

Philosophy of Right

G.W.F. Hegel

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Preface

The immediate occasion for publishing these outlines is the need of placing in the hands of my hearers a guide to my professional lectures upon the Philosophy of Right. Hitherto I have used as lectures that portion of the *Encyclopaedia of the Philosophic Sciences* (1817) which deals with this subject. The present work covers the same ground in a more detailed and systematic way.

But now that these outlines are to be printed and given to the general public, there is an opportunity of explaining points which in lecturing would be commented on orally. Thus the notes are enlarged in order to include cognate or conflicting ideas, further consequences of the theory advocated, and the like. These expanded notes will, it is hoped, throw light upon the more abstract substance of the text, and present a more complete view of some of the ideas current in our own time. Moreover, there is also subjoined, as far as was compatible with the purpose of a compendium, a number of notes, ranging over a still greater latitude. A compendium proper, like a science, has its subject-matter accurately laid out. With the exception, possibly, of one or two slight additions, its chief task is to arrange the essential phases of its material. This material is regarded as fixed and known, just as the form is assumed to be governed by well-ascertained rules. A treatise in philosophy is usually not expected to be constructed on such a pattern, perhaps because people suppose that a philosophical product is a Penelope's web which must be started anew every day.

This treatise differs from the ordinary compendium mainly in its method of procedure. It must be understood at the outset that the philosophic way of advancing from one matter to another, the general speculative method, which is the only kind of scientific proof available in philosophy, is essentially different from every other. Only a clear insight into the necessity for this difference can snatch philosophy out of the ignominious condition into which it has fallen in our day. True, the logical rules, such as those of definition, classification, and inference are now generally recognised to be inadequate for speculative science. Perhaps it is nearer the mark to say that the inadequacy of the rules has been felt rather than recognised, because they have been counted as mere fetters, and thrown aside to make room for free speech from the heart, fancy and random intuition. But when reflection and relations of thought were required, people unconsciously fell back upon the old-fashioned method of

inference and formal reasoning. In my *Science of Logic* I have developed the nature of speculative science in detail. Hence in this treatise an explanation of method will be added only here and there. In a work which is concrete, and presents such a diversity of phases, we may safely neglect to display at every turn the logical process, and may take for granted an acquaintance with the scientific procedure. Besides, it may readily be observed that the work as a whole, and also the construction of the parts, rest upon the logical spirit. From this standpoint, especially, is it that I would like this treatise to be understood and judged. In such a work as this we are dealing with a science, and in a science the matter must not be separated from the form.

Some, who are thought to be taking a profound view, are heard to say that everything turns upon the subject-matter, and that the form may be ignored. The business of any writer, and especially of the philosopher, is, as they say, to discover, utter, and diffuse truth and adequate conceptions. In actual practice this business usually consists in warming up and distributing on all sides the same old cabbage. Perhaps the result of this operation may be to fashion and arouse the feelings; though even this small merit may be regarded as superfluous, for "they have Moses and the prophets: let them hear them." Indeed, we have great cause to be amazed at the pretentious tone of those who take this view. They seem to suppose that up till now the dissemination of truth throughout the world has been feeble. They think that the warmed-up cabbage contains new truths, especially to be laid to heart at the present time. And yet we see that what is on one side announced as true, is driven out and swept away by the same kind of worn-out truth. Out of this hurly-burly of opinions, that which is neither new nor old, but permanent, cannot be rescued and preserved except by science.

Further, as to rights, ethical life, and the state, the truth is as old as that in which it is openly displayed and recognised, namely, the law, morality, and religion. But as the thinking spirit is not satisfied with possessing the truth in this simple way, it must conceive it, and thus acquire a rational form for a content which is already rational implicitly. In this way the substance is justified before the bar of free thought. Free thought cannot be satisfied with what is given to it, whether by the external positive authority of the state or human agreement, or by the authority of internal feelings, the heart, and the witness of the spirit, which coincides unquestioningly with the heart. It is the nature of free thought rather to proceed out of its own self, and hence to demand that it should know itself as thoroughly one with truth.

The ingenuous mind adheres with simple conviction to the truth which is

publicly acknowledged. On this foundation it builds its conduct and way of life. In opposition to this naive view of things rises the supposed difficulty of detecting amidst the endless differences of opinion anything of universal application. This trouble may easily be supposed to spring from a spirit of earnest inquiry. But in point of fact those who pride themselves upon the existence of this obstacle are in the plight of him who cannot see the woods for the trees. The confusion is all of their own making. Nay, more: this confusion is an indication that they are in fact not seeking for what is universally valid in right and the ethical order. If they were at pains to find that out, and refused to busy themselves with empty opinion and minute detail, they would adhere to and act in accordance with substantive right, namely the commands of the state and the claims of society. But a further difficulty lies in the fact that man thinks, and seeks freedom and a basis for conduct in thought. Divine as his right to act in this way is, it becomes a wrong, when it takes the place of thinking. Thought then regards itself as free only when it is conscious of being at variance with what is generally recognised, and of setting itself up as something original.

The idea that freedom of thought and mind is indicated only by deviation from, or even hostility to what is everywhere recognised, is most persistent with regard to the state. The essential task of a philosophy of the state would thus seem to be the discovery and publication of a new and original theory.

When we examine this idea and the way it is applied, we are almost led to think that no state or constitution has ever existed, or now exists. We are tempted to suppose that we must now begin and keep on beginning afresh for ever. We are to fancy that the founding of the social order has depended upon present devices and discoveries. As to nature, philosophy, it is admitted, has to understand it as it is. The philosophers' stone must be concealed somewhere, we say, in nature itself, as nature is in itself rational. Knowledge must, therefore, examine, apprehend and conceive the reason actually present in nature. Not with the superficial shapes and accidents of nature, but with its eternal harmony, that is to say, its inherent law and essence, knowledge has to cope. But the ethical world or the state, which is in fact reason potently and permanently actualised in self-consciousness, is not permitted to enjoy the happiness of being reason at all.

Footnote: There are two kinds of laws, laws of nature and laws of right. The laws of nature are simply there, and are valid as they are. They cannot be gainsaid, although in certain cases they may be transgressed. In order to know laws of nature, we must get to work to ascertain them. for they are true, and only our ideas of them can be

false. Of these laws the measure is outside of us. Our knowledge adds nothing to them, and does not further their operation. Only our knowledge of them expands. The knowledge of right is partly of the same nature and partly different. The laws of right also are simply there, and we have to become acquainted with them. In this way the citizen has a more or less firm hold of them as they are given to him, and the jurist also abides by the same standpoint. But there is also a distinction. In connection with the laws of right the spirit of investigation is stirred up, and our attention is turned to the fact that the laws, because they are different, are not absolute. Laws of right are established and handed down by men. The inner voice must necessarily collide or agree with them. Man cannot be limited to what is presented to him, but maintains that he has the standard of right within himself. He may be subject to the necessity and force of external authority, but not in the same way as he is to the necessity of nature; for always his inner being says to him how a thing ought to be, and within himself he finds the confirmation or lack of confirmation of what is generally accepted. In nature the highest truth is that a law is. In right a thing is not valid because it is, since every one demands that it shall conform to his standard. Hence arises a possible conflict between what is and what ought to be, between absolute unchanging right and the arbitrary decision of what ought to be right. Such division and strife occur only on the soil of the spirit. Thus the unique privilege of the spirit would appear to lead to discontent and unhappiness, and frequently we are directed to nature in contrast with the fluctuations of life. But it is exactly in the opposition arising between absolute right, and that which the arbitrary will seeks to make right, that the need lies of knowing thoroughly what right is. Men must openly meet and face their reason, and consider the rationality of right. This is the subject-matter of our science in contrast with jurisprudence, which often has to do merely with contradictions. Moreover the world of today has an imperative need to make this investigation. In ancient times, respect and reverence for the law were universal. But now the fashion of the time has taken another turn, and thought confronts everything which has been approved. Theories now set themselves in opposition to reality, and make as though they were absolutely true and necessary. And there is now more pressing need to know and conceive the thoughts upon right. Since thought has exalted itself as the essential form, we must now be careful to apprehend right also as thought. It would look as though the door were thrown open for every casual opinion, when thought is thus made to supervene upon right. But true thought of a thing is not an opinion, but the conception of the thing itself. The conception of the thing does not come to us by nature. Every man has fingers, and may have brush and colours, but he is not by reason of that a painter. So is it with thought. The thought of right is not a thing which every man has at first hand. True thinking is thorough acquaintance with the object. Hence our knowledge must be scientific.

On the contrary, the spiritual universe is looked upon as abandoned by God, and given over as a prey to accident and chance. As in this way the divine is eliminated from the ethical world, truth must be sought outside of it. And since at the same time reason should and does belong to the ethical world, truth, being divorced from reason, is reduced to a mere speculation. Thus seems to arise the necessity and duty of every thinker to

pursue a career of his own. Not that he needs to seek for the philosophers' stone, since the philosophising of our day has saved him the trouble, and every would-be thinker is convinced that he possesses the stone already without search. But these erratic pretensions are, as it indeed happens, ridiculed by all who, whether they are aware of it or not, are conditioned in their lives by the state, and find their minds and wills satisfied in it. These, who include the majority if not all, regard the occupation of philosophers as a game, sometimes playful, sometimes earnest, sometimes entertaining, sometimes dangerous, but always as a mere game. Both this restless and frivolous reflection and also this treatment accorded to it might safely be left to take their own course, were it not that betwixt them philosophy is brought into discredit and contempt. The most cruel despite is done when every one is convinced of his ability to pass judgment upon, and discard philosophy without any special study. No such scorn is heaped upon any other art or science.

In point of fact the pretentious utterances of recent philosophy regarding the state have been enough to justify anyone who cared to meddle with the question, in the conviction that he could prove himself a philosopher by weaving a philosophy out of his own brain. Notwithstanding this conviction, that which passes for philosophy has openly announced that truth cannot be known. The truth with regard to ethical ideals, the state, the government and the constitution ascends, so it declares, out of each man's heart, feeling and enthusiasm. Such declarations have been poured especially into the eager ears of the young. The words "God giveth truth to his chosen in sleep" have been applied to science; hence every sleeper has numbered himself amongst the chosen. But what he deals with in sleep is only the wares of sleep. Mr. Fries, one of the leaders of this shallow-minded host of philosophers, on a public festive occasion, now become celebrated, has not hesitated to give utterance to the following, notion of the state and constitution: "When a nation is ruled by a common spirit, then from below, out of the people, will come life sufficient for the discharge of all public business. Living associations, united indissolubly by the holy bond of friendship, will devote themselves to every side of national service, and every means for educating the people." This is the last degree of shallowness, because in it science is looked upon as developing, not out of thought or conception, but out of direct perception and random fancy. Now the organic connection of the manifold branches of the social system is the architectonic of the state's rationality, and in this supreme science of state architecture the strength of the whole, is made to depend upon the harmony of all the clearly marked phases of public life, and the stability of every pillar, arch, and buttress of the social edifice. And

yet the shallow doctrine, of which we have spoken permits this elaborate structure to melt and lose itself in the brew and stew of the “heart, friendship, and inspiration.” Epicurus, it is said, believed that the world generally should be given over to each individual’s opinions and whims and according to the view we are criticising, the ethical fabric should be treated in the same way. By this old wives’ decoction, which consists in founding upon the feelings what has been for many centuries the labour of reason and understanding, we no longer need the guidance of any ruling conception of thought. On this point Goethe’s *Mephistopheles*, and the poet is a good authority, has a remark, which I have already used elsewhere:

“Verachte nur Verstand und Wissenschaft, des Menschen
allerhöchste Gaben—

So hast dem Teufel dich ergeben und musst zu Grunde gehn.”

It is no surprise that the view just criticised should appear in the form of piety. Where, indeed, has this whirlwind of impulse not sought to justify itself? In godliness and the Bible it has imagined itself able to find authority for despising order and law. And, in fact, it is piety of the sort which has reduced the whole organised system of truth to elementary intuition and feeling. But piety of the right kind leaves this obscure region, and comes out into the daylight, where the idea unfolds and reveals itself. Out of its sanctuary it brings a reverence for the law and truth which are absolute and exalted above all subjective feeling.

The particular kind of evil consciousness developed by the wishy-washy eloquence already alluded to, may be detected in the following way. It is most unspiritual, when it speaks most of the spirit. It is the most dead and leathern, when it talks of the scope of life. When it is exhibiting the greatest self-seeking and vanity it has most on its tongue the words “people” and “nation.” But its peculiar mark, found on its very forehead, is its hatred of law.

Right and ethical principle, the actual world of right and ethical life are apprehended in thought, and by thought are given definite, general, and rational form, and this reasoned right finds expression in law. But feeling, which seeks its own pleasure, and conscience, which finds right in private conviction, regard the law as their most bitter foe. The right, which takes the shape of law and duty, is by feeling looked upon as a shackle or dead cold letter. In this law it does not recognise itself and does not find itself free. Yet the law is the reason of the object, and refuses to feeling the privilege of warming itself at its private hearth. Hence the law, as we shall occasionally observe, is the Shibboleth, by means of which are detected the false brethren and friends of the so-called people.

Inasmuch as the purest charlatanism has won the name of philosophy, and has succeeded in convincing the public that its practices are philosophy, it has now become almost a disgrace to speak in a philosophic way about the state. Nor can it be taken ill, if honest men become impatient, when the subject is broached. Still less is it a surprise that the government has at last turned its attention to this false philosophising.

With us philosophy is not practised as a private art, as it was by the Greeks, but has a public place, and should therefore be employed only in the service of the state. The government has, up till now, shown such confidence in the scholars in this department as to leave the subject matter of philosophy wholly in their hands. Here and there, perhaps, has been shown to this science not confidence - so much as indifference, and professorships have been retained as a matter of tradition. In France, as far as I am aware, the professional teaching of metaphysics at least has fallen into desuetude. In any case the confidence of the state has been ill requited by the teachers of this subject. Or, if we prefer to see in the state not confidence, but indifference, the decay of fundamental knowledge must be looked upon as a severe penance. Indeed, shallowness is to all appearance most enduring and most in harmony with the maintenance of order and peace, when it does not touch or hint at any real issue.

Hence it would not be necessary to bring it under public control, if the state did not require deeper teaching and insight, and expect science to satisfy the need. Yet this shallowness, notwithstanding its seeming innocence, does bear upon social life, right and duty generally, advancing principles which are the very essence of superficiality. These, as we have learned so decidedly from Plato, are the principles of the Sophists, according to which the basis of right is subjective aims and opinions, subjective feeling and private conviction. The result of such principles is quite as much the destruction of the ethical system, of the upright conscience, of love and right, in private persons, as of public order and the institutions of the state. The significance of these facts for the authorities will not be obscured by the claim that the bolder of these perilous doctrines should be trusted, or by the immunity of office.

The authorities will not be deterred by the demand that they should protect and give free play to a theory which strikes at the substantial basis of conduct, namely, universal principles, and that they should disregard insolence on the ground of its being the exercise of the teacher's function. *To him, to whom God gives office, He gives also understanding* is a well-worn jest, which no one in our time would like to take seriously.

In the methods of teaching philosophy, which have under the

circumstances been reanimated by the government, the important element of protection and support cannot be ignored. The study of philosophy is in many ways in need of such assistance. Frequently in scientific, religious, and other works may be read a contempt for philosophy. Some, who have no conspicuous education and are total strangers to philosophy, treat it as a cast-off garment. They even rail against it, and regard as foolishness and sinful presumption its efforts to conceive of God and physical and spiritual nature.

They scout its endeavour to know the truth. Reason, and again reason, and reason in endless iteration is by them accused, despised, condemned. Free expression, also, is given by a large number of those, who are supposed to be cultivating scientific research, to their annoyance at the unassailable claims of the conception. When we, I say, are confronted with such phenomena as these, we are tempted to harbour the thought that old traditions of tolerance have fallen out of use, and no longer assure to philosophy a place and public recognition.

Footnote: The same finds expression in a letter of Joh. v. Müller (*Works*, Part VIII., p. 56), who, speaking of the condition of Rome in the year 1803, when the city was under French rule, writes, "A professor, asked how the public academies were doing, answered, 'On les tolère comme les bordels!'" Similarly the so-called theory of reason or logic we may still hear commended, perhaps under the belief that it is too dry and unfruitful a science to claim any one's attention, or, if it be pursued here and there, that its formulae are without content, and, though not of much good, can be of no great harm. Hence the recommendation, so it is thought, if useless, can do no injury.

These presumptuous utterances, which are in vogue in our time, are, strange to say, in a measure justified by the shallowness of the current philosophy. Yet, on the other hand, they have sprung from the same root as that against which they so thanklessly direct their attacks. Since that self-named philosophising has declared that to know the truth is vain, it has reduced all matter of thought to the same level, resembling in this way the despotism of the Roman Empire, which equalised noble and slave, virtue and vice, honour and dishonour, knowledge and ignorance. In such a view the conceptions of truth and the laws of ethical life are simply opinions and subjective convictions, and the most criminal principles, provided only that they are convictions, are put on a level with these laws. Thus, too, any paltry special object, be it never so flimsy, is given the same value as an interest common to all thinking men and the bonds of the established social world.

Hence it is for science a piece of good fortune that that kind of philosophising, which might, like scholasticism, have continued to spin its notions within itself, has been brought into contact with reality. Indeed,

such contact was, as we have said, inevitable. The real world is in earnest with the principles of right and duty, and in the full light of a consciousness of these principles it lives. With this world of reality philosophic cob-web spinning has come into open rupture. Now, as to genuine philosophy it is precisely its attitude to reality which has been misapprehended. Philosophy is, as I have already observed, an inquisition into the rational, and therefore the apprehension of the real and present. Hence it cannot be the exposition of a world beyond, which is merely a castle in the air, having no existence except in the error of a one-sided and empty formalism of thought. In the following treatise I have remarked that even Plato's *Republic*, now regarded as the bye-word for an empty ideal, has grasped the essential nature of the ethical life of the Greeks. He knew that there was breaking in upon Greek life a deeper principle, which could directly manifest itself only as an unsatisfied longing and therefore as ruin. Moved by the same longing Plato had to seek help against it, but had to conceive of the help as coming down from above, and hoped at last to have found it in an external special form of Greek ethical life. He exhausted himself in contriving, how by means of this new society to stem the tide of ruin, but succeeded only in injuring more fatally its deeper motive, the free infinite personality. Yet he has proved himself to be a great mind because the very principle and central distinguishing feature of his idea is the pivot upon which the world-wide revolution then in process turned:

What is rational is real; And what is real is rational.

Upon this conviction stand not philosophy only but even every unsophisticated consciousness. From it also proceeds the view now under contemplation that the spiritual universe is the natural. When reflection, feeling or whatever other form the subjective consciousness may assume, regards the present as vanity, and thinks itself to be beyond it and wiser, it finds itself in emptiness, and, as it has actuality only in the present, it is vanity throughout. Against the doctrine that the idea is a mere idea, figment or opinion, philosophy preserves the more profound view that nothing is real except the idea. Hence arises the effort to recognise in the temporal and transient the substance, which is immanent, and the eternal, which is present. The rational is synonymous with the idea, because in realising itself it passes into external existence. It thus appears in an endless wealth of forms, figures and phenomena. It wraps its kernel round with a robe of many colours, in which consciousness finds itself at home.

Through this varied husk the conception first of all penetrates, in order to touch the pulse, and then feel it throbbing in its external manifestations. To bring to order the endlessly varied relations, which constitute the outer

appearance of the rational essence is not the task of philosophy. Such material is not suitable for it, and it can well abstain from giving good advice about these things. Plato could refrain from recommending to the nurses not to stand still with children, but always to dandle them in their arms. So could Fichte forbear to construe, as they say, the supervision of passports to such a point as to demand of all suspects that not only a description of them but also their photograph, should be inserted in the pass. Philosophy now exhibits no trace of such details. These superfine concerns it may neglect all the more safely, since it shows itself of the most liberal spirit in its attitude towards the endless mass of objects and circumstances. By such a course science will escape the hate which is visited upon a multitude of circumstances and institutions by the vanity of a better knowledge. In this hate bitterness of mind finds the greatest pleasure, as it can in no other way attain to a feeling of self-esteem.

This treatise, in so far as it contains a political science, is nothing more than an attempt to conceive of and present the state as in itself rational. As a philosophic writing, it must be on its guard against constructing a state as it *ought to be*. Philosophy cannot teach the state what it *should* be, but only how it, the ethical universe, is to be *known*.

Hic Rhodus, hic saltus. ^[note]

To apprehend what *is* is the task of philosophy, because what *is* is reason. As for the individual, every one is a son of his time; so philosophy also is its time apprehended in thoughts. It is just as foolish to fancy that any philosophy can transcend its present world, as that an individual could leap out of his time or jump over Rhodes. If a theory transgresses its time, and builds up a world as it ought to be, it has an existence merely in the unstable element of opinion, which gives room to every wandering fancy.

With little change the above, saying would read:

Here is the rose, here dance

The barrier which stands between reason, as self-conscious Spirit, and reason as present reality, and does not permit spirit to find satisfaction in reality, is some abstraction, which is not free to be conceived. To recognise reason as the rose in the cross of the present, and to find delight in it, is a rational insight which implies reconciliation with reality. This reconciliation philosophy grants to those who have felt the inward demand to conceive clearly, to preserve subjective freedom while present in substantive reality, and yet thought possessing this freedom to stand not upon the particular and contingent, but upon what is and self-completed. This also is the more concrete meaning of what was a moment ago more

abstractly called the unity of form and content. Form in its most concrete significance is reason, as an intellectual apprehension which conceives its object. Content, again, is reason as the substantive essence of social order and nature. The conscious identity of form and content is the philosophical idea.

It is a self-assertion, which does honour to man, to recognise nothing in sentiment which is not justified by thought. This self-will is a feature of modern times, being indeed the peculiar principle of Protestantism. What was initiated by Luther as faith in feeling and the witness of the spirit, the more mature mind strives to apprehend in conception. In that way it seeks to free itself in the present, and so find there itself. It is a celebrated saying that a half philosophy leads away from God, while a true philosophy leads to God. (It is the same halfness, I may say in passing which regards knowledge as an approximation to truth.) This saying is applicable to the science of the state. Reason cannot content itself with a mere approximation, something which is neither cold nor hot, and must be spewed out of the mouth. As little can it be contented with the cold scepticism that in this world of time things go badly, or at best only moderately well, and that we must keep the peace with reality, merely because there is nothing better to be had. Knowledge creates a much more vital peace.

Only one word more concerning the desire to teach the world what it ought to be. For such a purpose philosophy at least always comes too late. Philosophy, as the thought of the world, does not appear until reality has completed its formative process, and made itself ready. History thus corroborates the teaching of the conception that only in the maturity of reality does the ideal appear as counterpart to the real, apprehends the real world in its substance, and shapes it into an intellectual kingdom. When philosophy paints its grey in grey, one form of life has become old, and by means of grey it cannot be rejuvenated, but only known. The owl of Minerva, takes its flight only when the shades of night are gathering.

But it is time to close this preface. As a preface it is its place to speak only externally and subjectively of the standpoint of the work which it introduces. A philosophical account of the essential content needs a scientific and objective treatment. So, too, criticisms, other than those which proceed from such a treatment, must be viewed by the author as unreflective convictions. Such subjective criticisms must be for him a matter of indifference.

BERLIN, *June 25th*, 1820.

Introduction

§ 1

THE philosophic science of right has as its object the idea of right, i.e., the conception of right and the realisation of the conception.

Remark: Philosophy has to do with ideas or realised thoughts, and hence not with what we have been accustomed to call mere conceptions. It has indeed to exhibit the one-sidedness and untruth of these mere conceptions, and to show that, while that which commonly bears the name “conception,” is only an abstract product of the understanding, the true conception alone has reality and gives this reality to itself. Everything, other than the reality which is established by the conception, is transient surface existence, external attribute, opinion, appearance void of essence, untruth, delusion, and so forth. Through the actual shape [*Gestaltung*], which it takes upon itself in actuality, is the conception itself understood. This shape is the other essential element of the idea, and is to be distinguished from the form [*Form*], which exists only as conception [*Begriff*].

Addition: The conception and its existence are two sides, distinct yet united, like soul and body. The body is the same life as the soul, and yet the two can be named independently. A soul without a body would not be a living thing, and *vice versa*. Thus the visible existence of the conception is its body, just as the body obeys the soul which produced it. Seeds contain the tree and its whole power, though they are not the tree itself; the tree corresponds accurately to the simple structure of the seed. If the body does not correspond to the soul, it is defective.

The unity of visible existence and conception, of body and soul, is the idea. It is not a mere harmony of the two, but their complete interpenetration. There lives nothing, which is not in some way idea. The idea of right is freedom, which, if it is to be apprehended truly, must be known both in its conception and in the embodiment of the conception.

§ 2

The science of right is a *part of philosophy*. Hence it must develop the idea, which is the reason of an object, out of the conception. It is the same thing to say that it must regard the peculiar internal development of the thing itself. Since it is a part, it has a definite beginning, which is the result and truth of what goes before, and this, that goes before, constitutes its

so-called proof. Hence the origin of the conception of right falls outside of the science of right. The deduction of the conception is presupposed in this treatise, and is to be considered as already given.

Addition: Philosophy forms a circle. It has, since it must somehow make a beginning, a primary, directly given matter, which is not proved and is not a result. But this starting-point is simply relative, since, from another point of view it appears as a result. Philosophy is a consequence, which does not hang in the air or form a directly new beginning, but is self-enclosed.

According to the formal unphilosophic method of the sciences, definition is the first desideratum, as regards, at least, the external scientific form. The positive science of right, however, is little concerned with definition, since its special aim is to give what it is that is right, and also the particular phases of the laws. For this reason it has been said as a warning, *Omnis definitio in jure civili periculosa* [Any definition in civil law is dangerous]; and in fact the more disconnected and contradictory the phases of a right are, the less possible is a definition of it.

A definition should contain only universal features; but these forthwith bring to light contradictions, which in the case of law are injustice, in all their nakedness. Thus in Roman law, for instance, no definition of man was possible, because it excluded the slave. The conception of man was destroyed by the fact of slavery. In the same way to have defined property and owner would have appeared to be perilous to many relations. But definitions may perhaps be derived from etymology, for the reason, principally, that in this way special cases are avoided, and a basis is found in the feeling and imaginative thought of men.

The correctness of a definition would thus consist in its agreement with existing ideas. By such a method everything essentially scientific is cast aside. As regards the content there is cast aside the necessity of the self-contained and self-developed object, and as regards the form there is discarded the nature of the conception. In philosophic knowledge the necessity of a conception is the main thing, and the process, by which it, as a result, has come into being is the proof and deduction. After the content is seen to be necessary independently, the second point is to look about for that which corresponds to it in existing ideas and modes of speech.

But the way in which a conception exists in its truth, and the way it presents itself in random ideas not only are but must be different both in form and structure. If a notion is not in its content false, the conception can be shown to be contained in it and to be already there in its essential

traits.

A notion [*Vorstellung*] may thus be raised to the form of a conception [*Begriff*]. But so little is any notion the measure and criterion of an independently necessary and true conception, that it must accept truth from the conception, be justified by it, and know itself through it. If the method of knowing, which proceeds by formal definition, inference and proof, has more or less disappeared, a worse one has come to take its place. This new method maintains that ideas, as, e.g., the idea of right in all its aspects, are to be directly apprehended as mere facts of consciousness, and that natural feeling or that heightened form of it which is known as the inspiration of one's own breast, is the source of right. This method may be the most convenient of all, but it is also the most unphilosophic. Other features of this view, referring not merely to knowledge but directly to action, need not detain us here. While the first or formal method went so far as to require in definition the form of the conception, and in proof the form of a necessity of knowledge, the method of the intuitive consciousness and feeling takes for its principle the arbitrary contingent consciousness of the subject. In this treatise we take for granted the scientific procedure of philosophy, which has been set forth in the philosophic logic.

§ 3

Right is positive in general (a) in its form, since it has validity in a state; and this established authority is the principle for the knowledge of right. Hence we have the positive science of right. (b) On the side of content this right receives a positive element [a] through the particular character of a nation, the stage of its historical development, and the interconnection of all the relations which are necessitated by nature: [b] through the necessity that a system of legalised right must contain the application of the universal conception to objects and cases whose qualities are given externally. Such an application is not the speculative thought or the development of the conception, but a subsumption made by the understanding: [c] through the ultimate nature of a decision which has become a reality.

Remark: Philosophy at least cannot recognise the authority of feeling, inclination and caprice, when they are set in opposition to positive right and the laws. It is an accident, external to the nature of positive right, when force or tyranny becomes an element of it. It will be shown later (§§ 211-214), at what point right must become positive. The general phases which are there deduced, are here only mentioned, in order to indicate the limit of philosophic right, and also to forestall the idea or indeed the

demand that by a systematic development of right should be produced a law-book, such as would be needed by in actual state. To convert the differences between right of nature and positive right, or those between philosophic right and positive right, into open antagonism would be a complete misunderstanding.

Natural right or philosophic right stands to positive right as institutions to pandects. With regard to the historical element in positive right, referred to in the paragraph, it may be said that the true historical view and genuine philosophic standpoint have been presented by Montesquieu. He regards legislation and its specific traits not in an isolated and abstract way, but rather as a dependent element of one totality, connecting it with all the other elements which form the character of a nation and an epoch. In this interrelation the various elements receive their meaning and justification. The purely historical treatment of the phases of right, as they develop in time, and a comparison of their results with existing relations of right have their own value; but they are out of place in a philosophic treatise, except in so far as the development out of historic grounds coincides with the development out of the conception, and the historical exposition and justification can be made to cover a justification which is valid in itself and independently.

This distinction is as manifest as it is weighty. A phase of right may be shown to rest upon and follow from the circumstances and existing institutions of right, and yet may be absolutely unreasonable and void of right. This is the case in Roman law with many aspects of private right, which were the logical results of its interpretation of paternal power and of marriage.

Further, if the aspects of right are really right and reasonable, it is one thing to point out what with regard to them can truly take place through the conception, and quite another thing to portray the manner of their appearance in history, along with the circumstances, cases, wants and events, which they have called forth. Such a demonstration and deduction from nearer or more remote historic causes, which is the occupation of pragmatic history, is frequently called exposition, or preferably conception, under the opinion that in such an indication of the historic elements is found all that is essential to a conception of law and institutions of right. In point of fact that which is truly essential, the conception of the matter, has not been so much as mentioned. So also we are accustomed to hear of Roman or German conceptions of right, and of conceptions of right as they are laid down in this or that statute-book, when indeed nothing about conceptions can be found in them, but only general phases of right, propositions derived from the understanding, general maxims, and laws.

By neglect of the distinction, just alluded to, the true standpoint is obscured and the question of a valid justification is shifted into a justification based upon circumstances; results are founded on presuppositions, which in themselves are of little value; and in general the relative is put in place of the absolute, and external appearance in place of the nature of the thing.

When the historical vindication substitutes the external origin for the origin from the conception, it unconsciously does the opposite of what it intends. Suppose that an institution, originating under definite circumstances, is shown to be necessary and to answer its purpose, and that it accomplishes all that is required of it by the historical standpoint. When such a proof is made to stand for a justification of the thing itself, it follows that, when the circumstances are removed, the institution has lost its meaning and its right. When, e.g., it is sought to support and defend cloisters on the grounds that they have served to clear and people the wilderness and by teaching and transcribing to preserve scholarship, it follows that just in so far as the circumstances are changed, cloisters have become aimless and superfluous.

