Christ* demands faith in *objective* truth, so that for someone whose faith is bad, that is, whose conviction is evil in its *content*, the judgment too turns out bad, in accordance with that evil content. It is faith in the sense of fidelity to convic-

16 HEGEL'S NOTE. "That he feels completely *convinced*, I do not doubt in the least. But how many people commit the most dreadful outrages out of just such a felt conviction! So if this ground may excuse anything anywhere, there can no longer be any *rational judgment* about *good and evil, honorable and contemptible resolutions*. *Delusion* then has equal rights with reason, or rather reason then has no rights at all, no valid authority any more; its voice is an absurdity; *whoever merely does not doubt is in the truth*! I shudder at the consequences of such a tolerance, which would be an exclusive tolerance to the advantage of unreason." F. H. *Jacobi* to Count Holmer, Eutin, 5 August 1800, on Count Stolberg's change of religion (*Brennus*, Berlin, August 1802).

TRANSLATOR'S NOTE. Friedrich Heinrich Jacobi (1743–1819), philosopher of feeling and faith. The letter concerns the poet Friedrich Leopold zu Stolberg's conversion to Catholicism in 1800.

tion: whether a person has remained *true to his conviction* in his action. This formal subjective fidelity alone is supposed to contain what accords with duty. —With this principle of conviction, since conviction is at the same time determined as something *subjective*, the thought of the possibility of *error* must admittedly force itself upon us, and this implies the presupposition of a law that is in and for itself. But *the law does not act*; only the actual human being acts. And, according to that principle, the value of human actions can depend only on how far he has taken that law up *into his conviction*. But if it is not the actions that are to be judged by that law, that is, measured against it at all, it is impossible to see what that law is still supposed to be for or to serve. Such a law is reduced to a merely *external letter*, in fact to an empty word, for only through my conviction is it *made into a law*, something that obligates and binds me.—Such a law has on its side the authority of God and of the state. It also has the authority of millennia in which it was the bond that held human beings together, with all their doings and their destiny, and gave them stability—authorities that contain countless *convictions of individuals* within them. And *I* set against this the *authority* of my *individual* conviction (as my subjective conviction, its validity is only authority). This self-conceit at first seems monstrous, but it is disposed of by the principle itself, since that principle makes subjective conviction the rule. —Reason and conscience, which shallow science and bad sophistry cannot drive out, bring in a higher inconsistency, and through it the *possibility of error* is admitted. But then, by declaring crime and evil in general to be an error, the fault is reduced to its minimum. For *to err is human*. Who has not been mistaken about this or that, about whether I had cabbage or sauerkraut for lunch yesterday, and about countless other things, more and less important? Yet the distinction between important and unimportant falls away if all that matters is the subjectivity of conviction and persistence in it. That higher inconsistency, the possibility of error, comes from the nature of the matter. But in the claim that a bad conviction is only an error, it in fact turns into the other inconsistency,

that of dishonesty. At one moment conviction is supposed to be what the ethical and the highest value of the human being rest on; conviction is thus declared the highest and holiest thing. At another moment all that is at issue is an error, and my being convinced is something trivial and contingent, really something external, which can *happen to me one way or another*. Indeed, my being convinced is something utterly trivial if I cannot know anything true. Then it does not matter *how* I think, and all that is left for my thinking is that empty good, the abstraction of the understanding.—It should also be noted that, from this principle of justification on the ground of conviction, a consequence follows for how others act in response to my action. If, according to *their* faith and conviction, they regard my actions as *crimes*, they are *quite right* to do so. In this consequence I not only gain no advantage, but on the contrary I am reduced from the standpoint of freedom and honor to a relationship of unfreedom and dishonor. I experience in justice, which in itself is also mine, only someone else's subjective conviction, and when it is exercised upon me I believe I am merely being handled by an external force.

IRONY

The last form of this subjectivity treats all ethical content as something it merely plays with.

f) Finally, the highest form in which this subjectivity completely grasps and expresses itself is the shape that has been called *irony*, a name borrowed from *Plato*. For only the name is taken from *Plato*. He used it of a manner of *Socrates*, which Socrates employed in personal conversation against the conceit of uncultivated and sophistical consciousness, for the sake of the Idea of truth and justice. But it was only that consciousness that he treated ironically, not the Idea itself. Irony concerns only a way in which conversation relates to *persons*. Without this personal orientation, the essential movement of thought is dialectic. And *Plato* was so far from taking the dialectical for itself, let alone

irony, as the ultimate and as the Idea itself, that on the contrary he immersed the back-and-forth movement of thought—and still more of a subjective opinion—in the substantiality of the Idea,

and brought it to an end there.[17]—The culmination of subjectivity grasping itself as the ultimate, which still remains to be considered here, can only be this: that it also *knows* itself as that deciding and determining about truth, right and duty which is already present in itself in the preceding forms. This culmination consists, then, in knowing the ethically objective well enough, but not in forgetting and renouncing oneself so as to become absorbed in its seriousness and to act from it. Rather, while relating to it, it holds it at a distance and knows *itself* as that which *wills* and *decides* thus, and can *equally well* will and decide otherwise.—You take a law, in fact and in all honesty, as being in and for itself; I too am with it and in it, but I also go further than you: I am beyond it as well, and can do it *this way or that*. It is not the thing that is excellent; it is I who am excellent, and I am the master over the law and the thing, who *merely plays* with them as with my own pleasure, and in this ironic consciousness, in which I let the highest perish, *enjoy only myself*.—This shape is not only the *vanity* of all ethical *content*—of rights, duties, laws—and hence evil, indeed evil that is wholly universal within itself. It also adds the form, *subjective* vanity: knowing itself as this vanity of all content, and in this knowledge knowing *itself* as the absolute. —To what extent this absolute self-complacency does not remain a solitary worship of itself but may also form a *community*, whose bond and substance consists, say, in the mutual assurance of conscientiousness and good intentions, in rejoicing over this mutual purity, but above all in feasting on the glory of this self-knowing and self-expression, and on the glory of this cherishing and nurturing; to what extent what has been called the *beautiful soul*—that nobler subjectivity which smolders away in the vanity of all objectivity and thereby in its own unactuality—and other formations as well are turns related to the stage considered here: all this I have treated in the *Phe-*

nomenology of Spirit, pp. 605 ff.,[18] where the whole section (c), *Conscience*, may be compared, especially with regard to the

transition into a higher stage in general—a stage that is, how-

17 HEGEL'S NOTE. My late colleague, Professor *Solger*, did take up the expression *irony*, which Herr Friedrich von *Schlegel* introduced at an earlier period of his literary career and intensified into that subjectivity which knows itself as the highest. But Solger's better sense, far removed from such a determination, and his philosophical insight seized on and held fast chiefly the aspect of it that is genuinely dialectical, the moving pulse of speculative reflection. Yet I cannot find his view [illegible] stantial work, a detailed *review* of Herr *August Wilhelm von Schlegel*'s *Lectures on Dramatic Art and Literature* (Wiener Jahrbücher, vol. VII, pp. 90 ff.). "True *irony*," Solger says there on p. 92, "proceeds from the standpoint that as long as a human being lives in this present world, he can fulfill his vocation, even in the highest sense of the word, only in this world. Everything by which we believe we *go beyond finite ends* is *vain* and *empty* imagination... Even the highest exists for our action only in *limited, finite form*." Rightly understood, this is Platonic, and it is very true as said against the empty striving toward the *(abstract)* infinite mentioned there just before. But that the highest exists in limited, *finite form*, as the ethical does—and the ethical exists essentially as actuality and action—is something very different from its being a *finite* end. The shape, the form of the finite, takes nothing away from the content, the ethical, of its substantiality and of the infinity it has within itself. It goes on: "And for that very reason *it* (the highest) *is as null in us* as the least, and *necessarily perishes with us and our null sense*; for in truth it exists only in God, and in this perishing it is transfigured into something divine, in which we would have no share if there were not an immediate presence of this divine, revealed precisely in the vanishing of our actuality. The mood to which this becomes immediately evident in human events themselves is tragic irony." The arbitrary name "irony" would not matter. But there is something unclear in the claim that it is *the highest* that *perishes* with our nullity, *and* that the divine reveals itself only in the vanishing of our actuality—as is also said on p. 91 of the same work: "We see the heroes lose faith in the noblest and most beautiful in their dispositions and feelings, not merely with regard to the outcome but also with regard to *their source* and *their worth*; indeed, we are uplifted by the *downfall of the best* itself." That the tragic downfall of supremely ethical figures can interest us (the just downfall of puffed-up, out-and-out villains and criminals—such as the hero of a modern tragedy, *Die Schuld*, is one—does have an interest for criminal law, but none for true art, which is what we are speaking of here), can uplift us and reconcile us with ourselves, only insofar as such figures come forward against one another with equally justified, distinct ethical powers that have come into *collision* through misfortune, and so, through this opposition of theirs to something ethical, incur *guilt*. From this the right and the wrong of both, and with it the true ethical Idea, emerge purified and triumphant over this *one-sidedness*, and hence reconciled in us. Accordingly, it is not the *highest* in us that perishes, and we are uplifted not *by the downfall of the best* but, on the contrary, by the triumph of the true. That this is the genuine, purely ethical interest of ancient tragedy (in romantic tragedy this determination undergoes a further modification), I have shown in the *Phenomenology of Spirit* (pp. 404 ff.; cf. 683 ff.). But the ethical Idea, *without that misfortune of collision* and the downfall of the individuals caught up in that misfortune, is *actual* and *present* in the ethical world. That this highest does *not in its actuality* present itself as something *null*—this is what the real ethical existence, the state, aims at and brings about; it is what ethical self-consciousness possesses, intuits and knows in *the state*, and what thinking cognition comprehends.

TRANSLATOR'S NOTE. Karl Wilhelm Ferdinand Solger (1780–1819), aesthetician and Hegel's colleague at Berlin. Friedrich Schlegel (1772–1829) and his brother August Wilhelm (1767–1845) were leading Romantic critics.

TRANSLATOR'S NOTE. *Die Schuld* (Guilt, 1813), a popular "fate tragedy" by Adolph Müllner.

ever, determined differently there.

FROM MORALITY TO ETHICAL LIFE

The abstract good and formal conscience find their truth together in ethical life.

141 For the *good*, as the substantial universal of freedom, but one that is still *abstract*, determinations in general, and the principle of those determinations, are therefore *required*—but as *identical* with the good. Likewise, for *conscience*, as the merely abstract principle of determining, the universality and objectivity of its determinations are required. Each of the two, raised in this way to a totality for itself, becomes what is without determination, which *ought* to be determined.—But the integration of these two relative totalities into absolute identity is already accomplished *in itself*, since this very subjectivity of *pure certainty* of itself, which for itself evaporates in its vanity, is *identical* with the *abstract universality* of the good. The identity of the good and the subjective will, thus *concrete*, the truth of them both, is *ethical life*.

141R The details of such a transition of the concept are made intelligible in the Logic. Here we can say only this much. The nature of the limited and finite—and here that means the abstract good, which only *ought to be*, and the equally abstract subjectivity, which only *ought to be good*—is to have its opposite *within itself*: the good has its actuality, and subjectivity (the moment of the *actuality* of the ethical) has the good. But as one-sided, they are not yet *posited* as what they are *in themselves*. They attain this being-posited in their negativity. Each constitutes itself one-sidedly as a totality for itself, as if it ought not to have in it what is *in itself* in it—the good without subjectivity and determination, and the determining element, subjectivity, without what is in itself. In doing so they sublate themselves and thereby reduce themselves to moments: moments of the *concept*, which becomes manifest as their unity and, precisely through this positedness of its moments, has obtained *reality*,

and so now exists as *Idea*—the concept that has developed its determinations into reality and at the same time, in their identity, is their essence *that is in itself*. —The existence of freedom, which was immediately as *right*, is determined in the reflection of self-consciousness as the *good*. The third, here in its transition as the truth of this good and of subjectivity, is therefore equally the truth of subjectivity and of right.—The *ethical* is subjective disposition, but a disposition of right that is in itself. That this Idea is the *truth* of the concept of freedom cannot be something presupposed, taken from feeling or from anywhere else; in philosophy it can only be something *proved*. This deduction of it lies solely in the fact that right and moral self-consciousness show, in themselves, that they return into it as their *result*. — Those who believe they can dispense with proof and deduction in philosophy show that they are still far from the first thought of what philosophy is. They may talk as they please elsewhere; but in philosophy, those who want to talk without the concept have no right to join the conversation.

Ethical Life: The Family

Ethical life as freedom made actual; marriage, family property, the education of children.

142 Ethical life is the *Idea of freedom* as the living good, which has its knowing and willing in self-consciousness, and its actuality through the action of self-consciousness; just as self-consciousness, in turn, has in ethical being its foundation, which is in and for itself, and its motivating end. Ethical life is the *concept of freedom that has become the existing world and the nature of self-consciousness*.

143 Since this unity of the *concept* of the will and of the will's existence, which is the particular will, is knowing, consciousness of the distinction between these moments of the Idea is present—but in such a way that each of them is now for itself the totality of the Idea, and has the Idea as its foundation and content.

144 α) The objective ethical order, which takes the place of the abstract good, is substance made *concrete* by subjectivity *as infinite form*. It therefore posits *distinctions* within itself, which are thus determined by the concept. Through these distinctions the ethical has a fixed *content*, which is necessary for itself and has a standing raised above subjective opinion and caprice: the *laws and institutions that are in and for themselves*.

145 That the ethical is the *system* of these determinations of the Idea constitutes its *rationality*. In this way it is freedom, or the will that is in and for itself, as the objective: a circle of necessity whose moments are the *ethical powers*. These powers govern the lives of individuals, and in individuals, as their accidents, they

have their representation, their appearing shape and their actuality.

146 β) In this, its *actual self-consciousness*, substance knows itself and is thus an object of knowledge. For the subject, the ethical substance, its laws and powers have, on the one hand, as an object, the relation that *they are*, in the highest sense of self-subsistence—an absolute authority and power, infinitely more firmly established than the being of nature.

146R The sun, the moon, mountains, rivers, and in general the natural objects around us *are*. For consciousness they have the authority not only of *being* at all, but also of having a particular nature, which consciousness accepts and by which it guides itself in its conduct toward them, its dealings with them and its use of them. The authority of ethical laws is infinitely higher, because natural things present rationality only in a wholly *external* and *isolated* way, and conceal it under the guise of contingency.

147 On the other hand, the ethical laws are not something *alien* to the subject. Rather, the subject bears *witness of the spirit* to them as to *its own essence*, in which it has its *feeling of self* and lives as in its element, undistinguished from itself—a relation that is immediately more identical than even *faith* and *trust*.[1]

147R Faith and trust belong to incipient reflection and presuppose a representation and a distinction—just as it would be different, for example, to believe in the pagan religion and to be a pagan. That relation, or rather identity without relation, in which the ethical is the actual living principle of self-consciousness, can indeed pass over into a relation of faith and conviction, and into one mediated by *further reflection*: into an insight based on reasons, which may also start from particular ends, interests and considerations, from fear or hope, or from historical presuppositions. But *adequate cognition* of these laws belongs to the thinking concept.

148 As these substantial determinations, they are *duties* binding on the will of the individual. For the individual distinguishes

1 An echo of Romans 8:16: "The Spirit itself bears witness with our spirit."

himself from them as what is subjective and indeterminate within itself, or as what is particularly determined, and *so stands in a relation* to them as to what is substantial for him.

148R The ethical *theory of duties*—that is, as it is *objectively*, not as supposedly contained in the empty principle of moral subjectivity, which on the contrary determines nothing (§ 134)—is therefore the systematic development of the circle of ethical necessity that follows in this *third part*. The difference between this presentation and the form of a *theory of duties* lies solely in this: in what follows, the ethical determinations emerge as the necessary relations, and we stop there, without adding to each of them the further clause: *therefore this determination is a duty for human beings*.—A theory of duties, insofar as it is not a philosophical science, takes its material from relations as it finds them, and shows how that material is connected with one's own notions, with principles and thoughts commonly met with, with ends, drives, feelings and so on; and it can add, as reasons, the further consequences of each duty in relation to the other ethical relations, as well as to welfare and opinion. But an immanent and consistent theory of duties can be nothing other than the development of *the relations* that are necessary through the Idea of freedom, and are therefore *actual* in their full extent—in the state.

149 Binding duty can appear as a *limitation* only in relation to indeterminate subjectivity or abstract freedom, and to the drives of the natural will, or of the moral will that determines its indeterminate good out of its own arbitrary will. But in duty the individual finds, rather, his *liberation*: on the one hand, from the dependence in which he stands in mere natural drive, and from the oppression he suffers as subjective particularity in the moral reflections on what ought to be and what may be; on the other hand, from indeterminate subjectivity, which never attains existence and the objective determinacy of action, and remains *within itself* and something unactual. In duty the individual liberates himself to substantial freedom.

150 The ethical, insofar as it is reflected in the individual character as determined by nature, is *virtue*. Insofar as virtue shows nothing more than the individual's simple conformity to the duties of the relations to which he belongs, it is *rectitude*.

150R *What* a person must do, *which* duties he has to fulfill in order to be virtuous, is easy to say in an ethical community: he has to do nothing other than what is prescribed, stated and known to him in his relations. Rectitude is the universal that can be demanded of him, partly by right and partly by ethical life. From the moral standpoint, however, it easily appears as something rather subordinate, beyond which one must demand still more of oneself and others. For the craving to be something *special* is not satisfied with what is in and for itself and universal; only in an *exception* does it find consciousness of its own distinctiveness. —The *various aspects* of rectitude can equally well be called *virtues,* since they are equally the property of the *individual*—though not a special property in comparison with others. But talk of *virtue* as such easily borders on empty declamation, because one is then speaking only of something abstract and indeterminate; and such talk, with its reasons and portrayals, addresses the individual as an arbitrary will and subjective caprice. In an existing ethical condition, whose relations are fully developed and actualized, *virtue proper* has its place and actuality only in extraordinary circumstances and in collisions between those relations—in genuine *collisions,* for moral reflection can create collisions for itself everywhere, and give itself the consciousness of something special and of *sacrifices* made. In an uncultivated condition of society and the community, the form of virtue as such therefore occurs more often, because here the ethical and its actualization are more a matter of individual preference and of the individual's own distinctive nature of genius. Thus the ancients predicated virtue especially of *Hercules*. In the ancient states, too, since ethical life had not developed there into this free system of self-subsistent development and objectivity, it had to be the distinctive genius of individuals that made up for this deficiency.—The doctrine of vir-

tues, insofar as it is not merely a theory of duties, and so includes what is particular in character, grounded in natural determinacy, will accordingly be a *natural history of spirit*.

Since the virtues are the ethical as applied to the particular, and on this subjective side something indeterminate, the quantitative element of more and less comes in for their determination. Considering them therefore brings in the opposing defects or vices, as with *Aristotle*, who accordingly defined each particular virtue, in its correct sense, as the mean between *too much* and *too little*.—The same content that takes the form of *duties* and then of *virtues* is also what has the form of *drives* (Remark to § 19). Drives, too, have this same content as their foundation. But because in them it still belongs to the immediate will and to natural feeling, and has not been developed up to the determination of ethical life, they have in common with the content of duties and virtues only the abstract object. This object, being without determination in itself, does not contain for them the boundary of good or evil. Or else they are *good* by abstraction of the positive side and, conversely, *evil* by abstraction of the negative side (§ 18).

[151] But in simple *identity* with the actuality of individuals, the ethical, as their universal way of acting, appears as *custom*. The *habit* of the ethical appears as a *second nature*, which takes the place of the first, merely natural will and is the soul, meaning and actuality pervading their existence: *spirit* living and present as a world, whose substance only thus exists as spirit.

[152] In this way *ethical substantiality* has attained its *right*, and this right its *validity*: namely, that in it the self-will of the individual and his own conscience, which would be for itself and stand in opposition to it, have vanished. For the ethical character knows as its motivating end the universal, which is unmoved but opened up in its determinations into actual rationality; it recognizes that its dignity and the whole subsistence of its particular ends are grounded in this universal, and it actually has them there. Subjectivity is itself the absolute form and existing actuality of substance; and the distinction of the subject from

substance as its object, end and power is only the distinction of form, which has at the same time just as immediately vanished.

152R Subjectivity, which constitutes the ground of existence for the concept of freedom (§ 106), and which at the moral standpoint is still distinct from this, its concept, is in ethical life the existence of the concept that is adequate to it.

153 The *right of individuals* to their *subjective determination to freedom* is fulfilled in their belonging to ethical actuality. For the *certainty* of their freedom has its *truth* in such objectivity, and in the ethical they *actually* possess *their own* essence, their *inner* universality (§ 147).

153R When a father asked for the best way to bring up his son ethically, a Pythagorean (the answer is also put in the mouths of others) replied: "By making him a *citizen of a state with good laws*."[2]

154 The right of individuals to their *particularity* is likewise contained in ethical substantiality, for particularity is the outwardly appearing mode in which the ethical exists.

155 In this identity of the universal and the particular will, therefore, *duty* and *right* coincide, and through the ethical a human being has rights insofar as he has duties, and duties insofar as he has rights. In abstract right, I have the right and another has the duty toward it. In morality, the right of my own knowing and willing, and of my welfare, only *ought* to be united with duties and to be objective.

156 Ethical substance, as containing self-consciousness that is for itself united with its concept, is the *actual spirit* of a family and of a people.

157 The concept of this Idea is only as spirit, as what knows itself and is actual, since it is the objectification of itself, the movement through the form of its moments. It is therefore: A. immediate or *natural* ethical spirit—the *family*.

This substantiality passes over into the loss of its unity, into division and into the standpoint of the relative, and so is B. *civil society*: an association of members as *self-subsistent individuals* in

2 Diogenes Laertius (8.16) attributes the reply to the Pythagorean Xenophilus.

what is thus a *formal universality*, through their *needs*, through the *legal constitution* as the means of securing persons and property, and through an *external order* for their particular and common interests. This *external state* C. withdraws and gathers itself into the end and actuality of the substantial universal and of the public life devoted to it—into the *constitution of the state*.

THE FAMILY

The family is spirit's immediate unity, felt as love, in which each person is a member.

158 The family, as the *immediate substantiality* of spirit, has as its determination spirit's unity that *feels* itself: *love*. The disposition is thus to have self-consciousness of one's individuality *in this unity* as essentiality in and for itself, so as to be in it not as a person for oneself but as a *member*.

159 The *right* that belongs to the *individual* on the basis of family unity, and which is initially his life within this unity itself, emerges in the *form of right*, as the abstract moment of *determinate individuality*, only insofar as the family passes into dissolution. Then those who ought to be members become self-subsistent persons in their disposition and actuality; and what they constituted as a determinate moment in the family they now receive in separation, and so only in external respects (resources, maintenance, the costs of upbringing and the like).

160 The family is completed in three aspects: a) in the shape of its immediate concept, as *marriage*; b) in external existence, the *property* and *goods* of the family, and the care for them; c) in the *education* of the children and the dissolution of the family.

MARRIAGE

Marriage is a free union of two persons into one, monogamous and ethical rather than contractual.

161 Marriage, as the *immediate ethical relationship*, contains, *first*, the moment of *natural* vitality; and since it is a substantial relationship, it contains vitality in its totality, namely as the actual-

ity of the *species* and its process. (See *Encyclopedia of the Philosophical Sciences*, §§ 167 ff. and 288 ff.) But *second*, in self-consciousness, the *unity* of the natural sexes, which is merely *inner* or *in itself* and for that very reason merely external in its existence, is transformed into a *spiritual* unity, into self-conscious love.

[162] The subjective starting point of marriage may appear to be rather the *particular inclination* of the two persons entering this relationship, or else the *foresight* and arrangement of the parents, and so on. But its objective starting point is the free consent of the persons—specifically, consent to *constitute one person*, to give up their natural and individual personality in that unity. In this respect the unity is a self-limitation; but precisely because they gain their substantial self-consciousness in it, it is their liberation.

[162R] The objective determination, and hence the ethical duty, is to enter the state of marriage. How the external starting point is constituted is by its nature contingent, and depends in particular on the culture of reflection. The extremes here are these. At one extreme, the arrangement made by well-meaning parents is the beginning, and inclination arises in the persons destined to be united in love from their becoming acquainted as persons so destined. At the other, inclination appears first in the persons, as in *these* infinitely particularized individuals. —The first extreme, or in general the way in which the decision to marry comes first and inclination follows, so that in the actual marriage both are united, can itself be regarded as the more ethical way.—In the other extreme, it is *infinitely particular* distinctiveness that asserts its claims; this is connected with the subjective principle of the modern world (see Remark to § 124 above). —In modern dramas and other artistic portrayals in which sexual love is the fundamental interest, however, one meets an element of pervasive frostiness. It is brought into the heat of the passion portrayed by the utter *contingency* bound up with it: that is, by the whole interest being represented as resting only on *these* partic-

ular people. This may well be of infinite importance for *them*, but it is not so *in itself*.

163 The *ethical* aspect of marriage consists in the consciousness of this unity as a substantial end, and hence in love, trust and the sharing of the whole of individual existence. In this disposition and actuality, the natural drive is reduced to the modality of a natural moment, destined to be extinguished in its very satisfaction; while the spiritual bond comes into *its right* as the substantial, and so stands out as what is raised above the contingency of the passions and of temporary particular caprice—as *in itself* indissoluble.

163R That marriage is not, in its essential basis, a contractual relationship was noted above (§ 75). For marriage consists precisely in starting from the contractual standpoint of personality, self-subsistent in its individuality, *in order to sublate it*. The identification of personalities, through which the family is *one person* and its members are accidents (but substance is essentially the relation of accidents to itself; see *Encyclopedia of the Philosophical Sciences*, § 98), is the ethical spirit. This spirit, taken for itself—stripped of the manifold externality it has in its existence as *in these* individuals and in the interests of appearance, determined in time and in many different ways—has been raised into a shape for representation and revered as the *Penates* and so on,[3] and in general it constitutes that in which the *religious* character of marriage and the family, *piety*, lies. It is a further abstraction when the divine, the substantial, has been separated from its existence, and the feeling and consciousness of spiritual unity have thus been fixed as so-called *Platonic love*, wrongly so called. This separation is connected with the monastic view, by which the moment of natural vitality is determined as utterly *negative* —and precisely through this separation is given an infinite importance for itself.

164 Just as the stipulation of a contract already contains in itself the genuine transfer of property (§ 79), so the solemn declaration of consent to the ethical bond of marriage, and its

3 The Penates were the Roman gods of the household and its store.

corresponding recognition and confirmation by the family and community (that the *church* comes in here is a further determination, not to be developed here), constitute the formal *conclusion* and *actuality* of marriage. The union is thus constituted as ethical only through the *prior* performance of this ceremony, as the accomplishment of the *substantial* by means of the *sign*, language, the most spiritual existence of the spiritual (§ 78). The sensuous moment, which belongs to natural vitality, is thereby placed in its ethical relationship as a consequence and accident, belonging to the external existence of the ethical union—a union that may also consist entirely in mutual love and support.

[164R] When it is asked what must be regarded as the *chief end* of marriage, so that legal provisions can be drawn from it or assessed by it, what is meant by this chief end is which of the individual aspects of its actuality must be taken as more essential than the others. But no single aspect by itself constitutes the whole range of its content in and for itself, the ethical; and one or another aspect of its existence may be lacking without detriment to the essence of marriage. —Suppose the *conclusion of marriage* as such—the ceremony by which the essence of this union is declared and *established* as something ethical, raised above the *contingency* of feeling and *particular inclination*—is taken for an *external formality* and a so-called merely *civil requirement*. Then nothing remains for this act but perhaps the purpose of edification and of attesting the civil relationship, or indeed of being the merely positive arbitrariness of a civil or ecclesiastical requirement. Such a requirement, on this view, would not only be indifferent to the nature of marriage; insofar as the heart, because of the requirement, attaches value to this formal conclusion and regards it as a condition that must precede complete mutual devotion, it would also divide the disposition of love and, as something alien, run counter to the intimacy of this union. Such an opinion, while claiming to give the highest concept of the freedom, intimacy and perfection of love, in fact denies the ethical character of love: the higher restraint and subordination of mere natural drive, which is already contained in a natural way

in *shame*, and which more determinate spiritual consciousness raises to *chastity* and *decency*. More precisely, that view rejects the ethical determination. This determination consists in consciousness collecting itself out of its naturalness and subjectivity into the thought of the substantial; in its no longer keeping in reserve the contingency and arbitrariness of sensuous inclination, but withdrawing the union from this arbitrariness and handing it over to the substantial, pledging itself to the Penates; and in its reducing the sensuous moment to one that is merely *conditioned* by the true and ethical character of the relationship and by the recognition of the union as an ethical one.—It is insolence, and the understanding that supports it, which cannot grasp the speculative nature of the substantial relationship; yet the uncorrupted ethical heart, like the legislation of Christian peoples, is in accord with that nature.

165 The *natural* determinacy of the two sexes acquires an *intellectual* and *ethical* significance through its rationality. This significance is determined by the distinction into which ethical substantiality, as concept, divides itself within itself, in order to gain from that distinction its vitality as concrete unity.

166 The *one* sex is therefore spirit dividing itself into personal self-subsistence that is *for itself* and into the knowing and willing of *free universality*—into the self-consciousness of conceptual thought and the willing of the objective final end. The *other* is spirit maintaining itself in unity, as knowing and willing of the substantial in the form of concrete *individuality* and *feeling*. In relation to the outside, the former is powerful and active, the latter passive and subjective. The man therefore has his actual substantial life in the state, in science and the like, and otherwise in struggle and work with the external world and with himself. Only out of his division, then, does he win by struggle his self-subsistent unity with himself. The tranquil intuition of this unity, and his subjective ethical life in the form of feeling, he has in the family, in which the *woman* has her substantial determination, and in this *piety* her ethical disposition.