In so far as the historic significance, or the historical exposition and interpretation of the origin of anything is in different spheres at home with the philosophic view of the origin and conception of the thing one might tolerate the other. But, in illustration of the fact that they neither here nor in science, preserve this peaceful attitude, I quote from Mr. Hugo's *Textbook of the History of Roman Law*. In this work Mr. Hugo says (5th edition § 53) that "Cicero praises the twelve tables with a side glance at philosophy, ... but the philosopher Phavorinus treats them exactly as many a great philosopher since has treated positive right." Mr. Hugo makes the ultimate reply to such a method as that of Phavorinus, when he says of him that he "understood the twelve tables just as little as the philosophers understood positive right." The correction of the philosopher Phavorinus by the jurist Sextus Caecilius (Gellius. "Noct. Attic." xx. 1) expresses the lasting and true principle of the justification of that which is in its content merely positive. "Non ignoras," as Caecilius felicitously remarks to Phavorinus, "*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. Quid salubrius visu in est rogatione illa Stolonis, etc., quid utilius plebiscite Voconio, etc., quid tam necessarium existimatum est, quam lex Licinia, etc.? Omnia tamen haec obliterate et operta sunt civitatis opulentia,*" etc. These laws are Positive so far as they have meaning and appropriateness under the circumstances, and thus have only

an historic value. For this reason they are in their nature transient. Whether the legislator or government was wise or not in what it did for its own immediate time and circumstances is a matter quite by itself and is for history to say.

History will the more profoundly recognise the action of the legislator in proportion as its estimate receives support from the philosophic standpoint. From the vindications of the twelve tables against the judgment of Phavorinus I shall give further examples, because in them Caecilius furnishes an illustration of the fraud which is indissolubly bound up with the methods of the understanding and its reasoning. He adduces a good reason for a bad thing, and supposes that lie has in that way justified the thing. Take the horrible law which permitted a creditor, after the lapse of a fixed term of respite, to kill a debtor or sell him into slavery. Nay, further, if there were several creditors, they were permitted to cut pieces off the debtor, and thus divide him amongst them, with the proviso that if any one of them should cut off too or too little, no action should be taken against him.

It was this malaise, it may be noticed, which stood Shakespeare's Shylock in *The Merchant of Venice* in such good stead, and was by him most thankfully accepted. Well, for this law Caecilius adduces the good argument that by it trust and credit were more firmly secured, and also that, by reason of the very horror of the law, it never had to be enforced. Not only does he in his want of thought fail to observe that by the severity of the law that very intention of securing trust and credit was defeated, but lie forthwith himself gives an illustration of the way in which the, disproportionate punishment caused the law to be inoperative, namely through the habit of giving false witness. But the remark of Mr. Hugo that, Phavorinus had not understood the law is not to be passed over. Now any schoolboy can understand the law just quoted, and better than anyone else would Shylock have understood what was to him of such advantage. Hence, by "understand" Mr. Hugo must mean that form of understanding which consists in bringing to the support of a law a good reason. Another failure to understand, asserted by Caecilius of Phavorinus, a philosopher at any rate may without blushing acknowledge: *jumentum*, which without any *arcera* was the only legal way to bring a sick man into court as a witness, was held to mean not only the horse but also a carriage or wagon. Further on in this raw Caecilius found more evidence of the excellence and accuracy of the old statutes, which for the purpose of non-suiting a sick man at court distinguished not only between a horse and a wagon, but also, as Caecilius explains, between a wagon covered and cushioned and one not so comfortably equipped. Thus one would have the choice

between utter severity on one side, and on the other senseless details. But to exhibit fully the absurdity of these laws and the pedantic defence offered in their behalf would give rise to an invincible repugnance to all scholarship of that kind.

But in his manual Mr. Hugo speaks also of rationality in (connection with Roman law, and I have been struck with the following remarks. He first of all treats of the epoch extending from the origin of the Republic to the twelve tables (§§ 38, 39), noticing that in Rome people had many wants, and were compelled in their labour to use draught animals and beasts of burden, as we ourselves do, and that the ground was an alternation of hill and valley that the city was set upon a hill, etc. These statements might, perhaps, have answered to the sense of Montesquieu's thought, though in them it would be well-nigh impossible to find his genius.

But after these preliminary paragraphs, he goes on to say in § 40, that the condition of the law was still very far from satisfying the highest demands of reason. This remark is wholly in place, as the Roman family-right, slavery, etc., give no satisfaction to the smallest demands of reason. Yet when discussing the succeeding epochs, Mr. Hugo forgets to tell us in what particulars, if any, the Roman law has satisfactorily met the highest demands of reason. Still of the classic jurists, who flourished in the era of the greatest expansion of Roman law as a science, it is said (§ 289) that "it has been long since been observed that the Roman jurists were educated in philosophy," but "few know" (more will know now through the numerous editions of Mr. Hugo's manual) "that there is no class of writers, who, as regards deduction from principles, deserved to be placed beside the mathematicians, and also, as regards the quite remarkable way in which they develop their conceptions, beside the modern founder of metaphysic ; as voucher for this assertion is the notable fact that nowhere do so many trichotomies occur as in the classic jurists and in Kant."

This form of logical reasoning, extolled by Leibnitz, is certainly an essential feature of the science of right, as it is of mathematics and every other intelligible science; but the logical procedure of the mere understanding, spoken of by Mr. Hugo, has nothing to do with the satisfaction of the claims of reason and with philosophic science. Moreover, the very lack of logical procedure, which is characteristic of the Roman jurists and proctors, is to be esteemed as one of their chief virtues, since by means of it they obviated the consequences of unrighteous and horrible institutions. Through their want of logic they were compelled *callide* to put sense into mere verbal distinctions, as they did when they identified *Bonorum possessio* with inheritance, and also into silly evasions, for silliness is a defect of logic, in order to save the letter of the tables, as was done in the *fiction* or

hypokrisis that a *filia patroni* was a *filius* (Heinecc. *Antiq. Rom.*, lib. i. tit. ii. § 24). But it is absurd to place the classic jurists, with their use of trichotomy, along with Kant, and in that way to discern in them the promise of the development of conceptions.

§ 4

The territory of right is in general the spiritual, and its more definite place and origin is the will, which is free. Thus freedom constitutes the substance and essential character of the will, and the system of right is the kingdom of actualised freedom. It is the world of spirit, which is produced out of itself, and is a second nature.

Addition: Freedom of will is best explained by reference to physical nature. Freedom is a fundamental phase of will, as weight is of bodies. When it is said that matter is heavy, it might be meant that the predicate is an attribute; but such is not the case, for in matter there is nothing which has not weight; in fact, matter is weight. That which is heavy constitutes the body, and is the body. Just so is it with freedom and the will; that which is free is the will.

Will without freedom is an empty word, and freedom becomes actual only as will, as subject. A remark may also be made as to the connection of willing and thinking. Spirit, in general, is thought, and by thought man is distinguished from the animal. But we must not imagine that man is on one side thinking and on another side willing, as though he had will in one pocket and thought in another. Such an idea is vain. The distinction between thought and will is only that between a theoretical and a practical relation. They are not two separate faculties. The will is a special way of thinking; it is thought translating itself into reality; it is the impulse of thought to give itself reality. The distinction between thought and will may be expressed in this way. When I think an object, I make of it a thought, and take from it the sensible. Thus I make of it something which is essentially and directly mine. Only in thought am I self-contained. Conception is the penetration of the object, which is then no longer opposed to me. From it I have taken its own peculiar nature, which it had as an independent object in opposition to me. As Adam said to Eve, "thou art flesh of my flesh and bone of my bone," so says the spirit, "This object is spirit of my spirit, and all alienation has disappeared." Any idea is a universalising, and this process belongs to thinking. To make something universal is to think. The "I" is thought and the universal. When I say "I," I let fall all particularity of character, natural endowment, knowledge, age. The I is empty, a point and simple, but in its simplicity active. The gaily coloured world is before me ; I stand opposed to it, and in this relation I

cancel and transcend the opposition, and make the content my own. The I is at home in the world, when it knows it, and still more when it has conceived it.

So much for the theoretical relation. The practical, on the other hand, begins with thinking, with the I itself. It thus appears first of all as placed in opposition, because it exhibits, as it were, a separation. As I am practical, I am active; I act and determine myself; and to determine myself means to set up a distinction. But these distinctions are again mine, my own determinations come to me; and the ends are mine, to which I am impelled. Even when I let these distinctions and determinations go, setting them in the so-called external world, they remain mine. They are that which I have done and made, and bear the trace of my spirit. That is the distinction to be drawn between the theoretical and the practical relations.

And now the connection of the two must be also stated. The theoretical is essentially contained in the practical. Against the idea that the two are separate runs the fact that man has no will without intelligence. The will holds within itself the theoretical, the will determines itself, and this determination is in the first instance internal. That which I will I place before my mind, and it is an object for me. The animal acts according to instinct, is impelled by something internal, and so is also practical. But it has no will, because it cannot place before its mind what it desires. Similarly man cannot use his theoretic faculty or think without will, for in thinking we are active. The content of what is thought receives, indeed, the form of something existing, but this existence is occasioned by our activity and by it, established.

These distinctions of theoretical and practical are inseparable; they are one and the same; and in every activity, whether of thought or will, both these elements are found.

It is worth while to recall the older way of proceeding with regard to the freedom of the will. First of all, the idea of the will was assumed, and then an effort was made to deduce from it and establish a definition of the will. Next, the method of the older empirical psychology was adopted, and different perceptions and general phenomena of the ordinary consciousness were collected, such as remorse, guilt, and the like, on the ground that these could be explained only as proceeding out of a will that is free. Then from these phenomena was deduced the so-called proof that the will is free. But it is more convenient to take a short cut and hold that freedom is given as a fact of consciousness, and must be believed in.

The nature of the will and of freedom, and the proof that the will is free, can be shown, as has already been observed (§ 2), only in connection with

the whole. The ground principles of the premises that spirit is in the first instance intelligence, and that the phases, through which it passes in its development, namely from feeling, through imaginative thinking to thought, are the way by which it produces itself as will, which, in turn, as the practical spirit in general, is the most direct truth of intelligence—I have presented in my *Encyclopaedia of the Philosophical Sciences* (1817), and hope some day to be able to give of them a more complete exposition. There is, to my mind, so much the more need for me to give my contribution to, as I hope, the more thorough knowledge of the nature of spirit, since, as I have there said, it would be difficult to find a philosophic science in a more neglected and evil plight than is that theory of spirit, which is commonly called psychology. Some elements of the conception of will, resulting from the premises enumerated above are mentioned in this and the following paragraphs. As to these, appeal may moreover be made to every individual to see them in his own self-consciousness. Everyone will, in the first place, find in himself the ability to abstract himself from all that he is, and in this way prove himself able of himself to set every content within himself, and thus have in his own consciousness an illustration of all the subsequent phases.

§ 5

The will contains [a] the element of pure indeterminateness, i.e., the pure doubling of the I back in thought upon itself. In this process every limit or content, present though it be directly by way of nature, as in want, appetite or impulse, or given in any specific way, is dissolved. Thus we have the limitless infinitude of absolute abstraction, or universality, the pure thought of itself.

Remark: Those who treat thinking and willing as two special peculiar and separate faculties, and, further, look upon thought as detrimental to the will, especially the good will, show from the very start that they know nothing of the nature of willing, a remark which we shall be called upon to a number of times upon the same attitude of mind. The will on one side is the possibility of abstraction from every aspect in which the I finds itself or has set itself up. It reckons any content as a limit, and flees from it. This is one of the forms of the self-direction of the will, and is by imaginative thinking insisted upon as of itself freedom. It is the negative side of the will, or freedom as apprehended by the understanding. This freedom is that of the void, which has taken actual shape, and is stirred to passion. It, while remaining purely theoretical, appears in Hindu religion as the fanaticism of pure contemplation; but becoming actual it assumes both in politics and religion the form of a fanaticism, which would destroy the established social order, remove all individuals suspected of desiring any

kind of order, and demolish any organisation which then sought to rise out of the ruins only in devastation does the negative will feel that it has reality. It intends, indeed, to bring to pass some positive social condition, such as universal equality or universal religious life. But in fact it does not will the positive reality of any such condition, since that would carry in its train a system, and introduce a separation by way of institutions and between individuals. But classification and objective system attain self-consciousness only by destroying negative freedom. Negative freedom is actuated by a mere solitary idea, whose realisation is nothing but the fury of desolation.

Addition: This phase of will implies that I break loose from everything, give up all ends, and bury myself in abstraction. It is man alone who can let go everything, even life. He can commit suicide, an act impossible for the animal, which always remains only negative, abiding in a state foreign to itself, to which it must merely get accustomed is pure thought of himself, and only in thinking has he the power to give himself universality and distinguish in himself all that is particular and definite.

Negative freedom, or freedom of the understanding, is one-sided, yet as this one-sidedness contains an essential feature, it is not to be discarded. But the defect of the understanding is that it exalts its one-sidedness to the sole highest place. This form of freedom frequently occurs in history. By the Hindus, e.g., the highest freedom is declared to be persistence in the consciousness of one's simple identity with himself, to abide in the empty space of one's own inner being, like the colourless light of pure intuition, and to renounce every, activity of life, every purpose and every idea. In this way man becomes Brahma; there is no longer any distinction between finite man and Brahma, every difference having been swallowed up in this universality. A more concrete manifestation of this freedom is fanaticism of political and religious life. Of this nature was the terrible epoch of the French Revolution, by which all distinctions in talent and authority were to have been superseded. In this time of upheaval and commotion any specific thing was intolerable. Fanaticism wills an abstraction and not an articulate association. It finds all distinctions antagonistic to its indefiniteness, and supersedes them. Hence in the French Revolution the people abolished the institutions which they themselves had set up, since every institution is inimical to the abstract self-consciousness of equality.

§ 6

[b] The I is also the transition from blank indefiniteness to the distinct and definite establishment of a definite content and object, whether this content be given by nature or produced out of the conception of spirit.

Through this establishment of itself as a definite thing the I becomes a reality. This is the absolute element of the finitude or specialisation of the I.

Remark: This second element in the characterisation of the I is just as negative as the first, since it annuls and replaces the first abstract negativity. As the particular is contained in the universal, so this second phase is contained already in the first, and is only an establishing of what the first is implicitly. The first phase, if taken independently, is not the true infinitude, i.e., the concrete universal, or the conception, but limited and one-sided. In that it is the abstraction from all definite character, it has a definite character. Its abstract and one-sided nature constitutes its definite character, its defect and finitude.

The distinct characterisation of these two phases of the I is found in the philosophy of Fichte as also in that of Kant. Only, in the exposition of Fichte the I, when taken as unlimited, as it is in the first proposition of his *Wissenschaftslehre*, is merely positive. It is the universality and identity made by the understanding. Hence this abstract I is in its independence to be taken as the truth, to which by way of mere addition comes in the second proposition, the limitation, or the negative in general, whether it be in the form of a given external limit or of an activity of the I. To apprehend the negative as immanent in the universal or self-identical, and also as in the I, was the next step, which speculative philosophy had to make. Of this want they have no presentiment, who like Fichte never apprehend that the infinite and finite are, if separated, abstract, and must be seen as immanent one in the other.

Addition: This second element makes its appearance as the opposite of the first ; it is to be understood in its general form: it belongs to freedom but does not constitute the whole of it. Here the I passes over from blank indeterminateness to the distinct establishment of a specific character as a content or object. I do not will merely, but I will something. Such a will, as is analysed in the preceding paragraph, wills only the abstract universal, and therefore wills nothing. Hence it is not a will. The particular thing, which the will wills is a limitation, since the will, in order to be a will, must in general limit itself. Limit or negation consists in the will willing something Particularising is thus as a rule named finitude. Ordinary reflection holds the first element, that of the indefinite, for the absolute and higher. and the limited for a mere negation of this indefiniteness. But this indefiniteness is itself only a negation, in contrast with the definite and finite. The I is solitude and absolute negation. The indefinite will is thus quite as much one-sided as the will, which continues merely in the definite.

§ 7

[c] The will is the unity of these two elements. It is particularity turned back within itself and thus led back to universality; it is individuality; it is the self-direction of the I. Thus at one and the same time it establishes itself as its own negation, that is to say, as definite and limited, and it also abides by itself, in its self-identity and universality, and in this position remains purely self-enclosed. The I determines itself in so far as it is the reference of negativity to itself; and yet in this self-reference it is indifferent to its own definite character. This it knows as its own, that is, as an ideal or a mere possibility, by which it is not bound, but rather exists in it merely because it establishes itself there. This is the freedom of the will, constituting its conception or substantive reality. It is its gravity, as it were, just as gravity is the substantive reality of a body.

Remark: Every self-consciousness knows itself as at once universal, or the possibility of abstracting itself from everything definite, and as particular, with a fixed object, content or aim. These two elements, however, are only abstractions. The concrete and true, and all that is true is concrete, is the universality, to which the particular is at first opposed, but, when it has been turned back into itself, is in the end made equal. This unity is individuality, but it is not a simple unit as is the individuality of imaginative thought, but a unit in terms of the conception (*Encyclopaedia of the Philosophical Sciences*, §§ 112-114). In other words, this individuality is properly nothing else than the conception. The first two elements of the will, that it can abstract itself from everything, and that it is definite through either its own activity or something else, are easily admitted and comprehended, because in their separation they are untrue, and characteristic of the mere understanding. But into the third, the true and speculative - and all truth, as far as it is conceived, must be thought speculatively - the understanding declines to venture, always calling the conception the inconceivable. The proof and more detailed explanation of this inmost reserve of speculation, of infinitude as the negativity which refers itself to itself, and of this ultimate source of all activity, life and consciousness, belong to logic, as the purely speculative philosophy. Here it can be noticed only in passing that, in the sentences, "The will is universal ... The will directs itself," the will is already regarded as presupposed subject or substratum; but it is not something finished and universal before it determines itself, nor yet before this determination is superseded and idealised. It is will only when its activity is self-occasioned, and it has returned into itself.

Addition: What we properly call will contains the two above-mentioned elements. The I is, first of all, as such, pure activity, the universal which is

by itself. Next this universal determines itself, and so far is no longer by itself, but establishes itself as another, and ceases to be the universal. The third step is that the will, while in this limitation, i.e., in this other, is by itself. While it limits itself, it yet remains with itself, and does not lose its hold of the universal. This is, then, the concrete conception of freedom, while the other two elements have been thoroughly abstract and one-sided. But this concrete freedom we already have in the form of perception, as in friendship and love. Here a man is not one-sided, but limits himself willingly in reference to another, and yet in this limitation knows himself as himself. In this determination he does not feel himself determined, but in the contemplation of the other as another has the feeling of himself. Freedom also lies neither in indeterminateness nor in determinateness, but in both. The wilful man has a will which limits itself wholly to a particular object, and if he has not this will, he supposes himself not to be free. But the will is not bound to a particular object, but must go further, for the nature of the will is not to be one-sided and confined. Free will consists in willing a definite object, but in so doing to be by itself and to return again into the universal.

§ 8

If we define this particularising ([b] § 6) further, we reach a distinction in the forms of the will. (a) In so far as the definite character of the will consists in the formal opposition of the subjective to the objective or external direct existence, we have the formal will as a self-consciousness which finds an outer world before it. The process by which individuality turns back in its definiteness into itself, is the translation of the subjective end, through the intervention of an activity and a means, into objectivity. In the absolute spirit, in which all definite character is thoroughly its own and true (*Encyclopaedia*. § 363), consciousness is only one side, namely, the manifestation or appearance of the will, a phase which does not require detailed consideration here.

Addition: The consideration of the definite nature of the will belongs to the understanding, and is not in the first instance speculative. The will as a whole, not only in the sense of its content, but also in the sense of its form, is determined. Determinate character on the side of form is the end, and the execution of the end. The end is at first merely something internal to me and subjective, but it is to be also objective and to cast away the defect of mere subjectivity. It may be asked, why it has this defect. When that which is deficient does not at the same time transcend its defect, the defect is for it not a defect at all. The animal is to us defective, but not for itself. The end, in so far as it is at first merely ours, is for us a defect, since freedom and will are for us the unity of subjective and objective. The end

must also be established as objective; but does not in that way attain a new one-sided character, but rather its realisation.

§ 9

(b). In so far as the definite phases of will are its own peculiar property or its particularisation turned back into itself, they are content. This content, as content of the will, is for it, by virtue of the form given in (a), an end, which exists on its inner or subjective side as the imaginative will, but by the operation of the activity, which converts the subjective into the objective, it is realised, completed end.

§ 10

The content or determinate phase of will is in the first instance direct or immediate. Then the will is free only in itself or for us, i.e., it is the will in its conception. Only when it has itself as an object is it also for itself, and its implicit freedom becomes realised.

Remark: At this standpoint the finite implies that whatever is in itself, or according to its conception, has an existence or manifestation different from what it is for itself. For example the abstract separateness of nature is in itself space, but for itself time. Here, two things are to be observed,

1. that because the truth is the idea, when any object or phase is apprehended only as it is in itself or in conception, it is not as yet apprehended in its truth, and yet
2. that, whatever exists as conception or in itself, at the same time exists, and this existence is a peculiar form of the object, as *e.g.* space.

The separation of existence in-itself or implicit existence from existence-for-itself or explicit existence is a characteristic of the finite, and constitutes its appearance or merely external reality. An example of this is to hand in the separation of the natural will from formal right. The understanding adheres to mere implicit existence, and in accordance with this position calls freedom a capacity, since it is at this point only a possibility. But the understanding, regards this phase as absolute and perennial, and considers the relation of the will to what it wills or reality as an application to a given material, which does not belong to the essence of freedom. In this way the understanding occupies itself with mere abstractions, and not with the idea and truth.

Addition: The will, which is will only according to the conception, is free implicitly, but is at the same time not free. To be truly free. it must have a truly fixed content; then it is explicitly free, has freedom for its object, and is freedom. What is at first merely in conception, i.e., implicit, is only direct and natural, We are familiar with this in pictorial thought also. The

child is implicitly a man, at first has reason implicitly, and is at first the possibility of reason and freedom. He is thus free merely according to the conception. That which is only implicit does not yet exist in actuality. A man, who is implicitly rational, must create himself by working through and out of himself and by reconstructing himself within himself, before he can become also explicitly rational.

§ 11

The will, which is at first only implicitly free, is the direct or natural will. The distinctive phases, which the self-determining conception sets up in the will, appear in the direct will, as a directly present content. They are impulses, appetites, inclinations, by which the will finds itself determined by nature. Now this content, with all its attendant phases, proceeds from the rationality of the will, and is therefore implicitly rational; but let loose in its immediate directness it has not as yet the form of rationality. The content is indeed for me and my own, but the form and the content are yet different. The will is thus in itself finite.

Note. Empirical psychology enumerates and describes these impulses and inclinations, and the wants which are based upon them. It takes, or imagines that it takes this material from experience, and then seeks to classify it in the usual way. It will be stated below, what the objective side of impulse is, and what impulse is in its truth, apart from the form of irrationality which it has as an impulse, and also what shape it assumes when it reaches existence.

Addition: Impulse, appetite, inclination are possessed by the animal also, but it has not will; it must obey impulse, if there is no external obstacle. Man, however, is the completely undetermined, and stands above impulse, and may fix and set it up as his. Impulse is in nature, but it depends on my will whether I establish it in the I. Nor can the will be unconditionally called to this action by the fact that the impulse lies in nature.

§ 12

The system of this content, as it occurs directly in the will, exists only as a multitude or multiplicity of impulses, every one of which is mine in a general way along with others, but is at the same time universal and undetermined, having many objects and ways of satisfaction. The will, by giving itself in this two-fold indefiniteness the form of individuality (§ 7), resolves, and only as resolving is it actual.

Remark: Instead of to “resolve,” i.e. to supersede the indefinite condition in which a content is merely possible, our language has the expression “decide “ (“ unfold itself “). The indeterminate condition of the will, as

neutral but infinitely fruitful germ of all existence, contains within itself its definite character and ends, and brings them forth solely out of itself.

§ 13

By resolution, will fixes itself as the will of a definite individual, and as thereby distinguishing itself from another. However apart from this finite character which it has as consciousness (§ 8), the immediate will is in virtue of the distinction between its form and its content formal. Hence its resolution as such is abstract, and its content is not yet the content and work of its freedom.

Remark: To the intelligence, as thinking, the object or content remains universal ; the intelligence retains the form merely of a universal activity. Now the universal signifies in will that which is mine, i.e. it is individuality. And yet, also, the direct and formal will is abstract ; its individuality is not yet filled with its free universality. Hence at the beginning the peculiar finitude of the intelligence is in will, and only by exalting itself again to thought and giving itself intrinsic universality does the will transcend the distinction of form and content and make itself objective infinite will. It is therefore a misunderstanding of the nature of thought and will to suppose that in the will man is infinite, while in thought and even in reason he is limited. In so far as thought and will are still distinct, the reverse is rather the case, and thinking reason, when it becomes will, assigns itself to finitude.

Addition: A will which resolves nothing, is not an actual will; that which is devoid of definite character never reaches a volition. The reason for hesitation may lie in a sensitiveness, which is aware that in determining itself it is engaged with what is finite, is assigning itself a limit, and abandoning its infinity ; it may thus hold to its decision not to renounce the totality which it intends. Such a feeling is dead, even when it aims to be something beautiful. “Who will be great,” says Goethe, “must be able to limit himself.” By volition alone man enters actuality, however distasteful it may be to him; for indolence will not desert its own self-brooding, in which it clings to a universal possibility. But possibility is not yet actuality. Hence the will, which is secure simply of itself, does not as yet lose itself in any definite reality.

§ 14

The finite will, which has merely from the standpoint of form doubled itself back upon itself, and has become the infinite and self-secluded I (§ 5), stands above its content of different impulses and also above the several ways by which they are realised and satisfied. At the same time, as it is only formally infinite, it is confined to this very content as the decisive

feature of its nature and external actuality, although it is undetermined and not confined to one content rather than another (§§ 6, 11). As to the return of the I into itself such a will is only a possible will, which may or may not be mine, and the I is only the possibility of deputing itself to this or that object. Hence amongst these definite phases, which in this light are for the I external, the will chooses.

§ 15

Freedom of the will is, in this view of it, caprice, in which are contained both a reflection, which is free and abstracted from everything and a dependence upon a content or matter either internally or externally provided. Since the content is in itself or implicitly necessary as all end, and in opposition to this reflection is a definite possibility, caprice, when it is will, is in its nature contingent.

Remark: The, usual idea of freedom is that of caprice. It is a midway stage of reflection between the will as merely natural impulse and the will as free absolutely. When it is said that freedom as a general thing consists in doing what one likes, such an idea must be taken to imply an utter lack of developed thought, containing as yet not even the suspicion of what is meant by the absolutely free will, right, the ethical system, etc. Reflection, being the formal universality and I unity of self-consciousness, is the will's abstract certitude of its freedom, but it is not yet the truth of it, because it has not as yet itself for content and end; the subjective side is still different from the objective. Thus the content in such a case remains purely and completely finite. Caprice, instead of being will in its truth, is rather will in its contradiction.

In the controversy carried on, especially at the time of the metaphysic of Wolf, as to whether the will is really free or our consciousness of its freedom is a delusion, it was this caprice, which was in the minds of both parties. Against the certitude of abstract self-direction, determinism rightly opposed a content, which was externally presented, and not being contained in this certitude came from without. It did not matter whether this "without" were impulse, imagination, or in general a consciousness so filled that the content was not the peculiar possession of the self-activity as such. Since only the formal element of free self-direction is immanent in caprice, while the other element is something given to it from without, to take caprice as freedom may fairly be named a delusion. Freedom in every philosophy of reflection, whether it be the Kantian or the Friesian, which is the Kantian superficialised, is nothing more than this formal self-activity.

Addition: Since I have the possibility of determining himself in this or

that way, since I have the power of choice, possess caprice, or what is commonly called freedom. This choice is due to the universality of the will, enabling me to make my own this thing or another. This possession is a particular content, which is therefore not adequate to me, but separated from me, and is mine only in possibility; just as I am the possibility of bringing myself into coincidence with it. Hence choice is due to the indeterminateness of the I, and to the determinateness of a content. But as to this content the will is not free, although it has in itself formally the side of infinitude. No such content corresponds to will ; in no content can it truly find itself. In caprice it is involved that the content is not formed by the nature of my will, but by contingency. I am dependent upon this content. This is the contradiction contained in caprice. Ordinary man believes that he is free, when he is allowed to act capriciously, but precisely in caprice is it inherent that he is not free. When I will the rational, I do not act as a particular individual but according to the conception of ethical life in general. In an ethical act I establish not myself but the thing. A man, who acts perversely, exhibits particularity. The rational is the highway on which every one travels, and no one is specially marked. When a great artist finishes a work we say: "It must be so." The particularity of the, artist has wholly disappeared and the work shows no mannerism. Phidias has no mannerism; the statue itself lives and moves. But the poorer is the artist, the more easily we discern himself, his particularity all caprice. If we adhere to the consideration that in caprice a man can will what he pleases, we have certainly freedom of a kind; but again, if we hold to the view that the content is given, then man must be determined by it, and in this light is no longer free.

§ 16

What is resolved upon and chosen (§ 14) the will may again give up (§ 5). Yet, even with the possibility of transcending any other content which it may substitute, and of proceeding in this way *ad infinitum*, the will does not advance beyond finitude, because every content in turn is different from the form and is finite. The opposite aspect, namely indeterminateness, irresolution or abstraction, is also one-sided.

§ 17

Since the contradiction involved in caprice (§ 15) is the dialectic of the impulses and inclinations, it is manifested in their mutual antagonism. The satisfaction of one demands the subjection and sacrifice of the satisfaction of another. Since an impulse is merely the simple tendency of its own essential nature, and has no measure in itself, to subject or sacrifice the satisfaction of any impulse is a contingent decision of caprice. In such a

case caprice may act upon the calculation as to which impulse will bring the greater satisfaction, or may have some other similar purpose.

Addition: Impulses and inclinations are in the first instance the content of will, and only reflection transcends them. But these impulses are self-directing, crowding upon and jostling one another, and all seeking to be satisfied. To set all but one in the background, and put myself into this one, is to limit and distort myself, since I, in so doing, renounce my universality, which is a system of the impulses. Just as little help is found in a mere subordination of them, a course usually followed by the understanding. There is available no criterion by which to make such an arrangement, and hence the demand for a subordination is usually sustained by tedious and irrelevant allusions to general savings.

§ 18

With regard to the moral estimate of impulses, dialectic appears in this form. The phases of the direct or natural will are immanent and positive, and thus good. Hence man is by nature good. But natural characteristics, since they are opposed to freedom and the conception of the spirit, and are, hence, negative, must be eradicated. Thus man is by nature evil. To decide for either view is a matter of subjective caprice.

Addition: The Christian doctrine that man is by nature evil is loftier than the opposite that he is naturally good, and is to be interpreted philosophically in this way. Man as spirit is a free being, who need not give way to impulse. Hence in his direct and unformed condition, man is in a situation in which he ought not to be, and he must free himself. This is the meaning of the doctrine of original sin, without which Christianity would not be the religion of freedom.

§ 19

In the demand that impulses must be purified is found the general idea that they must be freed from the form of direct subjection to nature, and from a content that is subjective and contingent, and must be restored to their substantive essence. The truth contained in this indefinite demand is that impulses should be phases of will in a rational system. To apprehend them in this way as proceeding from the conception is the content of the science of right.

Remark: The content of this science may, in all its several elements, right, property, morality, family, state, be represented in this way, that man has by nature the impulse to right, the impulse to property, to morality, to sexual love, and to social life. If instead of this form, which belongs to empirical psychology, a philosophic form be preferred, it may be obtained

cheap from what, in modern times was reputed and still is reputed to be philosophy. He will then say that man finds in himself as a fact of consciousness that he wills right, property, the state, etc. Later will be given still another form of the content which appears here in the shape of impulses, that, namely, of duties.