166R In one of the most sublime portrayals of piety, Sophocles' *Antigone*, piety is therefore declared above all to be the law of woman. It is presented as the law of subjective substantiality in the form of feeling, of inwardness that has not yet attained its complete actualization; as the law of the ancient gods, of the underworld; as an eternal law, of which no one knows whence it appeared; and it is set in opposition to the manifest law, the law of the state—an opposition that is the highest ethical one, and therefore the highest tragic one, and which is individualized there in femininity and masculinity. Cf. *Phenomenology of Spirit*, pp. 383 ff., 417 ff.[4]

167 Marriage is essentially *monogamy*, because it is personality, immediate exclusive *individuality*, that places and gives itself into this relationship. The relationship's truth and *intimacy (the subjective form of substantiality)* therefore proceed only from the mutual *undivided* devotion of this personality. Personality attains its right to be conscious of itself in the *other* only insofar as the other is in this identity as a person, that is, as atomic individuality.

167R Marriage, and essentially monogamy, is one of the absolute principles on which the ethical life of a community rests. The institution of marriage is therefore cited as one of the moments of the divine or heroic founding of states.

168 Further, since marriage proceeds from the *free devotion* of this personality of the two sexes, which is infinitely its own, it must not be concluded within the circle that is already *naturally identical*, acquainted and intimate in every detail, in which individuals do not have a personality of their own in relation to one another. Rather, the partners must find each other from separate families and from originally distinct personalities. Marriage between *blood relations* is therefore contrary to the concept, for which marriage is an ethical act of freedom, not a union of

4 An allusion to *Antigone* 456–457, where Antigone says the unwritten laws of the gods live "not now or yesterday but always, and no one knows from when they appeared."

immediate naturalness and its drives; and hence it is also contrary to genuine natural feeling.

168R Marriage itself has been regarded as grounded not in *natural right* but merely in the natural sexual drive, and as an arbitrary contract; external reasons have been given for monogamy, even from the physical ratio of the number of men and women; and only obscure feelings have been offered for the prohibition of marriage between blood relations. In each case the underlying basis was the common notion of a state of nature and of a naturalness of right, and the lack of the concept of rationality and freedom.

169 The family, as a person, has its external reality in *property*, in which it has the existence of its substantial personality only as in *resources*.

THE FAMILY'S RESOURCES

The family needs lasting common property, which the husband administers as its head.

170 The family not only has property; for the family as a *universal* and *enduring* person, there arises the need for, and the determination of, a *lasting* and *secure* possession: *resources*. The arbitrary moment in abstract property—the particular need of the *mere individual*—and the selfishness of desire are transformed here into care and acquisition for something *common*, into something *ethical*.

170R In the legends of the founding of states, or at least of a sociable, civilized life, the introduction of fixed property appears in connection with the introduction of marriage. What these resources consist of, however, and what the genuine way of securing them is, will emerge in the sphere of civil society.

171 It is for the man, as its head, to represent the family as a legal person in relation to others. To him also belong chiefly acquisition from outside, provision for needs, and the disposal and administration of the family's resources. These are common property, so that no member of the family has particular prop-

erty, but each has his right to what is common. This right and the head of the family's power of disposal may, however, come into collision, since the ethical disposition within the family is still immediate (§ 158) and so open to particularization and contingency.

[172] A marriage constitutes a *new family*, which is something *self-subsistent* for itself in relation to the *lineages* or houses from which it has come. Its connection with these has natural blood relationship as its basis, whereas the new family has ethical love as its basis. An individual's property, therefore, is also essentially connected with his marital relationship, and only more remotely with his lineage or house.

[172R] *Marriage settlements*, when they involve a restriction on the spouses' community of goods, the appointment of a permanent legal adviser for the wife and the like, have this meaning: they are directed against the case of the marriage being dissolved by natural death, divorce and so on, and are attempts at safeguarding by which the different members retain their share of what is common in such a case.

CHILDREN AND THE FAMILY'S DISSOLUTION

Children are raised toward independence; the family dissolves through adulthood, divorce, death and inheritance.

[173] In the children, the *unity* of marriage—which as substantial is only *intimacy* and *disposition*, but as existing is separated in the two subjects—becomes, *as unity, itself an existence for itself* and an *object*, which the parents love as their love, as their substantial existence.—On the natural side, the presupposition of persons *immediately* present—as parents—here becomes a *result*. This progression runs off into the infinite progress of generations that produce and presuppose one another: the way in which, in finite naturalness, the simple spirit of the Penates presents its existence as species.

[174] Children have the right to be *maintained* and *educated* out of the common family resources. The right of the parents to the *ser-*

vices of their children, as services, is grounded in the common task of caring for the family in general, and is limited to it. Likewise, the right of the parents over the *arbitrary will* of their children is determined by the purpose of keeping them under discipline and educating them. The purpose of punishments is not justice as such. It is of a subjective, moral nature: to deter a freedom still caught up in nature, and to raise the universal into their consciousness and their will.

175 Children are *in themselves* free, and their life is the immediate existence of this freedom alone. They therefore belong neither to others nor to their parents as things. With respect to the family relationship, their *education* has a *positive* function. Ethical life is to be brought about in them as an immediate *feeling* that is still free of opposition, and in this feeling, as the *ground* of ethical life, the heart is to have lived its first life in love, trust and obedience. With respect to the same relationship, their education also has a *negative* function: to raise the children out of the natural immediacy in which they originally find themselves to self-subsistence and free personality, and so to the capacity to leave the natural unity of the family.

175R The slave-like status of children among the Romans is one of the institutions that most stain Roman legislation. This offense against ethical life in its innermost and most tender life is one of the most important moments for understanding the world-historical character of the Romans and their bent toward legal formalism.—In children, the necessity of being educated is present as their own feeling of being dissatisfied with themselves as they are. It is the drive to belong to the world of adults, which they sense to be something higher: the wish to grow up. The pedagogy of play takes the childish as already something valid in itself and presents it to the children as such. It degrades serious matters, and itself, into a childish form that the children themselves hold in low regard. Children feel themselves to be incomplete. By striving instead to represent them as complete in that state and to make them satisfied with it, this pedagogy disturbs and taints their own true and better need. It produces, on

the one hand, a lack of interest in the substantial relationships of the spiritual world and a dullness toward them. On the other hand, it produces contempt for people, since those very people presented themselves to them, when they were children, as childish and contemptible. And it then produces vanity and conceit that feed on their own excellence.

[176] Marriage is at first only the immediate ethical Idea, and so has its objective actuality in the inwardness of subjective disposition and feeling. Herein lies the first contingency of its existence. Just as there can be no coercion to enter into marriage, so there is otherwise no merely legal, positive bond that could hold the subjects together once adverse and hostile dispositions and actions have arisen. A third, ethical authority is required, however. This authority upholds the right of marriage, of ethical substantiality, against the mere opinion that such a disposition exists and against the contingency of merely temporary moods, and so on. It distinguishes these from total estrangement and establishes that estrangement as a fact, so that only in this case can it *dissolve the marriage*.

[177] The ethical dissolution of the family consists in this: the children, having been educated to free personality, are recognized on coming of *age* as legal persons. They are recognized as capable both of holding free property of their own and of founding families of their own—the sons as heads of families and the daughters as wives. In this new family they now have their substantial determination. Compared with it, their first family recedes as merely the original ground and starting point, and the abstraction of the lineage, still more decidedly, has no rights at all.

[178] The natural dissolution of the family through the death of the parents, particularly of the husband, results in *inheritance* with regard to the family resources. In its essence, inheritance is an entry into individual possession of resources that are *in themselves* common. This entry becomes more indeterminate with more remote degrees of kinship. It also becomes more indeterminate in the dispersal of civil society, which makes persons

and families independent, to the degree that the disposition of unity is lost and each marriage becomes the giving up of previous family relationships and the founding of a new, self-subsistent family.

178R One notion takes the following circumstance as the ground of inheritance. On death, the property becomes *ownerless goods* and as such falls to whoever first takes possession of it. This taking possession, however, will *mostly* be done by the relatives, as those who are *usually* nearest at hand. This usual accident is then raised into a rule by positive laws for the sake of order. Such a notion leaves the nature of the family relationship out of account.

179 This falling apart gives rise to freedom for the arbitrary will of individuals. On the one hand, they are free to use their resources in general more as they please, according to their opinions and their purposes as individuals. On the other hand, they are free to regard, as it were, a circle of friends, acquaintances, and so on, in place of a family, and to make this declaration, with the legal consequences of inheritance, in a *testament*.

179R The ethical justification of the will to dispose of one's resources in this way would lie in the formation of such a circle. Yet so much contingency, arbitrariness, calculation for selfish ends, and so on, enters into that formation—especially insofar as it already carries with it a view to making a testament—that the ethical moment is something very vague. Recognizing the authority of arbitrary will to make testaments much more easily becomes an occasion for violating ethical relationships, and for base maneuvering and equally base dependencies. It also gives opportunity and license to foolish arbitrariness and to the malice of attaching conditions of vanity and domineering torment to so-called benefactions and gifts that take effect on death —when my property in any case ceases to be mine.

180 The principle that the members of the family become self-sufficient legal persons (§ 177) allows something of this arbitrariness, and of distinction among the natural heirs, to enter even

within the circle of the family. But this can take place only to a very limited degree, so as not to violate the basic relationship.

180R The mere direct arbitrary will of the deceased cannot be made the principle of the *right to make a testament*. This holds especially insofar as that will stands opposed to the substantial right of the family, for it could chiefly be only the family's love and veneration for its former member that would heed his arbitrary wishes after his death. Such arbitrary will contains in itself nothing that would deserve more respect than the right of the family itself—quite the contrary. Any further validity of a last-will disposition would lie solely in the arbitrary recognition of others. Such validity can chiefly be granted to it only insofar as the family relationship, in which it is absorbed, becomes more distant and less effective. Where the family relationship actually exists, however, its ineffectiveness belongs to what is unethical, and extending the validity of that arbitrary will against the relationship implies weakening its ethical character.—To make this arbitrariness within the family the main principle of succession belonged to the harshness and unethical character of Roman law noted above. Under that law the son could even be sold by his father. If he was set free by others, he returned into his father's power, and only on the third release from slavery did he become actually free. Under that law the son never became of age *de iure* [by law], nor a legal person, and he could hold as property only the spoils of war,[5] the *peculium castrense* [property acquired in military service]. And if, through that threefold sale and release, he left his father's power, he did not inherit, unless appointed by testament, together with those who had remained in family servitude. Likewise the wife—insofar as she entered marriage not as a relationship of slavery (*in manum conveniret, in mancipio esset* [came into her husband's hand, was in his ownership]) but as a *matron*—remained a member not so much of the family she had helped to found through marriage, and which

5 Under the Twelve Tables, a father who had sold his son three times lost his paternal power over him; this became the formal procedure for emancipating a son.

was now actually *hers*, as of the family from which she came. She was therefore excluded from inheriting the resources of those who were *actually her own*, just as they did not inherit from her as wife and mother.[6] —With the gradual awakening of a sense of rationality, the unethical character of these and other rights was evaded through the administration of justice. One example is the use of the expression *bonorum possessio* [possession of the goods] instead of *hereditas* [inheritance]. (That this is in turn distinguished from *possessio bonorum* belongs to the kind of knowledge that makes a learned jurist.) Another is the fiction of rechristening a *filia* [daughter] as a *filius* [son]. This has already been noted above (Remark to § 3) as the sad necessity for the judge of *slyly* smuggling the rational in against bad laws, at least in some of their consequences. Bound up with this are the terrible instability of the most important institutions and a tumultuous legislating against outbreaks of the evils that arise from it. —What unethical consequences this right of arbitrariness in making testaments had among the Romans is well enough known from history and from the portrayals of Lucian and others.—The nature of marriage itself, as immediate ethical life, involves a mixture of substantial relationship, natural contingency and inner arbitrariness. Now suppose arbitrariness is given precedence over the right of the substantial—through the servile status of children, the other provisions noted above and those connected with them, and finally also through the ease of divorce among the Romans. Suppose it goes so far that even *Cicero*—and how many fine things has he not written about the *honestum* [the honorable] and the *decorum* [the fitting] in his *De officiis* [On Duties] and everywhere else![7] —hit upon the speculation of sending his wife away in order to pay his debts with the dowry of a new one. Then a legal path has been paved for the

6 In Roman marriage "with hand" (*cum manu*) the wife passed into her husband's legal power; in "free" marriage she remained under the authority of her birth family.

7 Lucian of Samosata (2nd century AD), Greek satirist, who mocked legacy hunters in his *Dialogues of the Dead*.

corruption of morals—or rather, the laws are what make that corruption necessary.[8]

Consider the institution of inheritance law that, for the *preservation* and *splendor* of the *family*, uses *substitutions* and *family entails* either to exclude the daughter in favor of the sons, or the other children in favor of the eldest son, or in general to introduce some inequality. On the one hand, it violates the principle of the freedom of property (§ 62). On the other, it rests on an arbitrariness that has in and for itself no right to be recognized—more precisely, on the thought of wanting to preserve *this* lineage or house rather than *this* family.[9] But it is not *this* house or lineage, but the *family as such*, that is the Idea possessing such a right. Through freedom of resources and equality of inheritance, the ethical shape is preserved just as well, and *families* are preserved far better than by the opposite.—In such institutions, as in the Roman ones, the right of marriage (§ 172) is misunderstood altogether. Marriage is the complete founding of a distinct, actual family, and compared with it, what is called family in general—*stirps, gens* [stock, clan]—becomes only an abstraction, growing ever more remote and less actual with each generation (§ 177). Love, the ethical moment of marriage, is, as love, a feeling for actual, present individuals, not for an abstraction. —That the abstraction of the understanding shows itself as the world-historical principle of the Roman Empire: see below, § 356.—That the higher political sphere, however, does bring with it a right of primogeniture and an inalienable family estate—not as something arbitrary, but as necessary from the Idea of the state—see below, § 306.

8 Cicero divorced Terentia in 46 BC and soon married his young and wealthy ward Publilia, reportedly to settle his debts.

9 Substitutions appointed successive heirs in advance, so that the estate stayed undivided in the family line.

FROM FAMILY TO CIVIL SOCIETY

The family breaks up into many families, and ethical life appears as civil society.

181 The family breaks up in a natural way—and essentially through the principle of personality—into a *plurality* of families. These relate to one another, in general, as self-sufficient concrete persons, and therefore externally. In other words, the moments bound together in the unity of the family, as the ethical Idea that is still in its concept, must be released by the concept into self-sufficient reality: this is the stage of *difference*. Expressed first abstractly, this yields the determination of *particularity*. Particularity does relate to *universality*, so that universality is its basis—but a basis still only *inner*, and therefore present in a formal way, merely *shining* into the particular. This relationship of reflection therefore represents, at first, the loss of ethical life. Or rather, since ethical life, as essence, necessarily *shines forth* (Encyclopedia of the Philosophical *Sciences*, § 64 ff., § 81 ff.), this relationship constitutes the *world of appearance* of the ethical: *civil society*.

181R The expansion of the family, as its passage into another principle, takes two forms in existence. It is partly the peaceful expansion of the family into a people, a *nation*, which thus has a common natural origin. It is partly the gathering of scattered family communities, either by overbearing force or by voluntary union, brought about by the needs that link them and by the reciprocal interaction of their satisfaction.

Civil Society

The system of needs and the division of labor, the administration of justice, the police and the corporation.

182 The concrete person who, as a *particular* person, is his own end—as a whole of needs and a mixture of natural necessity and arbitrary will—is *one principle* of civil society. But the particular person stands essentially in *relation* to other such particular persons, so that each asserts itself and finds satisfaction through the other, and at the same time purely and simply as *mediated* only through the form of *universality, the other principle*.

183 In its actualization, the selfish end, conditioned in this way by universality, establishes a system of all-round dependence. In this system the subsistence and welfare of the individual, and his rightful existence, are interwoven with the subsistence, welfare and right of all. They are grounded on these, and are actual and secure only in this context.—One may regard this system, to begin with, as the *external state*—the *state of need* and *of the understanding*.

184 In this division, the Idea grants the *moments existence of their own*. To *particularity* it grants the right to develop and give itself free rein in every direction. To universality it grants the right to prove itself the ground and necessary form of particularity, as well as the power over it and its ultimate end.—It is the system of ethical life lost in its extremes that constitutes the abstract moment of the *reality* of the Idea. Here the Idea is present only as the *relative totality* and *inner necessity* of this external *appearance*.

185 Particularity by itself, on the one hand, indulges itself in every direction in satisfying its needs, its contingent arbitrary will and its subjective caprice, and in its pleasures it destroys itself and its substantial concept. On the other hand, it is infinitely stimulated, thoroughly dependent on external contingency and arbitrariness, and limited by the power of universality; so the satisfaction of necessary and contingent needs alike is contingent. In these antitheses and their complications, civil society presents a spectacle of dissipation and misery alike, and of the physical and ethical corruption common to both.

185R The independent development of particularity (cf. Remark to § 124) is the moment that, in the states of the ancient world, shows itself as the invading corruption of morals and the ultimate cause of their downfall. These states were built partly on the patriarchal and religious principle, partly on the principle of a more spiritual but simpler ethical life—in general on *original* natural intuition. They could not withstand the division of that intuition and the infinite reflection of self-consciousness into itself. As soon as this reflection began to emerge, they succumbed to it, first in disposition and then in actuality. For their still simple principle lacked the truly infinite power that lies only in that unity which lets the *opposition* of reason *unfold to its full strength* and has overcome it, and so preserves itself within it and *holds it together within itself*. —*Plato*, in his *Republic*, presents substantial ethical life in its ideal *beauty* and *truth*. But he can cope with the principle of independent particularity, which had broken into Greek ethical life in his time, only by setting his merely substantial state against it. He excludes that principle entirely—right down to its beginnings in *private property* (Remark to § 46) and in the *family*, and then in its further development as individuals' own arbitrary will and choice of estate, and so on. It is this defect that also causes the great *substantial* truth of his state to be misunderstood, and the state itself usually to be regarded as a daydream of abstract thought, as what

people are often even in the habit of calling an *ideal*.[1] The principle of the *self-sufficient, inwardly infinite personality* of the individual—the principle of subjective freedom—arose inwardly in the *Christian* religion, and outwardly, and hence linked with abstract universality, in the *Roman* world. In that merely substantial form of actual spirit, it does not come into its right. This principle is historically later than the Greek world; and likewise the philosophical reflection that descends to this depth is later than the substantial Idea of Greek philosophy.

186 But precisely by developing for itself into a totality, the principle of particularity passes over into *universality*, and only in universality does it have its truth and the right of its positive actuality. Because both principles are independent at this standpoint of division (§ 184), this unity is not ethical identity. For that very reason it exists not as *freedom* but as *necessity*: the necessity that the *particular* raise itself to the *form of universality*, and seek and have its subsistence in this form.

187 As citizens of this state, individuals are *private persons* who have their own interest as their end. This end is mediated through the universal, which therefore *appears* to them as a *means*. So they can attain their end only insofar as they themselves determine their knowing, willing and acting in a universal way, and make themselves *links* in the chain of this *interconnection*. The interest of the Idea in this is not present in the consciousness of these members of civil society as such. That interest is the *process* of raising their individuality and naturalness, through natural necessity as well as through the arbitrariness of needs, *to formal freedom* and formal *universality of knowing and willing*—the process of *cultivating* subjectivity in its particularity.

187R *Culture* is sometimes regarded as something merely *external* that belongs to corruption; this view is bound up with notions of the *innocence* of the state of nature and of the simple morals of peoples untouched by culture. It is sometimes

1 Estate (Stand): a social class or order, such as the agricultural estate; in the plural Hegel also means the assembly of the Estates (§ 301 ff.).

regarded as a mere *means* to certain ends; this view is bound up with the attitude that treats needs, their satisfaction, the pleasures and comforts of particular life, and so on, as *absolute* ends. Either view shows unfamiliarity with the nature of spirit and with the end of reason. Spirit has its actuality only by dividing itself within itself, by giving itself this limitation and finitude in natural needs and in the nexus of this external necessity, and, precisely by *shaping itself into* them, by overcoming them and gaining in them its *objective* existence. The end of reason is therefore neither that natural simplicity of morals, nor, in the development of particularity, the pleasures as such that are attained through culture. It is rather that *natural simplicity* be worked away—that is, partly passive selflessness, partly crudeness of knowledge and will, i.e. the *immediacy* and *individuality* in which spirit is immersed. It is, to begin with, that this externality of spirit receive the rationality *of which it is capable*, namely *the form of universality*, that is, *understanding*. Only in this way is spirit *at home* and *with itself* in this *externality* as such. Spirit's freedom thus has an existence in this externality. In this element, which *in itself* is alien to spirit's vocation to freedom, spirit becomes *for itself*; it deals only with what bears its seal and has been *produced* by it.—Precisely in this way the *form of universality* comes into existence for itself in thought—the form that alone is the worthy element for the existence of the Idea. *Culture*, in its absolute determination, is therefore *liberation* and the *work* of higher liberation. It is the absolute point of transition to the substantiality of ethical life—a substantiality that is no longer immediate and natural but spiritual, infinitely subjective, and likewise raised to the shape of universality. In the subject, this liberation is *hard work* against the mere subjectivity of conduct, against the immediacy of desire, and against the subjective vanity of feeling and the arbitrariness of caprice. That it is such hard work accounts for part of the disfavor it meets with. But it is through this work of culture that the subjective will itself gains within itself the *objectivity* in which alone it, for its part, is worthy and capable of being the *actuality of* the Idea.

—At the same time, this form of universality—the understanding—into which particularity has worked and cultivated itself up, brings it about that particularity *becomes* the true *being-for-self* of individuality. By giving universality its fulfilling content and its infinite self-determination, particularity itself exists in ethical life as infinitely self-standing, free subjectivity. This is the standpoint that shows *culture* to be an immanent moment of the absolute, and shows its infinite value.

188 Civil society contains three moments. A. The mediation of *need* and the satisfaction of the *individual* through his work and through the work and satisfaction of the needs of *all the rest*: the system of *needs*. B. The actuality of the universal of *freedom* contained therein: the protection of property through the *administration of justice*. C. Provision against the contingency that remains in those systems, and care for particular interest as something *common*, through the *police* and the *corporation*.[2]

THE SYSTEM OF NEEDS

Individuals satisfy their particular needs through the work of others, in a sphere ordered by the understanding.

189 Particularity, first as what is determined in opposition to the universal of the will in general (§ 60), is *subjective need*. It attains its objectivity, i.e. *satisfaction*, by means of (α) external things, which are likewise the *property* and product of other needs and *wills*, and (β) activity and work, as what mediates between the two sides. Its end is the satisfaction of subjective *particularity*; but in the relation to the needs and free arbitrary will of others, *universality* asserts itself. This shining of rationality into this sphere of finitude is *the understanding*. It is the aspect that matters in considering this sphere, and it is what reconciles within the sphere itself.

189R *Political economy* is the science that starts from these points of view, but then has to set out the relationships and movement of masses in their qualitative and quantitative

2 Corporation (*Korporation*): trade and professional associations (§ 250 ff.).

determinacy and complexity.—It is one of the sciences that have arisen in modern times, as on their own soil. Its development offers the interesting spectacle of how *thought* (see Smith, Say, Ricardo) discovers, in the endless mass of details that lie before it at first, the simple principles of the matter—the understanding that is at work in it and governs it.[3] —On the one hand, it is reconciling to recognize in the sphere of needs this shining of rationality, which lies in the matter itself and is active there. Conversely, this is the field where the understanding, with its subjective ends and moral opinions, vents its discontent and moral irritation.

NEEDS AND THEIR SATISFACTION

Human needs and means multiply and grow refined, becoming social and a source of formal liberation.

190 The animal has a limited range of means and ways of satisfying its equally limited needs. Even in this dependence, the *human being* shows at the same time that he goes beyond it, and shows his universality. He does so first by *multiplying* needs and means, and then by *breaking down* and *differentiating* concrete need into individual parts and aspects, which become different, *particularized* and therefore *more abstract* needs.

190R In right, the object is the *person*; at the moral standpoint, the *subject*; in the family, the *family member*; in civil society in general, the *citizen* (as *bourgeois*). Here, at the standpoint of needs (cf. Remark to § 123), it is the concrete object *of representation* that is called the *human being*. So it is only here, and properly speaking only here, that we speak of the *human being* in this sense.

191 Likewise the *means* for particularized needs, and in general the ways of satisfying them, *divide* and *multiply*. These in turn become relative ends and abstract needs—a multiplication that goes on to infinity. In the same measure it is a *differentiation* of

3 Adam Smith (1723–1790), Jean-Baptiste Say (1767–1832) and David Ricardo (1772–1823), leading figures of classical political economy.

these determinations and a *judgment* of the suitability of means to their ends: *refinement*.

192 As real existence, needs and means become a *being* for *others,* through whose needs and work satisfaction is reciprocally conditioned. The abstraction that becomes a quality of needs and means (see preceding §) also becomes a determination of the mutual relation of individuals to one another. This universality, as *being recognized,* is the moment that makes needs, means and ways of satisfaction, in their isolation and abstraction, *concrete*, as *social*.

193 This moment thus becomes a particular determination of ends for the means themselves and for their possession, as well as for the manner in which needs are satisfied. It further contains directly the demand for *equality* with others in this respect. On the one hand there is the need for this equality, and the making of oneself equal—*imitation*. On the other, there is the need of *particularity*, likewise present here, to assert itself by distinguishing itself. Both become in their own right an actual source of the multiplication of needs and of their spread.

194 Social need is the combination of immediate or natural need with the spiritual need of *representation,* and in it the latter, as the universal, makes itself predominant. This social moment therefore contains the aspect of *liberation*. The strict natural necessity of need is concealed, and the human being relates to *his own* opinion—indeed to a universal *opinion*—and to a necessity of his own making only. Instead of relating merely to external contingency, he relates to inner contingency, to *arbitrary will*.

194R There is a notion that the human being, in a so-called state of nature, lived in *freedom* with regard to his needs—a state in which he had only so-called simple natural needs, and used for their satisfaction only the means that a contingent nature immediately provided. Even without considering the moment of liberation that lies in work (of which more later), this is an untrue opinion. For natural need as such and its immediate satisfaction would be only the condition of spirituality sunk in nature, and

hence of crudeness and unfreedom. Freedom lies solely in the reflection of the spiritual into itself, in its distinction from the natural and in its reflection upon the natural.

[195] This liberation is *formal*, since the particularity of ends remains the underlying content. The social condition tends toward the indefinite multiplication and specification of needs, means and pleasures—which, like the distinction between natural and cultivated need, has no limits. This tendency—*luxury*—is an equally infinite increase of dependence and want. These have to do with a material that offers infinite resistance, namely with external means of the particular kind that are the property of free will—and so with what is absolutely hard.

WORK

Work shapes natural material; the division of labor makes it simpler, more mechanical and interdependent.

[196] The mediation that prepares and acquires *particularized* means appropriate to *particularized* needs is *work*. Through the most varied processes, work specifies the material supplied immediately by nature for these many ends. This forming now gives the means its value and its purposiveness, so that in his consumption the human being relates chiefly to *human* products, and what he consumes are such efforts.

[197] Through the diversity of determinations and objects that arouse interest, *theoretical culture* develops. It is not only a diversity of representations and knowledge, but also agility and quickness in representing and in passing from one representation to another, the grasping of complex and universal relations, and so on—the culture of the understanding in general, and so also of language.—*Practical culture* through work consists in the need that generates itself and the *habit of being occupied* in general. It consists further in the *limitation of one's activity*, partly according to the nature of the material, but chiefly according to the arbitrary will of others. And it consists in a habit, acquired

through this discipline, of *objective* activity and *universally valid* skills.

[198] The universal and objective element in work, however, lies in *abstraction*. Abstraction brings about the specification of means and needs, and so likewise specifies production and brings forth the *division of labor*. Through this division the work of the individual becomes *simpler*; as a result, his skill in his abstract work increases, as does the quantity of what he produces. At the same time, this abstraction of skill and of means completes the *dependence* and *interrelation* of human beings in satisfying their other needs, making them an utter necessity. The abstraction of production further makes work more and more *mechanical*, until in the end the human being is able to step aside and let the *machine* take his place.

RESOURCES AND THE ESTATES

Selfish work adds to the universal resources; unequal shares and occupations form the estates.

[199] In this dependence and reciprocity of work and of the satisfaction of needs, *subjective selfishness* turns into a *contribution to the satisfaction of the needs of everyone else*. It turns into the mediation of the particular through the universal as a dialectical movement: as each person acquires, produces and enjoys for himself, he thereby produces and acquires for the enjoyment of the rest. This necessity, which lies in the all-round interlacing of everyone's dependence, is now for each person the *universal, permanent resources* (see § 170). These contain for him the possibility of sharing in them through his culture and skill, so that his subsistence is secure—just as his acquisition, mediated by his work, maintains and increases the universal resources.

[200] The *possibility of sharing* in the universal resources—*particular* resources—is, however, *conditioned*. It is conditioned partly by an immediate basis of one's own (capital), partly by skill. Skill is itself conditioned in turn by capital, but also by contingent circumstances, whose diversity produces *differences* in the

development of natural bodily and mental aptitudes that are already *unequal in themselves*. In this sphere of particularity, these differences show themselves in every direction and at every level. Together with the remaining contingency and arbitrariness, they necessarily result in the *inequality of individuals' resources and skills*.