§ 20

The reflection which is brought to bear upon impulses, placing them before itself, estimating them, comparing them with one another, and contrasting them with their means and consequences, and also with a whole of satisfaction, namely happiness, brings the formal universal to this material, and in an external way purifies it of its crudity and barbarism. This propulsion by the universality of thought is the absolute worth of civilisation (§ 187).

Addition: In happiness thought has already the upper hand with the force of natural impulse, since it is not satisfied with what is momentary, but requires happiness as a whole. This happiness is dependent upon civilisation to the extent to which civilisation confirms the universal. But in the ideal of happiness there are two elements. There is a universal that is higher than all particulars; yet, as the content of this universal is in turn only universal pleasure, there arises once more the individual, particular and finite, and retreat must be made to impulse. Since the content of happiness lies in the subjective perception of each individual, this universal end is again particular; nor is there present in it any true unity of content and form.

§ 21

But the truth of this formal universality, which taken by itself is undetermined and finds definite character in externally given material, is the self-directing universality which is will or freedom. Since the will has as its object, content and end, universality itself, and thus assumes the form of the infinite, it is free not only in itself or implicitly, but for itself or explicitly. It is the true idea.

Remark: The self-consciousness of the will in the form of appetite or impulse is sensible, the sensible in general indicating the externality of self-consciousness, or that condition in which self-consciousness is outside of itself. Now this sensible side is one of the two elements of the reflecting will, and the other is the abstract universality of thought. But the absolute will has as its object the will itself as such in its pure universality. In this universality the directness of the natural will is superseded, and so also is the private individuality which is produced by reflection and infects the natural condition. But to supersede these and lift them into the universal,

constitutes the activity of thought. Thus the self-consciousness, which purifies its object, content or end, and exalts it to universality, is thought carrying itself through into will. It is at this point that it becomes clear that the will is true and free only as thinking intelligence. The slave knows not his essence, his infinitude, his freedom; he does not know himself in his essence, and not to know himself is not to think himself. The self-consciousness, which by thought apprehends that itself is essence, and thus puts away from itself the accidental and untrue, constitutes the principle of right, morality, and all forms of ethical life. They who, in speaking philosophically of right, morality, and ethical life, would exclude thought and turn to feeling, the heart, the breast, and inspiration, express the deepest contempt for thought and science. And science itself, overwhelmed with despair and utter insipidity, makes barbarism and absence of thought a principle, and so far as in it lay robbed men of all truth, dignity, and worth.

Addition: In philosophy truth is had when the conception corresponds to reality. A body is the reality, and soul is the conception. Soul and body should be adequate to each other. A dead man is still an existence, but no longer a true existence; it is a reality void of conception. For that reason the dead body decays. So with the true will; that which it wills, namely, its content, is identical with it, and so freedom wills freedom.

§ 22

The will which exists absolutely is truly infinite, because its object being the will itself, is for it not another or a limitation. In the object the will has simply reverted into itself. Moreover, it is not mere possibility, capacity, potentiality (potential, but infinitely actual (*infinitum actu*), because the reality of the conception or its visible externality is internal to itself.

Remark: Hence when the free will is spoken of without the qualification of absolute freedom, only the capacity of freedom is meant, or the natural and finite will (§ 11), and, notwithstanding all words and opinions to the contrary, not the free will. Since the understanding comprehends the infinite only in its negative aspect, and hence as a beyond, it thinks to do the infinite all the more honour the farther it removes it into the vague distance, and the more it takes it as a foreign thing. In free will the true infinite is present and real; it is itself the actually present self-contained idea.

Addition: The infinite has rightly been represented as a circle. The straight line goes out farther and farther, and symbolises the merely negative and bad infinite, which, unlike the true, does not return into itself. The free will is truly infinite, for it is not a mere possibility or disposition. Its external

reality is its own inner nature, itself.

§ 23

Only in this freedom is the will wholly by itself, because it refers to nothing but itself, and all dependence upon any other thing falls away. The will is true, or rather truth itself, because its character consists in its being in its manifested reality, or correlative opposite, what it is in its conception. In other words, the pure conception has the perception or intuition of itself as its end and reality.

§ 24

The will is universal, because in it all limitation and particular individuality are superseded. These one-sided phases are found only in the difference between the conception and its object or content, or, from another standpoint, in the difference between the conscious independent existence of the subject, and the will's implicit, or self-involved existence, or between its excluding and concluding individuality, and its universality.

Remark: The different phases of universality are tabulated In the logic (*Encyclopaedia. of the Phil. Sciences*, §§ 118-126). Imaginative thinking always takes universality in an abstract and external way. But absolute universality is not to be thought of either as the universality of reflection, which is a kind of consensus or generality, or, as the abstract universality and self-identity, which is fashioned by the understanding (§ 6, note), and keeps aloof from the individual. It is rather the concrete, self-contained, and self-referring universality, which is the substance, intrinsic genus, or immanent idea of self-consciousness. It is a conception of free will as the universal, transcending its object, passing through and beyond its own specific character, and then becoming identical with itself. This absolute universal is what is in general called the rational, and is to be apprehended only in this speculative way.

§ 25

The subjective side of the will is the side of its self-consciousness and individuality (§ 7), as distinguished from its implicit conception. This subjectivity is

[a] pure form or absolute unity of self-consciousness with itself. This unity is the equation "I = I," consciousness being characterised by a thoroughly inward and abstract self-dependence. It is pure certitude of itself in contrast with the truth; [b] particularity of will, as caprice with its accidental content of pleasurable ends; [c] in general a one-sided form (§ 8), in so far as that which is willed is at first an unfulfilled end, or a content which simply belongs to self-consciousness.

§ 26

[a] In so far as free will is determined by itself, and is in accord with its conception and true, it is wholly objective will. [b] But objective self-consciousness, which has not the form of the infinite, is a will sunk in its object or condition, whatever the content of that may be. It is the will of the child, or the will present in slavery or superstition. [c] Objectivity is finally a one-sided form in opposition to the subjective phase of will ; it is direct reality, or external existence. In this sense the will becomes objective only by the execution of its ends.

Remark: These logical phases of subjectivity and objectivity, since they are often made use of in the sequel, are here exposed, with the express purpose of noting that it happens with them as with other distinctions and opposed aspects of reflection; they by virtue of their finite and dialectic character pass over into their opposites. For imagination and understanding the meanings of antithetic phases are not convertible, because their identity is still internal. But in will, on the contrary, these phases, which ought to be at once abstract and yet also sides of that which can be known only as concrete, lead of themselves to identity, and to an exchange of meaning. To the understanding this is unintelligible. Thus, e.g., the will, as a freedom which exists in itself, is subjectivity itself; thus subjectivity is the conception of the will, and therefore its objectivity. But subjectivity is finite in opposition to objectivity, yet in this opposition the will is not isolated, but in intricate union with the object ; and thus its finitude consists quite as much in its not being subjective, etc. What in the sequel is to be meant by the subjective or the objective side of the will, has each time to be made clear from the context, which will supply their positions in relation to the totality.

Addition: It is ordinarily supposed that subjective and objective are blank opposites ; but this is not the case. Rather do they pass into one another, for they are not abstract aspects like positive and negative, but have already a concrete significance. To consider in the first instance the expression "subjective;" this may mean an end which is merely the end of a certain subject. In this sense a poor work of art, that is not adequate to the thing is merely subjective. But, further, this expression may point to the content of the will, and is then of about the same meaning as capricious; the subjective content then is that which belongs merely to the subject. In this sense bad acts are merely subjective. Further, the pure, empty I may be called subjective, as it has only itself as an object, and possesses the power of abstraction from all further content. Subjectivity has, moreover, a wholly particular and correct meaning in accordance with which anything, in order to win recognition from me, has to become mine

and seek validity in me. This is the infinite avarice of subjectivity, eager to comprehend and consume everything within the simple and pure I.

Similarly we may take the objective in different ways. By it we may understand anything to which we give existence in contrast to ourselves, whether it be an actual thing or a mere thought, which we place over against ourselves. By it also we understand the direct reality, in which the end is to be realised. Although the end itself is quite particular and subjective, we yet name it objective after it has made its appearance. Further, the objective will is also that in which truth is; thus, God's will, the ethical will also, are objective. Lastly, we may call the will objective, when it is wholly submerged in its object, as, *e.g.*, the child's will, which is confiding and without subjective freedom, and the slave's will, which does not know itself as free, and is thus a will-less will. In this sense any will is objective, if it is guided in its action by a foreign authority, and has not yet completed the infinite return into itself.

§ 27

The absolute character or, if you like, the absolute impulse of the free spirit (§ 21) is, as has been observed, that its freedom shall be for it an object. It is to be objective in a two-fold sense: it is the rational system of itself, and this system is to be directly real (§ 26). There is thus actualised as idea what the will is implicitly. Hence, the abstract conception of the idea of the will is in general the free will which wills the free will.

§ 28

The activity of the will, directed to the task of transcending the contradiction between subjectivity and objectivity, of transferring its end from subjectivity into objectivity, and yet while in objectivity of remaining with itself, is beyond the formal method of consciousness (§ 8), in which objectivity is only direct actuality. This activity is the essential development of the substantive content of the idea (§ 21). In this development the conception moulds the idea, which is in the first instance abstract, into the totality of a system. This totality as substantive is independent of the opposition between mere subjective end and its realisation, and in both of these forms is the same.

§ 29

That a reality is the realisation of the free will, this is what is meant by a right. Right, therefore, is, in general, freedom as idea.

Remark: In the Kantian doctrine (Introduction to Kant's *Theory of Right*), now generally accepted, "the highest factor is a limitation of my freedom or caprice, in order that it may be able to subsist alongside of every other

individual's caprice in accordance with a universal law." This doctrine contains only a negative phase, that of limitation. And besides, the positive phase, the universal law or so-called law of reason, consisting in the agreement of the caprice of one with that of another, goes beyond the well-known formal identity and the proposition of contradiction. The definition of right, just quoted, contains the view which has especially since Rousseau spread widely. According to this view neither the absolute and rational will, nor the true spirit, but the will and spirit of the particular individual in their peculiar caprice, are the substantive and primary basis. When once this principle is accepted, the rational can announce itself only as limiting this freedom. Hence it is not an inherent rationality, but only a mere external and formal universal. This view is accordingly devoid of speculative thought, and is rejected by the philosophic conception. In the minds of men and in the actual world it has assumed a shape, whose horror is without a parallel, except in the shallowness of the thoughts upon which it was founded.

§ 30

Right in general is something holy, because it is the embodiment of the absolute conception and self-conscious freedom. But the formalism of right, and after a while of duty also, is due to distinctions arising out of the development of the conception of freedom. In contrast with the more formal, abstract and limited right, there is that sphere or stage of the spirit, in which spirit has brought to definite actuality the further elements contained in the idea. This stage is the richer and more concrete; it is truly universal and has therefore a higher right.

Remark: Every step in the development of the idea of freedom has its peculiar right, because it is the embodiment of a phase of freedom. When morality and ethical life are spoken of in opposition to right, only the first or formal right of the abstract personality is meant. Morality, ethical life, a state-interest, are every one a special right, because each of these is a definite realisation of freedom. They can come into collision only in so far as they occupy the same plane. If the moral standpoint of spirit were not also a right and one of the forms of freedom, it could not collide with the right of personality or any other right. A right contains the conception of freedom which is the highest phase of spirit, and in opposition to it any other kind of thing is lacking in real substance. Yet collision also implies a limit and a subordination of one phase to another. Only the right of the world-spirit is the unlimited absolute.

§ 31

The scientific method by which the conception is self-evolved, and its

phases self-developed and self-produced, is not first of all an assurance that certain relations are given from somewhere or other, and then the application to this foreign material of the universal. The true process is found in the logic, and here is presupposed.

Remark: The efficient or motive principle, which is not merely the analysis but the production of the several elements of the universal, I call dialectic. Dialectic is not that process in which an object or proposition, presented, to feeling or the direct consciousness, is analysed, entangled, taken hither and thither, until at last its contrary is derived. Such a merely negative method appears frequently in Plato. It may fix the opposite of any notion, or reveal the contradiction contained in it, as did the ancient scepticism, or it may in a feeble way consider an approximation to truth, or modern half-and-half attainment of it, as its goal. But the higher dialectic of the conception does not merely apprehend any phase as a limit and opposite, but produces out of this negative a positive content and result. Only by such a course is there development and inherent progress. Hence this dialectic is not the external agency of subjective thinking, but the private soul of the content, which unfolds its branches and fruit organically. Thought regards this development of the idea and of the peculiar activity of the reason of the idea as only subjective, but is on its side unable to make any addition. To consider anything rationally is not to bring reason to it from the outside, and work it up in this way, but to count it as itself reasonable. Here it is spirit in its freedom, the summit of self-conscious reason, which gives itself actuality, and produces itself as the existing world. The business of science is simply to bring the specific work of the reason, which is in the thing, to consciousness.

§ 32

The phases of the development of the conception are themselves conceptions. And yet, because the conception is essentially the idea, they have the form of manifestations. Hence the sequence of the conceptions, which arise in this way, is at the same time a sequence of realisations, and are to be by science so considered.

Remark: In a speculative sense, the way in which a conception is manifested in reality, is identical with a definite phase of the conception. But it is noteworthy that, in the scientific development of the idea, the elements, which result in a further definite form, although preceding this result as phases of the conception, do not in the temporal development go before it as concrete realisations. Thus, as will be seen later, that stage of the idea which is the family presupposes phases of the conception, whose result it is. But that these internal presuppositions should be present in

such visible realisations as right of property, contract, morality, etc., this is the other side of the process, which only in a highly developed civilisation has attained to a specific realisation of its elements.

Addition: The idea must always go on determining itself within itself, since at the beginning it is only abstract conception. However, this initial abstract conception is never given up, but only becomes inwardly richer, the last phase being the richest. The earlier and merely implicit phases reach in this way free self-dependence, but in such a manner that the conception remains the soul which holds everything together, and only through a procedure immanent within itself arrives at its own distinctions. Hence the last phase falls again into a unity with the first, and it cannot be said that the conception ever comes to something new. Although the elements of the conception appear to have fallen apart when they enter reality, this is only a mere appearance. Its superficial character is revealed in the process, since all the particulars finally turn back again into the conception of the universal. The empirical sciences usually analyse what they find in pictorial ideas, and if the individual is successfully brought back to the general, the general property is then called the conception. But this is not our procedure. We desire only to observe how the conception determines itself, and compels us to keep at a distance everything of our own spinning and thinking. But what we get in this way is one series of thoughts and another series of realised forms. As to these two series, it may happen that the order of time of the actual manifestations is partly different from the order of the conception. Thus it cannot, e.g., be said that property existed before the family, and yet, in spite of that it is discussed before the family is discussed. The question might also be raised here, Why do we not begin with the highest, i.e., with concrete truth? The answer is, because we desire to see truth in the form of a result, and it is an essential part of the process to conceive the conception first of all as abstract. The actual series of realisations of the conception is thus for us in due course as follows, even although in actuality the order should be the same. Our process is this, that the abstract forms reveal themselves not as self- subsistent but as untrue.

Division of the Work

§ 33

According to the stages in the development of the idea of the absolutely free will,

A. The will is direct or immediate; its conception is therefore, abstract, i.e., personality, and its embodied reality is a direct external thing. This is the sphere of abstract or formal right.

B. The will, passing out of external reality, turns back into itself. Its phase is subjective individuality, and it is contrasted with the universal. This universal is on its internal side the good, and on its external side a presented world, and these two sides are occasioned only by means of each other. In this sphere the idea is divided, and exists in separate elements. The right of the subjective will is in a relation of contrast to the right of the world, or the right of the idea. Here, however, the idea exists only implicitly. This is the sphere of morality.

c. The unity and truth of these two abstract elements. The thought idea of the good is realised both in the will turned back into itself, and also in the external world. Thus freedom exists as real substance, which is quite as much actuality and necessity as it is subjective will. The idea here is its absolutely universal existence, viz., ethical life. This ethical substance is again,

a. Natural spirit; the family, b. The civil society, or spirit in its dual existence and mere appearance, c. The state, or freedom, which, while established in the free self-dependence of the particular will is also universal and objective. This actual and organic spirit [a] is the spirit of a nation,

[b] is found in the relation to one another of national spirits, and [c] passing through and beyond this relation is actualised and revealed in world history as the universal world-spirit, whose right is the highest.

Note. It is to be found in the speculative logic, and here is presupposed, that a thing or content, which is established first of all according to its conception, or implicitly, has the form of direct existence. The conception, however, when it has the form of the conception is explicit, and no longer is a direct existence. So, too, the principle, upon which the division of this work proceeds, is presupposed. The divisions might be regarded as already settled by history, since the different stages must be viewed as elements in the development of the idea, and therefore as springing from the nature of the content itself. A philosophic division is not an external classification of any given material, such a classification as would be made according to one or several schemes picked up at random, but the inherent distinctions of the conception itself. Morality and ethical life, which are usually supposed to mean the same thing, are here taken in essentially different meanings. Meanwhile even imaginative thought seems to make a distinction between them. In the usage of Kant the preference is given to the term morality, and the practical principles of his philosophy limit themselves wholly to this standpoint, making impossible the standpoint of ethical life, and indeed expressly destroying and abolishing it. Although

morality and ethics have the same meaning according to their etymology, yet these different words may be used for different conceptions.

Addition: When we speak of right, we mean not only civil right, which is the usual significance of the word, but also morality, ethical life and world-history. These belong to this realm, because the conception taking them in their truth, brings them all together. Free will, in order not to remain abstract, must in the first instance give itself reality; the sensible materials of this reality are objects, i.e., external things. This first phase of freedom we shall know as property. This is the sphere of formal and abstract right, to which belong property in the more developed form of contract and also the injury of right, i.e., crime and punishment. The freedom, we have here, we name person, or, in other words, the subject who is free, and indeed free independently, and gives himself a reality in things. But this direct reality is not adequate to freedom, and the negation of this phase is morality. In morality I am beyond the freedom found directly in this thing, and have a freedom in which this directness is superseded. I am free in myself, i.e., in the subjective. In this sphere we come upon my insight, intention, and end, and externality is established as indifferent. The good is now the universal end, which is not to remain merely internal to me, but to realise itself. The subjective will demands that its inward character, or purpose, shall receive external reality, and also that the good shall be brought to completion in external existence. Morality, like formal right, is also an abstraction, whose truth is reached only in ethical life. Hence ethical life is the unity of the will in its conception with the will of the individual or subject. The primary reality of ethical life is in its turn natural, taking the form of love and feeling. This is the family. In it the individual has transcended his prudish personality, and finds himself with his consciousness in a totality. In the next stage is seen the loss of this peculiar ethical existence and substantive unity. Here the family falls asunder, and the members become independent one of another, being now held together merely by the bond of mutual need. This is the stage of the civil society, which has frequently been taken for the state. But the state does not arise until we reach the third stage, that stage of ethical life or spirit, in which both individual independence and universal substantivity are found in gigantic union. The right of the state is, therefore, higher than that of the other stages. It is freedom in its most concrete embodiment, which yields to nothing but the highest absolute truth of the world-spirit.

First Part: Abstract Right

§ 34

The absolutely free will, at the stage when its concept is abstract, has the

determinate character of immediacy. Accordingly this stage is its negative actuality, an actuality contrasted with the real world, only an abstractly self-related actuality—the inherently single will of a subject. Pursuant to the moment of the particularity of the will, it has in addition a content consisting of determinate aims and, as exclusive individuality, it has this content at the same time as an external world directly confronting it.

Addition: When I say that ‘the absolutely free will at the stage when its concept is abstract has the determinate character of immediacy’, what I mean is this: when the concept had fully realised itself and when the embodiment of the concept had become nothing but the unfolding of its own self, then that state of affairs would be the fully developed Idea of the will. But at the start the concept is abstract, which means that all its determinations are contained within it, but still only contained within it; they are only implicit and not yet developed to be a totality in themselves. If I say ‘I am free’, the ego is still this inwardness, not confronted by an opposite. In morality, on the other hand, there is opposition from the start, since I stand in the moral sphere as a *single* will while the good is the *universal* even though it is within myself.

Thus at that level, the will has in itself the different factors of singularity and universality, and this gives it its specific character. But, to begin with, no such difference is present, since at the first stage, that of abstract unity, there is no advance and no mediation and so the will has the form of immediacy, of mere being. The essential point of view to be taken here then is that this original indeterminacy is itself a determinacy. The indeterminacy lies in the fact that there is as yet no difference between the will and its content; but indeterminacy, opposed to the determinate, acquires the character of being something determinate. It is abstract identity which here constitutes determinacy; the will therefore becomes a single will, a person.

§ 35

The universality of this consciously free will is abstract universality, the self-conscious but otherwise contentless and simple relation of itself to itself in its individuality, and from this point of view the subject is a person. Personality implies that as *this* person: (i) I am completely determined on every side (in my inner caprice, impulse, and desire, as well as by immediate external facts) and so finite, yet (ii) none the less I am simply and solely self-relation, and therefore in finitude I know myself as something infinite,—universal, and free.

Remark: Personality begins not with the subject’s mere general consciousness of himself as an ego concretely determined in some way or

other, but rather with his consciousness of himself as a completely abstract ego in which every concrete restriction and value is negated and without validity. In personality, therefore, knowledge is knowledge of oneself as an object, but an object raised by thinking to the level of simple infinity and so an object purely self-identical. Individuals and nations have no personality until they have achieved this pure thought and knowledge of themselves. Mind fully explicit differs from the phenomenal mind in this, that at the same level at which the latter is only self-consciousness—a consciousness of self but only one pursuant to the natural will and its still external oppositions—the former has itself, as the abstract and free ego, for its object and aim, and so is personality.

Addition: The abstract will, consciously self-contained, is personality. Man's chief glory is to be a person, and yet in spite of that the bare abstraction, 'person', is somewhat contemptuous in its very expression. 'Person' is essentially different from 'subject', since 'subject' is only the possibility of personality; every living thing of any sort is a subject. A person, then, is a subject aware of this subjectivity, since in personality it is of myself alone that I am aware. A person is a unit of freedom aware of its sheer independence. As *this* person, I know myself to be free in myself I can abstract from everything, since nothing confronts me save pure personality, and yet as *this* person I am something wholly determinate, e.g. I am of a certain age, a certain stature, I occupy this space, and so on through whatever other details you like. Thus personality is at once the sublime and the trivial. It implies this unity of the infinite with the purely finite, of the wholly limitless with determinate limitation. It is the sublimity of personality that is able to sustain this contradiction, a contradiction which nothing merely natural contains or could endure.

§ 36

(1) Personality essentially involves the capacity for rights and constitutes the concept and the basis (itself abstract) of the system of abstract and therefore formal right. Hence the imperative of right is: 'Be a person and respect others as persons.'

§ 37

(2) The particularity of the will is a moment in the consciousness of the will as a whole (see § 34), but it is not yet contained in abstract personality as such. Therefore, it is present at this point, but as still sundered from personality, from the character of freedom, present as desire, need, impulse, casual whim, and so forth. In formal right, therefore, there is no question of particular interests, of my advantage or my welfare, any more than there is of the particular motive behind my volition, of insight and

intention.

Addition: Since, in personality, particularity is not present as freedom, everything which depends on particularity is here a matter of indifference. To have no interest except in one's formal right may be pure obstinacy, often a fitting accompaniment of a cold heart and restricted sympathies. It is uncultured people who insist most on their rights, while noble minds look on other aspects of the thing. Thus abstract right is nothing but a bare possibility and, at least in contrast with the whole range of the situation, something formal. On that account, to have a right gives one a warrant, but it is not absolutely necessary that one should insist on one's rights, because that is only one aspect of the whole situation. That is to say, possibility is being which has the significance of also not being.

§ 38

In relation to action in the concrete and to moral and ethical ties, abstract right is, in contrast with the further content which these involve, only a possibility, and to have a right is therefore to have only a permission or a warrant. The unconditional commands of abstract right are restricted, once again because of its abstractness, to the negative: 'Do not infringe personality and what personality entails.' The result is that there are only prohibitions in the sphere of right, and the positive form of any command in this sphere is based in the last resort, if we examine its ultimate content, on prohibition.

§ 39

(3) As *immediate* individuality, a person in making decisions is related to a world of nature directly confronting him, and thus the personality of the will stands over against this world as something subjective. For personality, however, as inherently infinite and universal, the restriction of being only subjective is a contradiction and a nullity. Personality is that which struggles to lift itself above this restriction and to give itself reality, or in other words to claim that external world as its own.

§ 40

Right is in the first place the immediate embodiment which freedom gives itself in an immediate way, i.e. (a) possession, which is *property*—ownership. Freedom is here the freedom of the abstract will in general or, *eo ipso*, the freedom of a single person related only to himself. (b) A person by distinguishing himself from himself relates himself to another person, and it is only as owners that these two persons really exist for each other. Their implicit identity is realised through the transference of property from one to the other in conformity with a common will and without

detriment to the rights of either. This is **contract**. (c) The will which is differentiated not in the sense of (b) as being contrasted with another person, but in the sense of (a) as related to itself, is as a particular will at variance with and opposed to itself as an absolute will. This opposition is wrongdoing and **crime**.

Remark: The classification of the system of rights into *jus ad personam* and *jus ad rem* on the one hand, and *jus ad actiones* on the other, like the many other similar classifications, has as its primary aim the imposition of an external order on the mass of unorganised material confronting the classifier. The striking thing about this classification is the confusion in it due to the disorderly intermixture of rights which presuppose substantial ties, e.g. those of family and political life, and rights which only an abstract personality as such. This confusion is exemplified in the classification of rights (adopted by Kant and since favoured by others) into *jus reale*, *jus personals*, and *jus realiter personals*.

To develop the perversity and lack of speculative thought in the classification of rights into *jus ad personam* and *jus ad rem*, which lies at the root of Roman law (*jus ad actiones* concerns the administration of and is of a different order altogether), would take us too far afield, but at least it is clear: it is personality alone which can confer a right to things and therefore *jus ad personam* in its essence is *jus ad rem*, *rem* being taken here in its general sense as anything external to my freedom, including even my body and my life. In this sense, *jus ad rem* is the right of personality as such. But from the point of view of what is called *jus ad personam* in Roman law, a man is reckoned a person only when he is treated as possessing a certain status. Hence in Roman law, even personality itself is only a certain standing or status contrasted, with slavery. The so-called Roman law of ‘personal’ rights, then, is concerned with family relationships, though it excludes the right over slaves (and ‘slaves’ almost includes children too) as well as the status (called *capitis diminutio*) of having lost one’s rights. (In Kant, by the way, family relationships are the *jura realiter personalia*.) The Roman *jus ad personam* is therefore not the right of the person as person but at most the right of a person in his particular capacity. (Later on in this book, it will be shown that the substantial basis of family relationships is rather the sacrifice of personality.) Now it must be obvious that it is perverse to treat the right of a specific person in his particular capacity before the universal right of personality as such.

Kant’s *jura personalia* are the rights issuing from a contract whereby I undertake to give something or to perform something—the *jus ad rem* conferred by an *obligatio* in Roman law. To be sure, it is only a person who is required to execute the covenants of a contract, just as it is also only a

person who acquires the right to their execution. But a right of this sort cannot for this reason be called a ‘personal’ right; rights of whatever sort belong to a person alone.

Objectively considered, a right arising from a contract is never a right over a person, but only a right over something external to a person or something which he can alienate, always a right over a thing.

i Property

§ 41

A person must translate his freedom into an external sphere in order to exist as Idea. Personality is the first, still wholly abstract, determination of the absolute and infinite will, and therefore this sphere distinct from the person, the sphere capable of embodying his freedom, is likewise determined as what is immediately different and separable from him.

Addition: The rationale of property is to be found not in the satisfaction of needs but in the supersession of the pure subjectivity of personality. In his property a person exists for the first time as reason. Even if my freedom is here realised first of all in an external thing, and so falsely realised, nevertheless abstract personality in its immediacy can have no other embodiment save one characterised by immediacy.

§ 42

What is immediately different from free mind is that which, both for mind and in itself, is the external pure and simple, a thing, something not free, not personal, without rights.

Remark: ‘Thing’, like ‘the objective’, has two opposed meanings. If we say that’s the thing’ or ‘the thing is what matters, not the person’, ‘thing’ means what is substantive. On the other hand, when ‘thing’ is contrasted with ‘Person’ as such, not with the particular subject, it means the opposite of what is substantive, i.e. that whose determinate character lies in its pure externality. From the point of view of free mind, which must, of course, be distinguished from mere consciousness, the external is external absolutely, and it is for this reason that the determinate character assigned to nature by the concept is inherent externality.

Addition: Since a thing lacks subjectivity, it is external not merely to the subject but to itself. Space and time are external in this way. As sentient, I am myself external, spatial, and temporal. As receptive of sensuous intuitions, I receive them from something which is external to itself. An animal can intuit, but the soul of an animal has for its object not its soul, itself, but something external.

§ 43

As the concept in its immediacy, and so as in essence a unit, a person has a natural existence partly within himself and partly of such a kind that he is related to it as to an external world. It is only these things in their immediacy as things, not what they are capable of becoming through the mediation of the will, i.e. things with determinate characteristics, which are in question here where the topic under discussion is personality, itself at this point still in its most elementary immediacy.

Remark: Mental aptitudes, erudition, artistic skill, even things ecclesiastical (like sermons, masses, prayers, consecration of votive objects), inventions, and so forth, become subjects of a contract, brought on to a parity, through being bought and sold, with things recognised as things. It may be asked whether the artist, scholar, &c., is from the legal point of view in possession of his art, erudition, ability to preach a sermon, sing a mass, &c., that is, whether such attainments are ‘things’. We may hesitate to call such abilities, attainments, aptitudes, &c., ‘things’, for while possession of these may be the subject of business dealings and contracts, as if they were things, there is also something inward and mental about it, and for this reason the Understanding may be in perplexity about how to describe such possession in legal terms, because its field of vision is as limited to the dilemma that this is ‘either a thing or not a thing’ as to the dilemma ‘either finite or infinite’. Attainments, erudition, talents, and so forth, are, of course, owned by free mind and are some thing internal and not external to it, but even so, by expressing them it may embody them in something external and alienate them (see below), and in this way they are put into the category of ‘things’. Therefore they are not immediate at the start but only acquire this character through the mediation of mind which reduces its inner possessions to immediacy and externality.

It was an unjustifiable and unethical proviso of Roman law that children were from their father’s point of view ‘things’. Hence he was legally the owner of his children, although, of course, he still also stood to them in the ethical relation of love (though this relation must have been much weakened by the injustice of his legal position). Here, then, the two qualities ‘being a thing’ and ‘not being a thing’ were united, though quite wrongly.

In the sphere of abstract right, we are concerned only with the person as person, and therefore with the particular (which is indispensable if the person’s freedom is to have scope and reality) only in so far as it is something separable from the person and immediately different from him, no matter whether this separability constitutes the essential nature of the

particular, or whether the particular receives it only through the mediation of the subjective will. Hence in this sphere we are concerned with mental aptitudes, erudition, &c., only in so far as they are possessions in a legal sense; we have not to treat here the possession of our body and mind which we can achieve through education, study, habit, &c., and which exists as an inward property of mind. But it is not until we come to deal with alienations that we need begin to speak of the *transition* of such mental property into the external world where it falls under the category of property in the legal sense.

§ 44

A person has as his substantive end the right of putting his will into any and every thing and thereby making it his, because it has no such end in itself and derives its destiny and soul from his will. This is the absolute right of appropriation which man has over all ‘things’.

Remark: The so-called ‘philosophy’ which attributes reality in the sense of self-subsistence and genuine independent self-enclosed existence to unmediated single things, to the non-personal, is directly contradicted by the free will’s attitude to these things. The same is true of the other philosophy which assures us that mind cannot apprehend the truth or know the nature of the thing-in-itself. While so-called ‘external’ things have a show of self-subsistence for consciousness, intuition, and representative thinking, the free will idealises that type of actuality and so is its truth.