200R The Idea contains an objective *right of the particularity* of spirit. In civil society this right not only does not sublate the inequality of human beings posited by nature—the element of inequality—but produces it out of spirit, raising it into an inequality of skill, of resources, and even of intellectual and moral culture. To oppose to this right the demand for *equality* belongs to the empty understanding, which takes this abstraction of its own, and its *ought*, for the real and rational. This sphere of particularity, which imagines itself to be the universal, retains within itself, in this merely relative identity with the universal, both natural and arbitrary particularity, and with them the remnant of the state of nature. Furthermore, it is the reason immanent in the system of human needs and their movement that articulates this system into an organic whole of differences; see the following §.

201 The infinitely varied means, and their equally infinitely intertwining movement in reciprocal production and exchange, *gather together* by virtue of the universality inherent in their content, and *differentiate* themselves into *universal masses*. As a result, the whole complex develops into *particular systems* of needs, of their means and kinds of work, of modes and ways of satisfaction, and of theoretical and practical culture—systems to which individuals are assigned. It develops, that is, into a distinction of *estates*.

202 The estates are determined, in accordance with *the concept*, as the *substantial* or immediate estate, the reflecting or *formal* estate, and then the *universal* estate.

203 a) The *substantial* estate has its resources in the natural products of the *soil* it cultivates—a soil capable of being exclusive private property, and requiring not merely indefinite use but

objective forming. Work and earnings are tied to *individual*, fixed natural seasons, and the yield depends on the variable character of the natural process; in the face of this, the end of need becomes *provision* for the future. Yet because of its conditions, this estate retains a mode of subsistence less mediated by reflection and one's own will. With it, it retains in general the substantial disposition of an immediate ethical life resting on the family relationship and on trust.

203R The true beginning and original foundation of states has rightly been placed in the introduction of *agriculture*, together with the introduction of *marriage*. For the principle of agriculture brings with it the forming of the soil, and thus exclusive private property (cf. Remark to § 170). It leads the roving life of human beings in the state of nature, who seek their subsistence by wandering, back to the repose of private right and to secure satisfaction of their needs. Bound up with this is the restriction of sexual love to marriage, and so the extension of this bond into a *lasting* union, universal in itself; the extension of need into *care for the family*; and the extension of possession into *family property*. Security, consolidation, permanence in the satisfaction of needs, and so on —the characteristics by which these institutions first recommend themselves—are nothing other than forms of universality, and shapes in which rationality, the absolute final end, asserts itself in these objects.—What could be more interesting on this subject than the *insights*, as brilliant as they are learned, that my highly esteemed friend Herr *Creuzer* has given us, particularly in the fourth volume of his *Mythology and Symbolism*, about the *agrarian* festivals, images and sanctuaries of the ancients? The ancients became conscious of the introduction of agriculture, and of the institutions connected with it, as divine deeds, and so devoted religious veneration to them.[4] The laws of private right, especially the administration of justice, as well as instruction and education, and also religion, bring about modifications in the substantial character of this

4 Friedrich Creuzer (1771–1858), classical philologist and Hegel's colleague at Heidelberg, author of *Symbolik und Mythologie der alten Völker* (1810–12).

estate—*not* with respect to its *substantial content*, but with respect to *form* and *reflective development*. This is a further consequence, and it holds likewise for the other estates.

[204] b) The *estate of trade and industry* has as its business the *forming* of the natural product. For its means of subsistence it depends on its *work*, on *reflection* and the understanding, and essentially on mediation with the needs and work of others. What it achieves and enjoys, it owes chiefly to *itself*, to its own activity.—Its business is in turn divided. As work for individual needs, in a more concrete way and at the request of individuals, it is the *estate of craftsmen*. As a more abstract aggregate of work for individual needs, but for a more universal demand, it is the *estate of manufacturers*. And as the business of exchanging isolated means for one another, chiefly through the universal means of exchange—money, in which the abstract value of all commodities is actual—it is the *estate of commerce*.

[205] c) The *universal estate* has *the universal interests* of society as its business. It must therefore be relieved of direct work for needs, either through private resources or by being indemnified by the state, which claims its activity. In this way private interest finds its satisfaction in its work for the universal.

[206] The *estate*, as particularity that has become objective to itself, thus divides on the one hand, in accordance with the concept, into its universal distinctions. On the other hand, *which* particular estate the *individual* belongs to is influenced by natural disposition, birth and circumstances. But the final and essential determination lies in *subjective opinion* and *particular arbitrary will*, which in this sphere give themselves their right, their merit and their honor. Thus *what* happens here through *inner necessity* is at the same time *mediated by arbitrary will*, and for subjective consciousness it has the shape of being the work of its own will.

[206R] In this respect, too, with regard to the principle of particularity and subjective arbitrary will, the difference emerges between the political life of the East and of the West, and between the ancient and the modern world. In the former, the

division of the whole into estates does arise *objectively of its own accord*, because it is rational *in itself*. But the principle of subjective particularity does not at the same time receive its right. For example, the assignment of individuals to estates is left to the rulers, as in the *Platonic* state (*De republica* [The Republic] III, p. 320, Bipontine ed., vol. VI), or to *mere* birth, as in the *Indian castes*.[5] Not taken up into the organization of the whole, and not reconciled within it, subjective particularity—since it too emerges as an essential moment—therefore shows itself as something hostile, as a corruption of the social order (see Remark to § 185). Either it overthrows that order, as in the Greek states and the Roman Republic; or, if the order maintains itself as a ruling power or perhaps as religious authority, particularity appears as inner corruption and complete degradation. This was to some extent the case with the *Lacedaemonians*, and is now most completely the case in *India*. —But when subjective particularity is maintained by the objective order, in conformity with it and at the same time in its right, it becomes the principle of all the animation of civil society, of the development of thinking activity, of merit and of honor. The recognition and the right that what is necessary through reason in civil society and in the state should at the same time happen *as mediated by arbitrary will* is the more precise determination of what is chiefly called *freedom* in the common conception (§ 121).

207 The individual gives himself actuality only by entering into *existence* in general, and hence into *determinate particularity*—thereby limiting himself *exclusively* to one of the *particular* spheres of need. The ethical disposition in this system is therefore *rectitude* and the *honor of one's estate*. This means making oneself, by one's own decision, a member of one of the moments of civil society through one's activity, diligence and skill, and maintaining oneself as such. It means providing for oneself only through this mediation with the universal, and thereby being *recognized* in one's own view and in the view of others. —*Morality*

5 The Bipontine edition of Plato (Zweibrücken, 1781–87); the passage is the "myth of the metals," *Republic* 415a–c.

has its proper place in this sphere. Here reflection on one's actions, and the end of particular needs and of welfare, are dominant, and the contingency in satisfying these makes even contingent and individual help a duty.

207R At first (that is, especially in youth), the individual resists the idea of committing himself to a particular estate, and regards this as a limitation of his universal vocation and as a merely *external* necessity. This comes from abstract thinking, which stops short at the universal and thus at what is not actual. Such thinking does not recognize that, in order to *exist*, the concept in general enters into the distinction between the concept and its reality, and thereby into determinacy and particularity (see § 7). Nor does it recognize that only in this way can the individual gain actuality and ethical objectivity.

208 The principle of this system of needs, as the particularity proper to knowing and willing, contains within *itself* the universality that is *in and for itself*—the universality of *freedom*—only *abstractly*, and thus as the *right of property*. Here, however, this right no longer exists merely *in itself*, but in its valid actuality, as the *protection of property* through the *administration of justice*.

THE ADMINISTRATION OF JUSTICE

In civil society right becomes universally recognized, known and willed, and so gains validity.

209 The *relative* character of the reciprocal relation between needs and the work that satisfies them has, to begin with, its *reflection into itself* in infinite personality in general, that is, in (abstract) *right*. But it is this very sphere of the relative, as *culture*, that gives right *existence*: the existence of being something *universally recognized, known* and *willed*, and of having validity and objective actuality through the mediation of this being known and willed.

209R It belongs to culture, to *thinking* as the consciousness of the individual in the form of universality, that I am apprehended as a *universal* person, in which respect *all* are identical. A

human being counts as such because he is a human being, not because he is a Jew, a Catholic, a Protestant, a German, an Italian, and so on. This consciousness, for which it is *thought* that counts, is of infinite importance. It is defective only when, as *cosmopolitanism* for instance, it hardens into a stance opposed to the concrete life of the state.

210 The objective actuality of right consists, on the one hand, in its being for consciousness, in its being *known* at all; and, on the other, in its having the power of actuality and being *valid*, and hence also being *known as universally valid*.

RIGHT AS LAW

Right is posited as law and codified; applying it to cases involves an unavoidable positive element.

211 What is right *in itself* is *posited* in its objective existence, that is, determined for consciousness by thought and *known* as what is right and valid: it is *law*. Through this determination, right is *positive* right in general.

211R To posit something as *universal*, that is, to bring it before consciousness as universal, is, as is well known, to *think* (compare above, the Remark to § 13 and the Remark to § 21). By reducing the content to its simplest form in this way, thinking gives it its final *determinacy*. Only by becoming law does what is right receive not merely the *form* of its universality but its true determinacy. So when we picture the making of laws, we must not keep in view only the one moment, that something is thereby declared to be a rule of conduct valid for everyone. Prior to this other moment, the inner, essential moment is *knowledge of the content* in its *determinate universality*. Even *customary rights* contain the moment of being *thoughts* and of being *known*, for only animals have their law as instinct, whereas it is human beings alone who have it as custom. Customary rights differ from laws only in being known in a subjective and contingent way. They are therefore less determinate in themselves, and the universality of thought in them is more clouded. Besides, know-

ledge of right, in one respect or another and in general, is the contingent property of a few. It is an illusion to suppose that customary rights, by virtue of their form as *customs*, have the advantage of having passed into *life*. (Incidentally, people nowadays talk most about *life* and *passing into life* precisely where they are busy with the deadest material and the deadest thoughts.) For the valid laws of a nation do not cease to be its customs by being written down and collected. When customary rights come to be collected and compiled, which must soon happen with a people that has attained even some degree of culture, this collection is then the *legal code*. Being a mere collection, of course, it will be marked by *formlessness*, indeterminacy and gaps. What will chiefly distinguish such a collection from a code properly so called is that the latter apprehends the principles of right in their *universality*, and hence in their determinacy, through thought, and states them accordingly. *England's law of the land*, or common law, is, as is well known, contained in *statutes* (formal laws) and in a so-called *unwritten law*. This unwritten law, however, is just as much written down, and knowledge of it can and must be acquired by reading alone (the many quarto volumes it fills). Those who know it describe the enormous confusion that prevails there, both in the administration of justice and in the substance of the law itself. They note in particular that, since this unwritten law is contained in the decisions of the courts and judges, the judges are continually acting as *legislators*. They are as much bound by the authority of their predecessors, since these did nothing but pronounce the unwritten law, as they are *not* bound by it; for they themselves have the unwritten law within them, and so have the right to judge whether earlier decisions accord with it or not. —Against a similar confusion, which could arise in the later Roman administration of justice from the authority of all the various celebrated jurisconsults, an emperor adopted the ingenious expedient known as the *Law of Citations*. It set up a kind of collegial body among jurists *long since dead*, with majority voting and a presiding member (see Herr Hugo's *History of Roman Law*, § 354).—To

deny a cultured nation, or the legal estate within it, the capacity to make a legal code—since the point cannot be to make a system of laws *new* in their *content*, but to recognize the existing legal content in its determinate universality, that is,[6] to grasp it in *thought*, with the addition of its application to particulars—would be one of the greatest insults that could be offered to a nation or to that estate.[7]

212 In this identity of *being-in-itself* and *being posited*, only what is *law* is binding as *right*. Being posited constitutes the side of existence in which the contingency of self-will and of other particularity can also enter. So what is law may still differ in its content from what is right in itself.

212R In positive right, therefore, what is *in conformity with law* is the source of knowledge of what is *right*, or, strictly speaking, of what is *legally valid*; to that extent the positive science of right is a historical science whose principle is authority. Whatever else can be done is a matter for the understanding and concerns external ordering, compilation, consistency, further application and the like. When the understanding engages with the nature of the thing itself, the theories—of criminal law, for example—show what havoc it wreaks with its reasoning from grounds. — On the one hand, positive science has not only the right but also the necessary duty to deduce from its positive data, down to every detail, both the historical development and the applications and ramifications of the given legal determinations, and to show their consistency. On the other hand, it should at least not be utterly astonished—even if it regards this as a question cutting across its proper business—when someone now asks whether, after all these proofs, a given legal determination is *rational*.—On *understanding* (*Verstehen*), compare the Remark to § 3.

6 The Law of Citations (AD 426, under Theodosius II and Valentinian III) made five classical jurists authoritative, with the majority prevailing and Papinian deciding ties.

7 Hegel is aiming at Friedrich Carl von Savigny, whose *On the Vocation of Our Age for Legislation and Jurisprudence* (1814) argued that Germany was not yet ready for a code.

213 Right enters existence first of all in the form of being posited; and as regards its *content* too it enters, as *application*, into relation with its *material*. This material consists of the relations and kinds of property and contract, which in civil society become endlessly individualized and entangled; and further, of the ethical relations that rest on feeling, love and trust, though only insofar as these contain the aspect of abstract right (§ 159). The moral aspect and moral commands, since they concern the will in its ownmost subjectivity and particularity, cannot be an object of positive legislation. Further material is supplied by the rights and duties that flow from the administration of justice itself, from the state, and so on.

214 But besides application to the *particular*, the positedness of right includes its *applicability* to the *individual case*. Right thereby enters the sphere of the *quantitative*, which the concept leaves undetermined (the quantitative on its own, or as the determination of value when one qualitative thing is exchanged for another). The determinacy of the concept gives only a general limit, within which there is still room for wavering back and forth. For the sake of actualization, however, this wavering must be cut short, and so a decision comes in that, within that limit, is contingent and arbitrary.

214R It is above all in this *sharpening* of the universal to a point —not only to the particular but to individualization, that is, to *immediate application*—that the *purely positive* element of laws lies. It cannot be determined *rationally*, nor decided by applying a determinacy derived from the concept, whether the just penalty for an offense is corporal punishment of forty lashes or of forty less one; or a fine of five thalers, or perhaps four thalers and twenty-three groschen, and so on; or imprisonment for a year, or for three hundred and sixty-four days, and so on, or for a year and one, two or three days. And yet even one lash too many, one thaler or one groschen, one week or one day of imprisonment too many or too few, is an injustice.[8] —It is reason

8 "Forty less one" alludes to the Mosaic limit of forty lashes (Deuteronomy 25:3), kept short by one in Jewish practice (2 Corinthians 11:24).

itself that recognizes that contingency, contradiction and semblance have their sphere and their right, *but a limited one*, and that does not strive to resolve such contradictions into what is equal and just. Here the only interest present is that of *actualization*: the interest that something be determined and decided at all, in whatever way (within a limit). This deciding belongs to formal self-certainty, to abstract subjectivity. Such subjectivity may rest content simply with cutting the matter short and fixing it, *within that limit*, so that something is fixed; or it may rely on such grounds of determination as a *round* number, or as the number forty less one may contain. —It makes no difference if the law does not itself fix this final determinacy that actuality requires but leaves it to the judge to decide, limiting him only by a minimum and a maximum. For the minimum and the maximum are each themselves such round numbers. This does not remove the need for the judge then to make such a finite, purely positive determination; on the contrary, it concedes this to him as necessary.

THE EXISTENCE OF LAW

Laws must be publicly known and codified, and property transactions require legal formalities.

215 The obligation to obey the law includes, on the side of the right of self-consciousness (§ 132 with its Remark), the necessity that the laws be made *universally known*.

215R To hang the laws up so high that no citizen could read them, as *Dionysius the Tyrant* did—or else to bury them in an elaborate apparatus of learned books, collections of decisions, divergent judgments and opinions, customs and so on, and in a foreign language to boot, so that knowledge of the law in force is accessible only to those who make a scholarly study of it—is one and the same wrong.—Rulers who have given their peoples even a formless collection, like Justinian, and still more a *law of the land* in the form of an ordered and determinate code, have not only become their peoples' greatest benefactors and been

praised by them with gratitude for it; they have also thereby performed a great *act of justice*.[9]

216 For a public legal code, *simple*, universal determinations are required on the one hand; on the other, the nature of *finite material* leads to endless further determination. On the one hand, the body of laws ought to be a *complete*, closed whole; on the other, there is a continuing need for new legal determinations. But since this antinomy falls within the *specialization* of the universal principles, which remain firmly in place, the right to a complete code remains unimpaired. So too does the right to have these universal, simple principles, as distinct from their specialization, be comprehensible and capable of being set out on their own.

216R It is true that one major source of complexity in legislation is the gradual infiltration of what is rational, of what is right in and for itself, into institutions that were originally wrong and hence merely historical. This was noted above (Remark to § 180) in the case of Roman institutions, and is true of the old feudal law and so on. But it is essential to see that the very nature of finite material brings it about that applying to it even determinations that are rational in and for themselves, universal in themselves, leads to an infinite progression. —To demand of a legal code that it be perfect, absolutely finished and incapable of further determination—a demand that is chiefly a *German* malady—and, on the grounds that it cannot be perfected in this way, to refuse to let it come into being as something so-called imperfect, that is, to refuse to let it become actual: both rest on a misunderstanding. They misunderstand the nature of finite objects such as private law, in which so-called perfection is the *perpetual approximation*; and they misunderstand the difference between the universal of reason and the universal of the understanding, and the latter's *application* to the material of finitude and individuality, which goes on to infinity.—*Le plus grand ennemi du bien*

9 Dionysius I of Syracuse (c. 430–367 BC); the story of laws posted too high to read is told by Suetonius of the emperor Caligula. Justinian I (reigned AD 527–565) had Roman law compiled in the *Corpus iuris civilis*.

c'est le mieux [The greatest enemy of the good is the better] is the expression of true, healthy common sense against the vain kind that argues and reflects.[10]

217 Just as in civil society right *in itself* becomes law, so too the previously *immediate* and *abstract* existence of my individual right takes on the significance of being recognized, as an existence within the existing universal will and knowledge. Acquisitions and transactions concerning property must therefore be undertaken and executed in the *form* that gives them that existence. Property now rests on *contract* and on the *formalities* that make it capable of proof and legally valid.

217R The original, that is, immediate modes of acquisition and titles (§ 54 ff.) actually drop away in civil society and occur only as isolated contingencies or limited moments.—It is feeling, which stops short at the subjective, and reflection, which clings to the abstraction of its essentials, that reject formalities; the dead understanding, for its part, may in turn cling to these formalities against the thing itself and multiply them endlessly. —Moreover, it lies in the course of culture to arrive, through long and hard labor, from the sensuous and immediate form of a content at the form of its thought, and so at a simple expression appropriate to it. Hence, at a stage when the development of right has only just begun, ceremonies and formalities are extremely elaborate and count more as the thing itself than as its sign. This is also why, in Roman law, a host of determinations, and especially of expressions, have been retained from the ceremonies instead of being replaced by determinations of thought and their adequate expression.

218 Since property and personality have legal recognition and validity in civil society, *crime* is no longer merely a violation of something *subjectively infinite*; it is a violation of the *universal* cause, which has an existence that is firm and strong in itself. This brings in the point of view of the *danger* that the action poses to society. On the one hand, this increases the magnitude of the crime; on the other hand, the power of society, having

10 A variant of Voltaire's proverb "Le mieux est l'ennemi du bien."

become sure of itself, reduces the external *importance* of the violation and therefore brings about greater leniency in punishing it.

218R That in the violation of *one* member of society *all* the others are violated does not alter the nature of crime in its concept, but in respect of its external *existence*, the violation, which now affects the ideas and consciousness of civil society and not merely the existence of the person immediately injured. In heroic times (see the tragedies of the ancients), citizens do not regard themselves as injured by the crimes that members of the royal houses commit against one another. —Crime, *in itself* an infinite violation, must as an *existence* be measured according to qualitative and quantitative differences (§ 96); and this existence is now essentially determined as the *idea* and *consciousness of the validity of the laws*. Hence *dangerousness to civil society* is a determination of its magnitude, or even *one* of its qualitative determinations.—But this quality or magnitude varies with the *condition* of civil society; and it is this condition that justifies both punishing a theft of a few sous or a turnip with death and imposing a mild penalty on a theft amounting to a hundred or more times such sums. The point of view of dangerousness to civil society, while it seems to aggravate crimes, is in fact what has chiefly reduced their punishment. A penal code therefore belongs chiefly to its time and to the condition of civil society in that time.

THE COURT

Courts replace revenge with punishment; proceedings should be public and intelligible to those judged.

219 Right, having entered existence in the form of law, is for itself. It stands independently over against *particular volition and opinion* about right, and must assert itself as *universal*. This *cognition* and *actualization* of right in the particular case, without the subjective feeling of *particular* interest, is the business of a public power, the *court*.

219R The historical origin of the judge and of courts may have taken the form of a patriarchal relationship, of force, or of voluntary choice; for the concept of the thing this is irrelevant. To regard the introduction of jurisdiction by princes and governments as merely a matter of *discretionary favor* and grace, as Herr *von Haller* does (in his *Restoration of Political Science*), belongs to a thoughtlessness that has no inkling of what is at issue with law and the state: that their institutions as such are necessary, as rational in and for themselves, and that the form in which they arose and were introduced is not what matters when their rational ground is being considered.[11] —The opposite extreme to this view is the crudity of regarding the administration of justice, as in the age of club law, as improper violence, suppression of freedom and despotism. The administration of justice must be regarded as much as a duty as a right of the public power—a right that equally does not rest on individuals' discretion to entrust a power with it or not.

220 Right against crime in the form of *revenge* (§ 102) is only right *in itself*, not in the form of legality; that is, it is not just in its existence. In place of the injured party, the injured *universal* comes forward, which has its own distinctive actuality in the court, and takes over the prosecution and punishment of the crime. The prosecution of crime thereby ceases to be the merely *subjective* and contingent retribution of revenge and is transformed into the genuine reconciliation of right with itself, into *punishment*. Objectively, this is the reconciliation of the *law*, which restores itself by sublating the crime and thereby *actualizes itself as valid*. Subjectively, it is the reconciliation of the criminal with *his own law*, a law *known by him*, valid for him and *for his protection*; in its execution upon him he therefore himself finds the satisfaction of justice, nothing but his own deed.

221 A member of civil society has the *right to stand in court*, as well as the *duty to appear before the court* and to obtain his contested right only from the court.

11 Karl Ludwig von Haller (1768–1854), Swiss jurist whose *Restoration of Political Science* (1816–34) grounded political authority in the ruler's private power.

[222] Before the courts, right acquires the determination that it must be *provable*. *Legal proceedings* enable the parties to assert their means of proof and legal grounds, and enable the judge to acquaint himself with the case. These *steps are themselves rights*; their course must therefore be determined by law, and they also form an essential part of the theoretical science of right.

[223] These actions become split up into ever more isolated actions and rights pertaining to them, a fragmentation that contains no limit within itself. Through it, legal proceedings, already *in themselves* a means, come to stand over against their end as something external.—The parties have the right to go through such an elaborate formalism, since it is *their* right. But since this formalism can equally be turned into an evil and even into an instrument of wrong, the court must make it their duty—in order to protect the parties, and right itself as the substantial matter at issue, against legal proceedings and their abuse—to submit to a simple court (a court of arbitration or of conciliation) and to an attempt at settlement before they proceed to the formal proceedings.

[223R] *Equity* involves a departure from formal right on moral or other grounds, and relates in the first place to the *content* of the legal dispute. A *court of equity*, however, will have the function of deciding the individual case without adhering to the formalities of legal proceedings, and in particular to the objective means of proof as the law can frame them; and of deciding in the interest proper to the individual case as *this* case, not in the interest of a legal provision to be made universal.

[224] Just as the public promulgation of the laws falls under the rights of subjective consciousness (§ 215), so too does the possibility of knowing the *actualization* of the law in the particular case, that is, the course of external actions, of legal grounds, and so on. For this course is in itself a history of universal validity; and while the case, in its particular content, concerns only the interest of the parties, its universal content, the right at stake in it and the decision on that right, concerns the interest of all. This is the *administration of justice in public*.

224R The deliberations among the members of the court on the judgment to be delivered are expressions of opinions and views that are still *particular*, and so by their nature not something public.

225 In the business of judging, as the application of the law to the *individual case*, *two aspects* are distinguished. *First*, cognition of the nature of the case in its *immediate individuality*: whether a contract or the like exists, whether an injurious action has been committed and who committed it, and, in criminal law, reflection as the determination of the action according to its *substantial*, criminal character (Remark to § 119). Second, the subsumption of the case under the *law* of the restoration of right, which in criminal law includes punishment. The decisions on these two different aspects are different functions.

225R In the Roman judicial system, the distinction between these functions appeared in the fact that the praetor gave his decision *in the event* that the matter stood thus or thus, and appointed a special *judex* [judge] to investigate how it stood.—In English legal procedure, characterizing an action according to its determinate criminal quality (whether, for example, it is murder or manslaughter) is left to the judgment or arbitrary choice of the prosecutor, and the court cannot adopt a different characterization if it finds the prosecutor's incorrect.

226 The direction of the whole course of the investigation above all, then of the parties' legal actions, which are themselves rights (§ 222), and also the second aspect of the judgment at law (see the preceding §), is the proper business of the juristic judge. For him, as the organ of the law, the case must have been prepared for the possibility of subsumption: that is, it must have been raised out of its apparent empirical character into a recognized fact and a universal qualification.

227 The first aspect, *cognition* of the case in its *immediate* individuality and its qualification, involves no adjudication in itself. It is a cognition open to *any educated person*. Insofar as the subjective moment of the agent's insight and intention (see Part Two) is essential to the qualification of the action, and since

proof in any case concerns not objects of reason or abstract objects of the understanding but only individual details, circumstances, and objects of sensuous intuition and subjective certainty, it contains no absolutely objective determination. Hence the ultimate factor in the decision is *subjective conviction* and conscience (*animi sententia* [the mind's judgment]); just as, with proof resting on the statements and assurances of others, the *oath* is the ultimate, albeit subjective, confirmation.

227R In the matter under discussion, it is of prime importance to keep in view the nature of the *proof* at issue here and to distinguish it from cognition and proof of other kinds. To prove a determination of reason, such as the concept of right itself, that is, to know its necessity, requires a different method from the proof of a geometrical theorem. Moreover, in the latter the figure is determined by the understanding and already made abstract in accordance with a law. But with an empirical content such as a *fact*, the material of cognition is the given sensuous intuition and sensuous subjective certainty, and the statement and assurance of such certainty; and it is on this that inference and the combining of such statements, testimonies, circumstances and the like then go to work. The objective truth that emerges from such material, and from the method appropriate to it, has a quite different meaning from the truth of a determination of reason or of a proposition whose material the understanding has already determined abstractly for itself. When one tries to determine such truth objectively on its own terms, this method leads to *half-proofs*, and, by a further consequence that is genuinely consistent and yet contains a formal inconsistency, to *extraordinary punishments*. To show that knowing such empirical truth of an event lies in the properly juristic function of a court—that this function has a distinctive qualification for it, and hence an exclusive right to it *in itself* and a necessity—would be a central consideration in the question of how far judgment

on the facts, as well as on the point of law, should be assigned to formal juristic courts.[12]

228 In the judicial sentence, insofar as it is the *subsumption* of the qualified case under the *law*, the right of the party's self-consciousness is preserved: with regard to the *law*, by the law's being known and thus being the party's own law; and with regard to the *subsumption*, by the proceedings' being public. But with regard to the decision on the *particular*, subjective and external *content* of the matter, cognition of which falls within the first of the aspects stated in § 225, that right finds its satisfaction in *trust* in the subjectivity of those who decide. This trust rests chiefly on the party's equality with them in respect of particularity, their estate and the like.

228R The right of self-consciousness, the moment of *subjective freedom*, may be regarded as the substantial point of view in the question of the necessity of a public administration of justice and of so-called *trial by jury*. What is essential in whatever can be advanced for these institutions in terms of *utility* comes down to this point. On other considerations and grounds concerning this or that advantage or disadvantage one can argue back and forth; like all grounds of argumentative reasoning, they are secondary and not decisive, or else they are taken from other, perhaps higher, spheres. That the administration of justice *could* in itself be carried out well by purely juristic courts, perhaps better than by other institutions—this possibility is not the issue. For even if this possibility could be raised to probability, or indeed to necessity, it is always the *right of self-consciousness*, on the other side, that retains its claims here and does not find them satisfied. —Suppose that knowledge of right—owing to the nature of what makes up the laws in their full scope, and also to the course of judicial proceedings—together with the possibility of pursuing one's right, is the *property* of an estate that makes itself exclusive, not least by a terminology that

12 Under the older German inquisitorial procedure, incomplete ("half") proof could not ground the ordinary penalty but could lead to a lesser, "extraordinary" one.

is a foreign language to those whose right is at stake. Then the members of civil society, who depend for their subsistence on *their activity, their own knowledge and will*, are kept *alien* from *right*, which is not only what is most personal and most their own but also what is substantial and rational in it. They are placed under *tutelage*, even in a kind of serfdom, in relation to that estate. They may well have the right to be present in court bodily, on their own *feet* (*in iudicio stare* [to stand in court]); but this is little if they are not to be present *in spirit*, with their own *knowledge*, and the right they obtain remains an external *fate* for them.

[229] In civil society the Idea has lost itself in particularity and split into the separation of inner and outer. In the administration of justice, civil society leads itself back to its *concept*, the unity of the universal that is in itself with subjective particularity; but here particularity is present only in the individual case, and the universal only in the sense of *abstract right*. The actualization of this unity, extended to the whole range of particularity, first as a relative union, constitutes the vocation of the *police*; and, in a limited but concrete totality, that of the *corporation*.

POLICE AND CORPORATION

Civil society must secure not only property but also individual welfare against contingency.