Addition: All things may become man’s property, because man is free will and consequently is absolute, while what stands over against him lacks this quality. Thus everyone has the right to make his will the thing or to make the thing his will, or in other words to destroy the thing and transform it into his own; for the thing, as externality, has no end in itself; it is not infinite self-relation but something external to itself. A living thing too (an animal) is external to itself in this way and is so far itself a thing. Only the will is the infinite, absolute in contrast with everything other than itself, while that other is on its side only relative. Thus ‘to appropriate’ means at bottom only to manifest the pre-eminence of my will over the thing and to prove that it is not absolute, is not an end in itself. This is made manifest when I endow the thing with some purpose not directly its own. When the living thing becomes my property, I give to it a soul other than the one it had before, I give to it my soul. The free will, therefore, is the idealism which does not take things as they are to be absolute, while realism pronounces them to be absolute, even if they only exist in the form of finitude. Even an animal has gone beyond this realist philosophy since it

devours things and so proves that they are not absolutely self- subsistent.

§ 45

To have power over a thing *ab extra* constitutes possession. The particular aspect of the matter, the fact that I make something my own as a result of my natural need, impulse, and caprice, is the particular interest satisfied by possession. But I as free will am an object to myself in what I possess and thereby also for the first time am an actual will, and this is the aspect which constitutes the category of *property*, the true and right factor in possession.

Remark: If emphasis is placed on my needs, then the possession of property appears as a means to their satisfaction, but the true position is that, from the standpoint of freedom, property is the first embodiment of freedom and so is in itself a substantive end.

§ 46

Since my will, as the will of a person, and so as a single will, becomes objective to me in property, property acquires the character of private property; and common property of such a nature that it may be owned by separate persons acquires the character of an inherently dissoluble partnership in which the retention of my share is explicitly a matter of my arbitrary preference.

Remark: The nature of the elements makes it impossible for the use of them to become so particularised as to be the private possession of anyone. In the Roman agrarian laws there was a clash between public and private ownership of land. The latter is the more rational and therefore had to be given preference even at the expense of other rights.

One factor in family testamentary trusts contravenes the right of personality and so the right of private property. But the specific characteristics pertaining to private property may have to be subordinated to a higher sphere of right (e.g. to a society or the state), as happens, for instance, when private property is put into the hands of a so-called ‘artificial’ person and into mortmain. Still, such exceptions to private property cannot be grounded in chance, in private caprice, or private advantage, but only in the rational organism of the state.

The general principle that underlies Plato’s ideal state violates the right of personality by forbidding the holding of private property. The idea of a pious or friendly and even a compulsory brotherhood of men holding their goods in common and rejecting the principle of private property may readily present itself to the disposition which mistakes the true nature of the freedom of mind and right and fails to apprehend it in its determinate

moments. As for the moral or religious view behind this idea, when Epicurus's friends proposed to form such an association holding goods in common, he forbade them, precisely on the ground that their proposal betrayed distrust and that those who distrusted each other were not friends.

Addition: In property my will is the will of a person; but a person is a unit and so property becomes the personality of this unitary will. Since property is the means whereby I give my will an embodiment, property must also have the character of being 'this' or 'mine'. This is the important doctrine of the necessity of private property. While the state may cancel private ownership in exceptional cases, it is nevertheless only the state that can do this; but frequently, especially in our day, private property has been re-introduced by the state. For example, many states have dissolved the monasteries, and rightly, for in the last resort no community has so good a right to property as a person has.

§ 47

As a person, I am myself an *immediate* individual; if we give further precision to this expression, it means in the first instance that I am alive in this bodily organism which is my external existence) universal in content and undivided, the real pre-condition of every further determined mode of existences But, all the same, as person, I possess my life and my body, like other things, only in so far as my will is in them.

Remark: The fact that, considered as existing not as the concept explicit but only as the concept in its immediacy, I am alive and have a bodily organism, depends on the concept of life and on the concept of mind as soul—on moments which are taken over here from the *Philosophy of Nature* and from Anthropology.

I possess the members of my body, my life, only so long as I will to possess them. An animal cannot maim or destroy itself, but a man can.

Addition: Animals are in possession of themselves; their soul is in possession of their body. But they have no right to their life, because they do not will it.

§ 48

In so far as the body is an immediate existent, it is not in conformity with mind. If it is to be the willing organ and soul-endowed instruments of mind, it must first be taken into possession by mind (see § 57). But from the point of view of others, I am in essence a free entity in my body while my possession of it is still immediate.

Remark: It is only because I am alive as a free entity in my body that this

living existent ought not to be misused by being made a beast of burden. While I am alive, my soul (the concept and, to use a higher term, the free entity) and my body are not separated; my body is the embodiment of my freedom and it is with my body that I feel. It is therefore only abstract sophistical reasoning which can so distinguish body and soul as to hold that the ‘thing-in-itself’, the soul, is not touched or attacked if the body is maltreated and the existent embodiment of personality is subjected to the power of another. I can withdraw into myself out of my bodily existence and make my body something external to myself; particular feelings I can regard as something outside me and in chains I can still be free. But this is *my* will; so far as *others* are concerned, I am in my body. To be free from the point of view of others is identical with being free in my determinate existence. If another does violence to my body, he does violence to me.

If my body is touched or suffers violence, then, because I feel, I am touched myself actually, here and now. This creates the distinction between personal injury and damage to my external property, for in such property my will is not actually present in this direct fashion.

§ 49

In relation to external things, the rational aspect is that I possess property, but the particular aspect comprises subjective aims, needs, arbitrariness, abilities, external circumstances, and so forth (see § 45). On these mere possession as such depends, but this particular aspect has in this sphere of abstract personality not yet been established as identical with freedom. What and how much I possess, therefore, is a matter of indifference so far as rights are concerned.

Remark: If at this stage we may speak of more persons than one, although no such distinction has yet been made, then we may say that in respect of their personality persons are equal. But this is an empty tautology, for the person, as something abstract, has not yet been particularised or established as distinct in some specific way.

‘Equality’ is the abstract identity of the Understanding; reflective thought and all kinds of intellectual mediocrity stumble on it at once when they are confronted by the relation of unity to a difference. At this point, equality could only be the equality of abstract persons as such, and therefore the whole field of possession, this terrain of inequality, falls outside it.

The demand sometimes made for an equal division of land, and other available resources too, is an intellectualism all the more empty and superficial in that at the heart of particular differences there lies not only the external contingency of nature but also the whole compass of mind, endlessly particularised and differentiated, and the rationality of mind

developed into an organism.

We may not speak of the injustice of nature in the unequal distribution of possessions and resources, since nature is not free and therefore is neither just nor unjust. That every one ought to have subsistence enough for his needs is a moral wish and thus vaguely expressed is well enough meant, but like anything that is only well meant it lacks objectivity. On the other hand, subsistence is not the same as possession and belongs to another sphere, i.e. to civil society.

Addition: The equality which might be set up, e.g. in connection with the distribution of goods, would all the same soon be destroyed again, because wealth depends on diligence. But if a project cannot be executed, it ought not to be executed. Of course men are equal, but only qua persons, that is, with respect only to the source from which possession springs; the inference from this is that everyone must have property. Hence, if you wish to talk of equality, it is this equality which you must have in view. But this equality is something apart from the fixing of particular amounts, from the question of how much I own. From this point of view it is false to maintain that justice requires everyone's property to be equal, since it requires only that everyone shall own property. The truth is that particularity is just the sphere where there is room for inequality and where equality would be wrong. True enough, men often lust after the goods of others, but that is just doing wrong, since right is that which remains indifferent to particularity.

§ 50

The principle that a thing belongs to the person who happens to be the first in time to take it into his possession is immediately self-explanatory and superfluous, because a second person cannot take into his possession what is already the property of another.

Addition: The points made so far have been mainly concerned with the proposition that personality must be embodied in property. Now the fact that the first person to take possession of a thing should also be its owner is an inference from what has been said. The first is the rightful owner, however, not because he is the first but because he is a free will, for it is only by another's succeeding him that he becomes the first.

§ 51

Since property is the *embodiment* of personality, my inward idea and will that something is to be mine is not enough to make it my property; to secure this end occupancy is requisite. The embodiment which my willing thereby attains involves its recognisability by others. The fact that a thing

of which I can take possession is a *res nullius* is (see § 50) a self-explanatory negative condition of occupancy, or rather it has a bearing on the anticipated relation to others.

Addition: A person puts his will into a thing—that is just the concept of property, and the next step is the *realisation* of this concept. The inner act of will which consists in saying that something is mine must also become recognisable by others. If I make a thing mine, I give to it a predicate, ‘mine’, which must appear in it in an external form and must not simply remain in my inner will. It often happens that children lay stress on their prior willing in preference to the seizure of a thing by others. But for adults this willing is not sufficient, since the form of subjectivity must be removed and must work its way beyond the subjective to objectivity.

§ 52

Occupancy makes the matter of the thing my property, since matter in itself does not belong to itself.

Remark: Matter offers resistance to me—and matter is nothing except the resistance it offers to me—that is, it presents itself to my mind as something abstractly independent only when my mind is taken abstractly as sensations (Sense-perception perversely takes mind as sensation for the concrete and mind as reason for the abstract.) In relation to the will and property, however, this independence of matter has no truth. Occupancy, as an external activity whereby we actualise our universal right of appropriating natural objects, comes to be conditioned by physical strength, cunning, dexterity, the means of one kind or another whereby we take physical possession of things. Owing to the qualitative differences between natural objects, mastery and occupancy of these has an infinite variety of meanings and involves a restriction and contingency that is just as infinite. Apart from that, a ‘kind’ of thing, or an element as such, is not the correlative object of an individual person. Before it can become such and be appropriated, it must first be individualised into single parts, into a breath of air or a drink of water. In the fact that it is impossible to take possession of an external ‘kind’ of thing as such, or of an element, it is not the external physical impossibility which must be looked on as ultimate, but the fact that a person, as will, is characterised as individual, while as person he is at the same time *immediate* individuality; hence as person he is related to the external world as to single things (see Remark to § 13 and § 43).

Thus the mastery and external possession of things becomes, in ways that again are infinite, more or less indeterminate and incomplete. Yet matter is never without an essential form of its own and only because it has one is it

anything. The more I appropriate this form, the more do I enter into actual possession of the thing. The consumption of food is an out and out alteration of its qualitative character, the character on the strength of which it was what it was before it was eaten. The training of my body in dexterity, like the training of my mind, is likewise a more or less complete occupancy and penetration of it. It is my mind which of all things I can make most completely my own. Yet this actual occupancy is different from property as such because property is complete as the work of the free will alone. In face of the free will, the thing retains no property in itself even though there still remains in possession, as an external relation to an object, something external. The empty abstraction of a matter without properties which, when a thing is my property, is supposed to remain outside me and the property of the thing, is one which thought must master.

Addition: In *Science of Rights*, § 19 A, maintains that the farmer has no right to his land as such but only to its products, to its ‘accidents’, not to its ‘substance’; he may not prevent others from grazing cattle on it after harvest, unless, in addition to cultivation rights, he has grazing rights for cattle of his own. Thus, Fichte has raised the question whether the matter too belongs to me if I impose a form on it. On his argument, after I had made a golden cup, it would have to be open to someone else to take the gold provided that in so doing he did no damage to my work. However separable the matter may be in thought, still in reality this distinction is an empty subtlety, because, if I take possession of a field and plough it, it is not only the furrow that is my property, but the rest as well, the furrowed earth. That is to say, I will to take this matter, the whole thing, into my possession; the matter therefore does not remain a *res nullius* nor does it remain I its own property. Further, even if the matter remains external to the form which I have given to the object, the form is precisely a sign that I claim the thing as mine. The thing therefore does not remain external to my will or outside what I have willed. Hence there is nothing left to be taken into possession by someone else.

§ 53

Property has its modifications determined in the course of the will’s relation to the thing. This relation is

(A) ***taking possession*** of the thing directly (here it is in the thing *qua* something positive that the will has its embodiment);

(B) *use* (the thing is negative in contrast with the will and so it is in the thing as something to be negated that the will has its embodiment);

(C) *alienation*, the reflection of the will back from the thing into itself.

These three are respectively the positive, negative, and infinite judgments of the will on the thing.

A. Taking Possession

§ 54

WE take possession of a thing [a] by directly grasping it physically, [b] by forming it, and [c] by merely marking it as ours.

Addition: These modes of taking possession involve the advance from the category of singularity to that of universality. It is only of a single thing that we can take possession physically, while marking a thing as mine is taking possession of it in idea. In the latter case I have an idea of the thing and mean that the thing as a whole is mine, not simply the part which I can take into my possession physically.

§ 55

[a] From the point of view of sensation, to grasp a thing physically is the most complete of these modes, because then I am directly present in this possession, and therefore my will is recognisable in it. But at bottom this mode is only subjective, temporary, and seriously restricted in scope, as well as by the qualitative nature of the things grasped.—As a result of the connection which I may effect between something and things which have already become my property in other ways, or into which something may otherwise be accidentally brought, the scope of this method is somewhat enlarged, and the same result is produced by other means also.

Remark: Mechanical forces, weapons, tools, extend the range of my power. Connections between my property and something else may be regarded as making it more easily possible for me than for another owner, or sometimes possible for me alone, to take possession of something or to make use of it. Instances of such connections are that my land may be on the seashore, or on a river bank; or my estate may march with hunting country or pasture or land useful for some other purposes stone or other mineral deposits may be under my fields; there may be treasure in or under my ground, and so on. The same is true of connections made by chance and subsequent to possession, like some of what are called ‘natural accessions’, such as alluvial deposits, &c., and jetsam. (*Fetura* is an accession to my wealth too, but the connection here is an organic one, it is not a case of a thing being added *ab extra* to another thing already in my

possession; and therefore *fetura* is of a type quite different from the other accessions.) Alternatively, the addition to my property may be looked upon as a non-self- subsistent accident of the thing to which it has been added. In every case, however, these are **external** conjunctions whose bond of connection is neither life nor the concept. It devolves, therefore, on the Understanding to adduce and weigh their pros and cons, and on positive legislation to make decisions about them in accordance with the extent to which the relation between the things conjoined has or has not any essentiality.

Addition: Taking possession is always piece-meal in type; I take into possession no more than what I touch with my body. But here comes the second point: external objects extend further than I can grasp. Therefore, whatever I have in my grasp is linked with something else. It is with my hand that I manage to take possession of a thing, but its reach can be extended.

What I hold in my hand - that magnificent tool which no animal possesses - can itself be a means to gripping something else. If I am in possession of something, the intellect immediately draws the inference that it is not only the immediate object in my grasp which is mine but also what is connected with it. At this point positive law must enact its statutes since nothing further on this topic can be deduced from the concept.

§ 56

[b] When I impose a form on something, the thing's determinant character as mine acquires an independent externality and ceases to be restricted to my presence here and now and to the direct presence of my awareness and will.

Remark: To impose a form on a thing is the mode of taking possession most in conformity with the Idea to this extent, that it implies a union of subject and object, although it varies endlessly with the qualitative character of the objects and the variety of subjective aims.

Under this head there also falls the formation of the organic. What I do to the organic does not remain external to it but is assimilated by it. Examples are the tilling of the soil, the cultivation of plants, the taming in and feeding of animals, the preservation of game, as well as contrivances for utilising raw materials or the forces of nature and processes for making one material produce effects on another, and so forth.

Addition: This forming of an object may in practice assume the most various guises. In farming land I impose a form on it. Where inorganic objects are concerned, the imposition of a form is not always direct. For

example, if I build a windmill, I have not imposed a form on the air, but I have formed something for utilising the air, though I am not on that account at liberty to call the air mine, since I have not formed the air itself. Further, the preserving of game may be regarded as a way of forming game, for we preserve it with a view to maintaining the species. [The same is true of] the taming of animals, only of course that is a more direct way of forming them and it depends on me to a greater extent.

§ 57

Man, pursuant to his *immediate* existence within himself, is something natural, external to his concept. It is only through the development of his own body and mind, essentially through his self-consciousness's apprehension of itself as free, that he takes possession of himself and becomes his own property and no one else's.

Remark: This taking possession of oneself, looked at from the opposite point view, is the translation into actuality of what one is according to one's concept, i.e. a potentiality, capacity, potency. In that translation one's self-consciousness for the first time becomes established as one's own, as one's object also and distinct from self-consciousness pure and simple, and thereby capable of taking the form of a 'thing' (compare Remark to § 43).

The alleged justification of slavery (by reference to all its proximate beginnings through physical force, capture in war, saving and preservation of life, upkeep, education, philanthropy, the slave's own acquiescence, and so forth), as well as the justification of a slave-ownership as simple lordship in general, and all historical views of the justice of slavery and lordship, depend on regarding man as a natural entity pure and simple, as an existent not in conformity with its concept (an existent also to which arbitrariness is appropriate). The argument for the absolute injustice of slavery, on the other hand, adheres to the concept of man as mind, as something inherently free. This view is one-sided in regarding man as free by nature, or in other words it takes the concept as such in its immediacy, not the Idea, as the truth. This antinomy rests, like all others, on the abstract thinking which asserts both the moments of an Idea in separation from one another and clings to each of them in its independence and so in its inadequacy to the Idea and in its falsity. Free mind consists precisely (see § 21) in its being no longer implicit or as concept alone, but in its transcending this formal stage of its being, and *eo ipso* its immediate natural existence, until the existence which it gives to itself is one which is solely its own and free. The side of the antinomy which asserts the concept of freedom therefore has the merit of implying the absolute starting-point,

though only the starting-point, for the discovery of truth, while the other side goes no further than existence without the concept and therefore excludes the outlook of rationality and right altogether. The position of the free will, with which right and the science of right begin, is already in advance of the false position at which man, as a natural entity and only the concept implicit, is for that reason capable of being enslaved. This false, comparatively primitive, phenomenon of slavery is one which befalls mind when mind is only at the level of consciousness. The dialectic of the concept and of the purely immediate consciousness of freedom brings about at that point the fight for recognition and the relationship of master and slave. But that objective mind, the content of the right, should no longer be apprehended in its subjective concept alone, and consequently that man's absolute unfitness for slavery should no longer be apprehended as a mere 'ought to be', is something which does not come home to our minds until we recognise that the Idea of freedom is genuinely actual only as the state.

Addition: To adhere to man's absolute freedom—one aspect of the matter—is *eo ipso* to condemn slavery. Yet if a man is a slave, his own will is responsible for his slavery, just as it is its will, which is responsible if a people is subjugated. Hence the wrong of slavery lies at the door, not simply of enslavers or conquerors, but of the slaves and the conquered themselves.

Slavery occurs in man's transition from the state of nature to genuinely ethical conditions; it occurs in a world where a wrong is still right. At that stage wrong has validity and so is necessarily in place.

§ 58

[c] The mode of taking possession which in itself is not actual but is only *representative* of my will is to mark the thing, and the meaning of the mark is supposed to be that I have put my will into the thing. In its objective scope and its meaning, this mode of taking possession is very indeterminate.

Addition: To take possession by marking a thing is of all sorts of taking possession the most complete, since the mark is implicitly at work to some extent in the other sorts too. When I grasp a thing or form it, this also means in the last resort that I mark it, and mark it for others, in order to exclude them and show that I have put my will into the thing. The notion of the mark, that is to say, is that the thing does not count as the thing which it is but as what it is supposed to signify. A cockade, for instance, signifies citizenship of a state, though the colour has no connection with the nation and represents not itself but the nation. By being able to give a

mark to things and thereby to acquire them, man just shows his mastery over things.

B. Use of the Thing

§ 59

BY being taken into possession, the thing acquires the predicate 'mine' and my will is related to it positively. Within this identity, the thing is equally established as something negative, and my will in this situation is a particular will, i.e. need, inclination, and so forth. Yet my need, as the particular aspect of a single will, is the positive element which finds satisfaction, and the thing, as something negative in itself, exists only for my need and is at its service.—The use of the thing is my need being externally realised through the change, destruction, and consumption of the thing. The thing thereby stands revealed as naturally self-less and so fulfils its destiny.

Remark: The fact that property is realised and actualised only in use floats before the minds of those who look upon property as derelict and a *res nullius* if it is not being put to any use, and who excuse its unlawful occupancy on the ground that it has not been used by its owner. But the owner's will, in accordance with which a thing is his, is the primary substantive basis of property; use is a further modification of property, secondary to that universal basis, and is only its manifestation and particular mode.

Addition: While in marking a thing I am taking possession in a universal way of the thing as such, the use of it implies a still more universal relation to the thing, because, when it is used, the thing in its particularity is not recognised but is negated by the user. When I mark a thing as mine, I attribute to it the universal predicate 'mine' and 'recognise' its particular characteristics in the sense that I do not interfere with them. But when I use it I 'negate' its particular characteristics in the sense that I change them to suit my purpose. To mark land as mine by fencing it does not change its character, but to use it, e.g. by planting it, does. The thing is reduced to a means to the satisfaction of my need. When I and the thing meet, an identity is established and therefore one or other must lose its qualitative character. But I am alive, a being who wills and is truly affirmative; the thing on the other hand is something physical. Therefore the thing must be destroyed while I preserve myself. This, in general terms, is the prerogative and the principle of the organic.

§ 60

To use a thing by grasping it directly is in itself to take possession of a *single* thing here and now. But if my use of it is grounded on a persistent need, and if I make repeated use of a product which continually renews itself, restricting my use if necessary to safeguard that renewal, then these and other circumstances transform the direct single grasp of the thing into a mark, intended to signify that I am taking it into my possession in a universal way, and thereby taking possession of the elemental or organic basis of such products, or of anything else that conditions them.

§ 61

Since the substance of the thing which is my property is, if we take the thing by itself, its externality, i.e. its non-substantiality—in contrast with me it is not an end in itself (see § 42) and since in my use or employment of it this externality is realised, it follows that my full use or employment of a thing is the thing in its entirety, so that if I have the full use of the thing I am its owner. Over and above the entirety of its use, there is nothing left of the thing which could be the property of another.

Addition: The relation of use to property is the same as that of substance to accident, inner to outer, force to its manifestation. Just as force exists only in manifesting itself, so arable land is amble land only in bearing crops. Thus he who has the use of arable land is the owner of the whole, and it is an empty abstraction to recognise still another property in the object itself.

§ 62

My merely partial or temporary use of a thing, like my partial or temporary possession of it (a possession which itself is simply the partial or temporary possibility of using it) is therefore to be distinguished from ownership of the thing itself. If the whole and entire use of a thing were mine, while the abstract ownership was supposed to be someone else's, then the thing as mine would be penetrated through and through by my will (see §§ 52 and 61), and at the same time there would remain in the thing something impenetrable by me, namely the will, the empty will, of another. As a positive will, I would be at one and the same time objective and not objective to myself in the thing—an absolute contradiction. Ownership therefore is in essence free and complete.

Remark: To distinguish between the right to the whole and entire use of a thing and ownership in the abstract is the work of the empty Understanding for which the Idea—i.e. in this instance the unity of (a) ownership (or even the person's will as such) and (b) its realisation—is not

the truth, but for which these two moments in their separation from one another pass as something which is true. This distinction, then, as a relation in the world of fact, is that of an overlord to nothing, and this might be called an ‘insanity of personality’ (if we may mean by ‘insanity’ not merely the presence of a direct contradiction between a man’s purely subjective ideas and the actual facts of his life), because ‘mine’ as applied to a single object would have to mean the direct presence in it of both my single exclusive will and also the single exclusive will of someone else.

In the *Institutes* we read: *Usufruct is the right of using another’s property, of enjoying its fruits short of waste of its substance ... Nevertheless, in order that properties should not remain wholly unused through the entire cessation of usufruct, the law has been pleased to ordain that in certain circumstances the right of usufruct shall be annulled and that the owner proper shall resume the land.’ Placuit!* As if it were in the first instance a whim or a fiat to make this proviso and thereby give some sense to that empty distinction! A *proprietas SEMPER abscedente usufructu* would not merely be *ututilis*, it would be no *Proprietas* at all.

To examine other distinctions in property itself, e.g. between *res Mancipi* and *res non Mancipi*, *dominium Quiritarium* and *dominium Bonitarium*, &c., is inappropriate here since they have no bearing on any of the modifications of property determined by the concept and are merely tit-bits culled from the history of the right of property. The empty distinction discussed above, however, is in a way contained in the relations of *dominium directum* and *dominium utile*, in the *contractus emphyteuticus*, in the further relations involved in estates in fee with the ground rents and other rents, dues, villeinage, &c., entailed in their sundry modifications, in cases where such burdens are irredeemable. But from another point of view, these relations preclude that distinction. They preclude it in so far as burdens are entailed in *dominium utile*, with the result that *dominium directum* becomes at the same time a *dominium utile*. Were there nothing in these two relationships except that distinction in its rigid abstraction, then in them we would not have two overlords (*domini*) in the strict sense, but an owner on the one hand and an overlord who was the overlord of nothing on the other. But on the score of the burdens imposed there are two owners standing in relation to each other. Although their relation is not that of being common owners of a property, still the transition from it to common ownership is very easy—a transition which has already begun in *dominium directum* when the yield of the property is calculated and looked upon as the essential thing, while that incalculable factor in the overlordship of a property, the factor which has perhaps been regarded as the honourable thing about property, is subordinated to the *utile* which here is the rational factor.

It is about a millennium and a half since the freedom of personality began

through the spread of Christianity to blossom and gain recognition as a universal principle from a part, though still a small part, of the human race. But it was only yesterday, we might say, that the principle, of the freedom of property became recognised in some places. This example from history may serve to rebuke the impatience of opinion and to show the length of time that mind requires for progress in its self-consciousness.

§ 63

A thing in use is a single thing determined quantitatively and qualitatively and related to a specific need. But its specific utility, being quantitatively determinate, is at the same time comparable with [the specific utility of] other things of like utility. Similarly, the specific need which it satisfies is at the same time need in general and thus is comparable on its particular side with other needs, while the thing in virtue of the same considerations is comparable with things meeting other needs. This, the thing's universality, whose simple determinate character arises from the particularity of the thing, so that it is *eo ipso* abstracted from the thing's specific quality, is the thing's value, wherein its genuine substantiality becomes determinate and an object of consciousness. As full owner of the thing, I am *eo ipso* owner of its value as well as of its use.

Remark: The distinctive character of the property of a feudal tenant is that he is supposed to be the owner of the use only, not of the value of the thing.

Addition: The qualitative disappears here in the form of the quantitative; that is to say, when I speak of 'need', I use a term under which the most various things may be brought; they share it in common and so become commensurable. The advance of thought here therefore is from a thing's specific quality to a character which is indifferent to quality, i.e. quantity. A similar thing occurs in mathematics. The definition of a circle, an ellipse, and a parabola reveals their specific difference. But in spite of this, the distinction between these different curves is determined purely quantitatively, i.e. in such a way that the only important thing is a purely quantitative difference which rests on their coefficients alone, on purely empirical magnitudes. In property, the quantitative character which emerges from the qualitative is value. Here the qualitative provides the quantity with its quantum and in consequence is as much preserved in the quantity as superseded by it. If we consider the concept of value, we must look on the thing itself only as a symbol; it counts not as itself but as what it is worth. A bill of exchange, for instance, does not represent what it really is—paper; it is only a symbol of another universal—value. The value of a thing may be very heterogeneous; it depends on need. But if you want

to express the 'value of a thing not in a specific case but in the abstract, then it is money which expresses this. Money represents any and every thing, though since it does not portray the need itself but is only a symbol of it, it is itself controlled by the specific value [of the commodity]. Money, as an abstraction, merely expresses this value. It is possible in principle to be the owner of a thing without at the same time being the owner of its value. If a family can neither sell nor pawn its goods, it is not the owner of their value. But since this form of property is not in accordance with the concept of property, such restrictions on ownership (feudal tenure, testamentary trusts) are mostly in course of disappearing.

§ 64

The form given to a possession and its mark are themselves externalities but for the subjective presence of the will which alone constitutes the meaning and value of externalities. This presence, however, which is use, employment, or some other mode in which the will expresses itself, is an event in time, and what is objective in time is the continuance of this expression of the will. Without this the thing becomes a *res nullius*, because it has been deprived of the actuality of the will and possession. Therefore I gain or lose possession of property through prescription.

Remark: Prescription, therefore, has not been introduced into law solely from an external consideration running counter to right in the strict sense, i.e. with a view to truncating the disputes and confusions which old claims would introduce into the security of property. On the contrary, prescription rests at bottom on the specific character of property as 'real', on the fact that the will to possess something must express itself.

Public memorials are national property, or, more precisely, like works of art in general so far as their enjoyment is concerned, they have life and count as ends in themselves so long as they enshrine the spirit of remembrance and honour. If they lose this spirit, they become in this respect *res nullius* in the eyes of a nation and the private possession of the first comer, like e.g. the Greek and Egyptian works of art in Turkey.

The right of private property which the family of an author has in his publications dies out for a similar reason; such publications become *res nullius* in the sense that like public memorials, though in an opposite way, they become public property, and, by having their special handling of their topic copied, the private property of anyone.

Vacant land consecrated for a burial ground, or even to lie unused in perpetuity, embodies an empty absent arbitrary will. If such a will is infringed, nothing actual is infringed, and hence respect for it cannot be guaranteed.

Addition: Prescription rests on the presumption that I have ceased to regard the thing as mine. If a thing is to remain mine, my will must continue in it, and using it or keeping it safe shows this continuance. That public memorials may lose their value was frequently shown during the Reformation in the case of foundations, endowments, &c., for the Mass. The spirit of the old faith, i.e. of these foundations, had fled., and consequently they could be seized as private property.

C. Alienation of Property

§ 65

THE reason I can alienate my property is that it is mine only in so far as I put my will into it. Hence I may abandon (*derelinquere*) as a *res nullius* anything that I have or yield it to the will of another and so into his possession, provided always that the thing in question is a thing external by nature.

Addition: While prescription is an alienation with no direct expression of the will to alienate, alienation proper is an expression of my will, of my will no longer to regard the thing as mine. The whole matter may also be so viewed that alienation is seen to be a true mode of taking possession. To take possession of the thing directly is the first moment in property. Use is likewise a way of acquiring property. The third moment then is the unity of these two, taking possession of the thing by alienating it. [Taking possession is *positive* acquisition. Use is the *negation* of a thing's Particular characteristics (see § 59). Alienation is the synthesis of Positive and negative; it is negative in that it involves spurning the thing altogether; it is positive because it is only a thing completely mine which I can so spurn.]

§ 66

Therefore those goods, or rather substantive characteristics, which constitute my own private personality and the universal essence of my self-consciousness are inalienable and my right to them is imprescriptible. Such characteristics are my personality as such, my universal freedom of will, my ethical life, my religion.

Remark: The fact that what mind is in accordance with its concept or implicitly it also should be explicitly and existentially (the fact that thus mind should be a person, be capable of holding property, should have an ethical life, a religion) is the Idea which is itself the concept of mind. As *cause si*, i.e. as free causality, mind is that *cuius natura non potest concipi nisi existens*.

It is just in this concept of mind as that which is what it is only through its own free causality and through its endless return into itself out of the

natural immediacy of its existence, that there lies the possibility of a clash: i.e. what it is potentially it may not be actually (see § 57), and vice versa what it is actually (e.g. evil, in the case of the will) may be other than what it is potentially. Herein lies the possibility of the alienation of personality and its substantive being, whether this alienation occurs unconsciously or intentionally. Examples of the alienation of personality are slavery, serfdom, disqualification from holding property, encumbrances on property, and so forth. Alienation of intelligence and rationality, of morality, ethical life, and religion, is exemplified in superstition, in ceding to someone else full power and authority to fix and prescribe what actions are to be done (as when an individual binds himself expressly to steal or to murder, &c., or to a course of action that may involve crime), or what duties are binding on one's conscience or what religious truth is, &c.

The right to what is in essence inalienable is imprescriptible, since the act whereby I take possession of my personality, of my substantive essence, and make myself a responsible being, capable of possessing rights and with a moral and religious life, takes away from these characteristics of mine just that externality which alone made them capable of passing into the possession of someone else. When I have, thus annulled their externality, I cannot lose them through lapse of time or from any other reason drawn from my prior consent or willingness to alienate them. This return of mine into myself, whereby I make myself existent as Idea, as a person with rights and moral principles, annuls the previous position and the wrong done to my concept and my reason by others and myself when the infinite embodiment of self-consciousness has been treated as something external, and that with my consent. This return into myself makes clear the contradiction in supposing that I have given into another's possession my capacity for rights, my ethical life and religious feeling; for either I have given up what I myself did not possess, or I am giving up what, so soon as I possess it, exists in essence as mine alone and not as something external.

Addition: It is in the nature of the case that a slave has an absolute right to free himself and that if anyone has prostituted his ethical life by hiring himself to thieve and murder, this is an absolute nullity and everyone has a warrant to repudiate this contract. The same is the case if I hire my religious feeling to a priest who is my confessor, for such an inward matter a man has to settle with himself alone. A religious feeling which is partly in control of someone else is no proper religious feeling at all. The spirit is always one and single and should dwell in me. I am entitled to the union of my potential and my actual being.

Single products of my particular physical and mental skill and of my power to act I can alienate to someone else and I can give him the use of my abilities for a restricted period, because, on the strength of this restriction, my abilities acquire an external relation to the totality and universality of my being. By alienating the whole of my time, as crystallised in my work, and everything I produced, I would be making into another's property the substance of my being, my universal activity and actuality, my personality.

Remark: The relation here between myself and the exercise of my abilities is the same as that between the substance of a thing and its use (see § 61). It is only when use is restricted that a distinction between use and substance arises. So here, the use of my powers differs from my powers and therefore from myself, only in so far as it is quantitatively restricted. Force is the totality of its manifestations, substance of its accidents, the universal of its particulars.

Addition: The distinction here explained is that between a slave and a modern domestic servant or day-labourer. The Athenian slave perhaps had an easier occupation and more intellectual work than is usually the case with our servants, but he was still a slave, because he had alienated to his master the whole range of his activity.

§ 68

What is peculiarly mine in a product of my mind may, owing to the method whereby it is expressed, turn at once into something external like a 'thing' which *eo ipso* may then be produced by other people. The result is that by taking possession of a thing of this kind, its new owner may make his own the thoughts communicated in it or the mechanical invention which it contains, and it is ability to do this which sometimes (i.e. in the case of books) constitutes the value of these things and the only purpose of possessing them. But besides this, the new owner at the same time comes into possession of the universal methods of so expressing himself and producing numerous other things of the same sort.

Remark: In the case of works of art, the form—the portrayal of thought in an external medium—is, regarded as a thing, so peculiarly the property of the individual artist that a copy of a work of art is essentially a product of the copyist's own mental and technical ability. In the case of a literary work, the form in virtue of which it is an external thing is of a mechanical kind, and the same is true of the invention of a machine; for in the first case the thought is presented not *en bloc*, as a statue is, but in a series of separable abstract symbols, while in the second case the thought has a mechanical content throughout. The ways and means of producing things of that mechanical kind as things are commonplace accomplishments.

But between the work of art at one extreme and the mere journeyman production at the other there are transitional stages which to a greater or less degree partake of the character of one or other of the extremes.

§ 69

Since the owner of such a product, in owning a copy of it, is in possession of the entire use and value of that copy *qua* a single thing, he has complete and free ownership of that copy *qua* a single thing, even if the author of the book or the inventor of the machine remains the owner of the *universal* ways and means of multiplying such books and machines, &c. *Qua* universal ways and means of expression, he has not necessarily alienated them, but may reserve them to himself as means of expression which belong to him.

Remark: The substance of an author's or an inventor's right cannot in the first instance be found in the supposition that when he disposes of a single copy of his work, he arbitrarily makes it a condition that the power to produce facsimiles as things, a power which thereupon passes into another's possession, should not become the property of the other but should remain his own. The first question is whether such a separation between ownership of the thing and the power to produce facsimiles which is given with the thing is compatible with the concept of property, or whether it does not cancel the complete and free ownership (see § 62) on which there originally depends the option of the original producer of intellectual work to reserve to himself the power to reproduce, or to part with this power as a thing of value, or to attach no value to it at all and surrender it together with the single exemplar of his work. I reply that this power to reproduce has a special character, *viz.* it is that in virtue of which the thing is not merely a possession but a capital asset (see §§ 170 ff.); the fact that it is such an asset depends on the particular external kind of way in which the thing is used, a way distinct and separable from the use to which the thing is directly destined (the asset here is not, as has been said, an *accessio naturalis* like *fetura*). Since then this distinction falls into the sphere of that whose nature entails its divisibility, into the sphere of *external* use, the retention of part of a thing's [external] use and the alienation of another part is not the retention of a proprietorship without *utile*.

The purely negative, though the primary, means of advancing the sciences and arts is to guarantee scientists and artists against theft and to enable them to benefit from the protection of their property, just as it was the primary and most important means of advancing trade and industry to guarantee it against highway robbery.

Moreover, the purpose of a product of mind is that people other than its

author should understand it and make it the possession of their ideas, memory, thinking, &c. Their mode of expression, whereby in turn they make what they have *learnt* (for 'learning' means more than 'learning things by heart', 'memorising them'; the thoughts of others can be apprehended only by thinking, and this re-thinking the thoughts of learning too) into a 'thing' which they can alienate, very likely has some form of its own in every case. The result is that they may regard as their own property the capital asset accruing from their claim for themselves the right to reproduce their learning in books of their own. Those engaged in the propagation of knowledge of all kinds, in particular those whose appointed task is teaching, have as their specific function and duty (above all in the case of the positive sciences, the doctrine of a church, the study of positive law, &c.) the repetition of well-established thoughts, taken up *ab extra* and all of them given expression already. The same is true of writings devised for teaching purposes and the spread and propagation of the sciences. Now to what extent does the new form which turns up when something is expressed again and again transform the available stock of knowledge, and in particular the thoughts of others who still retain *external* property in those intellectual productions of theirs, into a private mental property of the individual reproducer and thereby give him or fail to give him the right to make them his *external* property as well? To what extent is such repetition of another's material in one's book a plagiarism? There is no precise principle of determination available to answer these questions, and therefore they cannot be finally settled either in principle or by positive legislation. Hence plagiarism would have to be a matter of honour and be held in check by honour.

Thus copyright legislation attains its end of securing the property rights of author and publisher only to a very restricted extent, though it does attain it within limits. The ease with which we may deliberately change something in the form of what we are expounding or invent a trifling modification in a large body of knowledge or a comprehensive theory which is another's work, and even the impossibility of sticking to the author's words in expounding something we have learnt, all lead of themselves (quite apart from the particular purposes for which such repetitions are required) to an endless multiplicity of alterations which more or less superficially stamp someone else's property as our own. For instance, the hundreds and hundreds of compendia, selections, anthologies, &c., arithmetics, geometries, religious tracts, &c., show how every new idea in a review or annual or encyclopaedia, &c., can be forthwith repeated over and over again under the same or a different title, and yet may be claimed as something peculiarly the writer's own. The

result of this may easily be that the profit promised to the author, or the projector of the original undertaking, by his work or his original idea becomes negligible or reduced for both parties or lost to all concerned.

But as for the effectiveness of honour in checking plagiarism, what has happened is that nowadays we scarcely hear the word 'plagiarism', nor are scholars accused of stealing each other's results. It may be that honour has been effective in abolishing plagiarism, or perhaps plagiarism has ceased to be dishonourable and feeling against it is a thing of the past; or possibly an ingenious and trivial idea, and a change in external form, is rated so highly as originality and a product of independent thinking that the thought of plagiarism becomes wholly insufferable.

§ 70

The comprehensive sum of external activity, i.e. life, is not external to personality as that which itself is, immediate and a *this*. The surrender or the sacrifice of life is not the existence of *this* personality but the very opposite. There is therefore no unqualified right to sacrifice one's life. To such a sacrifice nothing is entitled except an ethical Idea as that in which this immediately single personality has vanished and to whose power it is actually subjected. Just as life as such is immediate, so death is its immediate negation and hence must come from without, either by natural causes, or else, in the service of the Idea, by the hand of a foreigner.

Addition: A single person, I need hardly say, is something subordinate, and as such he must dedicate himself to the ethical whole. Hence if the state claims life, the individual must surrender it. But may a man take his own life? Suicide may at a first glance be regarded as an act of courage, but only the false courage of tailors and servant girls. Or again looked upon as a misfortune, since it is inward distraction in it may be which leads to it. But the fundamental question is: Have I a *right* to take my life? The answer will be that I, *as this* individual, am not master of my life, because life, as the comprehensive sum of, my activity, is nothing external to personality, which itself is this immediate personality. Thus when a person is said to have a right over his life, the words are a contradiction, because they mean that a person has a right over himself. But he has no such right, since he does not stand over himself and he cannot pass judgment on himself. When Hercules destroyed himself by fire and when Brutus fell on his sword, this was the conduct of a hero against his personality. But as for an unqualified right to suicide, we must simply say that there is no such thing, even for heroes.

Transition from Property to Contract

§ 71

Existence as determinate being is in essence being for another (see Remark to § 48). One aspect of property is that it is an existent as an external thing, and in this respect property exists for other external things and is connected with their necessity and contingency. But it is also an existent as an embodiment of the will, and from this point of view the ‘other’ for which it exists can only be the will of another person. This relation of will to will is the true and proper ground in which freedom is existent.—The sphere of contract is made up of this mediation whereby I hold property not merely by means of a thing and my subjective will, but by means of another person’s will as well and so hold it in virtue of my participation in a common will.

Remark: Reason makes it just as necessary for men to enter into contractual relationship—gift, exchange, trade, &c.—as to possess property (see **Remark to § 45**)—While all they are conscious of is that they are led to make contracts by need in general, by benevolence, advantage, &c., the fact remains that they are led to do this by reason implicit within them, i.e. by the Idea of the real existence of free personality, ‘real’ here meaning ‘present in the will alone’.

Contract presupposes that the parties entering it recognise each other as persons and property owners. It is a relationship at the level of mind objective, and so contains and presupposes from the start the moment of recognition (compare Remarks to §§ 35 and 57).

Addition: In a contract I hold property on the strength of a common will; that is to say, it is the interest of reason that the subjective will should become universal and raise itself to this degree of actualisation. Thus in contract my will still has the character ‘this’, though it has it in community with another will. The universal will, however, still appears here only in the form and guise of community.

ii Contract

§ 72

CONTRACT brings into existence the property whose external side, its side as an existent, is no longer a mere ‘thing’ but contains the moment of a will (and consequently the will of a second person also). Contract is the process in which there is revealed and mediated the contradiction that I am and remain the independent owner of something from which I exclude the will of another only in so far as in identifying my will with the will of another I cease to be an owner.

§ 73

I have power to alienate a property as an external thing (see § 65); but more than this, the concept compels me to alienate it *qua* property in order that thereby my will may become objective to me as determinately existent. In this situation, however, my will as alienated is at the same time another's will. Consequently this situation wherein this compulsion of the concept is realised is the unity of different wills and so a unity in which both surrender their difference and their own special character. Yet this identity of their wills implies also (at this stage) that each will still is and remains not identical with the other but retains from its own point of view a special character of its own.

§ 74

This contractual relationship, therefore, is the means whereby one identical will can persist within the absolute difference between independent property owners. It implies that each, in accordance with the common will of both, ceases to be an owner and yet is and remains one. It is the mediation of the will to give up a property, a single property, and the will to take up another, i.e. another belonging to someone else; and this mediation takes place when the two wills are associated in an identity in the sense that one of them comes to its decision only in the presence of the other.

§ 75

The two contracting parties are related to each other as *immediate* self-subsistent persons. Therefore [a] contract arises from the arbitrary will. [b] The identical will which is brought into existence by the contract is only one *posited* by the parties, and so is only a will shared in common and not an absolutely universal will. [c] The object about which a contract is made is a single external thing, since it is only things of that kind which the parties' purely arbitrary will has it in its power to alienate (see §§ 65ff.)

Remark: To subsume marriage under the concept of contract is thus quite impossible; this subsumption—though shameful is the only word for it is propounded in Kant's *Philosophy of Law*. It is equally far from the truth to ground the nature of the state on the contractual relation, whether the state is supposed to be a contract of all with all, or of all with the monarch and the government.

The intrusion of this contractual relation, and relationships concerning private property generally, into the relation between the individual and the state has been productive of the greatest confusion in both constitutional law and public life. Just as at one time political rights and duties were

considered and maintained to be an unqualified private property of particular individuals, something contrasted with the right of the monarch and the state, so also in more recent times the rights of the monarch and the state have been regarded as the subjects of a contract and is grounded in contract, as something embodying merely a common will and resulting from the arbitrariness of parties united into a state. However different these two points of view may be, they have this in common, that they have transferred the characteristics of private Property into a sphere of a quite different and higher nature. (See below, Ethical Life and the State.)

Addition: It has recently become very fashionable to regard the state as a contract of all with all. Everyone makes a contract with the monarch, so the argument runs, and he again with his subjects. This point of view arises from thinking superficially of a mere unity of different wills. In contract, however, there are two identical wills who are both persons and wish to remain property-owners. Thus contract springs from a person's arbitrary will, an origin which marriage too has in common with contract. But the case is quite different with the state; it does not lie with an individual's arbitrary will to separate himself from the state, because we are already citizens of the state by birth. The rational end of man is life in the state, and if there is no state there, reason at once demands that one be founded. Permission to enter a state or leave it must be given by the state; this then is not a matter which depends on an individual's arbitrary will and therefore the state does not rest on contract, for contract presupposes arbitrariness. It is false to maintain that the foundation of the state is something at the option of all its members. It is nearer the truth to say that it is absolutely necessary for every individual to be a citizen. The great advance of the state in modern times is that nowadays all the citizens have one and the same end, an absolute and permanent end; it is no longer open to individuals, as it was in the Middle Ages, to make private stipulations in connection with it.

§ 76

Contract is *formal* when the double consent whereby the common will is brought into existence is apportioned between the two contracting parties so that one of them has the negative moment—the alienation of a thing—and the other the positive moment—the appropriation of the thing. Such a contract is *gift*. But contract may be called *real* when each of the two contracting wills is the sum of these mediating moments and therefore in such a contract becomes a property owner and remains so. This is a contract of *exchange*.

Addition: Contract implies two consenting parties and two things. That is

to say, in a contract my purpose is both to acquire property and to surrender it. Contract is real when the action of both parties is complete, i.e. when both surrender and both acquire property, and when both remain property owners even in the act of surrender. Contract is formal where only one of the parties acquires property or surrenders it.

§ 77

Since in real contract each party retains the same property with which he enters the contract and which at the same time he surrenders, what thus remains identical throughout as the property implicit in the contract is distinct from the external things whose owners alter when the exchange is made. What remains identical is the value, in respect of which the subjects of the contract are equal to one another whatever the qualitative external differences of the things exchanged. Value is the universal in which the subjects of the contract participate (see § 63)

Remark: The legal provision that *laesio enormis* annuls the obligation arising out of the making of a contract has its source, therefore, in the concept of contract, particularly in this moment of it, that the contracting party by alienating his property still remains a property owner and, more precisely, an owner of the quantitative equivalent of what he alienates. But *a laesio* is not merely *enormis* (as it is taken to be if it exceeds one-half of the value) but infinite, if someone has entered on a contract or made a stipulation of any sort for the alienation of inalienable goods (see § 66).

A stipulation, moreover, differs from a contract, first, in its **content**, because it signifies only some single part or moment of the whole contract, and secondly, because it is the form in which the contract is settled (a point on which more will be said later). So far as its content is concerned, it comprises only the formal character of contract, i.e. the willingness of one party to give something and the willingness of the other to accept it; for this reason, the stipulation has been enumerated amongst so-called ‘unilateral’ contracts. The distinction between unilateral and bilateral contracts, and distinctions in Roman law between other types of contract, are sometimes superficial juxtapositions made from an isolated and often external point of view such as that of the different types of contractual forms; or sometimes they confuse characteristics intrinsic to contract itself with others which only arise later in connection with the administration of justice (*actiones*) and the legal processes giving effect to positive laws, and which are often derived from quite external circumstances and contravene the concept of right.

§ 78

The distinction between property and possession, the substantive and

external aspects of ownership (see § 45), appears in the sphere of contract as the distinction between a common will and its actualisation, or between a covenant and its performance. Once made, a covenant taken by itself in distinction from its performance is something held before the mind, something therefore to which a particular determinate existence must be given in accordance with the appropriate mode of giving determinate existence to ideas by symbolising them. This is done, therefore, by expressing the stipulation in formalities such as gestures and other symbolic actions, particularly by declaring it with precision in language, the most worthy medium for the expression of our mental ideas.

Remark: The stipulation accordingly is the form given to the content of a contract, i.e. to what is agreed in it, and thereby this content, previously only an idea, attains its determinate existence. But the idea which we have of the content is itself only a form which the content takes; to have an idea of the content does not mean that the content is still something subjective, a desire or a wish for so and so. On the contrary, the content is the will's ultimate decision on such subjective wishes.

Addition: Just as in the theory of property we had the distinction between ownership and possession, between the substance of the matter and its purely external side, so here in contract we have the difference between a common will—covenant—and a particular will—performance. It lies in the nature of contract that it should be an expression of both the common and the particular will of the parties, because in it will is related to will. The covenant, made manifest in a symbol, and its performance are quite distinct from each other amongst civilised peoples, though amongst savages they may coincide. In the forests of Ceylon there is a tribe of traders who put down their property and wait quietly until others come to put theirs down opposite. Here there is no difference between the dumb declaration of will and the performance of what is willed.

§ 79

In contract it is the will, and therefore the substance of what is right in contract, that the stipulation enshrines. In contrast with this substance, the possession which is still being retained while the contract remains unfulfilled is in itself only something external, dependent for its character as a possession on the will alone. By making the stipulation, I have given up a property and withdrawn my particular arbitrary will from it, and it has *eo ipso* become the property of another. If then I agree to stipulated terms, I am by rights at once bound to carry them out.

Remark: The difference between a mere promise and a contract lies in the fact that a promise is a statement that I will give or do or perform

something in the *future*, and a promise still remains a subjective volition which because it is subjective I can still alter. A stipulation in a contract, on the other hand, is itself already the embodiment of the will's decision in the sense that by making the stipulation I have alienated my property, it has *now* ceased to be mine, and I already recognise it as the property of another. The distinction in Roman law between *pactum and contractus* is one of a false type.

Fichte at one time maintained that my obligation to keep a contract begins only when the other party starts fulfilling his side of it; his reason was that up to that point I am uncertain whether the other party's declarations are seriously meant. In that case it would follow that the obligation to keep a contract before it was carried out would only be a moral one, not an obligation by *rights*. - But the expression of the stipulation is not simply a declaration of a general character; it embodies a common will which has been brought into existence and which has superseded the arbitrary and alterable dispositions of the parties. The question therefore is not whether the other party *could* have had different private intentions when the contract was made or afterwards, but whether he had any *right* to have them. Even if the other party begins to fulfil his side of the contract, it is equally open to me to do wrong if I like. The nullity of Fichte's view is also shown by the fact that it would base contractual rights on the false infinite, i.e. on the progress *ad infinitum* involved in the infinite divisibility of time, things, action, &C. The embodiment of the will in formal gestures or in explicit and precise language is already the complete embodiment of the will as an intelligent entity, and the performance of the covenant so embodied is only the mechanical consequence.

It is true that in positive law there are so-called 'real' contracts as distinguished from 'consensual' contracts, in the sense that the former are looked upon as fully valid only when the actual performance (*res, traditio rei*) of the undertaking supervenes upon willingness to perform it; but this has nothing to do with the thing at issue. For one thing, these 'real' contracts cover particular cases where it is only this delivery by the other party which puts me in a position to fulfil my side of the bargain, and where my obligation to do my part relates only to the thing after it has come into my hands, as happens for instance in loans, pawning, or deposits. (The same may also be the case in other contracts.) But this is a matter which concerns not the nature of the relation of the stipulation to performance but only the manner of performance. - For another thing, it is always open to the parties at their discretion to stipulate in any contract that the obligation of one party to perform his side shall not lie in the making of the contract itself as such, but shall arise only from the performance by the

other party of his side.

§ 80

The classification of contracts and an intelligent treatment of their various species once classified is not here to be derived from external circumstances but from distinctions lying in the very nature of contract. These distinctions are those between formal and real contracts, between ownership and possession and use, between value and specific thing, and they yield contracts of the following sorts:

A. Gift.

1. Gift of a thing - gift properly so called.
2. Loan of a thing - i.e. the gift of a portion of it or of restricted use and enjoyment of it; here the lender remains the owner of the thing (*mutuum* and *commodatum* without interest). Here the thing lent is either a specific thing or else, even if it be such, it may none the less be looked on as universal, or it may be a thing which counts (like money) as a thing universal in itself.
3. Gift of service of any sort, e.g. the mere safe-keeping of a property (*depositum*). The gift of a thing on the special condition that its recipient shall not become its owner until the date of the donor's death, i.e. the date at which he ceases in any case to be an owner of property, is testamentary disposition; this is not contained in the concept of contract but presupposes civil society and positive legislation.

B. Exchange.

1. Exchange as such:

[a] exchange of a thing pure and simple, i.e. exchange of one specific thing for another of the same kind.

[b] purchase or sale (*emptio, venditio*); exchange of a specific thing for one characterised as universal, one which counts as value alone and which lacks the other specific character, utility—i.e. for ‘money’.

2. Letting (*location conductio*); alienation of the temporary use of a property in return for rent:

[a] letting of a specific thing—letting strictly so called, or

[b] letting of a universal thing, so that the lessor remains only the owner of this universal, or in other words of the value - loan (*mutuum*, or even *commodatum*, if interest is charged). The additional empirical characteristics of the thing (which may be, e.g., a flat, furniture, a house, *res fungibilis* or *non fungibilis*, &c.) entail (as in A. 2 above) other particular though unimportant subdivisions.

3. Contract for wages (*locatio operae*)—alienation of my productive capacity or my services so far, that is, as these are alienable, the alienation being restricted in time or in some other way (see § 67).

Remark: Counsel’s acceptance of a brief is akin to this, and so are other contracts whose fulfilment depends on character, good faith, or superior gifts, and where an incommensurability arises between the service rendered and a value in terms of cash. (In such cases the cash payment is called not ‘wages’ but ‘honorarium’.)

c. Completion of a contract (*cautio*) through giving a pledge.

In the contracts whereby I part with the *use* of a thing, I am no longer in possession of the thing though I am still its owner, as for example when I let a house. Further, in gifts or contracts for exchange or purchase, I may have become the owner of a thing without as yet being in possession of it, and the same cleavage between ownership and possession arises in respect of the implementing of any undertaking which is not simply a cash or barter transaction. Now what the pledge effects is that in the one case I remain, and in the other case I am put, in actual possession of the value as that which is still or has already become my Property, without in either case being in possession of the specific thing which I am renouncing or which is to be mine. The pledge is a specific thing but one which is my property only to the extent of the value of the property which I have renounced into another’s possession or which is due to me; its specific character as a thing and any excess value it may have still belong to the person who gave the pledge. Giving a pledge, is not itself a contract but

only a stipulation (see Remark to sect; 77), i.e. it is the moment which brings a contract to completion so far as the *possession* of the property is concerned. Mortgage and surety are particular forms of pledge.

Addition: In contract we drew the distinction between the covenant or stipulation (which made the property mine though it did not give me possession) and performance (which first gave me possession). Now if I am already the out-and-out owner of the property, the object of the pledge is to put me simultaneously in possession of the value of the property and thereby to guarantee the covenant's performance at the very time the covenant is made. Surety is a particular kind of pledge whereby someone gives his promise or pledges his credit as a guarantee for another's performance. Here a person fulfils the function which is fulfilled by a mere thing in the case of a pledge proper.

§ 81

In the bare relation of *immediate* persons to one another, their wills while implicitly identical, and in contract posited by them as common, are yet particular. Because they are *immediate* persons, it is a matter of chance whether or not their particular wills actually correspond with the implicit will, although it is only through the former that the latter has its real existence. If the particular will is explicitly at variance with the universal, it assumes a way of looking at things and a volition which are capricious and fortuitous and comes on the scene in opposition to the principle of rightness. This is *wrong*.

Remark: The transition to wrong is made by the logical higher necessity that the moments of the concept—here the principle of rightness or the will as universal, and right in its real existence, which is just the particularity of the will—should be posited as explicitly different, and this happens when the concept is realised abstractly. But this particularity of the will, taken by itself, is arbitrariness and contingency, and in contract I have surrendered these only as arbitrariness in the case of a single thing and not as the arbitrariness and contingency of the will itself.

Addition: In contract we had the relation of two wills as a common will. But this identical will is only relatively universal, posited as universal, and so is still opposed to the particular will. In contract, to be sure, making a covenant entails the right to require its performance. But this performance is dependent again on the particular will which qua particular may act in contravention of the principle of rightness. At this point then the negation, which was implicitly present in the principle of the will at the start, comes into view, and this negation is just what wrong is. In general terms, the course of events is that the will is freed from its immediacy and

thus there is evoked out of the common will the particularity which then comes on the scene as opposed to the common will. In contract the parties still retain their particular wills; contract therefore is not yet beyond the stage of arbitrariness, with the result that it remains at the mercy of wrong.

iii Wrong

§ 82

In contract the principle of rightness is present as something posited, while its inner universality is there as something common in the arbitrariness and particular will of the parties. This *appearance* of right, in which right and its essential embodiment, the particular will, correspond immediately, i.e. fortuitously, proceeds in wrong to become a *show*, an opposition between the principle of rightness and the particular will as that in which right becomes particularised. But the truth of this show is its nullity and the fact that right reasserts itself by negating this negation of itself. In this process the right is mediated by returning into itself out of the negation of itself; thereby it makes itself actual and valid, while at the start it was only implicit and something immediate.

Addition: The principle of rightness, the universal will, receives its essential determinate character through the particular will, and so is in relation with something which is inessential. This is the relation of essence to its appearance. Even if the appearance corresponds with the essence, still, looked at from another point of view, it fails to correspond with it, since appearance is the stage of contingency, essence related to the inessential. In wrong, however, appearance proceeds to become a show. A show is a determinate existence inadequate to the essence, the empty disjunction and positing of the essence, so that in both essence and show the distinction of the one from the other is present as sheer difference. The show, therefore, is the falsity which disappears in claiming independent existence; and in the course of the show's disappearance the essence reveals itself as essence, i.e. as the authority of the show.

The essence has negated that which negated it and so is corroborated. Wrong is a show of this kind, and, when it disappears, it acquires the character of something fixed and valid. What is here called the essence is just the principle of rightness, and in contrast with it the particular will annuls itself as a falsity. Hitherto the being of the right has been immediate only, but now it is actual because it returns out of its negation. The actual is the effectual; in its otherness it still holds fast to itself, while anything immediate remains susceptible of negation.

§ 83

When right is something particular and therefore manifold in contrast with its implicit universality and simplicity, it acquires the form of a show.

- (a) This show of right is implicit or immediate—**non-malicious wrong** or a civil offence;
- (b) right is made a show by the agent himself—**fraud**;
- (c) the agent makes it a nullity altogether—**crime**.

Addition: Wrong is thus the show of the essence, putting itself as self-subsistent. If the show is only implicit and not explicit also, i.e. if the wrong passes in my eyes as right, the wrong is non-malicious. The show here is a show from the point of view of the right but not from my point of view.

The second type of wrong is fraud. Here the wrong is not a show from the point of view of the principle of rightness. The position is that I am making a show to deceive the other party. In fraud the right is in my eyes only a show. In the first case, the wrong was a show from the point of view of the right. In the second case, from my own point of view, from the point of view of wrong, right is only a show.

Finally, the third type of wrong is crime. This is wrong both in itself and from my point of view. But here I will the wrong and make no use of even a show of right. I do not intend the other against whom the crime is committed to regard the absolutely wrong as right. The distinction between crime and fraud is that in the latter the form of acting still implies a recognition of the right, and this is just what is lacking in crime.

A. Non-malicious Wrong

§ 84

Taking possession (see § 54) and contract—both in themselves and in their particular species—are in the first, instance different expressions and consequences of my willing pure and simple; but since the will is the inherently universal, they are, through their recognition by others, grounds of title. Such grounds are external to one another and multiple, and this implies that different persons may have them in relation to one and the same thing. Each person may look upon the thing as his property on the strength of the particular ground on which he bases his title. It is in this way that one man's right may clash with another's.

§ 85

This clash which arises when a thing has been claimed on some single

ground, and which comprises the sphere of civil suits at law, entails the recognition of rightness as the universal and decisive factor, so that it is common ground that the thing in dispute should belong to the party who has the right to it. The suit is concerned only with the subsumption of the thing under the property of one or other of the parties—a straightforward negative judgment, where, in the predicate ‘mine’, only the particular is negated.

§ 86

The recognition of rightness by the parties is bound up with their opposed particular interest and point of view. In opposition to this show of rightness, yet within this show itself (see the preceding Paragraph), the principle of rightness arises as something kept in view and demanded by the parties. But at first it arises only as an ‘ought-to-be’ because the will is not yet present here as a will so freed from the immediacy of interest as, despite its particularity, to have the universal will for its aim; nor is it yet at this point characterised as a recognised actuality of such a sort that in face of it the parties would have to renounce their particular interest and point of view.

Addition: There is a specific ground for what is inherently right, and the wrong which I hold to be right I also defend on some ground or other. The nature of the finite and particular is to allow room for accidents. Thus here collisions must occur, because here we are on the level of the finite. This first type of wrong-doing negates the particular will only, while universal rightness is respected. Consequently this is the most venial of the types of wrong-doing. If I say ‘a rose is not red’, I still recognise that it has a colour. Hence I do not deny the genus; all that I negate is the particular colour, red. Similarly, right is recognised here. Each of the parties wills the right and what is supposed to result to each is the right alone. The wrong of each consists simply in his holding that what he wants is right.

B. Fraud

§ 87

The principle of rightness, when distinguished from the right as particular and as determinately existent, is characterised as something demanded, as the essential thing; yet in this situation it is still only something *demanded* and from that point of view something purely subjective, and so inessential—something merely showing there. Thus we have *fraud* when the universal is set aside by the particular will and reduced to something only showing in the situation, primarily in contract, when the universal will is reduced to a will which is common only from the outsider’s point of

view.

Addition: At this second level of wrong-doing, the particular will is respected, but universal rightness is not. In fraud, the particular will is not infringed, because the party defrauded is saddled with what he is asked to believe is right. Thus the right which he demands is posited as something subjective, as a mere show, and it is this which constitutes fraud.

§ 88

In contract I acquire a property for the sake of its particular characteristics, and at the same time my acquisition of it is governed by the inner universality which it possesses partly in respect of its value and partly because it has been the *property* of another. If the other likes, a false disguise may be given to the thing I acquire, so that the contract is right enough so far as it is an exchange, voluntary on both sides, of *this* thing in its immediacy and uniqueness, but still the aspect of implicit universality is lacking. (Here we have an infinite judgment expressed positively or as a tautology.)

§ 89

Here again it is in the first instance only a demand that, in contrast with this acceptance of the thing simply as *this* thing and with the mere intentions and arbitrariness of the will, objectivity or universality should be recognisable as value and should prevail as right, and equally a demand only that the subjective arbitrary will, opposing itself to the right, should be superseded.