[230] In the *system of needs*, the subsistence and welfare of each individual are a *possibility*, whose actuality is conditioned as much by his arbitrary will and natural particularity as by the objective system of needs. Through the administration of justice, *violations* of property and personality are annulled. But right that is *actual in particularity* requires both that the *contingencies* obstructing the one end and the other be *sublated*, and the *undisturbed security* of *persons* and *property* be brought about, and that the subsistence and welfare of individuals be *secured*—that *particular welfare* be *treated as a right* and *actualized*.

THE POLICE

Public authority oversees trade, education and poor relief, and provides for the common interest.

231 Insofar as the particular will is still the principle for one end or the other, the securing power of the universal remains, to begin with, partly confined to the sphere of *contingencies* and partly an *external order*.

232 Apart from crimes, which the universal power must prevent or bring to judicial treatment—contingency in the form of the arbitrary will of evil—the permitted arbitrary will of actions that are lawful in themselves, and of the private use of property, also has external relations to other individuals, as well as to other public arrangements for a common end. Through this universal aspect, private actions become a contingency that passes out of my control and can do, or does do, harm and wrong to others.

233 This is, to be sure, *only* a *possibility* of harm; but that the thing does no harm is, as a contingency, likewise no more than a possibility. This is the aspect of *wrong* that lies in such actions, and hence the ultimate ground of the penal justice of the police.

234 The relations of external existence fall into the infinity of the understanding. There is therefore no limit present *in itself* as to what is harmful or not harmful, or, with respect to crime too, what is suspect or not suspect, what is to be prohibited or supervised, or what is to be spared prohibitions, supervision and suspicion, inquiry and demands for accountability. It is customs, the spirit of the rest of the constitution, the circumstances of the time, the danger of the moment and so on that supply the more precise determinations.

235 In the indeterminate multiplication and interlacing of daily needs, certain aspects arise with regard to the *procurement* and *exchange of the means* of satisfying them, on whose unhindered possibility everyone relies, and with regard to the inquiries and negotiations over them, which are to be shortened

as much as possible. These aspects are a common interest, and at the same time the business of *one* on behalf of *all*; and there arise means and arrangements that can serve common use. These *universal concerns* and arrangements *of public utility* call for the supervision and care of the public power.

236 The differing interests of producers and consumers can come into collision with one another. And although the right relation between them does establish itself *on the whole* of its own accord, their adjustment also requires a regulation that stands above both and is undertaken consciously. The right to such regulation in individual matters (for example, fixing the prices of the commonest necessities of life) lies in this: goods of entirely general, everyday use, when publicly displayed for sale, are offered not so much to an individual as such, but to him as a universal, to the public. The public's right not to be defrauded, and the inspection of goods, can therefore be represented and taken care of as a common concern by a public power. —Above all, however, general provision and direction are made necessary by the dependence of large branches of industry on circumstances abroad and on distant combinations, which the individuals tied to and bound up with these spheres cannot survey in their interconnection.

236R The other extreme to freedom of trade and commerce in civil society is public provision for, and determination of, everyone's labor—as, for instance, in the ancient labor on the pyramids and the other enormous Egyptian and Asian works, which were produced for public ends without the mediation of the individual's labor through his particular arbitrary will and particular interest. This interest invokes that freedom against higher regulation. But the more blindly it is absorbed in its selfish end, the more it needs such regulation, in order to be brought back to the universal, and to shorten and mitigate the dangerous convulsions and the length of the interval in which collisions are supposed to even themselves out by way of unconscious necessity.

[237] Now even if the possibility of sharing in the universal resources is available to individuals and secured by the public power, this possibility—quite apart from the fact that such securing must remain incomplete—remains subject to contingencies on the subjective side as well; and all the more so, the more it presupposes conditions of skill, health, capital and so on.

[238] In the first instance the family is the substantial whole to which provision for this particular aspect of the individual belongs, both as regards the means and skills he needs to earn something from the universal resources, and as regards his subsistence and maintenance should he become incapacitated. But civil society tears the individual away from this bond, estranges the members of the family from one another and recognizes them as independent persons. Further, in place of the external inorganic nature and the paternal soil from which the individual drew his subsistence, it substitutes its own soil, and subjects the survival of the whole family itself to dependence on civil society, to contingency. Thus the individual has become a *son of civil society*, which has as many claims on him as he has rights against it.

[239] In this character as the *universal family*, civil society has the duty and the right, as against the *arbitrary will* and contingency *of parents*, to supervise and influence *education*, insofar as education bears on the capacity to become a member of society, and above all when it is to be completed not by the parents themselves but by others. Likewise, insofar as common arrangements can be made for this purpose, it has the duty and the right to make them.

[240] Similarly, it has the duty and the right to place under guardianship those who, through extravagance, destroy the security of their own subsistence and that of their families, and to carry out in their place the end of society and their own end.

[241] But contingent circumstances, physical ones and those lying in external conditions (§ 200), can reduce individuals to *poverty* just as much as arbitrary will can. Poverty is a condition

that leaves them with the needs of civil society, and yet, since civil society has at the same time taken from them the natural means of acquisition (§ 217) and dissolves the wider bond of the family as a clan (§ 181), it deprives them, more or less, of all the advantages of society: the capacity to acquire skills and culture in general, and also the administration of justice, health care, often even the consolation of religion, and so on. For the *poor*, the universal power takes the place of the family, as regards both their immediate want and the disposition of work-shyness, malice and the other vices that arise from such a situation and from the feeling of the wrong done to them.

242 The subjective aspect of poverty, and of want of every kind to which every individual is already exposed in his natural sphere, also requires *subjective* help, with regard both to the *particular* circumstances and to *feeling* and *love*. This is the place where, for all the universal arrangements, *morality* finds plenty to do. But because this help, in itself and in its effects, depends on contingency, society strives to discover and organize what is universal in want and its relief, and to make such help less necessary.

242R The contingency of alms-giving and of charitable foundations, like the burning of lamps before images of saints and so on, is supplemented by public poor-relief institutions, hospitals, street lighting and so on. Charity still has plenty left to do on its own. It is a false view when charity wants to reserve this relief of want solely for the *particularity* of feeling and the *contingency* of its disposition and knowledge, and feels injured and offended by universal ordinances and commands that are *obligatory*. On the contrary, the public condition is to be regarded as the more perfect, the less is left for the individual to do on his own according to his particular opinion, compared with what is arranged in a universal way.

POVERTY AND THE RABBLE

Growing wealth and specialized labor produce poverty and a rabble that civil society cannot remedy.

243 When civil society is in a state of unimpeded activity, it is engaged within itself in *expanding population* and *industry*.—Through the *universalization* of the connection among human beings by way of their needs, and of the ways of preparing and procuring the means to satisfy them, the *accumulation of wealth* increases on the one hand—for the greatest profit is drawn from this twofold universality—just as, on the other, there is an increase in the *specialization* and *limitation* of particular labor, and hence in the *dependence* and *want* of the class bound to that labor. Bound up with this is that class's inability to feel and enjoy the wider freedoms, and especially the spiritual advantages, of civil society.

244 When a large mass of people sinks below the level of a certain mode of subsistence, which regulates itself automatically as the level necessary for a member of society, and thereby loses the feeling of right, of rectitude and of the honor of subsisting by its own activity and labor, the result is the creation of a *rabble*. This in turn brings with it greater ease in concentrating disproportionate wealth in a few hands.

245 Suppose the direct burden of maintaining the mass that is sinking into poverty at the level of its ordinary way of life were imposed on the wealthier class, or the direct means for doing so were available in other public property (rich hospitals, foundations, monasteries). Then the subsistence of the needy would be secured without being mediated by labor, which would run counter to the principle of civil society and to its individuals' feeling of their independence and honor. Or suppose their subsistence were mediated by labor (by providing opportunities for it). Then the volume of production would be increased; but it is precisely in overproduction, and in the lack of a proportionate number of consumers who are themselves productive, that the

evil consists—and in both ways it is only made worse. It becomes apparent here that, despite an *excess of wealth*, civil society is *not rich enough*, that is, its own resources are not sufficient to check the excess of poverty and the creation of a rabble.

245R These phenomena can be studied on a large scale in the example of *England*, as can, in more detail, the results produced by the poor rate, immense foundations and equally unlimited private charity, and above all also by the abolition of the corporations. There (especially in Scotland), the most direct means against poverty, and in particular against the devaluation of shame and honor, the subjective bases of society, and against laziness, extravagance and so on, from which the rabble arises, has proved to be this: to leave the poor to their fate and direct them to public begging.[13]

246 Through this dialectic of its own, civil society is driven beyond itself—in the first place *this particular* society. It must look outside itself, among other peoples, for consumers and thus for the means of subsistence it needs. It seeks them among peoples who lag behind it in the means of which it has a surplus, or in skilled industry generally, and so on.

247 Just as the earth, firm *ground* and *soil*, is the condition for the principle of family life, so for industry the natural element that animates it outwardly is the *sea*. In its craving for gain, industry exposes gain to danger, and in doing so it at the same time rises above gain. It infuses the fixity of attachment to the soil, and to the limited circles of civil life with their pleasures and desires, with the element of fluidity, of danger and of ruin. Further, through this greatest medium of connection, industry brings distant lands into relations of commerce, a legal relationship that introduces contract. In this commerce lies at the same time the greatest means of culture, and here trade finds its world-historical significance.

13 The poor rate was the local tax levied in England under the Poor Laws to fund relief of the poor.

247R Rivers are *not natural boundaries*, though in recent times people have wanted to make them count as such. Rather, rivers, and likewise the seas, connect human beings, and Horace's thought is mistaken when he says (*Odes* I, 3): "... deus *abscidit*
Prudens Oceano dissociabili
Terras ..." ["... a prudent god *cut off* the lands by the estranging Ocean ..."]. This is shown not only by river basins inhabited by a single tribe or people. It is also shown, for example, by the former relations between Greece, Ionia and Magna Graecia, between Brittany and Britain, and among Denmark and Norway, Sweden, Finland, Livonia, and so on—and above all by contrast with the looser connection between the inhabitants of the coast and those of the interior.[14]

—As for the means of culture that lies in the connection with the sea, compare the relation to the sea of the nations in which skilled industry has flourished with that of the nations that have forbidden themselves seafaring. These, like the Egyptians and the Indians, have grown dull and turned in on themselves, and have sunk into the most terrible and shameful superstition.—And note how all great nations that strive within themselves press toward the sea.

248 This extended connection also offers the means of *colonization*, whether sporadic or systematic, to which a fully developed civil society is driven. Through colonization it gives part of its population a return to the family principle on new soil, and at the same time gives itself a new demand and a new field for its industry.

249 The provision made by the police first actualizes and maintains the universal contained in the particularity of civil society. It does so as *an external order and arrangement* for the protection and security of the masses of particular ends and interests,

14 Horace, *Odes* 1.3.21–23. The idea of rivers as "natural frontiers" was invoked in Hegel's time for France's claim to the Rhine.

which have their stable existence in this universal. And as a higher guidance it also provides for the interests (§ 246) that lead beyond this society. In accordance with the Idea, particularity itself makes this universal, which is present in its immanent interests, the end and object of its will and activity. In this way *the ethical returns* to civil society as something immanent; this constitutes the determination of the *corporation*.

THE CORPORATION

Trade and professional associations give their members recognized standing, honor and security as a second family.

250 The *agricultural estate* has its concrete universal, in which it lives, immediately within itself, in the substantiality of its family and natural life. The *universal estate*, by its determination, has the universal for itself as the end of its activity and as its ground. The middle between the two, the estate of trade and industry, is essentially directed to the *particular*, and so the corporation is especially characteristic of it.

251 The work of civil society divides, according to the nature of its particularity, into different branches. What is in itself alike in this particularity comes into existence as something *common* in the *association*. When it does, the *self-seeking* end, directed to its own particular interest, at the same time grasps itself and acts as universal. The member of civil society is then, according to his *particular skill*, a member of a corporation. The universal end of the corporation is thus wholly *concrete*, and has no wider scope than what lies in the trade, its proper business and interest.

252 Under this determination, and under the supervision of the public power, the corporation has the right to look after its own interests within its sphere. It may admit members on the basis of the objective qualification of their skill and probity, in numbers determined by the general context. It may take care of those belonging to it against particular contingencies, and see to the education that makes others capable of being admitted to it.

In general, it may stand in for a *second* family for its members. For civil society at large, which is further removed from individuals and their particular needs, this role remains more indeterminate.

252R The tradesman differs from the day laborer, and from someone who is available for a single, contingent service. The tradesman, who is a *master* or wants to become one, is a member of the association not for single, contingent earnings but for the *whole* range, the universal, of his particular subsistence.—*Privileges* in the sense of rights of a branch of civil society organized into a corporation differ from privileges proper in the etymological sense. The latter are exceptions to the universal law, made according to contingency. The former are only legally established determinations that lie in the *nature of the particularity* of an essential branch of society itself.[15]

253 In the corporation the family not only *has* its firm ground, as the *security* of subsistence conditioned by *capability*: stable *resources* (§ 170). Both of these are also *recognized*. The member of a corporation therefore need not prove his competence, his regular income and livelihood—the fact that he *is something*—by any further *external displays*. It is also recognized that he belongs to a whole which is itself a member of society at large, and that he takes an interest in, and devotes effort to, the less self-interested end of this whole.—He thus has *his honor in his estate*.

253R Through its securing of resources, the institution of the corporation corresponds, in this respect, to the introduction of agriculture and private property in another sphere (Remark to § 203).—Complaints may be raised about the luxury and extravagance of the trading and manufacturing classes, with which the creation of a rabble (§ 244) is connected. If so, then alongside the other causes (for example, the increasingly mechanical character of work) the *ethical* ground, as it lies in what has been said above, must not be overlooked. Unless he is a member of an authorized corporation (and a common association is a corpora-

15 Latin *privilegium*, from *privus* ("private, single") and *lex* ("law"): a law made for a single case or person.

tion only when it is authorized), the individual is without the *honor of an estate*. His isolation reduces him to the selfish side of his trade, and his subsistence and enjoyment are nothing *stable*. He will therefore try to gain *recognition* through external displays of his success in his trade. These displays have no limit, because living in accordance with one's estate is impossible when the estate does not exist—for in civil society only what is common and has been legally constituted and recognized *exists* —and so no more universal way of life appropriate to it takes shape either.—In the corporation, the help that poverty receives loses its contingency and the humiliation wrongly attached to it. Wealth, in its duty toward its association, loses the arrogance and the envy it can arouse: arrogance in its owner, envy in others.—Probity receives its true recognition and honor.

254 The corporation restricts the so-called *natural right* to exercise one's skill and thereby to earn whatever there is to be earned only to this extent: in the corporation this right is given a rational determination. It is freed from one's own opinion and contingency, from danger to oneself and to others. It is recognized and secured, and at the same time raised to conscious activity for a common end.

255 Next to the *family*, the *corporation* constitutes the second *ethical* root of the state, the one grounded in civil society. The family contains the moments of subjective particularity and objective universality in *substantial* unity. In civil society these moments are at first split apart: into the particularity of need and enjoyment *reflected into itself*, and into *abstract* legal universality. The corporation unites them in an inward way, so that in this union particular welfare is present as a right and is actualized.

255R The sanctity of marriage and honor in the corporation are the two moments around which the disorganization of civil society turns.

256 The end of the corporation, as limited and finite, has its truth in the end that is *universal* in and for itself and in the absolute actuality of that end. The same holds for the separation

present in the external arrangement of the police, and for the relative identity of that separation. The sphere of civil society therefore passes over into the *state*.

256R Town and country—the former the seat of civil trade and industry, of reflection that is absorbed in itself and individualizes; the latter the seat of ethical life resting on nature; the individuals who mediate their self-preservation in relation to other legal persons, and the family: these make up the two moments, still ideal, from which the state *emerges* as their true *ground*.—This development of immediate ethical life, through the division of civil society, to the state, which shows itself to be its true ground—this and only such a development is the *scientific proof* of the concept of the state.—In the course of the scientific concept the state appears as a *result*, while it proves to be the *true* ground. For this reason that *mediation* and that semblance equally *sublate* themselves into *immediacy*. In actuality, therefore, the *state* as such is rather the *first*. Only within it does the family develop into civil society, and it is the Idea of the state itself that divides itself into these two moments. In the development of civil society the ethical substance gains its *infinite* form, which contains within itself two moments: 1. infinite *differentiation*, up to the *being-within-itself* of self-consciousness that is for itself; and 2. the form of *universality* present in culture, the form of *thought*. Through this form spirit is objective and actual to itself as an *organic* totality in *laws* and *institutions*, which are its will as *thought*.

The State: Constitution and Crown

The state as the actuality of freedom; religion and the state; the constitution; the power of the crown.

257 The state is the actuality of the ethical Idea—ethical spirit as the *manifest* substantial will, clear to itself, which thinks and knows itself and carries out what it knows, and insofar as it knows it. In *custom* the state has its immediate existence. In the *self-consciousness* of the individual, in the individual's knowledge and activity, it has its mediated existence. Self-consciousness, in turn, through its disposition, has its *substantial freedom* in the state, as its essence and as the end and product of its activity.

257R The *Penates* are the inward, *lower* gods; the *spirit of a people* (Athena) is the divine that *knows* and *wills* itself. *Piety* is ethical life as feeling, conducting itself within feeling; *political virtue* is the willing of the end that is thought and that is in and for itself.[1]

258 The state is the actuality of the substantial *will*, an actuality it has in particular *self-consciousness* raised to its universality. As such, the state is the *rational* in and for itself. This substantial unity is an absolute, unmoved end in itself, in which freedom attains its highest right. At the same time this final end has the highest right against individuals, whose *highest duty* is to be members of the state.

258R Suppose the state is confused with civil society and its determination is placed in the security and protection of property and personal freedom. Then *the interest of individuals as such* is the ultimate end for which they are united, and it follows as

1 Athena was the patron goddess of Athens.

well that being a member of the state is optional.—But the state has an entirely different relationship to the individual. Since the state is objective spirit, the individual himself has objectivity, truth and ethical life only insofar as he is a member of it. *Union* as such is itself the true content and end, and the vocation of individuals is to lead a universal life. Their further particular satisfaction, activity and mode of conduct have this substantial and universally valid element as their starting point and result. —Rationality, considered abstractly, consists in general in the interpenetrating unity of universality and individuality. Here, concretely, as to content, it consists in the unity of objective freedom, that is, of the universal substantial will, and subjective freedom, that is, individual knowledge and a will that pursues particular ends. As to form, therefore, it consists in action that determines itself according to *thought, that is, universal* laws and principles.—This Idea is the eternal and necessary being of spirit in and for itself. —What, then, is or was the *historical* origin of the state in general, or rather of each particular state, with its rights and determinations? Did it first arise from patriarchal relations, from fear or trust, from the corporation, and so on? And how has what such rights rest on been grasped and consolidated in consciousness—as divine or positive right, as contract, custom, and so forth? None of this concerns the Idea of the state itself. With respect to scientific knowledge, which alone is at issue here, it is, as appearance, a historical matter. With respect to the authority of an actual state, insofar as that authority engages in giving reasons, these reasons are taken from the forms of right that are valid within the state. —Philosophical consideration deals only with what is inward in all this, with the *concept as thought*. In the search for this concept, *Rousseau* had the merit of putting forward, as the principle of the state, a principle that is *thought* not only in its form (as, say, the social instinct or divine authority are) but also in its content. Indeed, it is *thinking* itself: namely, the *will*.[2] But he grasped the will only

2 Jean-Jacques Rousseau (1712–78), whose *Social Contract* (1762) grounds the state in the general will.

in the determinate form of the *individual* will (as Fichte later also did). He took the general will not as what is rational in the will in and for itself, but only as what is *common*, arising out of this individual will *as conscious*. As a result, the union of individuals in the state becomes a *contract*, which thus has as its basis their arbitrary will, their opinion, and their optional, express consent. From this follow further consequences, products merely of the understanding, which destroy the divine that is in and for itself, together with its absolute authority and majesty. Once they had grown into power, these abstractions therefore produced, on the one hand, the first tremendous spectacle since we have known anything of the human race. Everything existing and given was overturned, in order to begin the constitution of a great actual state entirely anew and from *thought*, and to *want* to give it nothing but what was *supposed to be rational* as its basis. On the other hand, because these are only abstractions devoid of the Idea, they turned the attempt into the most terrible and glaring of events.[3] —Against the principle of the individual will we must recall the basic concept. The objective will is what is rational in itself, in its *concept*, whether or not individuals recognize it and their whim wills it. Its opposite—the subjectivity of freedom, knowing and willing, which is *alone* held fast in that principle—contains only *one* moment, and therefore a one-sided moment, of the *Idea of the rational* will. The rational will is rational only because it is *in itself* as much as it is *for itself*.—The other contrary to the thought of grasping the state, in cognition, as something rational for itself is to take the *externality* of appearance—the contingency of need, the need for protection, strength, wealth, and so on— not as moments of historical development but as the *substance* of the state. Here again it is the individuality of individuals that constitutes the principle of cognition. Yet it is not even the *thought* of this individuality. On the contrary, it is empirical individuals with their contingent qualities: strength and weakness, wealth and poverty, and so on. Such a notion—to overlook what is *infinite* and

3 An allusion to the French Revolution of 1789 and the Terror that followed.

rational in and for itself in the state, and to *banish thought* from the grasp of its inner nature—has probably never appeared in so unadulterated a form as in Herr von Haller's *Restoration of Political Science*. I say *unadulterated*, because in every attempt to grasp the essence of the state, however one-sided or superficial its principles may be, the very intention of *comprehending* the state brings thoughts, universal determinations, along with it. Here, however, the rational content which the state is, and the form of thought, have not only been consciously renounced. Both the one and the other are attacked with passionate heat. Part of the influence of his principles—widespread, as Herr von Haller assures us—this *Restoration* probably owes to the fact that, in his exposition, he managed to rid himself of *all thoughts*, and so managed to keep the whole thoughtless in *one* piece. For in this way the confusion and disturbance fall away that weaken the impression of an exposition which mixes a reminder of the substantial into the contingent and a recollection of the universal and rational into the merely empirical and external, and which thus, in the sphere of the meager and empty, reminds us of the higher, the infinite. —This exposition is therefore also *consistent*. For since the sphere of the contingent, instead of the substantial, is taken as the essence of the state, consistency with such a content consists precisely in the complete inconsistency

of a thoughtlessness that lets itself run on regardless, and is just

as much at home in the opposite of what it has just approved.[4]

259 The Idea of the state: a) has *immediate* actuality, and is the individual state as a self-relating organism—the *constitution* or *internal constitutional law*; b) passes over into the *relation* of the individual state to other states—*international law*; c) is the universal Idea as *genus* and as absolute power over individual states —the spirit that gives itself its actuality in the process of *world history*.

INTERNAL CONSTITUTIONAL LAW

The state is the actuality of concrete freedom, uniting particular interests with the universal.

260 The state is the actuality of concrete freedom. *Concrete freedom*, however, consists in this. Personal individuality and its particular interests have their complete *development* and the *recognition of their right* for themselves (in the system of the family and of civil society). But they also, of their own accord, partly *pass over* into the interest of the universal, and partly recognize this universal, knowingly and willingly, as their own *substantial spirit*, and are *active* on its behalf as their *final end*. Thus the universal neither holds good nor is accomplished without particular interest, knowledge and will; nor do individuals live merely for particular interest as private persons without at the same time willing in and for the universal and acting with conscious awareness of this end. The principle of modern states has this tremendous strength and depth: it allows the principle of subjectivity to complete itself to the *self-sufficient extreme* of personal particularity, and at the same time *brings it back into substantial unity*. In this way it preserves that unity within the principle of subjectivity itself.

261 In relation to the spheres of private right and private welfare, of the family and civil society, the state is, on the one hand, an *external* necessity and their higher power. Their laws and their interests are subordinate to its nature and depend on it.

But on the other hand, the state is their *immanent* end. It has its strength in the unity of its universal final end with the particu-

lar interest of individuals in the fact that they have *duties*

goal, and which *kindly* nature has given man, besides that one, *to secure his rightful freedom*." And these three are (what would you guess?) "1. *one's own observance* and *inculcation* of natural law, 2. *resistance* to wrong, 3. *flight*, where no help is any longer to be found." (How unkind the jurists are, compared with kind nature!) "But the *natural divine* law, which (vol. 1, p. 292) all-bountiful nature has given to everyone, is: Honor everyone who is your equal (by the author's principle it would have to read: Honor him who is *not* your equal but the more powerful), injure no one *who does not injure you*; demand nothing that he does not *owe* you (but what does he owe?); indeed, more than this: Love your neighbor and serve him where you can."—The *implanting of this law* is supposed to be what makes legislation and constitutions superfluous. It would be remarkable to see how Herr von Haller explains to himself that, despite this implanting, legislation and constitutions have nevertheless come into the world!—In vol. 3, pp. 362 f., the author comes to the "so-called national liberties"—that is, the legal and constitutional laws of nations; in this broad sense, every legally determined right used to be called *a liberty*. Among other things he says of these laws "that their content is usually *very insignificant*, although in *books* one may set great store by such *documented* liberties." One then sees that the national liberties the author is talking about are those of the Estates of the German Empire, of the English nation—Magna Carta, *"which, however, is little read* and, because of its *antiquated expressions, still less understood*," the Bill of Rights, and so on—of the Hungarian nation, and so on. And so one is surprised to learn that these possessions, otherwise regarded as so important, are something insignificant. One is surprised to learn, too, that these nations set store by their laws *only in books*—laws that have had a part in every piece of clothing the individuals wear and every piece of bread they eat, and that have a part in everything, daily and hourly.—To mention this as well: Herr von Haller is particularly ill-disposed toward the *Prussian General Code* (vol. 1, pp. 185 ff.). The reason is that unphilosophical errors (at least not yet the *Kantian* philosophy, against which Herr von Haller is most embittered) have shown their *incredible* influence in it. Among other things, and above all, the Code speaks of the *state*, state resources, the end of the state, the head of state, the *duties* of the head of state, civil servants, and so on. Worst of all for Herr von Haller is "the right to impose *taxes* on the private resources of persons, on their trade, products or consumption *to meet the needs of the state*. For in this way the *king* himself, since the state's resources are classed not as the private property of the prince but as state resources, and likewise the *Prussian citizens*, no longer have *anything of their own*, neither their body *nor* their goods; and all subjects are *serfs by law*, for *they may not withdraw from the service of the state*." Of all this incredible crudity, the most comical thing might be the emotion with which Herr von Haller describes the inexpressible pleasure his discoveries gave him (vol. 1, Preface): "a joy such as only the friend of truth can feel when, after honest inquiry, he gains the certainty that ... he has, *as it were* (yes indeed, as it were!), hit upon the utterance of *nature*, the word of *God himself*" (the Word of God, on the contrary, very explicitly distinguishes its revelations from the utterances of nature and of natural man); "how he could have sunk to the ground out of sheer admiration, a stream of joyful tears welled from his eyes, and living religiosity arose in him from that moment."—Herr von Haller, out of religiosity, should rather have wept over this as God's harshest judgment—for it is the harshest thing that can befall a human being. He has strayed so far from thinking and rationality, from reverence for laws, and from the knowledge of how infinitely important and divine it is that the duties of the state and the rights of citizens, like the rights of the state and the duties of citizens, are *legally* determined, that the absurd passes itself off to him as the *Word of God*.

TRANSLATOR'S NOTE. The Prussian General Code, drafted as the *Allgemeines Gesetzbuch* and promulgated in 1794 as the *Allgemeines Landrecht*, the comprehensive codification of Prussian law.

toward it to the extent that they also have rights (§ 155).

261R It has already been noted above (Remark to § 3) that it was above all *Montesquieu*, in his famous work *The Spirit of the Laws*, who kept in view, and tried to work out in detail, the thought that the laws of private right in particular depend on the determinate character of the state, together with the philosophical view that a part is to be considered only in its relation to the whole.—*Duty* is in the first place my conduct *toward* something that is *substantial* for me, universal in and for itself. Right, by contrast, is the *existence* as such of this substantial element, and thus the side of its *particularity* and of my *particular* freedom. At the formal stages, therefore, the two appear distributed among different sides or persons. The state, as the ethical, as the interpenetration of the substantial and the particular, implies that my obligation toward the substantial is at the same time the existence of my particular freedom. In the state, that is, duty and right are *united in one and the same relation*. But further, in the state the distinct moments at the same time attain their *proper* shape and reality, and so the distinction between right and duty reappears. Right and duty, therefore, while identical *in themselves,* that is, formally, are at the same time *different in their content*. In private right and in morality, the *actual* necessity of the relation is lacking, and so there is only *abstract* equality of content. In these abstract spheres, *what* is right for one should also be right for the other, and *what* is a duty for one should also be a duty for the other. That absolute identity of duty and right occurs only as an equal identity of *content*, in the sense that this content is itself entirely universal: namely, the one principle of duty and right, the personal freedom of the human being. Slaves therefore have no duties because they have no rights, and vice versa (religious duties are not under discussion here). —But in the concrete Idea, which develops within itself, its moments become distinct, and their determinacy becomes at the same time a different content. In the family, the son does not have rights *of the same content* as the duties he has toward his father; and the citizen does not have rights *of the same content* as the

duties he has toward the prince and the government.—That concept of the union of duty and right is one of the most important determinations, and contains the inner strength of states.—The abstract side of duty goes no further than to overlook and banish particular interest as an inessential, even unworthy moment. Concrete consideration, the Idea, shows that the moment of particularity is just as essential, and hence that its satisfaction is absolutely necessary. In fulfilling his duty, the individual must in some way at the same time find his own interest, his satisfaction or his return. From his relation in the state a right must accrue to him, through which the universal cause becomes *his own particular* cause. Particular interest should truly not be set aside, let alone suppressed. It should be brought into harmony with the universal, so that both it and the universal are preserved. The individual, who by his duties is a subject, finds as a citizen, in fulfilling them, protection of his person and property, consideration for his particular welfare, and satisfaction of his substantial essence: the consciousness and the sense of self-worth of being a member of this whole. And in this fulfillment of duties as services and tasks for the state, the state has its preservation and its subsistence. On the abstract view, the interest of the universal would be only that its tasks, the services it requires, be performed as duties.