Addition: In the case of non-malicious wrong and civil suits at law, no punishment is imposed, because in such cases the wrongdoer has willed nothing in opposition to the right. In the case of fraud, on the other hand, punishments come in, because here it *is* an infringement of right which is in question.

C. Coercion and Crime

§ 90

In owning property I place my will in an external thing, and this implies that my will, just by being thus reflected in the object, may be seized in it and brought under compulsion. It may simply be forced in the thing, unconditionally, or it may be constrained to sacrifice something or to do some action as a condition of retaining one or other of its possessions or embodiments—it may be coerced.

Addition: Wrong in the full sense of the word is crime, where there is no respect either for the principle of rightness or for what seems right to me,

where, then, both sides, the objective and the subjective, are infringed.

§ 91

As a living thing man may be coerced, i.e. his body or anything else external about him may be brought under the power of others; but the free will cannot be coerced at all (see § 5), except in so far as it fails to withdraw itself out of the external object in which it is held fast, or rather out of its idea of that object (see § 7). Only the will which allows itself to be coerced can in any way be coerced.

§ 92

Since it is only in so far as the will has an existence in something determinate that it is Idea or actually free, and since the existent in which it has laid itself is freedom in being, it follows that force or coercion is in its very conception directly self-destructive because it is an expression of a will which annuls the expression or determinate existence of a will. Hence force or coercion, taken abstractly, is wrong.

§ 93

That coercion is in its conception self-destructive is exhibited in the world of reality by the fact that coercion is annulled by coercion; coercion is thus shown to be not only right under certain conditions but necessary, i.e. as a second act of coercion which is the annulment of one that has preceded.

Remark: Breaking a contract by failing to carry out its stipulated terms, or neglect of duty rightly owed to family or state, or action in defiance of that duty, is the first act of coercion or at least force, in that it involves depriving another of his property or evading a service due to him.

Coercion by a schoolmaster, or coercion of savages and brutes, seems at first sight to be an initial act of coercion, not a second, following on one that has preceded. But the merely natural will is implicitly a force against the implicit Idea of freedom which must be protected against such an uncivilised will and be made to prevail in it. Either an ethical institution has already been established in family or government, and the natural will is a mere display of force against it; or else there is only a state of nature, a state of affairs where mere force prevails and against which the Idea establishes a right of Heroes.

Addition: Once the state has been founded, there can no longer be any heroes. They come on the scene only in uncivilised conditions. Their aim is right, necessary, and political, and this they pursue as their own affair. The heroes who founded states, introduced marriage and agriculture, did

not do this as their recognised right, and their conduct still has the appearance of being their particular will. But as the higher right of the Idea against nature, this heroic coercion is a rightful coercion. Mere goodness can achieve little against the power of nature.

§ 94

Abstract right is a right to coerce, because the wrong which transgresses it is an exercise of force against the existence of my freedom in an external thing. The maintenance of this existent against the exercise of force therefore itself takes the form of an external act and an exercise of force annulling the force originally brought against it.

Remark: To define abstract right, or right in the strict sense, at the very outset as a right in the name of which coercion may be used, means to fasten on it in a result which first comes on the scene by the indirect route of wrong.

Addition: Special attention must be paid at this point to the difference between the right and the moral. In morality, i.e. when I am reflected into myself, there is also a duality, because the good is my aim and I ought to determine myself by reference to that Idea. The good is embodied in my decision and I actualise the good in myself. But this embodiment is purely inward and therefore cannot be coerced. The law of the land therefore cannot possibly wish to reach as far as a man's disposition, because, so far as his moral convictions are concerned, he exists for himself alone, and force in that context is meaningless.

§ 95

The initial act of coercion as an exercise of force by the free agent, an exercise of force which infringes the existence of freedom in its concrete sense, infringes the right as right, is crime—a negatively infinite judgment in its full sense, whereby not only the particular (i.e. the subsumption under my will of a single thing—See § 85) is negated, but also the universality and infinity in the predicate 'mine' (i.e. my capacity for rights). Here the negation does not come about with the co-operation of my thinking (as it does in fraud—see § 88) but in defiance of it. This is the sphere of criminal law.

Remark: Right, the infringement of which is crime, has so far only those formations which we have seen in the preceding Paragraphs; hence crime also, to begin with, has its more precise significance in relation to these specific rights. But the substance of these forms is the universal which remains the same throughout its further development and formation, and consequently its infringement, crime, also remains the same and accords

with its concept.

Thus the specific characteristic of crime [in general] to be noticed in the next Paragraph is characteristic also of the particular, more determinate, content in e.g. perjury, treason, forgery, coining, &c.

§ 96

It is only the will existent in an object that can suffer injury. In becoming existent in something, however, the will enters the sphere of quantitative extension and qualitative characteristics, and hence varies accordingly. For this reason, it makes a difference to the objective aspect of crime whether the will so objectified and its specific quality is injured throughout its entire extent, and so in the infinity which is equivalent to its concept (as in murder, slavery, enforced religious observance, &c.), or whether it is injured only in a single part or in one of its qualitative characteristics, and if so, in which of these.

Remark: The Stoic view that there is only one virtue and one vice, the laws of Draco which prescribe death as a punishment for every offence, the crude formal code of Honour which takes any insult as an offence against the infinity of personality, all have this in common, that they go no further than the abstract thought of the free will and personality and fail to apprehend it in the concrete and determinate existence which it must possess as Idea.

The distinction between robbery and theft is qualitative; when I am robbed, personal violence is done to me and I am injured in my character as consciousness existing here and now and so as this infinite subject.

Many qualitative characteristics of crime, e.g. its danger to public safety, have their basis in more concrete circumstances, although in the first instance they also are often fastened on by the indirect route as consequences instead of from the concept of the thing. For instance, the crime which taken by itself is the more dangerous in its immediate character is an injury of a more serious type in its range or its quality.

The subjective, moral, quality of crime rests on the higher distinction implied in the question of how far an event or fact pure and simple is an action, and concerns the subjective character of the action itself, on which see below.

Addition: How any given crime is to be punished cannot be settled by mere thinking; positive laws are necessary. But with the advance of education, opinions about crime become less harsh, and today a criminal is not so severely punished as he was a hundred years ago. It is not exactly crimes or punishments which change but the relation between them.

§ 97

The infringement of right as right is something that happens and has positive existence in the external world, though inherently it is nothing at all. The manifestation of its nullity is the appearance, also in the external world, of the annihilation of the infringement. This is the right actualised, the necessity of the right mediating itself with itself by annulling what has infringed it.

Addition: A crime alters something in some way, and the thing has its existence in this alteration. Yet this existence is a self-contradiction and to that extent is inherently a nullity. The nullity is that the crime has set aside right as such. That is to say, right as something absolute cannot be set aside, and so committing a crime is in principle a nullity: and this nullity is the essence of what a crime effects. A nullity, however, must reveal itself to be such, i.e. manifest itself as vulnerable. A crime, as an act, is not something positive, not a first thing, on which punishment would supervene as a negation. It is something negative, so that its punishment is only a negation of the negation. Right in its actuality, then, annuls what infringes it and therein displays its validity and proves itself to be a necessary, mediated, reality.

§ 98

In so far as the infringement of the right is only an injury to a possession or to something which exists externally, it is a *malum* or damage to some kind of property or asset. The annulling of the infringement, so far as the infringement is productive of damage, is the satisfaction given in a civil suit, i.e. compensation for the wrong done, so far as any such compensation can be found.

Remark: *Apropos* of such satisfaction, the universal character of the damage, i.e. its 'value', must here again take the place of its specific qualitative character in cases where the damage done amounts to destruction and is quite irreparable.

§ 99

But the injury which has befallen the *implicit* will (and this means the implicit will of the *injuring* party as well as that of the injured and everyone else) has as little positive existence in this implicit will as such as it has in the mere state of affairs which it produces. In itself this implicit will (i.e. the right or law implicit) is rather that which has no external existence and which for that reason cannot be injured. Consequently, the injury from the point of view of the particular will of the injured party and of onlookers is only something negative. The sole positive existence which

the injury possesses is that it is the particular will of the criminal. Hence to injure [or penalise] this particular will as a will determinately existent is to annul the crime, which otherwise would have been held valid, and to restore the right.

Remark: The theory of punishment is one of the topics which have come off worst in the recent study of the positive science of law, because in this theory the Understanding is insufficient; the essence of the matter depends on the concept.

If crime and its annulment (which later will acquire the specific character of punishment) are treated as if they were unqualified evils, it must, of course, seem quite unreasonable to will an evil merely because another evil is there already. To give punishment this superficial character of an evil is, amongst the various theories of punishment, the fundamental presupposition of those which regard it as a preventive, a deterrent, a threat, as reformatory, &c., and what on these theories is supposed to result from punishment is characterised equally superficially as a good. But it is not merely a question of an evil or of this, that, or the other good; the precise point at issue is wrong and the righting of it. If you adopt that superficial attitude to punishment, you brush aside the objective treatment of the righting of wrong, which is the primary and fundamental attitude in considering crime; and the natural consequence is that you take as essential the moral attitude, i.e. the subjective aspect of crime, intermingled with trivial psychological ideas of stimuli, impulses too strong for reason, and psychological factors coercing and working on our ideas (as if freedom were not equally capable of thrusting an idea aside and reducing it to something fortuitous!). The various considerations which are relevant to punishment as a phenomenon and to the bearing it has on the particular consciousness, and which concern its effects (deterrent, reformatory, &c.) on the imagination, are an essential topic for examination in their place, especially in connection with modes of punishment, but all these considerations presuppose as their foundation the fact that punishment is inherently and actually just. In discussing this matter the only important things are, first, that crime is to be annulled, not because it is the producing of an evil, but because it is an infringement of the right as right, and secondly, the question of what that positive existence is which crime possesses and which must be annulled; it is this existence which is the real evil to be removed, and the essential point is the question of where it lies. So long as the concepts here at issue are not clearly apprehended, confusion must continue to reign in the theory of punishment.

Addition: Feuerbach bases his theory of punishment on threat and thinks

that if anyone commits a crime despite the threat, punishment must follow because the criminal was aware of it beforehand. But what about the justification of the threat? A threat presupposes that a man is not free, and its aim is to coerce him by the idea of an evil. But right and justice must have their seat in freedom and the will, not in the lack of freedom on which a threat turns. To base a justification of punishment on threat is to liken it to the act of a man who lifts his stick to a dog. It is to treat a man like a dog instead of with the freedom and respect due to him as a man. But a threat, which after all may rouse a man to demonstrate his freedom in spite of it, discards justice altogether.—Coercion by psychological factors can concern only differences of quantity and quality in crime, not the nature of crime itself, and therefore any legal codes that may be products of the doctrine that crime is due to such coercion lack their proper foundation.

§ 100

The injury [the penalty] which falls on the criminal is not merely *implicitly* just—as just, it is *eo ipso* his implicit will, an embodiment of his freedom, his right; on the contrary, it is also a right *established* within the criminal himself, i.e. in his objectively embodied will, in his action. The reason for this is that his action is the action of a rational being and this implies that it is something universal and that by doing it the criminal has laid down a law which he has explicitly recognised in his action and under which in consequence he should be brought as under his right.

Remark: As is well known, Beccaria denied to the state the right of inflicting capital punishment. His reason was that it could not be presumed that the readiness of individuals to allow themselves to be executed was included in the social contract, and that in fact the contrary would have to be assumed. But the state is not a contract at all (see Remark to § 75) nor is its fundamental essence the unconditional protection and guarantee of the life and property of members of the public as individuals. On the contrary, it is that higher entity which even lays claim to this very life and property and demands its sacrifice. Further, what is involved in the action of the criminal is not only the concept of crime, the rational aspect present in crime as such whether the individual wills it or not, the aspect which the state has to vindicate, but also the abstract rationality of the individual's volition.

Since that is so, punishment is regarded as containing the criminal's right and hence by being punished he is honoured as a rational being. He does not receive this due of honour unless the concept and measure of his punishment are derived from his own act. Still less does he receive it if he

is treated either as a harmful animal who has to be made harmless, or with a view to deterring and reforming him.

Moreover, apart from these considerations, the form in which the righting of wrong exists in the state, namely punishment, is not its only wrong.

Addition: Beccaria's requirement that men should give their consent to being punished is right enough, but the criminal gives his consent already by his very act. The nature of the crime, no less than the private will of the criminal, requires that the injury initiated by the criminal should be annulled. However that may be, Beccaria's endeavour to have capital punishment abolished has had beneficial effects. Even if neither Joseph II nor the French ever succeeded in entirely abolishing it, still we have begun to see which crimes deserve the death penalty and which do not. Capital punishment has in consequence become rarer, as in fact should be the case with this most extreme punishment.

§ 101

The annulment of the crime is retribution in so far as **(a)** retribution in *conception* is an 'injury of the injury', and **(b)** since as existent a crime is something determinate in its scope both qualitatively and quantitatively, its negation as *existent* is similarly determinate. This identity rests on the concept, but it is not an equality the specific character of the crime and that of its negation; on the contrary, the two injuries are equal only in respect of their implicit character, i.e. in respect of their 'value'.

Remark: Empirical science requires that the definition of a class concept (punishment in this case) shall be drawn from ideas universally present to conscious psychological experience.

This method would prove that the universal feeling of nations and individuals about crime is and has been that it deserves punishment, that as the criminal has done, should it be done to him. (There is no understanding how these sciences, which find the source of their class concepts in ideas universally shared, come on other occasions to take for granted propositions of like 'facts of consciousness' also styled 'universal'.)

But a point of great difficulty has been introduced into the idea of retribution by the category of equality, though it is still true that the justice of specific types or amounts of punishment is a further matter, subsequent to the substance of the thing itself. Even if to determine the later question of specific punishments we had to look round for principles other than those determining the universal character of punishment, still the latter remains what it is. The only thing is that the concept itself must in general contain the fundamental principle for determining the particular too. But

the determinate character given by the concept to punishment is just that necessary connection between crime and punishment already mentioned; crime, as the will which is implicitly null, eo ipso contains its negation in itself and this negation is manifested as punishment. It is this inner identity whose reflection in the external world appears to the Understanding as 'equality'. The qualitative and quantitative characteristics of crime and its annulment fall, then, into the sphere of externality. In any case, no absolute determinacy is possible in this sphere (compare § 49); in the field of the finite, absolute determinacy remains only a demand, a demand which the Understanding has to meet by continually increasing delimitation—a fact of the greatest importance—but which continues ad infinitum and which allows only of perennially approximate satisfaction.

If we overlook this nature of the finite and then into the bargain refuse to go beyond abstract and specific equality, we are faced with the insuperable difficulty of fixing punishments (especially if psychology adduces in addition the strength of sensual impulses and Consequentially either the greater strength of the evil will or the greater weakness, or the restricted freedom, of the will as such—we may choose which we please).

Furthermore, it is easy enough from this point of view to exhibit the retributive character of punishment as an absurdity (theft for theft, robbery for robbery, an eye for an eye, a tooth for a tooth and then you can go on to suppose that the criminal has only one eye or no teeth). But the concept has nothing to do with this absurdity, for which indeed the introduction of this specific equality is solely to blame. Value, as the inner equality of things which in their outward existence are specifically different from one another in every way, is a category which has appeared already in connection with contracts (see § 77), and, also in connection with injuries that are the subject of civil suits (see Remark to § 98); and by means of it our idea of a thing is raised above its immediate character to its universality. In crime, as that which is characterised at bottom by the infinite aspect of the deed, the purely external specific character vanishes all the more obviously, and equality remains the fundamental regulator of the essential thing, to wit the deserts of the criminal, though not for the specific external form which the payment of those deserts may take. It is only in respect of that form that there is a plain inequality between theft and robbery on the one hand, and fines, imprisonment, &c., on the other. In respect of their 'value', however, i.e. in respect of their universal property of being injuries, they are comparable. Thus, as was said above, it is a matter for the Understanding to look for something approximately equal to their 'value' in this sense. If the implicit interconnection of crime and its negation, and if also the thought of value and the comparability of

crime and punishment in respect of their value are not apprehended, then it may become possible to see in a punishment proper only an 'arbitrary' connection of an evil with an unlawful action.

Addition: Retribution is the inner connection and the identity of two conceptions which are different in appearance and which also exist in the world as two distinct and opposed events. Retribution is inflicted on the criminal and so it has the look of an alien destiny, not intrinsically his own. Nevertheless punishment, as we have seen, is only crime made manifest, i.e. is the second half which necessarily presupposes the first. *Prima facie*, the objection to retribution is that it looks like something immoral, i.e. like revenge, and that thus it may pass for something personal. Yet it is not something personal, but the concept itself, which carries out retribution. 'Vengeance is mine, saith the Lord', as the Bible says. And if something in the word 'repay' calls up the idea of a particular caprice of the subjective will, it must be pointed out that what is meant is only that the form which crime takes is turned round against itself.

The Eumenides sleep, but crime awakens them, and hence it is the very act of crime itself which vindicates itself.—Now although requital cannot simply be made specifically equal to the crime, the case is otherwise with murder, which is of necessity liable to the death penalty; the reason is that since life is the full compass of a man's existence, the punishment here cannot simply consist in a 'value', for none is great enough, but can consist only in taking away a second life.

§ 102

The annulling of crime in this sphere where right is immediate is principally revenge, which is just in its content in so far as it is retributive. But in its form it is an act of a subjective will which can place its infinity in every act of transgression and whose justification, therefore, is in all cases contingent, while to the other party too it appears as only particular. Hence revenge, because it is a positive action of a particular will, becomes a new transgression; as thus contradictory in character, it falls into an infinite progression and descends from one generation to another *ad infinitum*.

Remark: In cases where crimes are prosecuted and punished not as *crimina publica* but as *crimina privata* (e.g. in Jewish law and Roman law, theft and robbery; in English law to this day, certain crimes, &c.) punishment is in principle, at least to some extent, revenge. There is a difference between private revenge and the revenge of heroes, knights-errant, &c., 'which is part of the founding of states.

Addition: In that condition of society when there are neither magistrates

nor laws, punishment always takes the form of revenge; revenge remains defective inasmuch as it is the act of a subjective will and therefore does not correspond with its content. Those who administer justice are persons, but their will is the universal will of the law and they intend to import into the punishment nothing except what is implied in the nature of the thing. The person wronged, however, views the wrong not as something qualitatively and quantitatively limited but only as wrong pure and simple, and in requiting the injury he may go too far, and this would lead to a new wrong. Amongst uncivilised peoples, revenge is deathless; amongst the Arabs, for instance, it can be checked only by superior force or by the impossibility of its satisfaction. A residue of revenge still lingers in comparatively modern legislation in those cases where it is left to the option of individuals whether to prosecute or not.

§ 103

The demand that this contradiction, which is present here in the manner in which wrong is annulled, be resolved like contradictions in the case of other types of wrong (see §§ 86, 89), is the demand for a justice freed from subjective interest and a subjective form and no longer contingent on might, i.e. it is the demand for justice not as revenge but as punishment. Fundamentally, this implies the demand for a will which, though particular and subjective, yet wills the universal as such. But this concept of Morality is not simply something demanded; it has emerged in the course of this movement itself.

Transition from Right to Morality

§ 104

That is to say, crime, and justice in the form of revenge, display (i) the shape which the will's development takes when it has passed over into the distinction between the universal implicit will and the single will explicitly in opposition to the universal; and (ii) the fact that the universal will, returning into itself through superseding this opposition, has now itself become actual and explicit. In this way, the right, upheld in face of the explicitly independent single will, is and is recognised as actual on the score of its necessity. At the same time, however, this external formation which the will has here is *eo ipso* a step forward in the inner determination of the will by the concept. The will's immanent actualisation in accordance with its concept is the process whereby it supersedes its implicit state and the form of immediacy in which it begins and which is the shape it assumes in abstract right (see Remark to § 21); this means that it first puts itself in the opposition between the implicit universal will and the single explicitly independent will; and then, through the supersession of this

opposition (through the negation of the negation), it determines itself in its existence as a will, so that it is a free will not only in itself but for itself also, i.e. it determines itself as self-related negativity. Its personality—and in abstract right the will is personality and no more—it now has for its object; the infinite subjectivity of freedom, a subjectivity become explicit in this way, is the principle of the moral standpoint.

Remark: Let us look back more closely over the moments through which the concept of freedom develops itself from the will's determinate character as originally abstract to its character as self-related, and so at this point to its self-determination as subjectivity. In property this determinate character is the abstract one, 'mine', and is therefore found in an external thing. In contract, 'mine' is mediated by the wills of the parties and means only something common. In wrong the will of the sphere of right has its abstract character of implicit being or immediacy posited as contingency through the act of a single will, itself a contingent will. At the moral standpoint, the abstract determinacy of the will in the sphere of right has been so far overcome that this contingency itself is, as reflected in upon itself and self-identical, the inward infinite contingency of the will, i.e. its subjectivity.

Addition: Truth entails that the concept shall be, and that this existence shall correspond with the concept. In the sphere of right, the will is existent in something external, but the next requirement is that the will should be existent in something inward, in itself. It must in its own eyes be subjectivity, and have itself as its own object. This relation to itself is the moment of affirmation, but it can attain it only by superseding its immediacy. The immediacy superseded in crime leads, then, through punishment, i.e. through the nullity of this nullity, to affirmation, i.e. to morality.

Second Part: Morality

§ 105

THE standpoint of morality is the standpoint of the will which is infinite not merely in itself but for itself (see § 104). In contrast with the will's implicit being, with its immediacy and the determinate characteristics developed within it at that level, this reflection of the will into itself and its explicit awareness of its identity makes the person into the subject.

§ 106

It is as subjectivity that the concept has now been determined, and since subjectivity is distinct from the concept as such, i.e. from the implicit principle of the will, and since furthermore it is at the same time the will of

the subject as a single individual aware of himself (i.e. still has immediacy in him), it constitutes the determinate *existence* of the concept. In this way a higher ground has been assigned to freedom; the Idea's existential aspect, or its moment of reality, is now the subjectivity of the will. Only in the Will as subjective can freedom or the implicit principle of the will be actual.

Remark: The second sphere,—**Morality**, therefore throughout portrays the real aspect of the concept of freedom, and the movement of this sphere is as follows: the will, which at the start is aware only of its independence and which before it is mediated is only implicitly identical with the universal will or the principle of the will, is raised beyond its [explicit] difference from the universal will, beyond this situation in which it sinks deeper and deeper into itself, and is established as explicitly identical with the principle of the will., — This process is accordingly the cultivation of the ground in which freedom is now set, i.e. subjectivity. What happens is that subjectivity, which is abstract at the start, i.e. distinct from the concept, becomes likened to it, and thereby the Idea acquires its genuine realisation, The result is that the subjective-will determines itself as objective too and so as truly concrete.

Addition: So far as right in the strict sense was concerned, it was of no importance what my intention or my principle was. This question about the self-determination and motive of the will, like the question about its purpose, now enters at this point in connection with morality. Since man wishes to be judged in accordance with his own self-determined choices, he is free in this relation to himself whatever the external situation may impose upon him. No one can break in upon this inner conviction of mankind, no violence can be done to it, and the moral will, therefore, is inaccessible. Man's worth is estimated by reference to his inward action and hence the standpoint of morality is that of freedom aware of itself.

§ 107

The self-determination of the will is at the same time a moment in the concept of the will, and subjectivity is not merely its existential aspect but its own determinate character (see § 104). The will aware of its freedom and determined as subjective is at the start concept alone, but itself has determinate existence in order to exist as Idea. The moral standpoint therefore takes shape as the right of the subjective Will. In accordance with this right, the will recognises something and is something, only in so far as the thing is its own and as the will is present to itself there as something subjective.

The same process through which the moral attitude develops (see the

Remark to the preceding Paragraph) has from this point of view the form of being the development of the right of the subjective will, or of the mode of its existence. In this process the subjective will further determines what it recognises as its own in its object (*Gegenstand*), so that this object becomes the will's own true concept, becomes objective (*objektiv*) as the expression of the will's own universality.

Addition: This entire category of the subjectivity of the will is once again a whole which, as subjectivity, must also have objectivity. It is in a subject that freedom can first be realised, since the subjective is the true material for this realisation. But this embodiment of the will which we have called subjectivity is different from the will which has developed all its potentialities to actuality. That is to say, the will must free itself from this second one-sidedness of pure subjectivity in order to become the fully actualised will. In morality, it is man's private interest that comes into question, and the high worth of this interest consists precisely in the fact that man knows himself as absolute and is self-determined. The uneducated man allows himself to be constrained in everything by brute force and natural factors; children have no moral will but leave their parents to decide things for them. The educated man, however, develops an inner life and wills that he himself shall be in everything he does.

§ 108

The subjective will, directly aware of itself, and distinguished from the principle of the will (see Remark to § 106), is therefore abstract, restricted, and formal. But not merely is subjectivity itself formal; in addition, as the infinite self-determination of the will, it constitutes the form of all willing. In this, its first appearance in the single will, this form has not yet been established as identical with the concept of the will, and therefore the moral point of view is that of relation, of ought-to-be, or demand. And since the self-difference of subjectivity involves at the same time the character of being opposed to objectivity as external fact, it follows that the point of view of consciousness comes on the scene here too (see § 8). The general point of view here is that of the will's self-difference, finitude, and appearance.

Remark: The moral is not characterised primarily by its having already been opposed to the immoral, nor is right directly characterised by its opposition to wrong. The point is rather that the general characteristics of morality and immorality alike rest on the subjectivity of the will.

Addition: In morality, self-determination is to be thought of as the pure restlessness and activity which can never arrive at anything that *is*. It is in the sphere of ethical life that the will is for the first time identical with the

concept of the will and has this concept alone as its content. In the moral sphere the will still relates itself to its *implicit* principle and consequently its position is that of difference. The process through which this position develops is that whereby the subjective will becomes identified with its concept. Therefore the ‘ought-to-be’ which is never absent from the moral sphere becomes an ‘is’ only in ethical life. Further, this ‘other’ in relation to which the subjective will stands is two-sided: first, it is what is substantive, the concept; secondly, it is external fact. Even if the good were posited in the subjective will, that still would not give it complete realisation.

§ 109

This form of all willing primarily involves in accordance with its general character (a) the opposition of subjectivity and objectivity, and (b) the activity (see § 8) related to this opposition. Now existence and specific determinacy are identical in the concept of the will (see § 104), and the will as subjective is itself this concept. Hence the moments of this activity consist more precisely in (a) distinguishing between objectivity and subjectivity and even ascribing independence to them both, and (b) establishing them as identical. In the will which is self-determining,

[a] its specific determinacy is in the first place established in the will itself by itself as its inner particularisation, as a content which it gives to itself. This is the first negation, and the formal limitation (*Grenze*) of this negation is that of being only something posited, something subjective.

[b] As infinitely reflected into itself, this limitation exists for the will, and the will is the struggle to transcend this barrier (*Schranke*), i.e. it is the activity of translating this content in some way or other from subjectivity into objectivity, into an immediate existence.

[c] The simple identity of the will with itself in this opposition is the content which remains self-identical in both these opposites and indifferent to this formal distinction of opposition. In short, it is my aim [the purpose willed].

§ 110

But, at the standpoint of morality, where the will is aware of its freedom, of this identity of the will with itself (see § 105), this identity of content acquires the more particularised character appropriate to itself.

(a) The content as ‘mine’ has for me this character: by virtue of its identity in subject and object it enshrines for me my subjectivity, not merely as my inner purpose, but also inasmuch as it has acquired outward existence.

Addition: The content of the subjective or moral will has a specific character of its own, i.e. even if it has acquired the form of objectivity, it must still continue to enshrine my subjectivity, and my act is to count as mine only if on its inward side it has been determined by me, if it was my purpose, my intention. Beyond what lay in my subjective will I recognise nothing in its expression as mine. What I wish to see in my deed is my subjective consciousness over again.

§ 111

(b) Though the content does have in it something particular, whencesoever it may be derived, still it is the content of the will reflected into itself in its determinacy and thus of the self-identical and universal will; and therefore:

[a] the content is inwardly characterised as adequate to the principle of the will or as possessing the objectivity of the concept;

[b] since the subjective will, as aware of itself, is at the same time still formal (see § 108), the content's adequacy to the concept is still only something demanded, and hence this entails the possibility that the content may not be adequate to the concept.

§ 112

(c) Since in carrying out my aims I retain my subjectivity (see § 110), during this process of objectifying them I simultaneously supersede the immediacy of this subjectivity as well as its character as this my individual subjectivity. But the external subjectivity which is thus identical with me is the will of others (see § 73). The will's ground of existence is now subjectivity (see § 106) and the will of others is that existence which I give to my aim and which is at the same time to me an other. The achievement of my aim, therefore, implies this identity of my will with the will of others, it has a positive bearing on the will of others.

Remark: The objectivity of the aim achieved thus involves three meanings, or rather it has three moments present within it at once; it is:

[a] something existing externally and immediately (see § 106);

[b] adequate to the concept (see § 111);

[c] *universal* subjectivity.

The subjectivity which maintains itself in this objectivity consists:

[a] in the fact that the objective aim is mine, so that in it I maintain myself as *this* individual (see § 110); [b] and [c], in moments which coincide with the moments [b] and [c] above.

At the standpoint of morality, subjectivity and objectivity are distinct from one another, or united only by their mutual contradiction; it is this fact more particularly which constitutes the finitude of this sphere or its character as mere appearance (see § 108), and the development of this standpoint is the development of these contradictions and their resolutions, resolutions, however, which within this field can be no more than relative.

Addition: In dealing with formal right, I said [see § 38] that it contained prohibitions only, that hence a right action, strictly so called, was purely negative in character in respect of the will of others. In morality, on the other hand, my will has a positive character in relation to the Will of others, i.e. the universal will is implicitly present within what the subjective will effects. To effect something is to produce something or to alter what already exists, and such changes have a bearing on the will of others. The concept of morality is the inner relation of the will to itself. But here it is not only *one* will; on the contrary its objectification implies at the same time the cancellation of the single will, and therefore, in addition, just because the character of one-sidedness vanishes, the positing of two wills and a positive bearing of each on the other. So far as rights are concerned, it makes no difference whether someone else's will may do something in relation to mine, when I give my will an embodiment in property. In morality, however, the welfare of others too is in question, and this positive bearing cannot come on the scene before this point.

§ 113

The externalisation of the subjective or moral will is action. Action implies the determinate characteristics here indicated:

- [a] in its externality it must be known to me as *my* action;
- [b] it must bear essentially on the concept as an 'ought' [see § 131];
- [c] it must have an essential bearing on the will of others.

Remark: It is not until we come to the externalisation of the moral will that we come to action. The existence which the will gives to itself in the sphere of formal rights is existence in an immediate thing and is itself immediate; to start with, it neither has in itself any express bearing on the concept, which is at that point not yet contrasted with the subjective will and so is not distinguished from it, nor has it a positive bearing on the will of others; in the sphere of right, command in its fundamental character is only prohibition (see § 38). In contract and wrong, there is the beginning of a bearing on the will of others; but the correspondence established in contract between one will and another is grounded in arbitrariness, and the

essential bearing which the will has there on the will of the other is, as a matter of rights, something negative, i.e. one party retains his property (the value of it) and allows the other to retain his. On the other hand, crime in its aspect as issuing from the subjective will, and the question of the mode of its existence in that will, come before us now for consideration for the first time.

The content of an action at law (*actio*), as something determined by legal enactment, is not imputable to me. Consequently, such an action contains only some of the moments of a moral action proper, and contains them only incidentally. The aspect of an action in virtue of which it is properly moral is therefore distinct from its aspect as legal.