[262] The actual Idea, spirit, divides itself into the two ideal spheres of its concept, the family and civil society, as into its finitude, in order to be, out of their ideality, infinite actual spirit for itself. It thereby assigns to these spheres the material of this finite actuality of its own: individuals as the *multitude*. It does so in such a way that, in the individual, this assignment appears *mediated* by circumstances, by arbitrary will and by his own choice of vocation (§ 185 and the Remark there).

[263] In these spheres, in which its moments, individuality and particularity, have their immediate and reflected reality, spirit is present as their objective universality *shining into them*, as the power of the rational in necessity (§ 184)—namely, as the *institutions* considered above.

[264] The individuals of the multitude are themselves spiritual natures, and so contain within themselves a twofold moment: the extreme of *individuality* that knows and wills *for itself*, and the extreme of *universality* that knows and wills the substantial. They therefore attain the right of both these sides only insofar as they are actual both as private and as substantial persons. In those spheres they attain the former directly. They attain the latter in two ways: they have their essential self-consciousness in the institutions, as the *universal* of their particular interests that is in itself; and the institutions give them, in the corporation, a business and activity directed to a universal end.

[265] These institutions make up the *constitution, that is,* developed and actualized rationality, *in the particular*. They are therefore the firm basis of the state, and of individuals' trust in it and disposition toward it. They are the pillars of public freedom, since in them particular freedom is realized and rational, and so in them the union of freedom and necessity is present *in itself*.

[266] But spirit is objective and actual to itself not only as this necessity and as a realm of appearance. It is also objective and actual to itself as the *ideality* of this necessity and as its inner side. Thus this substantial universality is object and end *to itself*, and that necessity is thereby equally present to itself in the *shape* of freedom.

[267] *Necessity* in ideality is the *development* of the Idea within itself. As *subjective* substantiality it is the political *disposition*. As *objective* substantiality, in distinction from the subjective, it is the *organism of the* state, the *political* state proper and *its constitution*.

[268] The political *disposition*, *patriotism* in general, is certainty that stands in *truth* (merely subjective certainty does not proceed from *truth* and is only opinion), and volition that has become *habit*. As such it is only the result of the institutions existing in the state, since rationality is *actually* present in the state; and it is confirmed through action in accordance with these institutions.—This disposition is, in general, *trust* (which

can pass over into more or less cultivated insight). It is the consciousness that my substantial and particular interest is preserved and contained in the interest and end of an other (here, the state), in its relation to me as an individual. By this very fact, the state is immediately not an other for me, and in this consciousness I am free.

[268R] Patriotism is often taken to mean only a readiness for *extraordinary* sacrifices and actions. Essentially, however, it is the disposition which, in the ordinary situation and circumstances of life, habitually knows the community as its substantial basis and end. It is this consciousness, proving itself in all relationships in the ordinary course of life, that also grounds the readiness for extraordinary effort. But just as people are often more willing to be magnanimous than to be just, so they easily persuade themselves that they possess that extraordinary patriotism, in order to spare themselves this genuine disposition or to excuse their lack of it. —Further, if the *disposition* is regarded as something that could make a beginning on its own and arise from subjective ideas and thoughts, it is confused with opinion; for on this view it lacks its true ground, objective reality.

[269] The disposition takes its particular, determinate *content* from the various aspects of the organism of the state. This *organism* is the development of the Idea into its differences and into their objective actuality. These distinct aspects are thus the *various powers*, with their functions and activities. Through them the universal continually *produces* itself—and in a *necessary* way, since these powers are determined by the *nature of the concept*—and, since it is equally presupposed by its own production, it *preserves* itself. This organism is the *political constitution*.

[270] The end of the state is the universal interest as such, and in this, as their substance, the preservation of particular interests. That this is so is 1. the state's *abstract actuality* or substantiality. But this substantiality is 2. the state's *necessity*, insofar as it divides itself into the conceptual *differences* of the state's activity; by virtue of that substantiality, these differences are likewise actual, *fixed* determinations, that is, powers. 3. This very sub-

stantiality, however, is spirit that knows and wills itself, having *passed through the form of culture*. The state therefore *knows* what it wills, and knows it in its *universality*, as something *thought*. It therefore works and acts according to known ends and recognized principles, and according to laws that are laws not only *in themselves* but also for consciousness. And likewise, insofar as its actions relate to given circumstances and relationships, it acts according to a determinate knowledge of them.

RELIGION AND THE STATE

Religion grounds the state in feeling, but the state knows its ends and upholds rational law.

270R This is the place to touch on *the relation of the state to religion*. In recent times it has been repeated so often that religion is the foundation of the state, and this assertion is even made with the pretension that it exhausts the science of the state. No assertion is better fitted to produce so much confusion—indeed, to raise confusion itself into the constitution of the state, into the form that cognition is supposed to have.—It may at first seem suspicious that religion is recommended and sought above all in times of public misery, disruption and oppression, and that people are referred to it for consolation against *wrong* and for hope as compensation for *loss*. Further, it is regarded as a directive of religion to be indifferent to worldly interests and to the course and affairs of actuality; but the state is the spirit *that stands in the world*. So pointing to religion seems unsuited to raise the interest and business of the state to an essential, serious end. Or else it seems to declare that everything in the government of the state is a matter of indifferent arbitrariness. Either the language used merely implies that the ends of passion, unlawful force and the like are what prevail in the state; or such pointing to religion aims to hold good further on its own and lays claim to determining and administering what is right. It would be regarded as mockery to dismiss all feeling against tyranny with the remark that the oppressed find their consola-

tion in religion. In the same way it must not be forgotten that religion can take a form that results in the harshest bondage in the fetters of superstition and in the degradation of human beings below the animals (as among the Egyptians and Indians, who worship animals as their higher beings). This phenomenon can at least draw attention to the fact that one should not speak of religion wholly in general. Against religion as it is in certain of its shapes, what is required is rather a rescuing power that takes up the cause of the rights of reason and self-consciousness. —The essential determination of the relation between religion and the state, however, emerges only when we recall their concept. Religion has absolute truth for its content, and so what is highest in disposition also falls within it. As intuition, feeling and representational cognition, concerned with God as the unlimited foundation and cause on which everything depends, religion contains the demand that everything should also be grasped in this relation and gain its confirmation, justification and assurance in it. In this relation, the state and laws, like duties, receive for consciousness their highest validation and their highest binding force. For even the state, laws and duties are, in their actuality, something determinate, which passes over into a higher sphere as into its foundation (see Encyclopedia of the Philosophical Sciences, *§ 453). Religion therefore also contains the place which, amid all change and in the loss of actual ends, interests and possessions, grants the consciousness of the unchangeable and of the highest freedom and satisfaction.*[5] *Now if religion thus constitutes the* foundation *that contains the ethical in*

5 HEGEL'S NOTE. *Religion*, like *knowledge and science*, has as its principle a form of its own, distinct from that of the state. These therefore enter into the state partly as *means* of culture and disposition. Partly, insofar as they are essentially *ends in themselves*, they enter into it on the side of their having external existence. In both respects the principles of the state relate to them by being *applied* to them. A completely concrete treatise on the state would have to consider these spheres as well, like art, merely natural relationships and so on, in the relation and position they have within the state. But here, in this treatise, it is the principle of the state that is being worked out in its *own proper* sphere, according to its Idea. So their principles, and the *application* of the right of the state to them, can be spoken of only in passing.

general, and more precisely the nature of the state, as the divine will, then what it is, is at the same time only a foundation*; and it is here that the two diverge. The state is the divine will as present spirit,* unfolding *itself into the actual shape and* organization of a world. —Those who want to stop at the form of religion as against the state behave like those who think they are right in cognition if they always remain with *essence* and never advance from this abstraction to existence. Or they behave like those (see Remark to § 140 above) who will only the *abstract good* and leave it to arbitrary will to determine *what* is good. Religion is the relation to the Absolute *in the form of feeling, representation and faith*, and in its all-containing center everything is only something accidental, something that also vanishes. Suppose this form is held fast in relation to the state as well, so that it is taken to be what essentially determines and holds good for the state too. Then the state, as the organism developed into stable differences, laws and institutions, is abandoned to instability, insecurity and disruption. The objective and universal, the laws, instead of being determined as stable and valid, are determined as something negative in relation to that form, which envelops everything determinate and precisely thereby becomes subjective. And for human conduct the consequence follows: no law is given to the righteous; be pious, and otherwise you may do as you please. You may abandon yourselves to your own arbitrary will and passion, and refer others, who suffer wrong as a result, to the consolation and hope of religion—or, worse still, reject and condemn them as irreligious.[6] But this negative attitude may not remain merely an inner disposition and outlook; it may turn toward actuality and assert itself in it. Then religious *fanaticism* arises. Like political fanaticism, it banishes all institutions of the state and all legal order as confining barriers, inadequate to inwardness, to the infinity of the heart. And so it banishes private property, marriage, the relationships and work of civil society, and so on, as unworthy of love and of the freedom of feeling. Yet decisions must be made for actual existence and

6 An allusion to 1 Timothy 1:9: "the law is not made for a righteous man."

action. So the same thing happens as with the subjectivity of the will in general that knows itself as the absolute (§ 140): decisions are made from subjective representation, that is, from *opinion* and from the *pleasure of arbitrary will*. —But the truth, as against this truth that envelops itself in the subjectivity of feeling and representation, is the tremendous passage of the inner into the outer, the building of reason into reality. On this the whole of world history has labored, and through this labor cultured humanity has gained the actuality and the consciousness of rational existence, of the institutions of the state and of laws. Consider those who *seek the Lord* and assure themselves, in their uncultivated opinion, that they have everything *immediately*, instead of taking on the labor of raising their subjectivity to the cognition of truth and to knowledge of objective right and duty. From them nothing can come but the destruction of all ethical relationships, foolishness and abomination. These are the necessary consequences of the religious disposition that insists exclusively on its own form, and so turns against actuality and against the truth present in the form of the universal, of the laws. But this disposition need not proceed in this way to actualization. With its negative standpoint it can indeed also remain something inward, submit to institutions and laws, and content itself with resignation and sighing, or with contempt and wishing.[7] It is not strength but weakness that has, in our times, made religiosity into a *polemical* kind of piety—whether this is connected with a genuine need or merely with unsatisfied vanity. One could master one's opinion through the labor of study, and subject one's will to discipline and so raise it to free obedience. Instead, the cheapest course is to renounce knowledge of objective truth and to cherish a feeling of being oppressed, and with it one's self-conceit. One then holds that in godliness one already has everything required to see through the nature of laws and of the institutions of the state, to pass judgment on them, and to prescribe how they should and must be constituted. And since this comes from a pious heart, one does so in an infallible and

7 A biblical phrase (e.g. Isaiah 55:6; Psalm 105:4).

unassailable way. For, so it is claimed, when intentions and assertions make religion their foundation, they cannot be faulted either for their shallowness or for their wrongfulness.

Religion of the true kind, however, has no such negative and polemical attitude toward the state; it rather recognizes and confirms the state. To that extent religion further has, for its own part, its own *standing* and its own *outward expression*. The business of its worship consists in *actions* and *doctrine*. For this it requires *possessions* and *property*, as well as *individuals* dedicated to the *service* of the congregation. A relationship thus arises between the state and the church community. The determination of this relationship is simple. It lies in the nature of the case that the state fulfills a duty in giving the community every assistance and protection for its religious end. Indeed, since religion is the moment that integrates the state at the deepest level of disposition, the state fulfills a duty in requiring all its members to belong to a church community. It may be any community, moreover, for the state cannot concern itself with the content insofar as that content relates to the inward side of representation. A state that is fully developed in its organization, and therefore strong, can be all the more liberal in this respect. It can entirely overlook details that affect it. It can even tolerate within itself communities (though numbers, of course, matter here) that on religious grounds do not recognize even their direct duties toward it. It does so by leaving the members of such communities to civil society and its laws, and by being content with a passive fulfillment of their direct duties toward it, medi-

ated perhaps by commutation and exchange.[8]—But insofar as the church community owns *property*, performs other *actions* of worship and employs individuals in its service for this purpose, it passes out of the inner realm into the worldly realm, and so into the domain of the state. By doing so it places itself *immediately* under the state's laws. The oath, ethical life in general, and the relationship of marriage do indeed bring with them the inner permeation and elevation of *disposition*, which receives its

8 HEGEL'S NOTE. Of Quakers, Anabaptists and the like it can be said that they are only active members of civil society, and that as private persons they stand only in private dealings with others; and even in this relationship they have been exempted from the oath. They fulfill their direct duties toward the state in a passive way. One of the most important of these duties, that of defending the state against its enemies, they directly repudiate; they are sometimes permitted to fulfill it by exchanging it for some other service. It is toward sects of this kind that the state exercises *toleration* in the proper sense. For since they do not recognize their duties toward it, they cannot lay claim to the right of being its members. When the abolition of the slavery of Africans was once being pressed with particular vigor in the North American Congress, a deputy from the southern provinces made the apt retort: "Grant us the Africans, and we will grant you the Quakers."—Only through its strength in other respects can the state overlook and tolerate such anomalies. In doing so it relies above all on the power of custom and on the inner rationality of its institutions, trusting that these, provided it does not strictly assert its rights in this matter, will diminish and overcome the distinction. One might have had formal right on one's side against the *Jews* with regard to granting them even civil rights, on the ground that they should regard themselves not merely as a particular religious party but as belonging to a foreign people. But however much formal right one might have had, the outcry raised from this and other points of view has overlooked that they are, first and foremost, *human beings*. And this is not merely a flat, abstract quality (Remark to § 209). Rather, it implies that the granting of civil rights gives rise to their *sense of self* as counting as *legal* persons in civil society; and that from this infinite root, free of everything else, the desired equalization of ways of thinking and of disposition comes about. The separation with which the Jews have been reproached would, on the contrary, have been perpetuated, and it would rightly have been laid to the charge and reproach of the excluding state. For the state would thereby have misjudged its own principle, the objective institution and its power (cf. the end of the Remark to § 268). The insistence on this exclusion, though it believed itself to be supremely in the right, has also proved in experience to be the most foolish course, whereas the governments' way of acting has proved to be the wise and dignified one.

TRANSLATOR'S NOTE. Quakers and Anabaptists (among them the Mennonites) refused oaths and military service on religious grounds.

TRANSLATOR'S NOTE. Hegel refers to the contemporary debate in the German states over granting civil rights to Jews.

deepest assurance through religion. But ethical relationships are essentially relationships of *actual rationality*. So it is the rights of this rationality that must first be upheld in them, and the church's assurance is added to these rights as their merely inner, more abstract side. —As regards further expressions that proceed from the church as an association: in *doctrine* the inner outweighs the outer more than it does in the *actions* of worship and other conduct connected with them. In these, the *legal* side at least appears at once, on its own account, as a matter for the state. (Churches have, admittedly, also arrogated to themselves the exemption of their ministers and their property from the power and jurisdiction of the state, and even jurisdiction over lay persons in matters in which religion has a share, such as divorce cases, matters of oaths and so on.)—The *police* side of such actions is, to be sure, less definite. But this lies in the nature of this side, and holds equally with respect to other, wholly civil actions (see § 234 above). Insofar as the religious fellowship of individuals raises itself to a community, a corporation, it falls in general under the supreme police supervision of the state.—*Doctrine* itself, however, has its domain in conscience. It falls within the right of the subjective freedom of self-consciousness, the sphere of inwardness, which as such does not constitute the domain of the state. Yet the state too has a doctrine. For its institutions, and whatever holds good for it in matters of right, the constitution and so on, exist essentially in the form of *thought*, as law. And since the state is not a mechanism but the rational life of self-conscious freedom, the system of the ethical world, *disposition*, and then the consciousness of that disposition in *principles*, is an essential moment in the actual state. Conversely, the doctrine of the church is not merely something inward, a matter of conscience. As doctrine it is rather an *expression*, and at the same time an expression about a content that is most intimately connected with ethical principles and the laws of the state, or that directly concerns them. Here, then, state and church directly *coincide* or directly *oppose* each other. The church can push the difference between the two domains to the

point of stark opposition. It then regards itself as containing the absolute content of religion, and so claims the *spiritual* in general, and with it the ethical element, as its own portion, while regarding the state as a mechanical scaffolding for unspiritual, external ends. It conceives itself as the kingdom of God, or at least as the way and the forecourt to it, and the state as the kingdom of the world, that is, of what is transient and finite; it conceives itself, accordingly, as the end in itself, and the state as a mere *means*. With this pretension, as regards *teaching*, is then linked the demand that the state should not only give the church complete freedom here, but should show unconditional respect for its teaching, whatever that teaching may be, since determining it belongs to the church alone, as the body that teaches. The church arrives at this pretension on the broad ground that the spiritual element in general is its property. But *science*, and knowledge in general, also belong to this domain. Like a church, they develop on their own account into a totality with a principle of their own, a totality that can even regard itself as stepping into the place of the church with still greater justification. So the same independence from the state is then demanded for science as well, the state being supposed merely to provide for science, as a means provides for an end in itself. —For this relationship it makes no difference, moreover, whether the individuals and leaders who dedicate themselves to the service of the community have gone so far as to lead an existence separated from the state, so that only the remaining members are subject to the state; or whether they otherwise stand within the state, and their ecclesiastical vocation is only one side of their estate, which they keep separate from the state. The first thing to note is that such a relationship is connected with a particular conception of the state. On this conception, the state's vocation lies solely in protecting and securing the life, property and arbitrary will of each person, insofar as these do not infringe the life, property and arbitrary will of others; and the state is thus regarded merely as an institution of necessity. In this way the element of the higher spiritual, of what is true in and for itself,

is placed beyond the state, as subjective religiosity or as theoretical science. The state, as the *layman* in and for itself, has only to respect this element, and what is properly ethical thus drops out of the state altogether. Historically, it is true, there have been times and conditions of barbarism in which everything higher and spiritual had its seat in the church, while the state was merely a worldly regime of violence, arbitrariness and passion, and that abstract opposition was the chief principle of actuality (see § 358). But that belongs to history. It is too blind and shallow a procedure to present this position as the one that truly accords with the Idea. The development of this Idea has rather proved this to be the truth: that spirit, as free and rational, is ethical in itself; that the true Idea is *actual* rationality; and that it is this rationality which exists as the state. It has further emerged from this Idea just as clearly that the ethical *truth* in it is present for *thinking* consciousness as a *content* worked into the form of *universality*, as *law*. The state in general *knows* its ends; it cognizes them and puts them into effect with determinate consciousness and according to principles. Now, as noted above, religion has the true as its universal object, but as a *given* content, one whose basic determinations are not cognized through thinking and concepts. Likewise, the individual's relationship to this object is an obligation grounded on authority; and the *witness* of one's *own* spirit and heart, in which the moment of freedom is contained, is *faith* and *feeling*. It is philosophical insight that recognizes that church and state are not opposed as to their *content*, truth and rationality, but differ in form. When, therefore, the church moves on to *teaching* (there are, and have been, churches that have only a form of worship, and others in which worship is the main thing, while teaching and a more cultivated consciousness are only secondary), and when its teaching concerns *objective principles*, the thoughts of the ethical and the rational, then in this expression the church passes immediately over into the domain of the state. Against the church's *faith* and its *authority* concerning the ethical, right, laws and institutions, against its *subjective conviction*, the state is rather that which *knows*. In the

state's principle the content essentially does not remain in the form of feeling and faith, but belongs to determinate thought. Insofar as the content that is in and for itself appears in the shape of religion as a particular content, as the doctrines peculiar to the church as a religious community, these doctrines remain outside the sphere of the state. (In Protestantism, moreover, there is no clergy that would be the exclusive custodian of the church's doctrine, because in Protestantism there are no *laity*.) Ethical principles and the political order in general are drawn over into the domain of religion; they not only can be placed in relation to it, but ought to be. On the one hand, this relation gives the state itself religious authentication. On the other hand, the state retains the right and the form of self-conscious, objective rationality: the right to make that rationality prevail, and to uphold it against assertions that spring from the *subjective* shape of truth, whatever *assurance* and *authority* that shape may surround itself with. Because the principle of the state's form, as something universal, is essentially thought, it has also come about that *freedom of thought and of science* has issued *from the state's side*. (It was rather a church that burned *Giordano Bruno*, made *Galileo* beg forgiveness on his knees for

his *exposition* of the *Copernican* solar system, and so on.[9]) *Science*, therefore, also has its place on the state's side. For it has the same element of form as the state; its end is *cognition*, and specifically cognition of *objective* truth and rationality in the form of thought.[10] Thinking cognition can, to be sure, also fall from science into opinion and into reasoning from grounds. Turning to ethical matters and the organization of the state, it can set itself in contradiction to their principles. It may even do so with the

9 HEGEL'S NOTE. Laplace, *Exposition of the System of the World*, Book V, Chapter 4: "When *Galileo* made known his discoveries (those the telescope helped him to make, the phases of Venus and so on), he showed at the same time that they irrefutably proved the motions of the earth. But the idea of this motion was declared heretical by an assembly of cardinals. *Galileo*, its most famous defender, was summoned before the tribunal of the Inquisition and compelled to retract it in order to escape harsh imprisonment. In a man of intellect, the passion for truth is one of the strongest passions. *Galileo*, convinced by his own observations of the motion of the earth, long contemplated a new work in which he intended to set out all the proofs of it. But in order at the same time to escape the persecution of which he would inevitably have become the victim, he chose the expedient of presenting them in the form of dialogues between three persons. It is plain that the advantage lay on the side of the defender of the Copernican system. But since Galileo did not decide between them, and gave the objections of the followers of Ptolemy as much weight as was at all possible, he might well have expected not to be disturbed in the enjoyment of the peace that his great age and his labors deserved. In his seventieth year he was summoned once more before the tribunal of the Inquisition. He was shut up in a prison, where a second retraction of his opinions was demanded of him, under threat of the punishment prescribed for relapsed heretics. He was made to sign the following formula of abjuration: 'I, *Galileo*, having appeared in person before the court in my seventieth year, kneeling, and with my eyes fixed on the holy Gospels, which I touch with my hands, abjure, curse and detest with sincere heart and true faith the absurdity, falsity and heresy of the doctrine of the motion of the earth, etc.' What a spectacle it was, to see a venerable old man, famous for a long life devoted solely to the investigation of nature, abjure on his knees, against the witness of his own conscience, the truth he had demonstrated with such persuasive force. A judgment of the Inquisition condemned him to perpetual imprisonment. A year later, through the intercession of the Grand Duke of Florence, he was set free. He died in 1642. Europe mourned his loss—Europe, which had been enlightened by his labors and was outraged at the judgment passed on so great a man by a hated tribunal."

TRANSLATOR'S NOTE. Pierre-Simon Laplace (1749–1827), French mathematician and astronomer; his *Exposition du système du monde* appeared in 1796. Hegel quotes it in German translation.

10 Giordano Bruno (1548–1600), Italian philosopher, was burned in Rome as a heretic. Galileo Galilei (1564–1642) was forced by the Roman Inquisition in 1633 to abjure the view that the earth moves.

same pretensions that the church makes for what is peculiar to it, appealing to this *opining* as to reason and to the right of subjective self-consciousness to be free in its opinion and conviction. The principle of this subjectivity of knowing has been examined above (Remark to § 140); here we need only remark the following. In one respect the state can treat *opining* with infinite indifference, precisely insofar as it is mere opinion, a subjective content, and therefore, however loftily it may puff itself up, has no true force or power in it. The state can do so just as painters who keep to the three primary colors on their palette treat the *school wisdom* about seven primary colors with indifference.[11] In the other respect, however, when this *opining* of bad principles makes itself into a universal existence that eats away at actuality, the state has to protect objective truth and the principles of ethical life against it. This holds all the more if the formalism of unconditioned subjectivity should seek to take the scientific starting point as its ground, and to raise the state's own teaching institutions to the pretension of a church and turn them against the state. Conversely, and on the whole, against a church that claims unlimited and unconditioned *authority*, the state has to assert the formal right of self-consciousness to its own insight and conviction, and in general to its own thinking about what is to count as objective truth.

The *unity of state and church* may also be mentioned here, a determination much discussed in modern times as well and put forward as the highest ideal. If their essential unity is the unity of the truth of their principles and disposition, it is just as essential that, together with this unity, the *difference* they have in the form of their consciousness should have attained *particular existence*. In Eastern despotism there is that much-desired unity of church and state—but then the state is not present. What is not present there is the self-conscious configuration in right, free ethical life and organic development that alone is worthy of spirit. —Further, if the state is to come into existence as the *self-*

11 An allusion to Newton's theory of seven spectral colors, which Hegel, following Goethe, rejected.

knowing ethical actuality of spirit, it must be distinguished from the form of authority and faith. But this distinction emerges only insofar as the ecclesiastical side becomes divided within itself. Only in this way, above the *particular* churches, has the state attained the *universality* of thought, the principle of its form, and brought it into existence. To recognize this, one must know not only what universality is *in itself*, but what its *existence* is. It is therefore so far from true that division within the church would be, or would have been, a misfortune for the state, that it is *only through that division* that the state has been able to become what it is destined to be: self-conscious rationality and ethical life. It is likewise the most fortunate thing that could have happened to the church, for its own sake, and to thought, for the sake of its freedom and rationality.

271 The political constitution is, *first*, the organization of the state and the process of its organic life *in relation to itself*. In this process the state distinguishes its moments within itself and unfolds them so that they have *stable existence*.

271R *Second*, the state, as an individuality, is an *exclusive* unit, which therefore relates itself to *others*. It thus turns its distinguishing *outward*, and in accordance with this determination posits the existing distinctions within itself in their *ideality*.

THE INTERNAL CONSTITUTION

The state divides its powers rationally into legislature, executive and crown, forming a constitutional monarchy.

272 The constitution is rational insofar as the state *differentiates* and determines its activity within itself *in accordance with the nature of the Concept*. It does so in such a way that *each* of these *powers* is in itself the *totality*, because it has the other moments active within it and contains them. And because the powers express the difference of the Concept, they remain absolutely within its ideality and constitute only *one individual* whole.

272R In recent times there has been endless chatter about the constitution, as about reason itself. In Germany the stalest of it

has come from those who persuaded themselves that they understood best what a constitution is—indeed to the exclusion of everyone else, and of governments above all. They believed they had an irrefutable justification in the claim that religion and piety should be the foundation of all their shallow notions. It is no wonder that this chatter has had the result that sensible people have come to find the words reason, enlightenment, right and so on, like constitution and freedom, nauseating, and that one might be ashamed even to join in any discussion of a political constitution. But at least one may hope that this disgust will have one effect: that the conviction will become more general that philosophical *cognition* of such subjects cannot arise from reasoning, from ends, grounds and utilities—still less from sentiment, love and enthusiasm—but from the Concept alone. And it may become more generally recognized that those who hold the divine to be incomprehensible and the cognition of truth a futile undertaking must refrain from joining in. Whatever they produce out of their sentiment and enthusiasm, whether undigested talk or edification, can at least lay no claim to philosophical consideration.

Among the current ideas, the one to be mentioned in connection with § 269 is that of the *necessary division of the powers* of the state. This is a highly important determination, which could rightly have been regarded as the guarantee of public freedom, had it been taken in its true sense. Yet it is an idea of which precisely those who think they speak from enthusiasm and love know nothing and want to know nothing. For it is precisely in this idea that the moment of *rational determinacy* lies. The principle of the division of powers contains, namely, the essential moment of *difference*, of *real* rationality. But as the abstract understanding grasps it, it involves, on the one hand, the false determination of the *absolute independence* of the powers from one another. On the other hand, it involves the one-sidedness of conceiving their relationship to one another as something negative, as mutual *limitation*. On this view the relationship becomes one of hostility: each power fears the others, and

whatever each produces is directed against the other as against an evil, so as to oppose it and, by means of these counterweights, to bring about a general equilibrium, but not a living unity. It is only the *self-determination* of the Concept within itself, and not any other ends and utilities, that contains the absolute origin of the distinct powers. It is on this account alone that the organization of the state is what is rational in itself and the image of eternal reason.—How the *Concept*, and then in concrete fashion the Idea, determine themselves in themselves, and thereby posit their moments abstractly as universality, particularity and individuality, is to be learned from logic—though admittedly not from the logic in common currency. To take the negative as the starting point at all, to make the willing of evil, and mistrust of it, the first thing, and then, on this presupposition, cunningly to devise dams that need only one another's counter-dams as the condition of their effectiveness—this characterizes, in terms of thought, the *negative understanding*, and in terms of disposition, the outlook of the rabble (see § 244 above). —With the *independence* of the powers, for example of what have been called the *executive* and the *legislative* powers, the collapse of the state is immediately posited, as has also been seen on a large scale. Or, insofar as the state essentially preserves itself, a struggle ensues in which one power subjugates the other. In this way unity, of whatever kind, is first brought about, and only thus is the essential thing, the survival of the state, saved.[12]

273 The political state thus divides itself into these substantial differences: (a) the power to determine and establish the universal—the *legislative* power; (b) the subsumption of *particular* spheres and individual cases under the universal—the *executive power*; (c) subjectivity as the final decision of the will—*the power of the crown*. In the power of the crown the distinct powers are brought together into an individual unity; it is therefore the apex and the beginning of the whole, that is, of *constitutional monarchy*.

12 Probably an allusion to the conflicts between legislature and executive during the French Revolution.

273R The development of the state into constitutional monarchy is the work of the modern world, in which the substantial Idea has attained infinite form. This is the deepening of the world's spirit within itself, or, what is the same thing, the free development in which the Idea releases its moments (and they are only its moments) from itself as totalities, and precisely thereby contains them in the ideal unity of the Concept, in which real rationality consists. The *history* of this true formation of ethical life is the subject matter of universal world history.

The ancient division of constitutions into *monarchy, aristocracy* and *democracy* is based on *substantial unity that is still undivided*, a unity that has not yet arrived at its *inner differentiation* (a developed organization within itself) and hence at *depth* and *concrete rationality*. From that standpoint of the ancient world, therefore, this division is the true and correct one. For in a unity that is still substantial and has not grown to absolute unfolding within itself, difference is essentially *external*. It appears at first as a difference in the *number* (*Encyclopedia of the Philosophical Sciences*, § 82) of those in whom that substantial unity is supposed to be immanent. These forms, which in this way belong to different wholes, are reduced in constitutional monarchy to moments. The monarch is *one*; with the executive power *some* come in; and with the legislative power the *many* in general come in. But such merely quantitative differences are, as has been said, only superficial and do not give the concept of the thing. Nor is it appropriate that so much has been said in recent times about the democratic and aristocratic element *in monarchy*. For the determinations meant by this, precisely insofar as they occur *in monarchy*, are no longer democratic or aristocratic. —There are ideas of the constitution in which only the *abstraction* of the state is put at the top, as that which governs and commands, while it is left undecided, and regarded as a matter of indifference, whether *one*, or *several*, or *all* stand at the head of this state.—"All these forms," as *Fichte* says in his *Natural Right*, Part I, p. 196, "are in accordance with right, provided only that an *ephorate* (a would-be counterweight to the supreme

power, invented by Fichte) is present, and can produce and maintain universal right in the state."—Such a view (like that invention of an ephorate) stems from the shallowness of the concept of the state noted above.[13] In a quite simple condition of society these differences have, of course, little or no significance. Thus *Moses*, in his legislation for the case that the people should demand a king, makes no further change in the institutions. He only adds for the king the commandment that his cavalry, his wives, and his gold and silver should not be numerous (Deuteronomy 17:16 ff.). —One can, moreover, certainly say in one sense that those three forms (including the *monarchical*, in the restricted meaning in which it is placed *alongside the aristocratic* and *democratic*) are indifferent for the Idea as well. But this holds in the opposite sense: because none of them accords with the Idea in its rational development (§ 272), and in none of them could the Idea attain its right and actuality. For this reason it has also become an entirely idle question which of them would be the most excellent. Such forms can be discussed only historically. —Otherwise, however, in this matter as in so many others, one must acknowledge *Montesquieu*'s profound insight in his celebrated account of the principles of these forms of government. But in order to recognize the correctness of that account, one must not misunderstand it. As is well known, he gave *virtue* as the principle of *democracy*. And indeed such a constitution rests on *disposition*, as the merely substantial form in which the rationality of the will that is in and for itself still exists in it. Montesquieu adds, however, that in the seventeenth century *England* offered the fine spectacle of showing the efforts to establish a democracy to be powerless, because virtue was lacking in the leaders. He further adds that when virtue disappears from a republic, ambition takes hold of those whose hearts are capable of it, and avarice takes hold of everyone; and the state, now a general spoil, has its strength only in the power of a few individuals and in the license of all. On this it must be remarked that in a more developed condition of society, and with the

13 The ephors were the magistrates of ancient Sparta who held the kings in check.

development and liberation of the powers of *particularity*, the virtue of the heads of state becomes insufficient. Another form of rational law is required than that of disposition alone, so that the whole may possess the strength to hold itself together and to grant to the forces of developed particularity their positive as well as their negative right. We must likewise remove the misunderstanding that, because the disposition of virtue is the substantial form in the democratic republic, this disposition is thereby declared dispensable in monarchy, or even absent from it. Still less should it be supposed that virtue and the activity *determined by law* within an *articulated* organization are opposed to each other and incompatible.—That *moderation* is the principle in *aristocracy* follows from the separation of public power and private interest that begins here. At the same time, the two touch each other so immediately that this constitution is always on the verge of turning directly into the harshest condition of tyranny or anarchy (see Roman history) and destroying itself. — That Montesquieu recognizes *honor* as the principle of *monarchy* already shows by itself that he means neither patriarchal monarchy, nor ancient monarchy in general, nor monarchy developed into an objective constitution, but *feudal monarchy*—and specifically insofar as the relations of its internal constitutional law have become fixed as legal private property and as privileges of individuals and corporations. In this constitution the life of the state rests on privileged personality, to whose discretion a great part of what must be done for the survival of the state is left. So the objective side of these services is based not on *duties* but on *notions* and *opinion*. Thus, instead of duty, it is only *honor* that holds the state together.

Another question readily presents itself: *who is to make the constitution?* This question seems clear, but on closer inspection it at once proves meaningless. For it presupposes that no constitution is present, and so that there is merely an atomistic *aggregate* of individuals gathered together. How an aggregate would arrive at a constitution—whether by itself or through others, through goodwill, thought or force—would have to be left to the

aggregate itself, for the Concept has nothing to do with an aggregate.—If, however, the question already presupposes an existing constitution, then *making* means only a change. And the presupposition of a constitution itself immediately implies that the change can take place only by constitutional means. —Above all, however, it is absolutely essential that the constitution, although it has arisen in time, should *not be regarded as something made*. For it is rather what simply is, in and for itself, and it must therefore be considered as the divine and enduring, and as above the sphere of what is made.

274 Spirit is actual only as what it knows itself to be; and the state, as the spirit of a people, is at the same time the law *permeating all its relationships*, the custom and the consciousness of its individuals. Therefore the constitution of a particular people depends in general on the character and culture of that people's self-consciousness. In this self-consciousness lies the people's subjective freedom, and hence the actuality of the constitution.

274R To want to give a people a constitution *a priori*, even one more or less rational in its content—this notion would overlook precisely the moment through which a constitution would be more than a mere product of thought. Every people therefore has the constitution that is appropriate to it and belongs to it.

THE POWER OF THE CROWN

Sovereignty is embodied in a hereditary monarch whose final decision completes the will of the state.

275 The power of the crown itself contains within it the three moments of the totality (§ 272): the *universality* of the constitution and the laws; deliberation, as the relation of the *particular* to the universal; and the moment of final *decision*, as the *self-determination* to which everything else returns and from which it takes the beginning of its actuality. This absolute self-determining constitutes the distinguishing principle of the power of the crown as such, and it is this that must be developed first.

276 1. The basic determination of the political state is substantial unity as the *ideality* of its moments. In this unity (α) the particular powers and functions of the state are both dissolved and preserved. They are preserved only insofar as they have no independent authority, but only an authority of the kind and extent determined in the Idea of the whole. They proceed from the power of the whole and are fluid members of it, as of their simple self.

277 (β) The particular functions and activities of the state are, as its essential moments, *its own*. They are attached to the *individuals* by whom they are managed and carried out, not by virtue of those individuals' immediate personality, but only by virtue of their universal and objective qualities. They are therefore linked with particular personality as such only in an external and contingent way. The functions and powers of the state therefore cannot be *private property*.

278 These two determinations constitute the *sovereignty of the state*: that the particular functions and powers of the state are neither independent and fixed on their own account nor in the particular will of individuals, but have their ultimate root in the unity of the state as their simple self.

278R This is sovereignty *internally*; it also has another side, sovereignty *externally* (see below).—In the former *feudal monarchy* the state was indeed sovereign externally; but internally it was not merely the monarch who was not sovereign—the state was not sovereign. On the one hand (cf. Remark to § 273), the particular functions and powers of the state and of civil society were organized in independent corporations and communities, so that the whole was more an aggregate than an organism. On the other hand, they were the private property of individuals, so that what these individuals were to do with regard to the whole was left to their opinion and discretion. —The *idealism* that constitutes sovereignty is the same determination according to which, in the animal organism, its so-called *parts* are not parts but members, organic moments, whose isolation and separate subsistence is disease (see *Encyclopedia of the Philosophical Sci-*

ences, § 293). It is the same principle that appeared in the abstract concept of the will (see the Remark to the following §) as self-relating negativity, and so as universality *determining itself to individuality* (§ 7): a universality in which all particularity and determinacy is sublated, the absolute self-determining ground. To grasp it, one must in general possess the concept of what substance is and what the true subjectivity of the Concept is. —Because sovereignty is the ideality of all particular authority, a misunderstanding readily arises, and a very common one: that of taking sovereignty for mere power and empty arbitrariness, and treating it as synonymous with despotism. But despotism denotes in general the condition of lawlessness in which the particular will as such, whether of a monarch or of a people (ochlocracy, or mob rule), counts as law, or rather takes the place of law. Sovereignty, by contrast, is precisely, in the lawful, constitutional condition, the moment of the ideality of the particular spheres and functions. That is, such a sphere is not something independent, self-sufficient in its ends and modes of operation and absorbed only in itself. In these ends and modes of operation it is determined by and dependent on *the end of the whole* (which has been called, in general and with an indefinite expression, the *welfare of the state*). This ideality manifests itself in a twofold way.—In a condition of *peace*, the particular spheres and functions go their way in satisfying their particular business and ends. In part it is merely through the unconscious *necessity* of the matter that their selfishness *turns into* a contribution to mutual preservation and to the preservation of the whole (see § 183). In part, however, it is through *direct influence* from above that they are continually brought back to the end of the whole and limited accordingly (see the executive power, § 289), and also required to render direct services for this preservation. —In a *situation of emergency*, however, whether internal or external, it is sovereignty into whose simple concept the organism, which otherwise subsists in its particularities, draws together. To sovereignty the salvation of the state is entrusted, at

the sacrifice of what is otherwise legitimate; and here that idealism attains its distinctive actuality (see § 321 below).

279 2. Sovereignty, at first only the *universal* thought of this ideality, *exists* only as *subjectivity* certain of itself, and as the abstract and to that extent groundless *self-determination* of the will, in which the ultimate decision lies. This is the individual aspect of the state as such, which is *one* only in this. But subjectivity is in its truth only as a *subject*, and personality only as a *person*. And in a constitution that has developed into real rationality, each of the three moments of the Concept has its own separate shape, *actual for itself*. This absolutely decisive moment of the whole is therefore not individuality in general, but *one* individual, the *monarch*. The immanent development of a science, the *derivation of its entire content* from the simple *concept* (without this a science does not, at any rate, deserve the name of a philosophical science), displays a peculiar feature. One and the same concept—here the will—which at the outset is abstract, because it is the beginning, maintains itself; yet it condenses its determinations, and does so, likewise, only through itself, and in this way gains a concrete content. Thus it is the basic moment of personality, abstract at first in immediate right, that has developed further through its various forms of subjectivity. Here, in absolute right, in the state, the completely concrete objectivity of the will, it is the *personality of the state*, its *certainty of itself*. This is the ultimate element, which sublates all particularities in the simple self, breaks off the weighing of reasons and counter-reasons, between which one can always vacillate back and forth, *concludes* the matter with "I will," and initiates all action and actuality.—Personality, and subjectivity in general, moreover, as infinitely self-relating, has *truth* absolutely only as a person—and indeed this is its nearest, immediate truth—as a subject that is for itself; and what is for itself is just as absolutely *one*. The personality of the state is actual only as *a person, the monarch*.—Personality expresses the Concept as such; the person contains at the same time the actuality of the Concept, and only with this determination is the Concept *Idea*, truth.—A so-called

moral person—a society, a community, a family—however concrete it may be in itself, has personality within it only as a moment, abstractly; in it personality has not attained the truth of its existence. The state, however, is precisely this totality in which the moments of the Concept attain actuality in accordance with their own distinctive truth.[14] —All these determinations have already been discussed, both on their own account and in their various shapes, throughout the whole course of this treatise. They have been repeated here, however, because, although people readily grant them in their particular shapes, they fail to recognize and grasp them again precisely where they occur in their true position—not in isolation, but in their truth, as *moments* of the Idea.—The concept of the monarch is therefore the most difficult concept for ratiocination, that is, for the reflective approach of the understanding. For ratiocination stops short at isolated determinations and hence knows only grounds, finite points of view, and *derivation* from grounds. It therefore presents the dignity of the monarch as something *derived*, not only in its form but in its very determination. Yet the concept of the monarch is, on the contrary, to be not something derived but what *begins absolutely from itself*. Closest to the mark, therefore, is the idea of regarding the monarch's right as grounded on divine authority, for this contains its unconditioned character. But it is well known what misunderstandings have attached to this idea; and the task of philosophical consideration is precisely to comprehend this divine element.

279R *Popular sovereignty* can be spoken of in the sense that a people as such is self-sufficient *externally* and constitutes a state of its own, like the people of Great Britain. By contrast, the people of England, or of Scotland or Ireland, or of Venice, Genoa, Ceylon and so on, are no longer sovereign peoples, since they have ceased to have princes or supreme governments of their own.—One can also say of *internal sovereignty* that it resides in the *people*, provided one is speaking of the *whole* in general,

14 "Moral person" is the older juristic term for a legal or corporate person, as distinct from a natural person.

exactly as it was shown above (§§ 277, 278) that sovereignty belongs to the *state*. But in recent times people have begun to speak of popular sovereignty in its usual sense, which takes it in opposition to *the sovereignty that exists in the monarch*. In this opposition, popular sovereignty belongs among the confused thoughts that rest on a *chaotic* notion of the *people*. *The* people, taken *without* its monarch and *without* the *articulation* of the whole that is necessarily and immediately bound up with the monarch, is a formless mass. It is no longer a state, and *none* of the determinations that exist only in a whole *formed within itself* —sovereignty, government, courts, public authorities, Estates, or whatever else—belong to it any longer. Once such moments, which relate to an organization, to the life of the state, emerge in a people, it ceases to be that indeterminate abstraction which, in the merely general notion, is called the *people*.—Popular sovereignty may be understood as the form of a *republic*, and more specifically of democracy (for "republic" covers all sorts of other empirical mixtures, which in any case do not belong in a philosophical treatment). If so, then partly the necessary has been said above (in the Remark to § 273), and partly there can be no further talk of such a notion in the face of the developed Idea.—Consider a people that is represented neither as a patriarchal *tribe*, nor in the undeveloped condition in which the forms of democracy or aristocracy are possible (see the Remark just cited), nor in any other arbitrary and inorganic condition, but is thought of as an internally developed, truly organic totality. In such a people, sovereignty exists as the personality of the whole, and this personality exists, in the reality appropriate to its concept, as the *person of the monarch*.

At the stage mentioned above, where constitutions were divided into democracy, aristocracy and monarchy—the standpoint of a substantial unity that still remains within itself and has not yet arrived at its infinite differentiation and inward deepening—the moment of the *ultimate self-determining decision of the will* does not emerge for itself into its *own distinctive actuality* as an *immanent* organic moment of the state. It is true that

even in those less developed shapes of the state there must always be an individual at the apex. Either this apex is present for itself, as in the monarchies that belong to that stage, or, as in aristocracies and above all in democracies, it rises up in statesmen and generals according to chance and the *particular* needs of *circumstances*. For all action and all actuality has its beginning and its completion in the decisive unity of a leader. But because such subjectivity of decision is enclosed within a union of the powers that remains undifferentiated, it must be partly contingent in its origin and emergence and partly subordinate in general. Hence the unmixed, pure decision, a fate determining things from outside, could lie nowhere but beyond such conditioned apexes. As a moment of the Idea, this decision had to come into existence, but as something rooted outside human freedom and outside the sphere of that freedom which the state comprises.—Here lies the origin of the need to obtain the *final decision* on great matters and at important moments of the state from *oracles*, from the *daimon* (in the case of *Socrates*), from the entrails of animals, from the feeding and flight of birds, and so on. Human beings had not yet grasped the depth of self-consciousness, nor had they yet come from the solidity of substantial unity to this being-for-self; so they did not yet have the strength to see this decision *within* human being.—In the *daimon* of *Socrates* (compare § 138 above) we can see the beginning of this: the will, which had previously only projected itself *beyond* itself, moved into itself and recognized itself within itself—the beginning of freedom that *knows itself*, and is therefore true freedom. This real freedom of the Idea consists precisely in giving each of the moments of rationality its own present, *self-conscious* actuality. It is therefore this freedom that assigns the ultimate self-determining certainty, which forms the apex of the concept of the will, to the function of a single consciousness. But this ultimate self-determination can fall within the sphere of human freedom only insofar as it occupies the position of an apex *set apart for itself and raised above all particularization and conditions*; for only thus is it actual in accordance with its concept.

280 3. This ultimate self of the will of the state is, in this its abstraction, simple, and therefore *immediate* individuality. Its very concept thus contains the determination of *naturalness*. The monarch is therefore essentially *this* individual, in abstraction from all other content; and this individual is destined for the dignity of monarch in an immediate, natural way, by natural *birth*.

280R This transition from the concept of pure self-determination into the immediacy of being, and thus into naturalness, is of a purely speculative nature; knowledge of it therefore belongs to logical philosophy. It is, moreover, on the whole the same transition that is familiar as the nature of the will in general, the process of translating a content out of subjectivity (as an end that is represented) into existence (§ 8). But the distinctive form of the Idea and of the transition considered here is the *immediate conversion* of the pure self-determination of the will (of the simple concept itself) into a *this*, a natural existence, without mediation by a *particular* content—(an end in action). —In the so-called *ontological proof* of the *existence of God*, it is the same conversion of the absolute concept into being. This conversion constituted the depth of the Idea in modern times, but in the most recent times it has been declared *incomprehensible*. Since only the unity of concept and existence (§ 23) is truth, people have thereby renounced the knowledge of *the truth*. Because the consciousness of the understanding does not have this unity within itself and stops short at the *separation* of the two moments of truth, it may still, where this particular object is concerned, concede a *faith* in that unity.[15] But since the idea of the monarch is regarded as falling entirely within the province of ordinary consciousness, the understanding here clings all the more to its separation and to the results its clever reasoning draws from it. It then denies that the moment of ultimate decision in the state is *in and for itself* (that is, in the concept of reason) bound up with immediate naturalness. From this it infers, first, that this

15 The ontological proof, associated with Anselm and Descartes, infers God's existence from the concept of God; Kant rejected it in the *Critique of Pure Reason* (1781).

connection is *contingent*; and then, since it maintains that the absolute difference of those moments is what is rational, that such a connection is irrational. The other consequences, which wreck the Idea of the state, follow on from this.

281 Both moments in their undivided unity—the ultimate, groundless self of the will, and the existence that is therefore equally groundless, as a determination left to *nature*—this Idea of something *unmoved* by arbitrary will constitutes the *majesty* of the monarch. In this unity lies the *actual unity* of the state. Only through this inner and *outer immediacy* is the state's unity removed from the possibility of being dragged down into the sphere of *particularity*, with its arbitrary will, ends and opinions, from the struggle of faction against faction for the throne, and from the weakening and shattering of the power of the state.

281R The right of birth and inheritance forms the basis of *legitimacy*, as the basis not merely of a positive right but at the same time a basis in the Idea.—That a firmly fixed succession to the throne, that is, natural succession, forestalls factions when the throne falls vacant is one aspect that has long, and rightly, been urged in favor of the throne's being hereditary. This aspect, however, is only a consequence. If it is made the *ground*, it drags majesty down into the sphere of reasoning. Majesty's character is this groundless immediacy and this ultimate being-within-itself; yet such reasoning gives it as its justification not the Idea of the state immanent in it, but something *outside* it, a thought different from it—the welfare of the *state or people*, say. From such a determination hereditary succession can indeed be deduced through *medios terminos* [middle terms]; but it also admits other *medios terminos*, and so other consequences—and it is only too well known what consequences have been drawn from this *welfare* of the people (*salut du peuple*).—That is why *only* philosophy *may* consider this majesty in thought. For any mode of inquiry other than the speculative inquiry into the infinite Idea grounded in itself sublates the nature of majesty in and for itself.—*Elective monarchy* may easily seem the *most natural* idea,

that is,[16] the idea lying closest to shallow thinking. Since it is the affairs and the interest of the people that the monarch has to look after, so the argument runs, it must also be left to the people's choice whom they wish to entrust with looking after their welfare; and only from this commission does the right to govern arise. This view, like the notions of the monarch as the highest official of the state, of a contractual relationship between him and the people, and so on, starts from the will as the *preference*, opinion and arbitrary will *of the many*. As was considered long ago, this determination counts as primary in civil society, or rather merely seeks to assert itself there; but it is not the principle of the family, still less that of the state, and it is opposed to the Idea of ethical life in general. —That elective monarchy is, on the contrary, the worst of institutions becomes evident even to reasoning from its *consequences*. Reasoning, incidentally, sees these only as something *possible* and *probable*, but in fact they lie essentially in this institution. In an elective monarchy, the particular will is made the ultimate decider; the nature of this relationship turns the constitution into an *electoral capitulation*, that is, into a surrender of the power of the state to the discretion of the particular will. From this follow the transformation of the particular powers of the state into private property, the weakening and loss of the state's sovereignty, and hence its internal dissolution and external collapse.[17]

282 The *right to pardon* criminals flows from the sovereignty of the monarch. For to sovereignty alone belongs the actualization of the power of spirit to make what has happened not to have happened, and to annul the crime by forgiving and forgetting.

282R The right to pardon is one of the highest recognitions of the majesty of spirit.—This right, incidentally, is one of the applications or reflections of the determinations of a higher sphere onto a preceding one.—Such applications, however,

16 An allusion to the French Revolution, whose Committee of Public Safety (Comité de salut public) justified the Terror by appeal to the people's welfare.
17 In the Holy Roman Empire (and in Poland), an electoral capitulation was the set of conditions a candidate had to accept from the electors before being chosen emperor or king.

belong to the particular science, which has to treat its object in its empirical range (compare the footnote to the Remark to § 270).—Such applications also include subsuming offenses against the state in general, or against the sovereignty, majesty and personality of the prince, under the concept of crime that appeared earlier (§§ 95 to 102), and indeed as the *highest* crimes, and determining the special procedure for them, and so on.

283 The *second* element contained in the power of the crown is the moment of *particularity*, or of determinate content and its subsumption under the universal. Insofar as this moment receives a particular existence, it takes the form of supreme advisory offices and individuals. They bring before the monarch for decision the content of current affairs of state, or of the legal provisions made necessary by existing needs, together with their *objective* aspects: the grounds for decision, the relevant laws, circumstances and so on. Since these individuals deal with the immediate person of the monarch, their selection for this business, as well as their removal, falls within his unrestricted arbitrary will.

284 Only the *objective* aspect of the decision—knowledge of the content and circumstances, the legal and other grounds for deciding—is capable of *accountability*, that is, of proof of its objectivity; and it can therefore belong to a deliberation distinct from the personal will of the monarch as such. To that extent, these advisory offices or individuals alone are subject to accountability. The distinctive majesty of the monarch, however, as the ultimate deciding subjectivity, is raised above all accountability for acts of government.

285 The *third* moment of the power of the crown concerns the universal in and for itself. Subjectively, this universal consists in the *conscience* of the *monarch*; objectively, in the *whole* of the *constitution* and in the *laws*. To that extent the power of the crown presupposes the other moments, just as each of them presupposes it.

286 The *objective guarantee* of the power of the crown, of lawful succession according to the hereditary character of the throne,

and so on, lies in this: just as this sphere has its actuality set apart from the other moments determined by reason, so the others, for their part, have the distinctive rights and duties of their own function. In the rational organism, each member, by maintaining itself for itself, by that very fact maintains the others in their distinctive character.

[286R] To have worked out the monarchical constitution into a hereditary succession firmly fixed by primogeniture is one of the later results of history, and the one most important for public freedom and a rational constitution. The constitution has thereby been led back to the patriarchal principle from which it historically started, but in the higher determination of the absolute apex of an organically developed state. Yet, as remarked earlier, this result, even where it is respected, is often the least understood. The former mere feudal monarchies, as well as despotisms, display in history this alternation of revolts, acts of violence by princes, civil wars, the downfall of princely individuals and dynasties, and the general devastation and destruction, internal and external, that follows from them. They do so because in such a condition the division of the business of state —its parts being handed over to vassals, pashas and the like— is merely mechanical: not a difference of function and form, but only a difference of greater or lesser power. Thus each part, in maintaining itself, maintains and produces *only itself*, and not the others along with it, and possesses all the moments complete within itself for its independent self-sufficiency. In an organic relationship, in which members, not parts, relate to one another, each maintains the others by fulfilling *its own* sphere; for each, with a view to its *own* self-maintenance, the maintenance of the *other* members is equally a substantial end and product. The guarantees people ask about—whether for the stability of the succession, for the power of the crown in general, for justice, public freedom and so on—are safeguards provided by *institutions*. The love of the people, character, oaths, force and the like can be regarded as *subjective* guarantees; but as soon as a *constitution* is under discussion, the question is only of *objective*

guarantees—institutions, that is, moments that are organically interwoven and condition one another. Thus public freedom in general and the hereditary character of the throne are mutual guarantees and stand in absolute connection. For public freedom is the rational constitution, and the hereditary character of the power of the crown is, as has been shown, the moment that lies in the concept of that power.

The State: Executive and Legislature

The civil service, the Estates, and public opinion.

[287] Distinct from decision is the execution and application of the crown's decisions, and in general the continuation and maintenance of what has already been decided—existing laws, arrangements, institutions for common ends and the like. This business of *subsumption* in general is comprised in the *executive power*. The executive power likewise includes the *judicial* and *police* powers, which relate more directly to the particular affairs of civil society and assert the universal interest within these ends.

[288] The common *particular* interests that fall within civil society and lie outside the universal of the state itself, which is in and for itself (§ 256), are administered in the corporations (§ 251) of municipalities and of other trades and estates, by their authorities, heads, administrators and the like. On the one hand, the affairs these look after are the *private property* and *interest* of these *particular* spheres, and in this respect their authority rests partly on the trust of their fellow members and fellow citizens. On the other hand, these circles must be subordinate to the higher interests of the state. For filling these posts, therefore, there will generally be a mixture of ordinary election by the interested parties and confirmation and appointment by a higher authority.

[289] *Upholding the universal interest of the state* and *legality* within these particular rights, and bringing those rights back to that interest, requires supervision by delegates of the executive power: the executive *civil servants* and the higher advisory authorities, which to that extent are constituted as collegial bod-

ies and which converge in the supreme heads that are in contact with the monarch.

289R Just as civil society is the battlefield where the individual private interest of all is pitted against all, so here is the seat of the conflict between this private interest and common particular affairs, and of both together against the higher viewpoints and ordinances of the state. The corporate spirit, which is generated when the particular spheres are recognized as entitled, is at the same time converted within itself into the spirit of the state, since it finds in the state the means of maintaining its particular ends. In this respect, this is the secret of the citizens' patriotism: they know the state as their substance, because it maintains their particular spheres—their legitimacy and authority as well as their welfare. Since the corporate spirit *immediately contains the rootedness of the particular in the universal*, it is to that extent in the corporate spirit that the depth and strength which the state possesses in *disposition* lie.

The administration of corporate affairs by their own heads will often be clumsy. The heads know and have before them their own distinctive interests and affairs, but they know less completely the connection with more remote conditions and the universal points of view. Further circumstances contribute as well—for example, the close private contact and general equality between the heads and those who are supposed to be subordinate to them, their manifold dependence, and so on. This sphere of their own, however, can be regarded as left to the moment of *formal freedom*, where one's own knowing, resolving and carrying out, along with petty passions and conceits, have a playground in which to indulge themselves—and this all the more, the less the content of the affair that is thereby botched or handled less well, more laboriously and so on, matters for the more universal concerns of the state, and the more the laborious or foolish handling of such trivial affairs stands in direct proportion to the satisfaction and self-esteem that people draw from it.

290 The *division of labor* (§ 198) likewise appears in the business of government. The *organization* of the authorities therefore has a formal but difficult task. Civil life must be governed in a concrete way from below, where it is *concrete*; yet this business must be divided into its *abstract* branches, handled by distinctive authorities as separate centers, whose activity converges again, both below and in the supreme executive power, into a concrete overview.

291 The business of government is of an *objective* nature, already decided for itself in its substance (§ 287), and it has to be carried out and actualized by *individuals*. Between the two there is no immediate natural connection; individuals are therefore not destined for this business by natural personality and birth. The objective moment in appointing them to it is the knowledge and proof of their ability. This proof secures for the state what it needs and, as the sole condition, at the same time guarantees every citizen the possibility of devoting himself to the universal estate.

292 There remains the subjective aspect: that *this* individual is chosen and appointed to a post and empowered to conduct public business. He is chosen from among several, of whom there are necessarily an indeterminate *number*, since here the objective element does not lie in genius (as it does in art, for example), and among whom preference cannot be absolutely determined. This linking of individual and office, as two aspects that are always contingent in relation to each other, belongs to the power of the crown as the deciding and sovereign power of the state.

293 The particular business of state that the monarchy hands over to the authorities forms part of the *objective* side of the sovereignty inherent in the monarch. The specific *differences* between these kinds of business are likewise given by the nature of the matter. And just as the activity of the authorities is the fulfillment of a duty, so their office is also a right removed from contingency.

294 The individual who is bound to an official post by the sovereign act (§ 292) is directed to the fulfillment of his duty, the

substance of his relationship, as the condition of this bond. In this bond, *as a consequence* of this substantial relationship, he finds resources and the secure satisfaction of his particularity (§ 264), and his external situation and official activity are freed from any other subjective dependence and influence.