§ 114

The right of the moral will involves three aspects:

- (a) The abstract or formal right of action, the right that the content of the action as carried out in immediate existence, shall be in principle mine, that thus the action shall be the *Purpose* of the subjective will.
- (b) The particular aspect of the action is its inner content [a] as I am aware of it in its general character; my awareness of this general character constitutes the worth of the action and the reason I think good to do it—in short my *Intention*. [b] Its content is my special aim, the aim of my particular, merely individual, existence, i.e. *Welfare*.
- (c) This content (as something which is inward and which yet at the same time is raised to its universality as to absolute objectivity) is the absolute end of the will, the *Good*—with the opposition in the sphere of reflection, of *subjective* universality, which is now wickedness and now conscience.

Addition: If an action is to be moral, it must in the first place correspond with my purpose, since the moral will has the right to refuse to recognise in the resulting state of affairs what was not present inwardly as purpose. Purpose concerns only the formal principle that the external will shall be within me as something inward. On the other hand, in the second moment of the moral sphere, questions may be asked about the intention behind the action, i.e. about the relative worth of the action in relation to me. The third and last moment is not the relative worth of the action but its universal worth, the good.

In a moral action, then, there may be a breach first between what is purposed and what is really effected and achieved; secondly, between what is there externally as a universal will and the particular inner determination which I give to it. The third and last point is that the intention should be

in addition the universal content of the action. The good is the intention raised to be the concept of the will.

i Purpose & Responsibility

§ 115

THE finitude of the subjective will in the immediacy of acting consists directly in this, that its action *presupposes* an external object with a complex environment. The deed sets up an alteration in this state of affairs confronting the will, and my will has responsibility in general for its deed in so far as the abstract predicate ‘mine’ belongs to the state of affairs so altered.

Remark: An event, a situation which has been produced, is a concrete external actuality which because of its concreteness has in it an indeterminable multiplicity of factors. Any and every single element which appears as the condition, ground, or cause of one such factor, and so has contributed its share to the event in question, may be looked upon as responsible for the event, or at least as sharing the responsibility for it. Hence, in the case of a complex event (e.g. the French Revolution) it is open to the abstract Understanding to choose which of an endless number of factors it will maintain to be responsible for it.

Addition: I am chargeable with what lay in my purpose and this is the most important point in connection with crime. But responsibility contains only the quite external judgment whether I have or have not done some thing. It does not follow that, because I am responsible, the thing done may be imputed to me.

§ 116

It is, of course, not my own doing if damage is caused to others by things whose owner I am and which as external objects stand and are effective in manifold connections with other things (as may also be the case with my self as a bodily mechanism or as a living thing). This damage, however, is to some extent chargeable to me because the things that cause it are in principle mine, although it is true that they are subject to my control, vigilance, &c., only to an extent varying with their special character.

§ 117

The freely acting will, in directing its aim on the state of affairs confronting it, has an idea of the attendant circumstances. But because the will is finite, since this state of affairs is presupposed, the objective phenomenon is contingent so far as the will is concerned, and may contain something other than what the will’s idea of it contains. The will’s right,

however, is to recognise as its action, and to accept responsibility for, only those presuppositions of the deed of which it was conscious in its aim and those aspects of the deed which were contained in its purpose. The deed can be imputed to me only if my will is responsible for it—this is the right to know.

Addition: The will has confronting it a state of affairs upon which it acts. But in order to know what this state of affairs is I must have an idea of it, and the responsibility is truly mine only in so far as I had knowledge of the situation confronting me. Such a situation is a presupposition of my volition and my will is therefore finite, or rather, since my will is finite, it has a presupposition of this kind. As soon as my thinking and willing is rational, I am no longer at this level of finitude, since the object on which I act is no longer an ‘other’ to me.

Finitude, however, implies fixed limits and restrictions. I have confronting me an ‘other’ which is only contingent, something necessary in a purely external way; its path and mine may meet or diverge. Nevertheless, I am nothing except in relation to my freedom, and my will is responsible for the deed only in so far as I know what I am doing. Oedipus, who killed his father without knowing it, cannot be accused of parricide. The ancient penal codes, however, attached less weight to the subjective side of action, to imputability, than we do nowadays.

That is why sanctuaries were instituted in ancient times for harbouring and protecting the fugitive from vengeance.

§ 118

Further, action is translated into external fact, and external fact has connections in the field of external necessity through which it develops itself in all directions. Hence action has a multitude of consequences. These consequences are the outward form whose inner soul is the aim of the action, and thus they are the consequences *of the action*, they belong to the action. At the same time, however, the action, as the aim posited in the external world, has become the prey of external forces which attach to it something totally different from what it is explicitly and drive it on into alien and distant consequences. Thus the will has the right to repudiate the imputation of all consequences except the first, since it alone was purposed.

Remark: To determine which results are accidental and which necessary is impossible, because the necessity implicit in the finite comes into determinate existence as an external necessity, as a relation of single things to one another, things which as self-subsistent are conjoined in indifference to one another and externally. The maxim: ‘Ignore the

consequences of actions' and the other: 'Judge actions by their consequences and make these the criterion of right and good' are both alike maxims of the abstract Understanding. The consequences, as the shape proper to the action and immanent within it, exhibit nothing but its nature and are simply the action itself; therefore the action can neither disavow nor ignore them. On the other hand, however, among the consequences there is also comprised something interposed from without and introduced by chance, and this is quite unrelated to the nature of the action itself.

The development in the external world of the contradiction involved in the *necessity* of the *finite* is just the conversion of necessity into contingency and vice versa. From this point of view, therefore, acting means surrendering oneself to this law. It is because of this that it is to the advantage of the criminal if his action has comparatively few bad consequences (while a good action must be content to have had no consequences or very few), and that the full developed consequences of a crime are counted as part of the crime.

The self-consciousness of heroes (like that of Oedipus and others in Greek tragedy) had not advanced out of its primitive simplicity either to reflection on the distinction between act and action, between the external event and the purpose and knowledge of the circumstances, or to the subdivision of consequences. On the contrary, they accepted responsibility for the whole compass of the deed.

Addition: The transition to intention depends on the fact that I accept responsibility only for what my idea of the situation was. That is to say, there can be imputed to me only what I knew of the circumstances. On the other hand, there are inevitable consequences linked with every action, even if I am only bringing about some single, immediate, state of affairs. The consequences in such a case represent the universal implicit within that state of affairs. Of course I cannot foresee the consequences—they might be preventable—but I must be aware of the universal character of any isolated act. The important point here is not the isolated thing but the whole, and that depends not on the differentia of the particular action, but on its universal nature. Now the transition from purpose to intention lies in the fact that I ought to be aware not simply of my single action but also of the universal which is conjoined with it. The universal which comes on the scene here in this way is what I have willed, my intention.

ii Intention & Welfare

§ 119

An action as an external event, is a complex of connected parts which may be regarded as divided into units *ad infinitum*, and the action may be treated as having touched in the first instance only one of these units. The truth of the single, however, is the universal; and what explicitly gives action its specific character is not an isolated content limited to an external unit, but a universal content, comprising in itself the complex of connected parts. Purpose, as issuing from a thinker, comprises more than the mere unit; essentially it comprises that universal side of the action, i.e. the intention.

Remark: Etymologically, *Absicht* (intention) implies abstraction, either the form of universality or the extraction of a particular aspect of the concrete thing. The endeavour to justify an action by the intention behind it involves the isolation of one or other of its single aspects which is alleged to be the essence of the action on its subjective side.

To judge an action as an external deed without yet determining its rightness or wrongness is simply to bestow on it a universal predicate, i.e. to describe it as burning, killing, &c.

The discrete character of the external world shows what the nature of that world is, namely a chain of external relations. Actuality is touched in the first instance only at a single point (arson, for instance, *directly* concerns only a tiny section of the firewood, i.e. is describable in a proposition, not a judgment), but the universal nature of this point entails its expansion. In a living thing, the single part is there in its immediacy not as a mere part, but as an organ in which the universal is really present as the universal; hence in murder, it is not a piece of flesh, as something isolated, which is injured, but life itself which is injured in that piece of flesh. It is subjective reflection, ignorant of the logical nature of the single and the universal, which indulges *ad libitum* in the subdivision of single parts and consequences; and yet it is the nature of the finite deed itself to contain such separable contingencies. The device of *dolus indirectus* has its basis in these considerations.

Addition: It happens of course that circumstances may make an action miscarry to a greater or lesser degree. In a case of arson, for instance, the fire may not catch or alternatively it may take hold further than the incendiary intended. In spite of this, however, we must not make this a distinction between good and bad luck, since in acting a man must lay his account with externality. The old Proverb is correct: 'A flung stone is the devil's.' To act is to expose oneself to bad luck. Thus bad luck has a right over me and is an embodiment of my own willing.

§ 120

The right of intention is that the universal quality of the action shall not

merely be implicit but shall be known by the agent, and so shall have lain from the start in his subjective will. Vice versa, what may be called the right of the objectivity of action is the right of the action to evince itself as known and willed by the subject as a *thinker*.

Remark: This right to insight of this kind entails the complete, or almost complete, irresponsibility of children, imbeciles, lunatics, &c., for their actions. But just as actions on their external side as events include accidental consequences, so there is involved in the subjective agent an indeterminacy whose degree depends on the strength and force of his self-consciousness and circumspection. This indeterminacy, however, may not be taken into account except in connection with childhood or imbecility, lunacy, &c., since it is only such well marked states of mind that nullify the trait of thought and freedom of will, and permit us to treat the agent as devoid of the dignity of being a thinker and a will.

§ 121

The universal quality of the action is the manifold content of the action as such, reduced to the simple form of universality. But the subject, an entity reflected into himself and so particular in correlation with the particularity of his object, has in his end his own particular content, and this content is the soul of the action and determines its character. The fact that this moment of the particularity of the agent is contained and realised in the action constitutes subjective freedom in its more concrete sense, the right of the subject to find his satisfaction in the action.

Addition: In my own eyes, reflected into myself, I am a particular in correlation with the externality of my action. My end constitutes the content of the action, the content determinant of the action. Murder and arson, for example, are universals and so are not the positive content of my action *qua* the action of a subject. If one of these crimes has been committed, its perpetrator may be asked why he committed it. The murder was not done for the sake of murdering; the murderer had in view some particular positive end. But if we were to say that he murdered for the mere pleasure of murdering, then the purely positive content of the subject would surely be pleasure, and if that is the case then the deed is the satisfaction of the subject's will. Thus the motive of an act is, more particularly, what is called the 'moral' factor, and this has in that case the double meaning of the *universal* implicit in the purpose and the *particular* aspect of the intention. It is a striking modern innovation to inquire continually about the motives of men's actions. Formerly, the question was simply: 'Is he an honest man? Does he do his duty?' Nowadays we insist on looking into men's hearts and so we presuppose a gulf between

the objectivity of actions and their inner side, the subjective motives. To be sure, the subject's volition must be considered; he wills something and the reason for what he wills lies within himself; he wills the satisfaction of his desire, the gratification of his passion. None the less, the good and the right are also a content of action, a content not purely natural but put there by my rationality. To make my freedom the content of what I will is a plain goal of my freedom itself. Therefore it is to take higher moral ground to find satisfaction in the action and to advance beyond the gulf between the self-consciousness of a man and the objectivity of his deed, even though to treat action as if it involved such a gulf is a way of looking at the matter characteristic of certain epochs in world history and in individual biography.

§ 122

It is on the strength of this particular aspect that the action has subjective worth or interest for me. In contrast with this *end*—the content of the intention—the direct character of the action in its further content is reduced to a *means*. In so far as such an end is something finite, it may in its turn be reduced to a means to some further intention and so on *ad infinitum*.

§ 123

For the content of these ends nothing is available at this point except [a] pure activity itself, i.e. the activity present owing to the fact that the subject puts himself into whatever he is to look upon and promote as his end. Men are willing to be *active* in pursuit of what interests them, or should interest them, as something which is their own. [b] A more determinate content, however, the still abstract and formal freedom of subjectivity possesses only in its natural, subjective embodiment, i.e. in needs, inclinations, passions, opinions, fancies, &c. The satisfaction of these is welfare or happiness, both in general and in its particular species—the ends of the whole sphere of finitude.

Remark: Here—the standpoint of relation (see § 108), when the subject is characterised by his self-difference and so counts as a particular—is the place where the content of the natural will (see § 11) comes on the scene. But the will here is not as it is in its immediacy; on the contrary, this content now belongs to a will reflected into itself and so is elevated to become a universal end, the end of welfare or happiness; this happens at the level of the thinking which does not yet apprehend the will in its freedom but reflects on its content as on one natural and given—the level, for example, of the time of Croesus and Solon.

Addition: Since the specifications of happiness are *given*, they are not true

specifications of freedom, because freedom is not genuinely free in its own eyes except in the good, i.e. except when it is its own end. Consequently we may raise the question whether a man has the right to set before himself ends not freely chosen but resting solely on the fact that the subject is a living being. The fact that man is a living being, however, is not fortuitous, but in conformity with reason, and to that extent he has a right to make his needs his end. There is nothing degrading in being alive, and there is no mode of intelligent being higher than life in which existence would be possible. It is only the raising of the given to something self-created which yields the higher orbit of the good, although this distinction implies no incompatibility between the two levels.

§ 124

Since the subjective satisfaction of the individual himself (including the recognition which he receives by way of honour and fame) is also part and parcel of the achievement of ends of absolute worth, it follows that the demand that such an end alone shall appear as willed and attained, like the view that, in willing, objective and subjective ends are mutually exclusive, is an empty dogmatism of the abstract Understanding. And this dogmatism is more than empty, it is pernicious if it passes into the assertion that because subjective satisfaction is present, as it always is when any task is brought to completion, it is what the agent intended in essence to secure and that the objective end was in his eyes only a means to that. —What the subject is, is the series of his actions. If these are a series of worthless productions, then the subjectivity of his willing is just as worthless. But if the series of his deeds is of a substantive nature, then the same is true also of the individual's inner will.

Remark: The right of the subject's particularity, his right to be satisfied, or in other words the right of subjective freedom, is the pivot and centre of the difference between antiquity and modern times. This right in its infinity is given expression in Christianity and it has become the universal effective principle of a new form of civilisation. Amongst the primary shapes which this right assumes are love, romanticism, the quest for the eternal salvation of the individual, &c.; next come moral convictions and conscience; and, finally, the other forms, some of which come into prominence in what follows as the principle of civil society and as moments in the constitution of the state, while others appear in the course of history, particularly the history of art, science, and philosophy.

Now this principle of particularity is, to be sure, one moment of the antithesis, and in the first place 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 and so produces a view of morality as nothing but a bitter, unending, struggle against self-satisfaction, as the command: 'Do with abhorrence what duty enjoins.'

It is just this type of ratiocination which adduces that familiar psychological view of history which understands how to belittle and disparage all great deeds and great men by transforming into the main intention and operative motive of actions the inclinations and passions which likewise found their satisfaction from the achievement of something substantive, the fame and honour, &c., consequential on such actions, in a word their particular aspect, the aspect which it has decreed in advance to be something in itself pernicious. Such ratiocination assures us that, while great actions and the efficiency which has subsisted through a series of them have produced greatness in the world and have had as their consequences for the individual agent power, honour, and fame, still what belongs to the individual is not the greatness itself but what has accrued to him from it, this purely particular and external result; because this result is a consequence, it is therefore supposed to have been the agent's end and even his sole end. Reflection of this sort stops short at the subjective side of great men, since it itself stands on purely subjective ground, and consequently it overlooks what is substantive in this emptiness of its own making. This is the view of those valet psychologists 'for whom there are no heroes, not because there are no heroes, but because these psychologists are only valets'.

Addition: *In magnis ... voluisse sat est* [In great things to have willed is enough] is right in the sense that we ought to will something great. But we must also be able to achieve it, otherwise the willing is nugatory. The laurels of mere willing are dry leaves that never were green.

§ 125

The subjective element of the will, with its particular content—welfare, is reflected into itself and infinite and so stands related to the universal element, to the principle of the will. This moment of universality, posited first of all within this particular content itself, is the welfare of others also, or, specified completely, though quite emptily, the welfare of all. The welfare of many other unspecified particulars is thus also an essential end and right of subjectivity. But since the absolutely universal, in distinction from such a particular content, has not so far been further determined than as 'the right', it follows that these ends of particularity, differing as they do from the universal, may be in conformity with it, but they also may not.

§ 126

My particularity, however, like that of others, is only a right at all in so far as I am a free entity. Therefore it may not make claims for itself in contradiction to this its substantive basis, and an intention to secure my welfare or that of others (and it is particularly in this latter case that such an intention is called ‘moral’) cannot justify an action which is wrong.

Remark: It is one of the most prominent of the corrupt maxims of our time to enter a plea for the so-called ‘moral’ intention behind wrong actions and to imagine bad men with well-meaning hearts, i.e. hearts willing their own welfare and perhaps that of others also. This doctrine is rooted in the ‘benevolence’ (*guten Herzens*) of the pre-Kantian philosophers and constitutes, e.g., the quintessence of well-known touching dramatic productions; but today it has been resuscitated in a more extravagant form, and inner enthusiasm and the heart, i.e. the form of particularity as such, have been made the criterion of right, rationality, and excellence. The result is that crime and the thoughts that lead to it, be they fancies however trite and empty, or opinions however wild, are to be regarded as right, rational, and excellent, simply because they issue from men’s hearts and enthusiasms. (See the Remark to § 140, where more details are given.) Incidentally, however, attention must be paid to the point of view from which right and welfare are being treated here. We are considering right as abstract right and welfare as the particular welfare of the single agent. The so-called ‘general good’, the welfare of the state, i.e. the right of mind actual and concrete, is quite a different sphere, a sphere in which abstract right is a subordinate moment like particular welfare and the happiness of the individual. As was remarked above, it is one of the commonest blunders of abstract thinking to make private rights and private welfare count as *absolute* in opposition to the universality of the state.

Addition: The famous answer: *Je n’en vois pas la nécessité*, given [by Richelieu] to the lampooner who excused himself with the words: *Il faut donc que je vive*, is apposite at this point. Life ceases to be necessary in face of the higher realm of freedom. When St. Crispin stole leather to make shoes for the poor, his action was moral but wrong and so inadmissible.

§ 127

The particularity of the interests of the natural will, taken in their entirety as a single whole, is personal existence or life. In extreme danger and in conflict with the rightful property of someone else, this life may claim (as a right, not a mercy) a right of distress, because in such a situation there is on the one hand an infinite injury to a man’s existence and the consequent loss of rights altogether, and on the other hand only an injury to a single

restricted embodiment of freedom, and this implies a recognition both of right as such and also of the injured man's capacity for rights, because the injury affects only *this* property of his.

Remark: The right of distress is the basis of *beneficium competentiae* whereby a debtor is allowed to retain of his tools, farming implements, clothes, or, in short, of his resources, i.e. of his creditor's property, so much as is regarded as indispensable if he is to continue to support life—to support it, of course, on his own social level.

Addition: Life as the sum of ends has a right against abstract right. If for example it is only by stealing bread that the wolf can be kept from the door, the action is of course an encroachment on someone's property, but it would be wrong to treat this action as an ordinary theft. To refuse to allow a man in jeopardy of his life to take such steps for self-preservation would be to stigmatise him as without rights, and since he would be deprived of his life, his freedom would be annulled altogether. Many diverse details have a bearing on the preservation of life, and when we have our eyes on the future we have to engage ourselves in these details. But the only thing that is necessary is to live now, the future is not absolute but ever exposed to accident. Hence it is only the necessity of the immediate present which can justify a wrong action, because not to do the action would in turn be to commit an offence, indeed the most wrong of all offences, namely the complete destruction of the embodiment of freedom.

Beneficium competentiae is relevant here, because kinship and other close relationships imply the right to demand that no one shall be sacrificed altogether on the altar of right.

§ 128

This distress reveals the finitude and therefore the contingency of both right and welfare of right as the abstract embodiment of freedom without embodying the particular person, and of welfare as the sphere of the particular will without the universality of right. In this way they are *established* as one-sided and ideal, the character which in *conception* they already possessed. Right has already (see § 106) determined its embodiment as the particular will; and subjectivity, in its particularity as a comprehensive whole, is itself the *embodiment* of freedom (see § 127), while as the infinite relation of the will to itself, it is implicitly the *universal* element in freedom. The two moments present in right and subjectivity, thus integrated and attaining their truth, their identity, though in the first instance still remaining *relative* to one another, are (a) the good (as the concrete, absolutely determinate, universal), and (b) conscience (as

infinite subjectivity inwardly conscious and inwardly determining its content).

iii Good & Conscience

§ 129

THE good is the Idea as the unity of the concept of the will with the particular will. In this unity, abstract right, welfare, the subjectivity of knowing and the contingency of external fact, have their independent self-subsistence superseded, though at the same time they are still contained and retained within it in their essence. The good is thus freedom realised, the absolute end and aim of the world.

Addition: Every stage is really the Idea, but the earlier stages contain it only in rather an abstract form. Thus for example, even the ego, as personality, is already the Idea, though in its most abstract shape. The good, therefore, is the Idea further determined, the unity of the concept of the will with the particular will. It is not something abstractly right, but something concrete whose contents are made up of both right and welfare alike.

§ 130

In this Idea, welfare has no independent validity as the embodiment of a single particular will but only as universal welfare and essentially as universal in principle, i.e. as according with freedom. Welfare without right is not a good. Similarly, right without welfare is not the good; *fiat justitia* [Let justice be done ...] should not be followed by *pereat mundus* [... though the world perish]. Consequently, since the good must of necessity be actualised through the particular will and is at the same time its substance, it has absolute right in contrast with the abstract right of property and the particular aims of welfare. If either of these moments becomes distinguished from the good, it has validity only in so far as it accords with the good and is subordinated to it.

§ 131

For the subjective will, the good and the good alone is the essential, and the subjective will has value and dignity only in so far as its insight and intention accord with the good. Inasmuch as the good is at this point still only this **abstract** Idea of good, the subjective will has not yet been caught up into it and established as according with it. Consequently, it stands in a **relation** to the good, and the relation is that the good **ought** to be substantive for it, i.e. it ought to make the good its aim and realise it completely, while the good on its side has in the subjective will its only

means of stepping into actuality.

Addition: The good is the truth of the particular will, but the will is only that into which it puts itself; it is not good by nature but can become what it is only by its own labour. On the other hand, the good itself, apart from the subjective will, is only an abstraction without that real existence which it is to acquire for the first time through the efforts of that will.

Accordingly, the development of the good has three stages: (i) The good should present itself to my volition as a particular will and I should know it. (ii) I should myself say what is good and should develop its particular specifications. (iii) Finally, the specification of the good on its own account, the particularisation of the good as infinite subjectivity aware of itself. This inward specifying of what good is, is conscience.

§ 132

The right of the subjective will is that whatever it is to recognise as valid shall be seen by it as good, and that an action, as its aim entering upon external objectivity, shall be imputed to it as right or wrong, good or evil, legal or illegal, in accordance with its *knowledge* of the worth which the action has in this objectivity.

Remark: The good is in principle the essence of the will in its substantiality and universality,

i.e. of the will in its truth, and therefore it exists simply and solely in thinking and by means of thinking. Hence assertions such as ‘man cannot know the truth but has to do only with phenomena’, or ‘thinking injures the good will’ are dogmas depriving mind not only of intellectual but also of all ethical worth and dignity.

The right of giving recognition only to what my insight sees as rational is the highest right of the subject, although owing to its subjective character it remains a formal right; against it the right which reason *qua* the objective possesses over the subject remains firmly established.

On account of its formal character, insight is capable equally of being true and of being mere opinion and error. The individual’s acquisition of this right of insight is, on the principles of the sphere which is still moral only, part and parcel of his particular subjective education. I may demand from myself, and regard it as one of my subjective rights, that my insight into an obligation shall be based on good reasons, that I shall be convinced of the obligation and even that I shall apprehend it from its concept and fundamental nature. But whatever I may claim for the satisfaction of my conviction about the character of an action as good, permitted, or forbidden, and so about its imputability in respect of this character, this in

no way detracts from the right of objectivity.

This right of insight into the good is distinct from the right of insight in respect of action as such (see § 117); the form of the right of objectivity which corresponds to the latter is this, that since action is an alteration which is to take place in an actual world and so will have recognition in it, it must in general accord with what has validity there. Whoever wills to act in this world of actuality has *eo ipso* submitted himself to its laws and recognised the right of objectivity.

Similarly, in the state as the objectivity of the concept of reason, legal responsibility cannot be tied down to what an individual may hold to be or not to be in accordance with his reason, or to his subjective insight into what is right or wrong, good or evil, or to the demands which he makes for the satisfaction of his conviction. In this objective field, the right of insight is valid as insight into the legal or illegal, *qua* into what is recognised as right, and it is restricted to its elementary meaning, i.e. to knowledge in the sense of acquaintance with what is legal and to that extent obligatory. By means of the publicity of the laws and the universality of manners, the state removes from the right of insight its formal aspect and the contingency which it still retains for the subject at the level of morality. The subject's right to know action in its specific character as good or evil, legal or illegal, has the result of diminishing or cancelling in this respect to the responsibility of children, imbeciles, and lunatics, although it is impossible to delimit precisely either childhood, imbecility, &c., or their degree of irresponsibility. But to turn momentary blindness, the goad of passion, intoxication, or, in a word, what is called the strength of sensual impulse (excluding impulses which are the basis of the right of distress—see § 127) into *reasons* when the imputation, specific character, and culpability of a crime are in question, and to look upon such circumstances as if they took away the criminal's guilt, again means (compare § 100 and the Remark to § 120) failing to treat the criminal in accordance with the right and honour due to him as a man; for the nature of man consists precisely in the fact that he is essentially something universal, not a being whose knowledge is an abstractly momentary and piecemeal affair.

Just as what the incendiary really sets on fire is not the isolated square inch of wooden surface to which he applies his torch, but the universal in that square inch, e.g. the house as a whole, so, as subject, he is neither the single existent of this moment of time nor this isolated hot feeling of revenge. If he were, he would be an animal which would have to be knocked on the head as dangerous and unsafe because of its liability to fits of madness.

The claim is made that the criminal in the moment of his action must have had a 'clear idea' of the wrong and its culpability before it can be imputed to him as a crime. At first sight, this claim seems to preserve the right of his subjectivity, but the truth is that it deprives him of his indwelling nature as intelligent, a nature whose effective presence is not confined to the 'clear ideas' of Wolff's psychology, and only in cases of lunacy is it so deranged as to be divorced from the knowing and doing of isolated things.

The sphere in which these extenuating circumstances come into consideration as grounds for the mitigation of punishment is a sphere other than that of rights, the sphere of pardon.

§ 133

The particular subject is related to the good as to the essence of his will, and hence his will's obligation arises directly in this relation. Since particularity is distinct from the good and falls within the subjective will, the good is characterised to begin with only as the universal abstract essentiality of the will, i.e. as duty. Since duty is thus abstract and universal in character, it should be done for duty's sake.

Addition: From my point of view the essence of the will is duty. Now if my knowledge stops at the fact that the good is my duty, I am still going no further than the abstract character of duty. I should do my duty for duty's sake, and when I do my duty it is in a true sense my own objectivity which I am bringing to realisation. In doing my duty, I am by myself and free. To have emphasised this meaning of duty has constituted the merit of Kant's moral philosophy and its loftiness of outlook.

§ 134

Because every action explicitly calls for a particular content and a specific end, while duty as an abstraction entails nothing of the kind, the question arises: what is my duty? As an answer nothing is so far available except: (a) to do the right, and (b) to strive after welfare, one's own welfare, and welfare in universal terms, the welfare of others (see § 119).

Addition: This is the same question as was put to Jesus when someone wished to learn from him what he should do to inherit eternal life. Good as a universal is abstract and cannot be accomplished so long as it remains abstract. To be accomplished it must acquire in addition the character of particularity.

§ 135

These specific duties, however, are not contained in the definition of duty itself; but since both of them are conditioned and restricted, they *eo ipso*

bring about the transition to the higher sphere of the unconditioned, the sphere of duty. Duty itself in the moral self-consciousness is the essence or the universality of that consciousness, the way in which it is inwardly related to itself alone; all that is left to it, therefore, is abstract universality, and for its determinate character it has identity without content, or the abstractly positive, the indeterminate.

Remark: However essential it is to give prominence to the pure unconditioned self-determination of the will as the root of duty, and to the way in which knowledge of the will, thanks to Kant's philosophy, has won its firm foundation and starting-point for the first time owing to the thought of its infinite autonomy, still to adhere to the exclusively moral position, without making the transition to the conception of ethics, is to reduce this gain to an empty formalism, and the science of morals to the preaching of duty for duty's sake. From this point of view, no immanent doctrine of duties is possible; of course, material may be brought in from outside and particular duties may be arrived at accordingly, but if the definition of duty is taken to be the absence of contradiction, formal correspondence with itself—which is nothing but abstract indeterminacy stabilised—then no transition is possible to the specification of particular duties nor, if some such particular content for acting comes under consideration, is there any criterion in that principle for deciding whether it is or is not a duty. On the contrary, by this means any wrong or immoral line of conduct may be justified.

Kant's further formulation, the possibility of visualising an action as a *universal* maxim, does lead to the more concrete visualisation of a situation, but in itself it contains no principle beyond abstract identity and the 'absence of contradiction' already mentioned.

The absence of property contains in itself just as little contradiction as the non-existence of this or that nation, family, &c., or the death of the whole human race. But if it is already established on other grounds and presupposed that property and human life are to exist and be respected, then indeed it is a contradiction to commit theft or murder; a contradiction must be a contradiction of something, i.e. of some content presupposed from the start as a fixed principle. It is to a principle of that kind alone, therefore, that an action can be related either by correspondence or contradiction. But if duty is to be willed simply for duty's sake and not for the sake of some content, it is only a formal identity whose nature it is to exclude all content and specification.

The further antinomies and configurations of this never-ending ought-to-be, in which the exclusively moral way of thinking—thinking in terms of

relation—just wanders to and fro without being able to resolve them and get beyond the ought-to-be, I have developed in my *Phenomenology of Mind*.

Addition: While we laid emphasis above on the fact that the outlook of Kant's philosophy is a high one in that it propounds a correspondence between duty and rationality, still we must notice here that this point of view is defective in lacking all articulation. The proposition: 'Act as if the maxim of thine action could be laid down as a universal principle', would be admirable if we already had determinate principles of conduct. That is to say, to demand of a principle that it shall be able to serve in addition as a determinant of universal legislation is to presuppose that it already possesses a content. Given the content, then of course the application of the principle would be a simple matter. In Kant's case, however, the principle itself is still not available and his criterion of non-contradiction is productive of nothing, since where there is nothing, there can be no contradiction either.

§ 136

Because of the abstract characterisation of the good, the other moment of the Idea—particularity in general—falls within subjectivity. Subjectivity in its universality reflected into itself is the subject's absolute inward certainty (*Gewissheit*) of himself, that which establishes the particular and is the determining and decisive element in him, his conscience (*Gewissen*).

Addition: We may speak in a very lofty strain about duty, and talk of the kind is uplifting and broadens human sympathies, but if it never comes to anything specific it ends in being wearisome. Mind demands particularity and is entitled to it. But conscience is this deepest inward solitude with oneself where everything external and every restriction has disappeared—this complete withdrawal into oneself. As conscience, man is no longer shackled by the aims of particularity, and consequently in attaining that position he has risen to higher ground, the ground of the modern world, which for the first time has reached this consciousness, reached this sinking into oneself. The more sensuous consciousness [For the distinction between sense-consciousness and 'more highly developed types of consciousness', see Remarks to §§ 21 and 35.] of earlier epochs had something external and given confronting it, either religion or law. But conscience knows itself as thinking and knows that what alone has obligatory force for me is this that I think.