294R The state does not count on arbitrary, optional services (an administration of justice, for example, such as was exercised by knights errant), precisely because they are optional and arbitrary: those who render them reserve the right to perform them according to their subjective views, as well as the right not to perform them at will and to pursue subjective ends. The opposite extreme to the knight errant, as regards service of the state, would be the *menial of the state*, bound to his service merely by need, without genuine duty and equally without right.—Rather, the service of the state demands the sacrifice of independent and discretionary satisfaction of subjective ends, and precisely thereby grants the right to find that satisfaction in the dutiful performance of service, but only there. In this respect, here lies the link between universal and particular interest that constitutes the concept and the inner stability of the state (§ 260).—The relationship of office is likewise not a *contractual relationship* (§ 75), although there is consent on both sides and performance by both sides. The official is not appointed for a single contingent service, like a mandatary; he places the chief interest of his spiritual and particular existence in this relationship. Nor is what he has to deliver, and what is entrusted to him, a thing that is external in its quality and merely particular. The *value* of such a thing, as something inner, is distinct from its externality, and is not yet violated when what was stipulated is not delivered (§ 77). But what the servant of the state has to deliver is, just as it immediately is, a value in and for itself. The wrong done by non-performance or by positive violation (an act contrary to duty—for both are such acts) is therefore a violation of the universal content itself (compare § 95, the negatively infinite judgment), and hence an offense or even a crime.—The secure satisfaction of particular need removes the external

want that might lead someone to seek the means of satisfying it at the expense of official activity and duty. In the universal power of the state, those entrusted with its [the state's] business find protection against the other subjective side: against the private passions of the governed, whose private interest and so on is offended when the universal is asserted against it.

295 The protection of the state and of the governed against abuse of power by the authorities and their officials lies, on the one hand, directly in their hierarchy and accountability; on the other, in the entitlements of municipalities and corporations. Through these, the intrusion of subjective arbitrariness into the power entrusted to officials is checked for itself, and control from above, which cannot reach individual conduct, is supplemented from below.

295R The conduct and culture of officials is the point where the laws and decisions of the government touch individuality and are made effective in actuality. This is therefore the place on which the citizens' satisfaction with, and trust in, the government depend, as do the execution or the weakening and frustration of the government's intentions. For feeling and disposition easily rate the *manner* of execution as highly as the *content* of what is to be executed, which may already in itself contain a burden. Because this contact is immediate and personal, control from above achieves its end less completely in this respect. That end may also meet obstacles in the common interest of officials as an estate that closes ranks against its subordinates and against its superiors. The removal of these obstacles, especially where institutions are otherwise still less perfect, requires and justifies the higher intervention of sovereignty (as, for example, that of *Frederick II* in the Miller Arnold case, which has been made notorious).[1]

296 But whether dispassionateness, integrity and gentleness of conduct become *custom* depends partly on direct *ethical* and

1 In 1779–80 Frederick the Great of Prussia overruled the courts in favor of the miller Christian Arnold and had the judges imprisoned; the intervention was widely criticized.

intellectual culture. This culture provides a spiritual counterweight to whatever is mechanical and the like in learning the so-called sciences of the objects of these spheres, in the required business training, in actual work and so on. Partly, the *size* of the state is a principal factor: it weakens the weight of family and other private ties, and makes revenge, hatred and other such passions more powerless and thus blunter. In dealing with the great interests present in a large state, these subjective aspects disappear of themselves, and the habit of universal interests, views and business is produced.

297 The members of the government and the officials of the state form the main part of the *middle estate,* in which the educated intelligence and the legal consciousness of the mass of a people are found. That this estate does not take up the isolated position of an aristocracy, and that culture and skill do not become a means of arbitrariness and domination, is secured by the institutions of sovereignty from above and of corporate rights from below.

297R Thus in former times the administration of justice, whose object is the proper interest of all individuals, had been turned into an instrument of profit and domination, because knowledge of right was shrouded in learning and a foreign language, and knowledge of legal procedure in intricate formalism.

THE LEGISLATIVE POWER

The legislature, with its assembly of Estates, brings the views of civil society into the affairs of state.

298 The *legislative power* concerns the laws as such, insofar as they need further determination, and those internal affairs whose content is wholly universal. This power is itself a part of the constitution, which it presupposes and which to that extent lies, in and for itself, outside its direct determination. But the constitution receives its further development in the further formation of the laws and in the progressive character of the universal affairs of government.

[299] In relation to individuals, these objects are determined more precisely according to two aspects: α) what benefits they receive and enjoy through the state, and β) what they have to contribute to it. The former includes the laws of private right in general, the rights of municipalities and corporations, quite general arrangements, and indirectly (§ 298) the whole of the constitution. What is to be contributed, however, can be determined justly—and at the same time in such a way that the *particular* kinds of work and service an individual can perform are mediated by his arbitrary will—only by being reduced to *money*, as the existing universal *value* of things and services.

[299R] What is to be the object of universal legislation, and what is to be left to the determination of the administrative authorities and to government regulation in general, can indeed be distinguished in general terms: the former covers only what is wholly universal in content, the legal provisions; the latter covers the particular and the manner of *execution*. But this distinction is not fully determinate, if only because a law, in order to be a law and not a mere commandment in general (like "You shall not kill"; compare the Remark to § 140, p. 271 f.), must be *determinate* within itself. Yet the more determinate it is, the closer its content comes to being capable of execution just as it stands. At the same time, however, determination carried so far would give laws an empirical aspect that would have to be subject to modification in actual execution, and this would detract from their character as laws. It lies in the organic unity of the powers of the state itself that it is *one* spirit which establishes the universal and which brings it to its determinate actuality and executes it.—It may at first seem striking that the state makes no direct demand on the many skills, possessions, activities and talents within it, and on the infinitely varied living *resources* they contain—resources that are at the same time bound up with disposition—but lays claim only to the *one* resource that appears as *money*.—Contributions relating to the defense of the state against enemies belong only to the duty treated in the following section. In fact, however, money is not one *particular* resource

alongside the others; it is their universal, insofar as they produce themselves into the externality of existence in which they can be grasped as a *thing*. Only at this most external extreme is *quantitative* determinacy, and with it the justice and equality of contributions, possible.—*Plato*, in his *Republic*, has the rulers assign individuals to the particular estates and impose on them their *particular* contributions (compare the Remark to § 185). In feudal monarchy, vassals likewise had to render indeterminate services, but also services in their *particularity*, such as the office of judge and so on. The contributions exacted in the East, in Egypt, for the immense works of architecture and so on, are likewise of a *particular* quality, and so on. What is lacking in these relationships is the principle of *subjective freedom*: that the substantial activity of the individual, which in such contributions is in any case something particular in content, should be mediated by his *particular will*. This right is possible only when contributions are demanded in the form of universal value, and it is the reason that has brought about this transformation.

300 In the legislative power as a totality, the two other moments are effective first of all: the *monarchical*, as that to which the supreme decision belongs; and the *executive power*, as the advisory moment, with its concrete knowledge and overview of the whole in its many aspects and of the actual principles that have become established in it, and with its knowledge of the needs of the power of the state in particular. Finally, there is the *Estates* element.

THE ESTATES

The Estates give existence to the views of the many and mediate between the crown and the people.

301 The function of the *Estates* element is that through it the universal affair should come into existence not only *in itself* but also *for itself*—that is, that the moment of subjective *formal freedom*, public consciousness as the *empirical universality* of the views and thoughts of the *many*, should come into existence in it.

301R The expression *the many* (Greek *hoi polloi*) denotes empirical universality more correctly than the current word *all*. For if it is said to be self-evident that this *all* does not mean, at the very least, children, women and so on, then it is even more self-evident that one should not use the quite determinate expression *all* where something quite indeterminate is at issue.—In general, so unspeakably many distorted and false notions and turns of phrase about the people, the constitution and the Estates have entered the circulation of opinion that it would be a futile effort to try to list, discuss and correct them. The notion that ordinary consciousness usually first has in mind about the necessity or usefulness of the participation of the Estates is chiefly this: that the deputies of the people, or even the people itself, *must understand best* what serves its best interest, and that it has the unquestionably best will toward that interest. As regards the first point, the truth is rather that the people, insofar as this word denotes a particular section of the members of a state, is the section *that does not know what it wants*. To know what one wants, and still more what the will that is in and for itself, reason, wants, is the fruit of deep knowledge and insight, and that is precisely not the business of the people. —On a little reflection, the guarantee for the universal good and public freedom that lies in the Estates is not to be found in any special insight of theirs. For the highest officials of the state necessarily have deeper and more comprehensive insight into the nature of the state's institutions and needs, as well as greater skill in and familiarity with this business, and they *can* do what is best without the Estates, just as they must continually do what is best when the Estates are assembled. Rather, the guarantee lies partly, no doubt, in the additional insight the deputies contribute, above all into the doings of officials further removed from the eyes of the higher offices, and in particular into more pressing and more specific needs and deficiencies that the deputies have concretely before them. But it lies partly in the effect that the expected censure of the many, and public censure at that, brings with it: namely, that the best insight is brought to bear in

advance on business and on the drafts to be submitted, and that these are framed only in accordance with the purest motives—a compulsion that is equally effective on the members of the Estates themselves. As for the particularly *good will* of the Estates toward the universal good, it was already remarked above (Remark to § 272) that it belongs to the outlook of the rabble, the standpoint of the negative in general, to presuppose an evil or less good will on the part of the government. If this presupposition were to be answered in kind, it would first of all invite the recrimination that the Estates, since they start from individuality, the private standpoint and particular interests, are inclined to use their influence for these at the expense of the universal interest, whereas the other moments of the power of the state are by their very nature placed at the standpoint of the state and devoted to the universal end. As for the guarantee in general that is supposed to lie especially in the Estates, every other institution of the state shares with them this character of being a guarantee of the public welfare and of rational freedom. And there are institutions among them—the sovereignty of the monarch, hereditary succession to the throne, the organization of the courts and so on—in which this guarantee lies to a far greater degree. The distinctive conceptual determination of the Estates is therefore to be sought in this: that in them the subjective moment of universal freedom—the insight and will of its own that belong to the sphere called civil society in this exposition—*comes into existence in relation to the state*. That this moment is a determination of the Idea developed into totality—this inner necessity, which is not to be confused with *external necessities* and *usefulness*—follows, as everywhere, from the philosophical point of view.

302 Regarded as a *mediating* organ, the Estates stand between the government in general on the one hand, and on the other the people, dispersed into particular spheres and individuals. Their function requires of them the *sense* and *disposition* of the *state* and the *government* as much as those of the *interests* of *particular* circles and *individuals*. At the same time, this position

means a mediation shared with the organized executive power. Its effect is that the power of the crown does not appear isolated as an *extreme*, and thus as mere domination and arbitrariness; that the particular interests of municipalities, corporations and individuals do not isolate themselves; and, still more, that individuals do not come to present themselves as a *crowd* and an *aggregate*, and so to an inorganic opinion and volition and to a merely massed force against the organic state.

302R It is one of the most important logical insights that a determinate moment which, standing in opposition, has the position of an extreme ceases to be one, and is an *organic* moment, by being at the same time a *middle term*. In the subject considered here, it is all the more important to bring out this aspect, since it is one of the common but highly dangerous prejudices to picture the Estates chiefly from the point of view of their *opposition* to the government, as though that were their essential position. The Estates element proves itself organic, that is, taken up into the totality, only through its function of mediation. The opposition itself is thereby reduced to a semblance. If this opposition, insofar as it appears, did not merely concern the surface but actually became a substantial opposition, the state would be on the way to its downfall.—The sign that the conflict is not of this kind follows from the nature of the matter: it is present when the objects of the conflict concern not the essential elements of the state's organism but more specific and less important matters, and when the passion that nonetheless attaches to this content turns into partisanship for a merely subjective interest, such as the higher offices of state.

303 The *universal* estate, which more specifically devotes itself to the *service of the government*, has the universal as the end of its essential activity immediately by virtue of its function. In the *Estates* element of the legislative power, the *private estate* attains *political significance* and effectiveness. In doing so, it can appear neither as a mere undifferentiated mass nor as a multitude dissolved into its atoms, but as *what it already is*: namely, differentiated into the *estate* based on the substantial relationship and the

estate based on particular needs and the labor that mediates them (§§ 201 ff.). Only thus, in this respect, is the *particular* that is actual in the state truly linked to the universal.

303R This runs counter to another current notion: that when the private estate is raised to participation in the universal cause in the legislative power, it must appear in the form of *individuals*—whether they elect representatives for this function, or even each of them is to cast a vote himself. This atomistic, abstract view already disappears in the family, as it does in civil society, where the individual appears only as a member of a universal. The state, however, is essentially an organization of such members as are *circles in their own right*, and in it no moment should show itself as an inorganic multitude. *The many* as individuals—which is what is commonly understood by the people—are indeed a *collective*, but only as a *multitude*: a formless mass whose movement and action would for that very reason be only elemental, irrational, savage and terrifying. Whenever one still hears talk of the *people*, this inorganic totality, in connection with the constitution, one can know in advance that nothing but generalities and distorted declamations are to be expected.—The notion that dissolves the communities already present in those circles back into a multitude of individuals at the point where they enter the political sphere, that is, the standpoint of the *highest concrete universality*, thereby keeps civil and political life apart and leaves political life, so to speak, hanging in the air. For its basis would then be only the abstract individuality of arbitrary will and opinion, and so the contingent, not a foundation that is *stable* and *legitimate* in and for itself.—Although in the notions of so-called theories the *estates of civil* society in general and the *Estates in a political* sense lie far apart, language has nonetheless preserved this union, which in any case existed earlier.[2]

304 The political element of the Estates also contains, in its own determination, the distinction of estates already present in the earlier spheres. Its position is at first abstract: it is the

2 Hegel is pointing to the double sense of *Stände*: the social estates and the representative assembly.

extreme of *empirical universality* over against the *princely* or *monarchical principle* in general. That position holds only the *possibility of agreement*, and so equally the *possibility of hostile* opposition. This abstract position becomes a rational relation (a *syllogism*, cf. Remark to § 302) only when its *mediation* comes into existence. On the side of the power of the crown, the executive power (§ 300) already has this determination. In the same way, on the side of the Estates, one of their moments must be directed toward the determination of existing essentially as the moment of the middle.

305 One of the estates of civil society contains the principle that is capable by itself of being constituted for this political relation. This is the estate of natural ethical life. Its basis is family life and, as regards its subsistence, landed property. With regard to its particularity, therefore, it has two things in common with the princely element: a will that rests on itself, and the natural determination that the princely element contains within it.

306 This estate is more specifically constituted for its political position and significance insofar as its resources are independent of the state's resources. They are equally independent of the insecurity of trade, the craving for gain and the changeability of possessions in general, and of the favor of the executive power as much as of the favor of the multitude. They are secured even *against its own arbitrary will*. This is achieved because the members of this estate who are called to this function lack a right that other citizens have. They may not dispose freely of their entire property, and they may not know that it will pass to their children in accordance with an equal love for them. Their resources thus become an *inalienable inheritance*, burdened with the entail of primogeniture.[3]

307 The right of this part of the substantial estate is thus founded, on the one hand, on the natural principle of the family. At the same time, however, hard sacrifices for the *political end*

3 The German term is *Majorat*: a landed estate entailed so that it passes undivided to the eldest son and cannot be sold or split up.

invert this principle. As a result, this estate is essentially directed to activity for that end. In consequence, it is called and *entitled* to that activity by *birth*, without the contingency of an election. It thereby has a firm, substantial position between the subjective arbitrariness or contingency of the two extremes. It bears within itself a likeness of the moment of the power of the crown (see the preceding §). In the same way, it shares with the other extreme the needs and rights that are otherwise the same. It thus becomes at once a support of the throne and of society.

308 The other part of the element of the Estates comprises the *mobile* side of *civil society*. This side can enter only through *deputies*. Outwardly, this is because of the number of its members. Essentially, it is because of the nature of its determination and occupation. Insofar as civil society sends these deputies, it obviously does so *as what it is*. It does not act as something dissolved atomistically into individuals, gathering for a moment only for a single, temporary act, without any further cohesion. It acts as articulated into its associations, municipalities and corporations, which are already constituted in any case and which in this way acquire a political connection. These bodies are entitled to such a deputation when the power of the crown summons it, just as the first estate is entitled to appear (§ 307). In these entitlements, the existence of the Estates and of their assembly finds a constituted guarantee of its own.

308R There is an idea that *all* should, as individuals, take part in deliberating and deciding on the universal affairs of the state. The reason given is that all are members of the state, and its affairs are the affairs of *all*, so that all have a *right* to be present in them with their knowledge and will. This idea seeks to introduce the *democratic* element *without any rational form* into the organism of the state, which is an organism only through such form. The idea suggests itself so readily because it stops at the *abstract* determination of being a member of the state, and superficial thinking clings to abstractions. Rational reflection, the consciousness of the Idea, is *concrete*. To that extent it coincides with the true *practical* sense, which is itself nothing other

than the rational sense, the sense of the Idea. This practical sense, however, is not to be confused with mere business routine and the horizon of a limited sphere. The concrete state is the *whole, articulated into its particular circles*. The member of the state is a *member* of such an *estate*. Only in this objective determination can the member be taken into account in the state. The member's universal determination in general contains a twofold moment. The member is a *private person*, and, as a *thinking* being, is equally consciousness and will of the *universal*. But this consciousness and will is not empty only when it is filled with particularity, and only then is it *fulfilled* and actually *alive*. That particularity is the particular estate and vocation. Put differently: the individual is a *genus*, but has its *immanent* universal *actuality* as the *proximate* genus.—The individual therefore first attains its actual and living determination for the *universal* in its sphere of the corporation, the municipality and so on (§ 251). It remains open to individuals to enter, through their skill, any sphere for which they have qualified *themselves*, the universal estate included. The idea that *all* should take part in the affairs of the state contains another presupposition: that *all understand these affairs*. This is as absurd as it is, despite that, frequently heard. In public opinion (see § 316), however, the way is open to everyone to express his subjective opinion about the universal as well, and to make it count.

309 The deputation takes place for deliberating and deciding on *universal* affairs. Its meaning is therefore that, through trust, individuals are chosen for it who understand these affairs better than those who send them. Its meaning is also that the deputies uphold not the particular interest of a municipality or corporation against the universal interest, but essentially the universal interest itself. They are therefore not in the position of commissioned agents or bearers of instructions. This holds all the more because the assembly is meant to be a living assembly, whose members inform and persuade one another and deliberate in common.

[310] Independent resources already claim their right in the first part of the Estates. The second part arises from the mobile and changeable element of civil society. In it, the guarantee of the qualities and disposition appropriate to this end shows itself chiefly in disposition, skill, and knowledge of the institutions and interests of the state and of civil society. These are acquired through the *actual* conduct of business in *official* posts or *state offices* and proven *by deeds*. The guarantee also lies in the *sense of public authority* and *sense of the state* that are formed and tested in this way.

[310R] Subjective opinion of oneself easily finds the demand for such guarantees superfluous, perhaps even insulting, when it is made with regard to the so-called people. But the state has as its determination what is objective, not a subjective opinion and its self-confidence. Individuals can be for the state only what is objectively recognizable and proven in them. The state must attend to this all the more in the case of this part of the element of the Estates, because this part has its root in interests and occupations directed to the particular. There, contingency, changeability and arbitrariness have their right to run free. — The external condition, a certain level of wealth, appears, taken purely by itself, as the one-sided extreme of externality. It stands opposed to the other, equally one-sided extreme: the merely subjective trust and opinion of the electors. Each of them, in its abstraction, contrasts with the concrete qualities that are required for deliberating on affairs of state and that are contained in the determinations indicated in § 302.—In any case, the property qualification already has a sphere in which it has been able to exert its effect: elections to official and other posts in associations and municipalities, especially when some of these functions are carried out without pay. It also bears directly on the business of the Estates when their members draw no salary.

[311] Deputation, as proceeding from civil society, has the further meaning that the deputies should be acquainted with its special needs, obstacles and particular interests, and should

themselves belong to them. In accordance with the nature of civil society, deputation proceeds from its various corporations (§ 308). If abstractions and atomistic notions do not disturb the simple manner of this procedure, it thereby immediately satisfies that requirement. Election is then either altogether superfluous or reduced to a trivial play of opinion and arbitrariness.

311R There is an obvious interest in having among the deputies, for each particular major branch of society (for instance, commerce, manufacturing and so on), individuals who know it thoroughly and themselves belong to it. In the idea of loose, indeterminate election, this important circumstance is simply left to chance. But each such branch has the same right as any other to be represented. If the deputies are regarded as *representatives*, this has an organic, rational meaning only on one condition. They must be *representatives* not of *individuals*, of a multitude, but *representatives* of one of the essential *spheres* of society, representatives of its major interests. Representing therefore no longer means that one person stands *in the place of another*. Rather, the interest itself is *actually present* in its representative, just as the representative is there for his own objective element. —Regarding election by the many individuals, it may further be noted that, especially in large states, *indifference* to casting one's vote necessarily sets in, since a single vote has an insignificant effect in the multitude. However highly this entitlement may be rated and presented to them, those entitled to vote simply do not turn up to vote. The result of such an institution is thus the very opposite of its purpose. The election falls into the power of a few, of a party, and hence of the particular, contingent interest that was precisely what should have been neutralized.

312 Each of the two sides contained in the element of the Estates (§§ 305, 308) brings a particular modification to deliberation. Moreover, one of these moments has the distinctive function of mediation within this sphere, namely between elements that already exist. It follows that this moment likewise has a separate existence. The assembly of the Estates will therefore divide into *two chambers*.

313 This separation has several effects. A plurality of *instances* gives greater security to the maturity of decisions. It removes the contingency of a momentary mood, as well as the contingency that decision by a majority of votes can take on. Above all, the element of the Estates is less often placed in direct opposition to the government. Or, if the mediating moment also sides with the second estate, the weight of that estate's view is all the more strengthened, because the view then appears more impartial and its opposition neutralized.

314 The purpose of the institution of Estates is not that through it the affairs of the state should be deliberated and decided in the best way *in themselves*; in that respect the Estates are only an addition (§ 301). Their distinctive purpose is that, through their shared knowledge, deliberation and decision about universal affairs, the moment of *formal* freedom should attain its right for those members of civil society who have no part in government. Accordingly, it is first of all the moment of *universal* knowledge that is extended, through the *publicity* of the proceedings of the Estates.

315 Opening up this opportunity for knowledge has a more universal aspect. Only in this way does public opinion arrive at *true thoughts* and at *insight* into the condition and concept of the state and its affairs, and so for the first time at a *capacity to judge them more rationally*. It also comes to know and respect the business, talents, virtues and skills of the state authorities and officials. In such publicity these talents gain a powerful opportunity for development and a stage for high honor. Publicity is, in turn, the remedy for the self-conceit of individuals and of the multitude, and a means of cultivating them—indeed one of the greatest.

PUBLIC OPINION

Public opinion mixes substantial truth with endless error, and so deserves both respect and contempt.

316 Formal, subjective freedom means that individuals as such have and express their *own* judgments, opinions and counsels on universal affairs. This freedom makes its appearance in the collective called *public opinion*. In it, what is universal in and for itself, the *substantial* and *true*, is bound up with its opposite: the *idiosyncratic* and *particular* element in the opining of the many. This existence is therefore the contradiction of itself made present: knowledge as *appearance*, essentiality just as immediately as inessentiality.

317 Public opinion therefore contains within it the eternal substantial principles of justice: the true content and result of the whole constitution, of legislation and of the general condition. It contains them in the form of *common sense*, as the ethical basis that runs through everyone in the shape of prejudices. It also contains the true needs and correct tendencies of actuality.—At the same time, this inner content enters consciousness and comes to be represented in general propositions. It does so partly for its own sake, partly for concrete reasoning about events, arrangements and relations of the state and about felt needs. As this happens, the whole contingency of opinion enters in, with its ignorance and perversity, its false knowledge and judgment. What matters here is the awareness that one's view and knowledge are *distinctively one's own*. So the worse an opinion's content, the more distinctive it is. For what is bad is what is wholly particular and idiosyncratic in its content, whereas the rational is the universal in and for itself. And the *distinctive* is what opinion *prides itself on*.

317R It is therefore not to be taken as a difference of subjective views when we hear on one occasion *Vox populi, vox dei* [The voice of the people is the voice of God], and on another (in

Ariosto,[4] for instance): *Che'l Volgare ignorante ogn' un riprenda / E parli più di quel che meno intenda* [That the ignorant crowd finds fault with everyone and talks most of what it least understands]. Both are found together in public opinion. Since truth and endless error are so immediately united in it, neither the one nor the other is meant in true *earnest*. What it does mean in earnest may seem hard to distinguish. Indeed it will be hard, if one sticks to the *immediate expression* of public opinion.[5] But since the substantial is its inner content, only the substantial is truly meant in earnest. This cannot be known from public opinion. Precisely because it is the substantial, it can be known only from and for itself. Whatever passion may be invested in what is opined, and however earnestly it is asserted, attacked and disputed, this is no criterion of what is actually at stake. Yet opinion would least of all be brought to see that its earnestness is nothing serious.—A great mind once posed a question for public answer: *whether it is permissible to deceive a people*.[6] The answer had to be that a people does not let itself be deceived about its substantial basis, the *essence* and determinate character of its spirit. It is, however, deceived *by itself* about the manner in which it knows this character, and about the actions, events and so on that it judges in that manner.

318 Public opinion therefore deserves to be *respected* as much as *despised*. It deserves contempt for its concrete consciousness and expression, and respect for its essential basis, which only shows through, more or less clouded, in that concrete expression. Public opinion does not have within it the standard for making distinctions, nor the capacity to raise its substantial side to determinate knowledge. Independence from it is therefore

4 HEGEL'S NOTE. Or in Goethe: The mass can strike a blow, and there it earns respect; *at judging it does miserably*.

TRANSLATOR'S NOTE. From Goethe's *Zahme Xenien* ("Tame Xenia"), a collection of epigrammatic verses.

5 Ludovico Ariosto (1474–1533), Italian poet; the lines come from his epic *Orlando furioso* (canto 28, stanza 1).

6 Frederick II, at whose instigation the Berlin Academy set this as its prize question for 1780.

the first formal condition for anything great and rational (in actuality as in science). Something great and rational can, for its part, be sure that public opinion will in due course accept it, recognize it and make it one of its prejudices.

319 Consider the freedom of public communication, one of whose media, the *press*, has the advantage of wide reach over the other, the spoken word, but lags behind it in liveliness. It is the satisfaction of that itching urge to say one's opinion and to have said it. This freedom has its direct safeguard in the police and legal laws and ordinances that partly prevent and partly punish its excesses. Its indirect safeguard lies in its harmlessness. That harmlessness is grounded above all in the rationality of the constitution and the stability of the government, and then also in the publicity of the assemblies of the Estates. Publicity has this effect because these assemblies give voice to sound and cultivated insight into the interests of the state and leave little of significance for others to say. Above all, it deprives others of the opinion that such saying has a peculiar importance and effect. The harmlessness is further grounded in the indifference and contempt toward shallow and malicious talk to which such talk has necessarily soon reduced itself.

319R To define freedom of the press as the freedom to say and write *whatever one wants* is on a par with declaring freedom in general to be the freedom to *do whatever one wants*.—Such talk belongs to the wholly uncultivated crudity and superficiality of representational thinking. Moreover, by the very nature of the matter, formalism nowhere clings so stubbornly and listens so little to reason as in this subject. For its object is what is most fleeting, most contingent, most particular, most contingent in opinion, in an infinite variety of content and turns of phrase. Beyond direct incitement to theft, murder, rebellion and so on, there lies the art and cultivation of expression. Taken by itself, such expression appears quite general and indeterminate. Yet it partly also conceals a quite determinate meaning, and it is partly connected with consequences that are not actually expressed. It cannot be determined whether these con-

sequences really follow, or whether they are meant to be contained in that expression. This indeterminability of material and form prevents laws on the matter from attaining the determinacy required of a law. Here offense, wrong and injury take the most particular, most *subjective* form, and so the judgment likewise becomes a wholly *subjective* decision. In addition, the injury is directed at the thoughts, opinion and will of others. These are the element in which it attains actuality. But this element belongs to the freedom of others, and it therefore depends on them whether that injurious action is an actual deed.—Against the laws, therefore, one can point out their indeterminacy. One can also invent turns and forms of expression by which one evades the laws, or by which the judicial decision is claimed to be a subjective judgment. Further, if the expression is treated as an *injurious deed*, it can be objected that it is no deed at all, but merely *opining* and *thinking*, merely *saying*. Two demands are then made in one breath. On the grounds of the mere subjectivity of the content and form, of the *insignificance* and *unimportance* of mere opining and saying, the *impunity* of that opining and saying is demanded. At the same time, *high respect* and *esteem* are demanded for this same opining, as my property, indeed my most *spiritual* property, and for saying, as the expression and use of this property of mine.—But what is substantial is and remains this: injury to the honor of individuals in general, slander, abuse, bringing the government, its authorities and officials, and the person of the prince in particular, into contempt, mockery of the laws, incitement to rebellion and so on are crimes and offenses of the most varied gradations. Such actions acquire greater indeterminability from the element in which they are expressed. That does not sublate their substantial character. It has only one consequence: the *subjective* ground on which they are committed also determines the *nature* and *form* of the *reaction*. It is this ground of the offense itself that makes subjectivity of view, contingency and the like a necessity in the reaction, whether the reaction takes the form of police prevention of crimes or of punishment proper. Here, as always, formal-

ism sets about arguing away the substantial and concrete nature of the matter. It does so on the basis of *individual* aspects belonging to external appearance, and of abstractions it draws from them. —The *sciences*, however, do not fall under the category of what makes up public opinion (§ 316). That is, if they are sciences at all, they do not stand on the ground of opinion and subjective views. Nor does their presentation consist in the art of turns of phrase, of allusion, of half-saying and concealing. It consists in unambiguous, determinate and open statement of meaning and sense.—Moreover, as noted above, views and their expressions as such become a *completed action*, and attain their actual existence, in an element: the intelligence, principles and opinions of *others*. So this side of such actions, their actual effect and their *dangerousness* to individuals, society and the state (cf. § 218), also depends on the nature of this ground. In the same way, a spark thrown on a heap of gunpowder is far more dangerous than one thrown on solid ground, where it vanishes without trace.—Thus scientific expression has its right and its safeguard in its material and content. In the same way, the wrong in an expression can also find a safeguard, or at least toleration, in the contempt into which it has brought itself. Some of these offenses, which are also punishable by law in their own right, can be put down to a certain kind of *nemesis*. Inner impotence, feeling itself oppressed by superior talents and virtues, is driven to exercise this nemesis in order to come into its own against such superiority, and to give its own nullity back a self-consciousness. The Roman soldiers exercised a more harmless nemesis on their generals in the triumphal procession. They did so to repay their hard service and obedience, above all because their own names did not count in that honor. By singing mocking songs, they placed themselves in a kind of balance with their generals.[7] Contempt robs that base and spiteful nemesis of its effect. It thereby confines the nemesis, like the public that may

7 At a Roman triumph, soldiers marching behind the victorious general traditionally sang ribald verses mocking him.

form a circle around such busy activity, to meaningless malicious glee and to the self-condemnation it carries within it.

320 *Subjectivity* has its *most external* appearance as the dissolution of the established life of the state in opinion and reasoning. These seek to assert their own contingency and thereby equally destroy themselves. Subjectivity has its true actuality in its opposite: *subjectivity* as identical with the substantial will. This subjectivity constitutes the concept of the power of the crown. As the *ideality* of the whole, it has not yet attained its right and existence in what has been discussed so far.

International Law and World History

Sovereignty and war, relations between states, and world history as the world's court of judgment.

321 *Internal sovereignty* (§ 278) is this ideality insofar as the moments of spirit and of its actuality, the state, are *unfolded in their necessity* and *subsist* as members of the state. But spirit, as the *infinitely negative* relation *to itself* in freedom, is just as essentially *being-for-self*. It has *taken* the subsisting difference *into itself* and is thus exclusive. In this determination the state has *individuality*. This individuality exists essentially as an individual, and in the sovereign as an actual, immediate individual (§ 279).

322 Individuality, as exclusive being-for-self, appears *as a relation to other states*, each of which is independent of the others. The *being-for-self* of actual spirit has its *existence* in this independence. This independence is therefore the first freedom and the highest honor of a people.

322R Some people speak of the wishes of a collective that forms a more or less independent state and has its own center. They speak of wishes to lose this center and its independence in order to form a whole with another state. Such people know little of the nature of a collective and of the self-esteem a people has in its independence.—The first power in which states appear historically is therefore this independence in general, even if it is quite abstract and has no further inner development. It therefore belongs to this original appearance that an individual stands at its head: a patriarch, a tribal chief and so on.

323 In *existence*, this *negative* relation of the state to itself thus appears as the relation of an *other* to an *other*, and as if the negat-

ive were something *external*. The existence of this negative relation therefore takes the shape of a happening, of entanglement with contingent events that come *from outside*. But it is the state's own highest moment, *its own*: its actual infinity as the ideality of everything finite within it. It is the side in which the substance, as the absolute power over everything individual and particular, brings the nullity of all this to existence and consciousness. That includes life, property and its rights, as well as the wider circles.

[324] In this determination, the interest and right of individuals are posited as a vanishing moment. The determination is at the same time the *positive*: the positive of their individuality, not as contingent and changeable, but as being *in and for itself*. This relation and its recognition is therefore their substantial duty. It is the duty to preserve this substantial individuality, the independence and sovereignty of the state, by facing danger and sacrificing their property and life—and, needless to say, their opinion and everything else that is naturally comprised in the range of life.

THE ETHICAL MOMENT OF WAR

War makes the vanity of finite things actual and preserves the ethical health of peoples.

[324R] It is a gross miscalculation if, when this sacrifice is demanded, the state is regarded merely as civil society, and its final end merely as the *securing of the life and property* of individuals. For this security is not achieved by sacrificing what is to be *secured*—on the contrary.—What has been stated contains the ethical *moment of war*. War is not to be regarded as an absolute evil and as a merely external contingency. On that view it would have a ground that is itself contingent, whatever that ground might be: the passions of those in power or of peoples, injustices and so on—in general, something that ought not to be. What is contingent by nature is befallen by the contingent, and this very fate is therefore necessity. In general, the concept and philo-

sophy make the standpoint of mere contingency vanish, and recognize in contingency, as *semblance*, its essence: necessity. It is *necessary* that the finite, possessions and life, be *posited* as contingent, because this is the concept of the finite. On the one hand, this necessity takes the shape of a natural force, and everything finite is mortal and transient. But in the ethical entity, the state, this power is taken from nature, and necessity is raised to a work of freedom, to something ethical. That transience becomes a *willed* passing away. The underlying negativity becomes the substantial individuality proper to the ethical entity. —War is the condition in which the vanity of temporal goods and things is taken seriously, when otherwise it tends to be merely an edifying phrase. War is therefore the moment in which the ideality of the *particular attains its right* and becomes actuality. It has a higher significance, as I have put it elsewhere: through it, "the ethical health of peoples is preserved in their indifference toward the fixing of finite determinacies, just as the movement of the winds preserves the sea from the foulness into which a lasting calm would plunge it—as a lasting, or indeed a perpetual, peace would plunge peoples."[1] —That this, incidentally, is *only* a philosophical Idea, or, as it is also put, a justification of *providence*, and that actual wars require a further justification, will be discussed later.—Two idealities are at issue here. One appears in war as lying in a contingent external relation. The other is the ideality by which the internal powers of the state are organic moments of the whole. That they are the same ideality shows itself in historical appearance in several forms. One is that successful wars have prevented domestic unrest and consolidated the internal power of the state. Consider two further phenomena. Peoples unwilling to endure internal sovereignty, or afraid of it, have been subjugated by others. They have striven for their independence with less success and honor, the less they were able to reach even a first internal organization of state power (their freedom died of the fear of dying). Then there

1 Hegel is quoting his own essay "On the Scientific Ways of Treating Natural Law" (1802–03).

are states whose independence is guaranteed not by their armed force but by other considerations (for instance, states disproportionately small in relation to their neighbors). These can survive with an internal constitution that by itself would guarantee peace neither at home nor abroad, and so on. Such phenomena belong precisely here.

325 Sacrifice for the individuality of the state is the substantial relation of all, and hence a *universal duty*. At the same time, as *one aspect* of ideality over against the reality of particular subsistence, it becomes itself a particular relation. A distinct estate is devoted to it: the *estate of valor*.

326 Disputes between states may have some *particular* aspect of their relation as their object. For such disputes, the *particular* part of the state devoted to its defense also has its main function. But insofar as the state as such, its independence, is in danger, duty calls all its citizens to its defense. If the whole has thus become a force, and is torn out of its inner life within itself and turned outward, defensive war passes over into war of conquest.

326R The armed force of the state becomes a *standing army*, and the vocation for the particular business of its defense becomes an *estate*. This happens by the same necessity by which the other particular moments, interests and occupations become a marriage, or the estates of trade, of the state, of business and so on. Reasoning that shuttles back and forth between arguments dwells on the greater advantages or the greater disadvantages of introducing standing armies. Opinion readily decides for the latter. One reason is that the concept of the matter is harder to grasp than individual and external aspects. Another is that the interests and ends of particularity (the costs and their consequences, higher taxes and so on) are rated higher in the consciousness of civil society than what is necessary in and for itself, which in this way counts only as a means to them.

327 Valor, taken by itself, is a *formal* virtue. It is the highest abstraction of freedom from all particular ends, possessions, enjoyment and life, but it carries out this negation in an *extern-*

ally actual way. Moreover, alienation, as *accomplishment*, is not in itself of a spiritual nature. The inner disposition behind it can be this or that motive, and its actual result can also be not *for itself* but only for others.

328 The content of valor as a disposition lies in the true, absolute final end: the *sovereignty* of the state. The *actuality* of this final end, as the work of valor, has the surrender of personal actuality as its mediation. This shape therefore contains the harshness of the highest oppositions. It is *alienation* itself, but as the *existence* of freedom. It is the highest *independence* of *being-for-self*, whose existence is at the same time bound up with the mechanical working of an *external order* and of *service*. It is complete obedience and renunciation of one's own opinion and reasoning, and so the *absence* of one's own spirit. Yet it is also the most intense and comprehensive instantaneous *presence* of spirit, and decisiveness. It is the most hostile and at the same time most personal action against individuals, combined with a completely indifferent, indeed benevolent, disposition toward them as individuals.

328R To stake one's life is certainly more than merely fearing death. But taken by itself it is merely negative, and so it has no determination and value of its own. It is the positive, the end and content, that first gives this courage its meaning. Robbers and murderers, whose end is a crime, adventurers with an end of their own devising and so on, also have the courage to stake their lives. —The principle of the modern world, *thought* and the *universal*, has given valor a higher shape. Its expression now seems more mechanical. It appears not as the act of this *particular* person, but only as the act of a *member* of a whole. Likewise, it appears as directed not against individual persons but against a hostile whole in general, so that personal courage appears as impersonal. That principle therefore invented the *firearm*. It was not a chance invention of this weapon that transformed the merely personal shape of valor into the more abstract one.

329 The state is turned outward because it is an individual subject. Its relation to other states therefore falls to the *power of the*

crown. It is for this reason that the crown alone, and immediately, has the right to command the armed forces, to conduct relations with other states through ambassadors and so on, and to make war and peace and conclude other treaties.

INTERNATIONAL LAW

Sovereign states recognize one another and make treaties, but disputes they cannot settle end in war.

330 International law proceeds from the *relation* of independent states. What is *in and for itself* in this law therefore takes the form of an *ought*, because whether it is actual depends on *distinct sovereign wills*.

331 The people as a state is spirit in its substantial rationality and immediate actuality. It is therefore the absolute power on *earth*. Consequently, each state stands toward the others in sovereign independence. To be *for the other* as such a state, i.e., to be *recognized* by it, is its first absolute entitlement. But this entitlement is at the same time only formal. The demand that a state be recognized merely because it is a state is abstract. Whether it is in fact something that is in and for itself in this way depends on its content, its constitution and its condition. Recognition contains an identity of both sides, and so it rests equally on the view and will of the other state.

331R The individual is not an actual person without relation to other persons (§ 71 and elsewhere). In the same way, the state is not an actual individual without relation to other states (§ 322). Consider the legitimacy of a state, and more precisely, insofar as the state faces outward, the legitimacy of its power of the crown. On the one hand, this legitimacy is a relation that refers wholly *inward* (one state should not interfere in the internal affairs of another). On the other hand, it must just as essentially be *completed* by the recognition of other states. But this recognition requires a guarantee that the state will likewise recognize the others that are to recognize it, that is, respect them in their independence. So the other states cannot be indifferent to what

goes on within it. —In the case of a nomadic people, for example, and in general of any people at a low stage of culture, the question even arises how far it can be regarded as a state. The religious standpoint (formerly among the Jewish people and the Muslim peoples) may contain a further, higher opposition that does not permit the universal identity required for recognition.

[332] The immediate actuality in which states stand toward one another is particularized into manifold relations. These relations are determined by the independent arbitrary will of both sides, and so have the formal nature of *contracts* in general. The *material* of these contracts, however, is infinitely less varied than in civil society. There, individuals depend on one another in the most diverse respects, whereas independent states are chiefly wholes that satisfy their needs within themselves.

[333] *International law* is the *universal* right that ought to hold between states in and for themselves, as distinct from the particular content of positive treaties. Its principle is that *treaties*, on which the obligations of states toward one another rest, *ought to be kept*. But the relation of states has their sovereignty as its principle. To that extent they are in a state of nature toward one another. Their rights have their *actuality* not in a universal will constituted as a power over them, but in their particular will. That universal determination therefore remains an *ought*. The situation becomes an alternation between relations in accordance with treaties and the sublation of those relations.

[333R] There is no praetor between states, at most arbitrators and mediators, and even these only contingently, i.e., according to particular wills. *Kant* proposed the idea of a *perpetual peace* through a federation of states. This federation would settle every dispute, resolve every disagreement as a power recognized by each individual state, and so make decision by war impossible. But the idea presupposes the *agreement* of states. That agreement would rest on moral, religious or any other

grounds and considerations, and always on particular sovereign wills. It would therefore remain tainted with contingency.[2]

334 The dispute between states can therefore be decided only by *war*, insofar as their particular wills reach no agreement. Injuries can easily occur in large numbers, given the wide scope of states and the many-sided relations of their nationals. But which of them are to be regarded as a definite breach of treaty, or as an injury to recognition and honor, remains *in itself* indeterminable. For a state can place its infinity and honor in any one of its individual aspects. It is all the more inclined to such irritability the more a vigorous individuality is driven, by long internal peace, to seek and create material for activity abroad.

335 Moreover, the state, as something spiritual in general, cannot confine itself to heeding merely the *actuality* of an injury. A further cause of disputes is added: the *idea* of such an injury as a *danger* threatening from another state. With it come the rise and fall of greater or lesser probabilities, conjectures about intentions and so on.

336 States, in their relation of independence, stand toward one another as *particular* wills, and the validity of treaties itself rests on this. But the *particular will* of the whole is, *in its content*, its *welfare* in general. This welfare is therefore the supreme law in a state's conduct toward others. This holds all the more because the Idea of the state is precisely that in it the opposition is sublated between right as abstract freedom and the particular content that fills it, welfare. It holds also because the first recognition of states (§ 331) is directed at them as *concrete* wholes.

337 The substantial welfare of the state is its welfare as a *particular* state. It consists in its determinate interest and condition, its equally distinctive external circumstances, and its particular treaty relations. Government is therefore a *particular wisdom*, not universal providence (cf. Remark to § 324). In the same way, the end in relations with other states, and the principle for the justice of wars and treaties, is not a universal (philanthropic)

2 In ancient Rome the praetor was the magistrate responsible for administering justice. Kant set out his proposal in *Toward Perpetual Peace* (1795).

thought. It is the welfare that is actually injured or threatened, in *its determinate particularity*.

337R At one time there was much discussion of the opposition between morals and politics, and of the demand that the second conform to the first. On this point it is only necessary to remark in general that the welfare of a state has a quite different justification from the welfare of the individual. The ethical substance, the state, has its existence, that is, its right, immediately in an existence that is not abstract but concrete. Only this concrete existence, and not one of the many universal thoughts taken to be moral commands, can be the principle of its action and conduct. The view that politics is supposedly always in the wrong in this supposed opposition rests, even more, on the shallowness of people's notions of morality, of the nature of the state, and of the state's relation to the moral point of view.

338 Because states recognize one another as such, there remains, *even in war*—the condition of rightlessness, of force and contingency—a *bond* in which they count for one another as being in and for themselves. So in war itself, war is determined as something that ought to pass away. War therefore contains the determination of international law that the possibility of peace be preserved in it, so that, for example, envoys are respected. In general, it contains the determination that war not be waged against internal institutions, against the peaceful life of the family and of private individuals, or against private persons.

339 Beyond this, the conduct of states toward one another in war (for example, that prisoners are taken), the rights that in peacetime one state grants to the members of another for private dealings, and so on, rest chiefly on the *customs* of nations, as the inner universality of conduct that maintains itself under all circumstances.

340 Because in their relation to one another states *are particular*, this relation is where the highly animated play of inner particularity unfolds on the grandest scale of appearance: the play of passions, interests, ends, talents and virtues, force, wrong and vice, as well as of external contingency. It is a play in which

the ethical whole itself, the independence of the state, is exposed to contingency. The principles of the *spirits of peoples* are, on account of their particularity, altogether limited. It is in this particularity that, as *existing* individuals, they have their objective actuality and their self-consciousness. Their destinies and deeds in their relations to one another are the dialectic of the finitude of these spirits as it appears. Out of this dialectic the *universal* spirit, the *spirit of the world*, produces itself as unlimited. And it is this same spirit that exercises its right over them, and its right is the highest right of all, in *world history*, as the *world's court of judgment*.[3]

WORLD HISTORY

World history is the court of judgment in which the world spirit actualizes freedom through successive peoples.

341 The *element* in which the *universal spirit* exists is intuition and image in art, feeling and representation in religion, and pure, free thought in philosophy. In *world history* it is spiritual actuality in the whole range of its inwardness and externality. World history is a court of judgment because, in the *universality* of that spirit, which is in and for itself, the *particular* exists only as something *ideal*: the Penates, civil society, and the spirits of peoples in their variegated actuality. The movement of spirit in this element is to exhibit this.[4]

342 Further, world history is not the mere court of judgment of spirit's *power*, that is, the abstract and irrational necessity of a blind fate. Spirit is in and for itself *reason*, and reason's being-for-self in spirit is knowing. World history is therefore the development, necessary solely from the *concept* of spirit's freedom, of the *moments* of reason, and thus of spirit's self-consciousness and freedom. It is the unfolding and *actualization of the universal spirit*.

3 The phrase echoes Schiller's poem "Resignation" (1786): "Die Weltgeschichte ist das Weltgericht" ("World history is the world's court of judgment").
4 Here the Penates stand for the family.

343 The history of spirit is its *deed*, for spirit is only what it does. Its deed is to make itself, here as spirit, the object of its own consciousness, and to grasp itself by explicating itself to itself. This grasping is its being and its principle, and the *completion* of an act of grasping is at the same time spirit's alienation and its transition. Spirit that, to put it formally, grasps this grasping *anew*, or, what is the same thing, returns into itself out of its alienation, is spirit at a higher stage compared with itself as it stood in that first grasping.

343R The question of the *perfectibility* and the *education of the human race* belongs here. Those who have asserted this perfectibility have had some inkling of the nature of spirit. It is spirit's nature to have *Gnôthi seauton* [Know yourself] as the law of its *being*, and, in grasping what *it is*, to be a higher shape than the one that made up its being. But for those who reject this thought, spirit has remained an empty word, and history a superficial play of *contingent*, so-called *merely human* strivings and passions. Even when they speak of *providence* and of a *plan* of providence, and so express their faith in a higher governance, these remain unfulfilled notions, since they also expressly declare the plan of providence to be unknowable and incomprehensible to them.[5]

344 In this business of the world spirit, states, peoples, and individuals arise with their *particular determinate principle*. This principle has its exposition and actuality in their *constitution* and in the whole *breadth* of their *condition*. They are conscious of these and absorbed in their interest. Yet they are at the same time the unconscious instruments and members of that inner business in which these shapes pass away, while spirit in and for itself prepares and works out for itself the transition to its next higher stage.

345 Justice and virtue, wrong, force and vice, talents and their deeds, the small and the great passions, guilt and innocence, the

5 Hegel alludes to Lessing's treatise *The Education of the Human Race* (1780); "perfectibility" is Rousseau's term, later taken up by Condorcet. "Know yourself" was inscribed at Apollo's temple at Delphi.

splendor of individual and national life, independence, the fortune and misfortune of states and of individuals: all these have their determinate significance and value in the sphere of conscious actuality. There they find their judgment and their justice, though an imperfect justice. World history falls outside these points of view. In it, that necessary moment of the Idea of the world spirit which is at present *its* stage attains its *absolute right*. The people that lives in that moment, and its deeds, attain their accomplishment, their good fortune, and their glory.

346 History is the configuration of spirit in the form of events, of immediate natural actuality. For this reason the stages of development are present as *immediate natural principles*. And because these principles are natural, they exist as a plurality, each outside the others. Further, they exist in such a way that *one of them belongs to one people*: this is that people's *geographical* and *anthropological* existence.

347 The people to whom such a moment belongs as a *natural* principle is entrusted with carrying it out in the progress of the self-developing self-consciousness of the world spirit. In world history this people is the *dominant* one for this epoch, *and it can* (§ 346) *make an epoch in world history only once*. Against this absolute right of that people to be the bearer of the present stage of the world spirit's development, the spirits of other peoples are without right. They, like those whose epoch is past, no longer count in world history.

347R The special history of a world-historical people contains, on the one hand, the development of its principle from its childlike, still enveloped condition up to its flowering. At that point, having attained free ethical self-consciousness, the people now intervenes in universal history. On the other hand, its history also contains the period of its decline and ruin. For this is how the emergence of a higher principle shows itself in that people: as the merely negative of its own principle. This points to the transition of spirit into that higher principle, and so to the transition of world history to *another* people. From this period on, the first people has lost absolute interest. It does then also take up

the higher principle positively into itself and shape itself into it, but it relates to that principle as to something received, without immanent vitality and freshness. Perhaps it loses its independence; perhaps it also continues, or drags on, as a particular state or a circle of states, and flounders about at random in manifold internal experiments and external struggles.

348 At the head of all actions, and hence also of world-historical actions, stand *individuals*, as the subjectivities that actualize what is substantial (Remark to § 279). They are the living embodiments of the substantial deed of the world spirit and so are immediately identical with it. For this reason that deed is hidden from them themselves and is not their object and end (§ 344). Nor do they receive the *honor* of it and gratitude from their contemporaries (ibid.), or from the public opinion of posterity. As formal subjectivities, they receive their share only from this opinion, as *immortal fame*.

349 A people is at first not yet a state. The transition of a family, a horde, a tribe, a multitude, and so on into the condition of a state constitutes the *formal* realization of the Idea in general within it. Without this form, the people, as the ethical substance that it is *in itself*, lacks objectivity. It lacks an existence that is universal and universally valid for itself and for others in laws, as determinations that are thought. It is therefore not recognized. Its independence, lacking objective lawfulness and a rationality firm for itself, is only formal and is not sovereignty.

349R Even in the ordinary way of thinking, one does not call a patriarchal condition a constitution, nor a people in this condition a state, nor its independence sovereignty. Before the beginning of actual history, therefore, there lies, on the one hand, a dull innocence devoid of interest, and, on the other, the bravery of the formal struggle for recognition and of revenge (cf. § 331 and Remark to § 57).

350 It is the absolute right of the Idea to come forth in legal determinations and in objective institutions, beginning with marriage and agriculture (see Remark to § 203). This holds whether the form of its actualization appears as divine legisla-

tion and benefaction, or as force and wrong. This right is the *right of heroes* to found states.

[351] From the same determination it comes about that civilized nations regard and treat as barbarians other nations that lag behind them in the substantial moments of the state: herding peoples so regard hunting peoples, agricultural peoples regard both, and so on. They do so with the consciousness that these others have an unequal right, and they regard and treat the independence of these others as something formal.

In the wars and disputes that arise in such circumstances, it is therefore the moment of their being struggles for recognition in relation to a determinate content that constitutes the feature giving them significance for world history.

[352] The concrete Ideas, the spirits of peoples, have their truth and destiny in the concrete Idea as it is *absolute universality*, in the world spirit. They stand around its throne as the agents of its actualization and as witnesses and ornaments of its glory. As spirit, the world spirit is only the movement of its activity of knowing itself absolutely, and thereby of freeing its consciousness from the form of natural immediacy and coming to itself. Hence the *principles* of the shapes of this self-consciousness in the course of its liberation, the world-historical realms, are *four*.

[353] In its *first* revelation, which is an *immediate* one, the world spirit has for its principle the shape of *substantial* spirit, as the identity in which individuality remains submerged in its essence and without right for itself.

The *second* principle is the knowing of this substantial spirit, such that substantial spirit is the positive content and filling, and *being-for-self* is its living *form*: *beautiful* ethical individuality.

The *third* is the deepening into itself of knowing being-for-self into *abstract universality*, and thereby into infinite opposition to objectivity, which is thereby equally forsaken by spirit.

The principle of the *fourth* shape is the reversal of this opposition of spirit. Spirit now receives its truth and concrete essence in its inwardness, and is at home and reconciled in objectivity. This spirit has come back to the first substantiality, but it is

spirit that has *returned from infinite opposition*. It therefore produces and knows this truth of its own as thought and as a world of lawful actuality.

354 In accordance with these four principles, the world-historical realms are *four*: 1. the *Eastern*, 2. the *Greek*, 3. the *Roman*, 4. the *Germanic*.[6]

THE ORIENTAL REALM

The first realm is a theocratic whole in which individual personality has no rights.

355 This first realm is the substantial worldview, undivided within itself, which proceeds from the natural whole of patriarchy. In it, secular government is theocracy, the ruler is also high priest or god, and the constitution and legislation are at the same time religion. Likewise, religious and moral commands, or rather usages, are at the same time laws of the state and laws of right. In the splendor of this whole, individual personality perishes without rights. External nature is immediately divine, or an adornment of the god, and the history of actuality is poetry. The distinctions that develop in the various directions of custom, government, and the state become, in place of laws and alongside simple custom, ponderous, elaborate, superstitious ceremonies, contingencies of personal power and arbitrary rule. The division into estates becomes the natural rigidity of castes. The Eastern state is therefore alive only in its movement. Nothing within it is stable, and whatever is firm is petrified, so this movement goes outward and becomes an elemental raging and devastation. Its inner calm is a private life and a sinking into weakness and exhaustion.

355R In the formation of the state there is the moment of a spirituality that is still *substantial and natural*. *As a form*, this moment constitutes the absolute starting point in the history of every state. It has been brought out and demonstrated historic-

6 By "Germanic" Hegel means the Christian peoples of post-Roman Europe as a whole, not Germany alone.

ally in particular states, with deep insight and with learning at once, in the work *On the Decline of the Natural States*, Berlin 1812 (by Dr. Stuhr). This work has thereby cleared the way for a rational consideration of the history of constitutions and of history in general.[7] That work likewise points out the principle of subjectivity and self-conscious freedom in the Germanic nation. But since the treatise goes only as far as the decline of the natural states, it follows this principle only to the point where it appears partly as restless mobility, human arbitrariness, and corruption, and partly in its particular shape as the *heart*. There it has not yet developed to the objectivity of *self-conscious* substantiality, to organic *lawfulness*.

THE GREEK REALM

Greek ethical life is beautiful and free, but defers to oracles and excludes slaves from freedom.

356 This realm has that substantial unity of the finite and the infinite, but only as its mysterious foundation, pushed back into dim memory, into caves and images of tradition. Out of spirit as it differentiates itself, this foundation is born into individual spirituality and into the daylight of knowing, and it is tempered and transfigured into beauty and into free and serene ethical life. In this determination, therefore, the principle of personal individuality arises, still not captive within itself but held in its ideal unity. For this reason, in part, the whole breaks up into a circle of particular spirits of peoples. In part, on the one hand, the ultimate decision of the will is not yet placed in the subjectivity of self-consciousness that is for itself, but in a power that is supposed to be higher than it and outside it (cf. Remark to § 279). On the other hand, the particularity that belongs to need is not yet taken up into freedom, but is shut out and assigned to an estate of slaves.

7 Peter Feddersen Stuhr (1787–1851), German historian and scholar of religion and mythology; his book took the form of letters on Niebuhr's *Roman History*.

THE ROMAN REALM

Rome splits ethical life into private persons and abstract universality, ending in general misfortune.

357 In this realm, differentiation is carried through to the infinite rupture of ethical life into the extremes of *personal*, private self-consciousness and *abstract universality*. The opposition began from the substantial outlook of an aristocracy set against the principle of free personality in democratic form. On the aristocratic side it develops into superstition and the assertion of cold, greedy force; on the democratic side, into the corruption of a rabble. The dissolution of the whole ends in universal misfortune and the death of ethical life. In it, the individualities of peoples die away in the unity of a Pantheon, and all individuals sink to the level of private persons and of *equals* with formal right. They are held together, therefore, only by an abstract arbitrary will that drives itself to monstrous extremes.

THE GERMANIC REALM

Christian reconciliation, carried by the Germanic peoples, finally makes the state the image of reason.

358 Out of this loss of itself and of its world, and out of the infinite pain of this loss, for which the *Israelite* people had been held in readiness as its people, spirit, pressed back into itself, grasps, at the extreme of its absolute *negativity*, the *turning point* that is in and for itself: the *infinite positivity* of this inwardness of its own. This is the principle of the unity of divine and human nature, the reconciliation as the objective truth and freedom that has appeared within self-consciousness and subjectivity. The task of carrying out this reconciliation is entrusted to the northern principle of the *Germanic peoples*.

359 The inwardness of the principle is the still abstract reconciliation and resolution of all opposition, existing in feeling as faith, love, and hope. It unfolds its content, in order to raise it to actuality and self-conscious rationality, into a *secular* realm that

proceeds from the heart, from fidelity, and from the fellowship of the free. In this, its subjectivity, this realm is equally a realm of crude arbitrary will that is for itself and of barbarism of manners. It stands over against a world beyond, an *intellectual* realm. The content of that realm is indeed the truth of its spirit, but, as still *unthought*, this content is veiled in the barbarism of representation. As a spiritual power over the actual heart, that realm behaves toward it as an unfree and terrible force,

360 These realms stand in a difference that has here attained its absolute opposition, and are at the same time rooted in *one* unity and Idea. In the hard struggle between them, the spiritual realm degrades the existence of its heaven to an earthly here and now and to common worldliness, in actuality and in representation. The secular realm, by contrast, builds up its abstract being-for-self into thought and into the principle of rational being and knowing, into the rationality of right and law. In this way the opposition has *in itself* dwindled into a hollow shape; the present has cast off its barbarism and its lawless arbitrariness, and truth has cast off its beyond and its contingent force. So the true reconciliation has become objective. This reconciliation unfolds the *state* into the image and actuality of reason. In the state, self-consciousness finds the actuality of its substantial knowing and willing in organic development. In *religion* it finds the feeling and representation of this truth of its own as an ideal essentiality. In *science*, however, it finds the free, comprehended cognition of this truth as one and the same in its mutually complementary manifestations: the *state*, *nature*, and the *ideal world*.