§ 137

True conscience is the disposition to will what is absolutely good. It therefore has fixed principles and it is aware of these as its explicitly objective determinants and duties. In distinction from this its content (i.e.

truth), conscience is only the formal side of the activity of the will, which as *this* will has no special content of its own. But the objective system of these principles and duties, and the union of subjective knowing with this system, is not present until we come to the standpoint of ethical life. Here at the abstract standpoint of morality, conscience lacks this objective content and so its explicit character is that of infinite abstract self-certainty, which at the same time is for this very reason the self-certainty of *this* subject.

Remark: Conscience is the expression of the absolute title of subjective self-consciousness to know in itself and from within itself what is right and obligatory, to give recognition only to what it thus knows as good, and at the same time to maintain that whatever in this way it knows and wills is in truth right and obligatory. Conscience as this unity of subjective knowing with what is absolute is a sanctuary which it would be sacrilege to violate. But whether the conscience of a specific individual corresponds with this Idea of conscience, or whether what it takes or declares to be good is actually so, is ascertainable only from the content of the good it seeks to realise. What is right and obligatory is the absolutely rational element in the will's volitions and therefore it is not in essence the *particular* property of an individual, and its form is not that of feeling or any other private (i.e. sensuous) type of knowing, but essentially that of universals determined by thought, i.e. the form of laws and principles. Conscience is therefore subject to the judgment of its truth or falsity, and when it appeals only to itself for a decision, it is directly at variance with what it wishes to be, namely the rule for a mode of conduct which is rational, absolutely valid, and universal. For this reason, the state cannot give recognition to conscience in its private form as subjective knowing, any more than science can grant validity to subjective opinion, dogmatism, and the appeal to a subjective opinion. In true conscience, its elements are not different, but they may become so, and it is the determining element, the subjectivity of willing and knowing, which can sever itself from the true content of conscience, establish its own independence, and reduce that content to a form and a show. The ambiguity in connection with conscience lies therefore in this: it is presupposed to mean the *identity* of subjective knowing and willing with the true good, and so is claimed and recognised to be something sacrosanct; and yet at the same time, as the mere subjective reflection of self-consciousness into itself, it still claims for itself the title due, solely on the strength of its absolutely valid rational *content*, to that identity alone.

At the level of morality, distinguished as it is in this book from the level of ethics, it is only formal conscience that is to be found. True conscience has

been mentioned only to indicate its distinction from the other and to obviate the possible misunderstanding that here, where it is only formal conscience that is under consideration, the argument is about true conscience. The latter is part of the ethical disposition which comes before us for the first time in the following section. The religious conscience, however, does not belong to this sphere at all.

Addition: When we speak of conscience, it may easily be thought that, in virtue of its form, which is abstract inwardness, conscience is at this point without more ado true conscience. But true conscience determines itself to will what is absolutely good and obligatory and is this self-determination. So far, however, it is only with good in the abstract that we have to do and conscience is still without this objective content and is but the infinite certainty of oneself.

§ 138

This subjectivity, *qua* abstract self-determination and pure certainty of oneself alone, as readily evaporates into itself the whole determinate character of right, duty, and existence, as it remains both the power to judge, to determine from within itself alone, what is good in respect of any content, and also the power to which the good, at first only an ideal and an ought-to-be, owes its actuality.

Remark: The self-consciousness which has attained this absolute reflection into itself knows itself in this reflection to be the kind of consciousness which is and should be beyond the reach of every existent and given specific determination. As one of the commoner features of history (e.g. in Socrates, the Stoics, and others), the tendency to look deeper into oneself and to know and determine from within oneself what is right and good appears in ages when what is recognised as right and good in contemporary manners cannot satisfy the will of better men. When the existing world of freedom has become faithless to the will of better men, that will fails to find itself in the duties there recognised and must try to find in the ideal world of the inner life alone the harmony which actuality has lost. Once self-consciousness has grasped and secured its formal right in this way, everything depends on the character of the content which it gives to itself.

Addition: If we look more closely at this process of evaporation and see how all specific determinations disappear into this simple concept and then have to be condensed out of it again, what we find is that it is primarily due to the fact that everything recognised as right and duty may be proved by discursive thinking to be nugatory, restricted, and in all respects not absolute. On the other hand, just as subjectivity evaporates

every content into itself, so it may develop it out of itself once more. Everything which arises in the ethical sphere is produced by this activity of mind. The moral point of view, however, is defective because it is purely abstract. When I am aware of my freedom as the *substance* of my being, I am inactive and do nothing. But if I proceed to act and look for principles on which to act, I grope for something determinate and then demand its deduction from the concept of the free will.

While, therefore, it is right enough to evaporate right and duty into subjectivity, it is wrong if this abstract groundwork is not then condensed out again. It is only in times when the world of actuality is hollow, spiritless, and unstable, that an individual may be allowed to take refuge from actuality in his inner life. Socrates lived at the time of the ruin of the Athenian democracy. His thought vaporised the world around him and he withdrew into himself to search there for the right and the good. Even in our day there are cases when reverence for the established order is more or less lacking; man insists on having the authoritative as his will, as that to which he has granted recognition.

§ 139

Once self-consciousness has reduced all otherwise valid duties to emptiness and itself to the sheer inwardness of the will, it has become the potentiality of either making the absolutely universal its principle, or equally well of elevating above the universal the self-will of private particularity, taking that as its principle and realising it through its actions, i.e. it has become potentially evil.

Remark: To have a conscience, if conscience is only formal subjectivity, is simply to be on the verge of slipping into evil; in independent self-certainty, with its independence of knowledge and decision, both morality and evil have their common root.

The origin of evil in general is to be found in the mystery of freedom (i.e. in the speculative aspect of freedom), the mystery whereby freedom of necessity arises out of the natural level of the will and is something inward in comparison with that level. It is this natural level of the will which comes into existence as a self-contradiction, as incompatible with itself in this opposition, and so it is just this particularity of the will which later makes itself evil. That is to say, particularity is always duality; here it is the opposition of the natural level and the inwardness of the will. In this opposition, the latter is only a relative and abstract subjectivity which can draw its content only from the determinate content of the natural will, from desire, impulse, inclination, &c. Now it is said of these desires, impulses, &c., that they may be either good or evil. But since the will here

makes into a determinant of its content both these impulses in this contingent character which they possess as natural, and also, therefore, the form which it has at this point, the form of particularity itself, it follows that it is set in opposition to the universal as inner objectivity, to the good, which comes on the scene as the opposite extreme to immediate objectivity, the natural pure and simple, as soon as the will is reflected into itself and consciousness is a *knowing* consciousness. It is in this opposition that this inwardness of the will is evil. Man is therefore evil by a conjunction between his natural or undeveloped character and his reflection into himself; and therefore evil belongs neither to nature as such by itself—unless nature were supposed to be the natural character of the will which rests in its particular content—nor to introverted reflection by itself, i.e. cognition in general, unless this were to maintain itself in that opposition to the universal.

With this facet of evil, its necessity, there is inevitably combined the fact that this same evil is condemned to be that which of necessity ought not to be, i.e. the fact that evil ought to be annulled. It is not that there ought never to be a diremption of any sort in the will—on the contrary, it is just this level of diremption which distinguishes man from the unreasoning animal; the point is that the will should not rest at that level and cling to the particular as if that and not the universal were the essential thing; it should overcome the diremption as a nullity. Further, as to this necessity of evil, it is subjectivity, as infinite self-reflection, which is present in and confronted by this opposition of universal and particular; if it rests in this opposition, i.e. if it is evil, then it is *eo ipso* independent, regarding itself as isolated, and is itself this Self-Will. Therefore if the individual subject as such does evil, the evil is purely and simply his own responsibility.

Addition: The abstract self-certainty which knows itself as the basis of everything has in it the potentiality either of willing the universality of the concept or alternatively of taking a particular content as a principle and realising that. The second alternative is evil, which therefore always includes the abstraction of self-certainty. It is only man who is good, and he is good only because he can also be evil. Good and evil are inseparable, and their inseparability is rooted in the fact that the concept becomes an object to itself, and as object it *eo ipso* acquires the character of difference. The evil will wills something opposed to the universality of the will, while the good will acts in accordance with its true concept.

The difficulty of the question as to how the will can be evil as well as good usually arises because we think of the will as related to itself purely positively and because we represent its volition as something determinate confronting it, as the good. But the problem of the origin of evil may be

more precisely put in the form: 'How does the negative come into the positive?' If we begin by presupposing that in the creation of the world God is the absolutely positive, then, turn where we will, we shall never discover the negative within that positive, since to talk of God's 'Permitting' evil is to ascribe to him a passive relation to evil which is unsatisfactory and meaningless. In the representative thinking of religious mythology there is no comprehension of the origin of evil; i.e. the positive and the negative are not discovered in one another, there is only a representation of their succession and juxtaposition, so that it is from outside that the negative comes to the positive. But this cannot satisfy thought, which demands a reason and a necessity and insists on apprehending the negative as itself rooted in the positive. Now the solution of the problem, the way the concept treats the matter, is already contained in the concept, since the concept, or to speak more concretely, the Idea, has it in its essence to differentiate itself and to posit itself negatively. If we adhere to the purely positive, i.e. if we rest in the unmixed good which is supposed to be good at its source, then we are accepting an empty category of the Understanding which clings to abstractions and one-sided categories of this kind and by the very asking of this question makes it a difficult one. If we begin with the standpoint of the concept, however, we apprehend the positive as activity and as self-distinction. Evil and good alike have their origin in the will and the will in its concept is both good and evil.

The natural will is implicitly the contradiction of self-distinction, of being both inwardness and also self-awareness. To maintain then that evil implies the further point that man is evil in so far as his will is natural would be to contradict the usual idea that it is just the natural will which is guiltless and good. But the natural will stands in opposition to the content of freedom, and the child and the uneducated man, whose wills are only natural, are for that very reason liable to be called to account for their actions only in a less degree. Now when we speak of man, we mean not the child but the self-conscious adult, and when we speak of good, we mean the knowledge of it. It is doubtless true that the natural is inherently innocent, neither good nor bad, but when it is drawn into the orbit of the will which is free and knows that it is free, it acquires the character of not being free and is therefore evil. When man *wills* the natural, it is no longer merely natural, but the negative opposed to the good, i.e. to the concept of the will.

On the other hand, if it is now objected that since evil is rooted in the concept and inevitable, man would be guiltless if he committed it, our reply must be that a man's decision is his own act, and his own act is freely

chosen and his own responsibility. In the religious legend it is said that man is as God when he knows good and evil; and it is true that this likeness to God is present in such knowledge in that the inevitability here is no natural inevitability since on the contrary the decision is really the transcendence of this duality of good and evil. When both good and evil are placed before me, I have a choice between the two; I can decide between them and endow my subjective character with either. Thus the nature of evil is that man may will it but need not.

§ 140

In every end of a self-conscious subject, there is a *positive* aspect (see § 135) necessarily present because the end is what is purposed in an actual concrete action. This aspect he knows how to elicit and emphasise, and he may then proceed to regard it as a duty or a fine intention. By so interpreting it, he is enabled to pass off his action as good in the eyes both of himself and others, despite the fact that, owing to his reflective character and his knowledge of the universal aspect of the will, he is aware of the contrast between this aspect and the essentially negative content of his action. To impose in this way on others is hypocrisy; while to impose on oneself is a stage beyond hypocrisy, a stage at which subjectivity claims to be absolute.

Remark: This final, most abstruse, form of evil, whereby evil is perverted into good and good into evil, and consciousness, in being aware of its power to effect this perversion, is also made aware of itself as absolute, is the high-water mark of subjectivity at the level of morality; it is the form into which evil has blossomed in our present epoch, a result due to philosophy, i.e. to a shallowness of thought which has twisted a profound concept into this shape and usurped the name of philosophy, just as it has arrogated to evil the name of good.

In this Remark, I will indicate briefly the chief forms of this subjectivity which have become current.

- (a) In hypocrisy the following moments are contained:
- [a] knowledge of the true universal, whether knowledge in the form merely of a feeling for right and duty, or of a deeper cognition and apprehension of them;
 - [b] volition of the particular which conflicts with this universal;
 - [c] conscious comparison of both moments [a] and [b], so that the conscious subject is aware in willing that his particular volition is evil in character.

These points are descriptive of acting with a bad conscience; hypocrisy

proper involves something more.

At one time great importance was attached to the question whether an action was evil only in so far as it was done with a bad conscience, i.e. with explicit knowledge of the three moments just specified. The inference from an affirmative answer is admirably drawn by Pascal: *Ils seront tous damnés ces demi-pécheurs, qui ont quelque amour pour la vertu. Mais pour ces franc-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.*

Footnote: *Lettres provinciales*, iv. In the same context, Pascal also quotes Christ's intercession on the Cross for his enemies: 'Father, forgive them, for they know not what they do'—a superfluous prayer if the fact that they did not know what they did made their action innocent and so took away the need of forgiveness. Pascal quotes there too Aristotle's distinction between the man who acts *οὐκ εἶδος* and the one who acts *ἄγνων*; in the former type of ignorance, his action is not freely willed (here the ignorance depends on external circumstances, see above, § 117) and his action is not imputable to him. But of the latter Aristotle says: 'Every wicked man is ignorant of what he ought to do and what he ought to refrain from doing; and it is this kind of failure (*ἀμαρτία*) which makes men unjust and in general bad. ... An ignorant choice' between good and evil 'is the cause not of the action's being involuntary' (of being non-imputable) 'but only of its being wicked'. Aristotle evidently had a deeper insight into the connection between knowing and willing than has become common in a superficial philosophy which teaches that the opposite of knowledge, the heart and enthusiasm, are the true principles of ethical action.

The subjective right of self-consciousness to know whether an action is truly good or evil in character must not be thought of as so colliding with the absolute right of the objectivity of this character that the two rights are represented as separable, indifferent to one another, and related only accidentally. It was such a conception of their relation that lay in particular at the root of the old questions about efficacious grace. On its formal side, evil is most peculiarly the individual's own, since **(a)** it is precisely his subjectivity establishing itself purely and simply for itself, and for that reason it is purely and simply the individual's own responsibility (see § 139 and the Remark thereto); **(b)** on his objective side man accords with his concept inasmuch as he is mind, in a word a rational entity, and has in his own nature as such the character of self-knowing universality. Therefore it means failing to treat him with the respect due to his concept if his good side is divorced from him, so that the character of his evil action as evil is divorced from him too and is not imputed to him as evil. How determinate is the consciousness of these moments in distinction from

one another, or to what extent it has developed or failed to develop in clarity so as to become a recognition of them, and to what degree an evil action has been done with a conscience more or less downright evil—all these questions are the more trivial aspect of the matter, the aspect mainly concerned with the empirical.

(b) Evil and doing evil with a bad conscience, however, is not quite hypocrisy. Into hypocrisy there enters in addition the formal character of falsity, first the falsity of holding up evil as good in the eyes of others, of setting oneself up to all appearance as good, conscientious, pious, and so on—conduct which in these circumstances is only a trick to deceive others. Secondly, however, the bad man may find in his good conduct on other occasions, or in his piety, or, in a word, in good reasons, a justification in his own eyes for the evil he does, because he can use these reasons to pervert its apparent character from evil into good. His ability to do this depends on the subjectivity which, as abstract negativity, knows that all determinations are subordinate to itself and issue from its own will.

(c) In this perversion of evil into good we may *prima facie* include the form of subjectivism known as Probabilism. Its guiding principle is that an action is permissible, and may be done with an easy conscience, provided that the agent can hunt out any single good reason for it, be it only the authority of a single theologian, and even if other theologians are known by the agent to dissent ever so widely from that authority. Even in this idea there is still present the correct apprehension that authority and a reason based on authority gives probability only, although this is supposed to be enough to produce an easy conscience; it is granted in Probabilism that a good reason is inevitably of such a character that there may exist along with it different reasons at least as good. Even here we must recognise a vestige of objectivity in the admission that it is a reason which should be the determining factor. But since the discrimination between good and evil is made to depend on all those good reasons, including theological authorities too, despite the fact that they are so numerous and contradictory, the implication is that it is not this objectivity of the thing, but subjectivity, which has the last word. This means that caprice and self-will are made the arbiters of good and evil, and the result is that ethics as well as religious feeling is undermined. But the fact that it is private subjectivity to which the decision falls is one which Probabilism does not openly avow as its principle; on the contrary, as has already been stated, it gives out that it is some reason or other which is decisive, and Probabilism is to that extent still a form of hypocrisy.

(d) In the stages of subjectivism, the next in ascending order is the view that the goodness of the will consists in its willing the good; this

willing of the abstract good is supposed to suffice, in fact to be the sole requisite, to make its action good. As the willing of something determinate, action has a content, but good in the abstract determines nothing, and hence it devolves on particular subjectivity to give this content its character and constituents. just as in Probabilism anyone who is not himself a learned *Révérénd Père* may have the subsumption of a determinate content under the universal predicate ‘good’ effected for him by the sole authority of one such theologian, so here every subject, without any further qualification, is invested with this honour of giving a content to good in the abstract, or in other words subsuming a content under a universal. This content is only one of the many elements in an action as a concrete whole, and the others may perhaps entail its description as ‘criminal’ and ‘bad’. That determinate content which I, as subject, give to the good, however, is the good known to me in the action, i.e. it is my good intention (see § 114). Thus there arises a contradiction between descriptions: according to one the action is good, according to the other it is criminal. Hence also there seems to arise, in connection with a concrete action, the question whether in such circumstances the intention behind it is actually good. It may generally be the case that the good is what is actually intended; but this in fact must always be the case if it is held that good in the abstract is the subject’s determining motive. Where wrong is done through an action which is well intentioned but in other respects criminal and bad, the wrong so done must, of course, also be good, and the important question would seem to be: which of these sides of the action is really the essential one? This objective question, however, is here out of place, or rather it is the subjective consciousness alone whose decision constitutes objectivity at this point. Besides, ‘essential’ and ‘good’ mean the same thing; one is just as much an abstraction as the other. Good is that which is essential in respect of the will; and the essential in this respect should be precisely this, that my action be characterised as good in my eyes. But the subsumption under the good of any content one pleases is the direct and explicit result of the fact that this abstract good is totally devoid of content and so is simply reduced to meaning anything positive, i.e. to something which is valid from some single point of view and which in its immediate character may even be valid as an essential end, as for example to do good to the poor, to take thought for myself, my life, my family, and so forth. Further, just as the good is the abstract, so the bad too must be without content and derive its specification from my subjectivity; and it is in this way also that there arises the moral end of hating and uprooting the bad, the nature of the bad being left unspecified.

Theft, cowardice, murder, and so forth, as actions, i.e. as achievements of a subjective will, have the immediate character of being satisfactions of such a will and therefore of being something positive. In order to make the action a good one, it is only a question of recognising this positive aspect of the action as my intention, and this then becomes the essential aspect in virtue of which the action is made good, simply because I recognise it as the good in my intention. Theft in order to do good to the poor, theft or flight from battle for the sake of fulfilling one's duty to care for one's life or one's family (a poor family perhaps into the bargain), murder out of hate or revenge (i.e. in order to satisfy one's sense of one's own rights or of right in general, or one's sense of another's wickedness, of wrong done by him to oneself or to others or to the world or the nation at large, by extirpating this wicked individual who is wickedness incarnate, and thereby contributing at least one's quota to the project of uprooting the bad)—all these actions are made well intentioned and therefore good by this method of taking account of the positive aspect of their content. Only the bare minimum of intelligence is required to discover in any action, as those learned theologians can, a positive side and so a good reason for it and a good intention behind it. Hence it has been said that in the strict sense there are no wicked men, since no one wills evil for the sake of evil, i.e. no one wills a pure negative as such. On the contrary, everyone always wills something positive, and therefore, on the view we are considering, something good. In this abstract good the distinction between good and evil has vanished together with all concrete duties; for this reason, simply to will the good and to have a good intention in acting is more like evil than good, because the good willed is only this abstract form of good and therefore to make it concrete devolves on the arbitrary Will of the subject.

To this context there also belongs the notorious maxim: 'The end justifies the means.' In itself and prima facie this expression is trivial and pointless. Quite so, one may retort in terms equally general, a just end of course justifies the means, while an unjust end does not. The phrase: so 'If the end is right, so is the means' is a tautology, since the means is precisely that which is nothing in itself but is for the sake of something else, and therein, i.e. in the end, has its purpose and worth—provided of course it be truly a means.

But when someone says that the end justifies the means, his purport is not confined to this bare tautology; he understands by the words something more specific, namely that to use as means to a good end something which in itself is simply not a means at all, to violate something in itself sacrosanct, in short to commit a crime as a means to a good end, is

permissible and even one's bounden duty. (i) There floats before the minds of those who say that the end justifies the means a vague consciousness of the dialectic of the aforesaid 'positive' element in isolated legal or ethical principles, or of such equally vague general maxims as: 'Thou shalt not kill', or 'Thou shalt take thought for thy welfare and the welfare of thy family'. Executioners and soldiers have not merely the right but the duty to kill men, though there it has been precisely laid down what kind of men and what circumstances make the killing permissible and obligatory. So also my welfare and the welfare of my family must be subordinated to higher ends and so reduced to means to their attainment. (ii) And yet what bears the mark of crime is not a general maxim of that kind, left vague and still subject to a dialectic; on the contrary, its specific character is already objectively fixed. Now what is set up against such a determinate crime, what is supposed to have deprived the crime of its criminal nature, is the justifying end, and this is simply subjective opinion about what is good and better. What happens here is the same as what happens when the will stops at willing good in the abstract, i.e. the absolute and valid determinate character assigned to good and evil, right and wrong, is entirely swept away and the determination of them is ascribed instead to the individual's feeling, imagination, and caprice.

(e) Subjective opinion is at last expressly given out as the measuring-rod of right and duty and it is supposed that the conviction which holds something to be right is to decide the ethical character of an action. Since the good we will to do is here still without content, the principle of conviction only adds the information that the subsumption of an action under the category of good is purely a personal matter. If this be so, the very pretence of an ethical objectivity has totally disappeared. A doctrine like this is directly connected with the self-styled philosophy, often mentioned already, which denies that the truth is knowable—and the truth of mind *qua* will, the rationality of mind in its self-actualising process, is the laws of ethics. Asserting, as such philosophising does, that the knowledge of the true is an empty vanity, transcending the territory of science (which is supposed to be mere appearance), it must in the matter of action at once find its principle also in the apparent; thereby ethics is reduced to the special theory of life held by the individual and to his private conviction: The degradation into which philosophy has thus sunk appears doubtless at a first glance to be only an affair of supreme indifference, an occurrence confined to the trivial field of academic futilities; but the view necessarily makes itself a home in ethics, an essential part of philosophy; and it is then that the true meaning of these theories makes its first appearance in and is apprehended by the world of actuality.

The result of the dissemination of the view that subjective conviction, and it alone, decides the ethical character of an action is that the charge of hypocrisy, once so frequent, is now rarely heard; you can only qualify wickedness as hypocrisy on the assumption that certain actions are inherently and actually misdeeds, vices and crimes, and that the defaulter is necessarily aware of them as such, because he is aware of and recognises the principles and outward acts of piety and honesty even in the pretence to which he misapplies them. In other words, it was generally assumed as regards evil that it is a duty to know the good and to be aware of its distinction from evil. In any case, however, it was an absolute injunction which forbade the commission of vicious and criminal actions and which insisted on such actions being imputed to the agent, so far as he was a man and not a beast. But if a good heart, a good intention, a subjective conviction are set forth as the sources from which conduct derives its worth, then there is no longer any hypocrisy or immorality at all; for whatever a man does, he can always justify by the reflection on it of good intentions and motives, and by the influence of that conviction it is good.

Footnote: “That he feels completely *convinced* I have not the least doubt. But how many men are led by such feelings of conviction into the worst of misdeeds! Besides, if everything may be excused on this ground, then that terminates the rational judgment of good and wicked, honourable and shameful, resolutions. Lunacy in that case would have equal rights with reason; or in other words reason would have no rights whatever, its judgment would cease to have any validity. Its voice would be a minus quantity; truth would be the possession of the man with no doubts! I tremble at the results of such toleration, for it would be exclusively to the advantage of unreason. (Jacobi 1802.)

Thus there is no longer anything absolutely vicious or criminal; and instead of the abovementioned frank and free, hardened and unperturbed sinner, we have the man who is conscious of being fully justified by intention and conviction. My good intention in my action and my conviction of its goodness make it good. We speak of judging and estimating an *action*; but on this principle it is only the intention and conviction of the agent, his faith, by which he ought to be judged. Not, however, his faith in the sense in which Christ requires faith in objective truth, so that on one who has a false faith, i.e. a conviction bad in its content, the judgment to be pronounced must be a condemnation, i.e. one in conformity with this content. On the contrary, faith here means fidelity to conviction, and the question to be asked about action is: ‘Has the agent in his acting kept true to his conviction?’ Fidelity to formal subjective conviction is thus made the sole measuring-rod of duty.

This principle, under which conviction is expressly made something subjective, cannot but thrust upon us the thought of possible error, with the further implied presupposition of an absolute law. But the law is no agent; it is only the actual human being who acts. And, on the aforesaid principle, the only question, in estimating the worth of human actions, is how far he has taken up the law into his conviction. But if on this theory it is not actions which are to be judged, i.e. measured generally, by that law, it is impossible to see what the law is for and what end it is to serve. Such a law is degraded to a mere external letter, in fact to an empty word, if it is only my conviction which makes it a law and invests it with obligatory force.

Such a law may claim its authority from God or the state. It may even have behind it the authority of tens of centuries during which it was the bond which gave men, with all their deeds and destiny, coherence and subsistence. And these are authorities which enshrine the convictions of countless individuals. Now if I set against these the authority of my single conviction—for as my subjective conviction its sole validity is authority—that at first seems a piece of monstrous self-conceit, but in virtue of the principle that subjective conviction is to be the measuring-rod, it is pronounced not to be self-conceit at all.

Even if reason and conscience—which shallow science and bad sophistry can never altogether expel—admit with a noble illogicality that error is possible, still by describing crime, and evil generally, as only an error, we minimise the fault. To err is human—who has not been mistaken on one point or another, whether he had fresh or pickled cabbage for dinner yesterday, and about innumerable other things of more or less importance? But the difference between importance and triviality vanishes if everything turns on the subjectivity of conviction and on persistence in it. The said noble illogicality which admits the possibility of error is inevitable then in the nature of the case, but when it comes round to say that a wrong conviction is only an error, it only falls into a further illogicality, the illogicality of dishonesty. At one moment conviction is made the basis of ethics and of man's supreme value, and is thus pronounced the supreme and the sacrosanct; at another, all we have to do with is error, and my conviction is something trivial and casual, in fact something strictly external, which may turn out this way or that. Really, my being convinced is something supremely trivial if I cannot know the truth; for then it is a matter of indifference how I think, and all that is left to my thinking is that empty good, the abstraction to which the Understanding reduces the good.

One other point. It follows further, on this principle of justification by

conviction, that logic requires me, in dealing with the way others act against my action, to admit that they are quite in the right—so far at any rate as they maintain with faith and conviction that my action is criminal. On such logic, not merely do I gain nothing, I am even deposed from the post of liberty and honour into a situation of slavery and dishonour. Justice, which in the abstract is mine as well as theirs, I feel only as a foreign subjective conviction, and when it is executed on me, I fancy myself to be treated only by an external force.

(f) Finally, the supreme form in which this subjectivism is completely comprised and expressed is the phenomenon which has been called by a name borrowed from Plato—‘Irony’. The name alone, however, is taken from Plato; he used it to describe a way of speaking which Socrates employed in conversation when defending the Idea of truth and justice against the conceit of the Sophists and the uneducated. What he treated ironically, however, was only their type of mind, not the Idea itself. Irony is only a manner of talking against people. Except as directed against persons, the essential movement of thought is dialectic, and Plato was so far from regarding the dialectical in itself, still less irony, as the last word in thought and a substitute for the Idea, that he terminated the flux and reflux of thinking, let alone of a subjective opinion, and submerged it in the substantiality of the Idea.

Footnote: My colleague, the late Professor Solger, adopted the word ‘irony’ which Friedrich von Schlegel brought into use at a comparatively early period of his literary career and enhanced to equivalence with the said principle of subjectivity knowing itself as supreme. But Solger’s finer mind was above such an exaggeration; he had philosophic insight and so seized upon, emphasised, and retained only that part of Schlegel’s view which was dialectic in the strict sense, i.e. dialectic as the pulsating drive of speculative inquiry. His last publication, a solid piece of work, a thorough *Kritik über die Vorlesungen des Herrn August Wilhelm von Schlegel über dramatische Kunst und Literatur*, I find somewhat obscure, however, and I cannot agree with the argument which he develops. ‘True irony’, he says, ‘arises from the view that so long as man lives in this present world, it is only in this world that he can fulfil his "appointed task" no matter how elevated a sense we give to this expression. Any hope we may have of transcending finite ends is foolish and empty conceit. ‘Even the highest is existent for our conduct only in a shape that is limited and finite.’ Rightly understood, this is Platonic doctrine, and a true remark in rejection of what he has referred to earlier, the empty striving towards the (abstract) infinite. But to say that the highest is existent in a limited and finite shape, like the ethical order (and that order is in essence actual life and action), is very different

from saying that the highest thing is a *finite* end. The outward shape, the form of finitude, in no way deprives the content of ethical life of its substantiality and the infinity inherent within it. Solger continues: ‘And just for this reason the highest is in us as negligible as the lowest and perishes of necessity with us and our nugatory thoughts and feelings. The highest is truly existent in God alone, and as it perishes in us it is transfigured into something divine, a divinity in which we would have had no share but for its immediate presence revealed in the very disappearance of our actuality; now the mood to which this process directly comes home in human affairs is tragic irony.’ The arbitrary name ‘irony’ would be of no importance, but there is an obscurity here when it is said that it is ‘the highest’ which perishes with our nothingness and that it is in the disappearance of our actuality that the divine is first revealed; e.g. again (*ibid.*, p. 91): ‘We see heroes beginning to wonder whether they have erred in the noblest and finest elements of their feelings and sentiments, not only in regard to their successful issue, but also to their source and their worth; indeed, what elevates us is the destruction of the best itself.’ (The *just* destruction of utter scoundrels and criminals who flaunt their villainy—the hero of a modern tragedy *Die Schuld*, is one—has an interest for criminal law, but none at all for art proper which is what is in question here.) The *tragic* destruction of figures whose ethical life is on the highest plane can interest and elevate us and reconcile us to its occurrence only in so far as they come on the scene in opposition to one another together with equally justified but different ethical powers which have come into collision through misfortune, because the result is that then these figures acquire guilt through their opposition to an ethical law. Out of this situation there arises the right and wrong of both parties and therefore the true ethical Idea, which, purified and in triumph over this one-sidedness, is thereby reconciled in us. Accordingly, it is not the highest in us which perishes; we are elevated not by the destruction of the best but by the triumph of the true. This it is which constitutes the true, purely ethical, interest of ancient tragedy (in romantic tragedy the character of the interest undergoes a certain modification). All this I have worked out in detail in my *Phenomenology of Mind*. But the ethical Idea is actual and pregnant in the world of social institutions without the misfortune of tragic clashes and the destruction of individuals overcome by this misfortune. And this Idea’s (the highest’s) revelation of itself in its actuality as anything but a nullity is what the external embodiment of ethical life, the state, purposes and effects, and what the ethical self-consciousness possesses, intuits, and knows in the state and what the thinking mind comprehends there.

The culminating form of this subjectivity which conceives itself as the final court of appeal—our topic here—can be nothing except what was implicitly present already in its preceding forms, namely subjectivity knowing itself as the arbiter and judge of truth, right, and duty. It consists then in this, that it knows the objective ethical principles, but fails in self-forgetfulness and self-renunciation to immerse itself in their seriousness and to base action upon them. Although related to them, it holds itself aloof from them and knows itself as that which wills and decides thus, although it may equally well will and decide otherwise. You actually accept a law, it says, and respect it as absolute. So do I, but I go further than you, because I am beyond this law and can make it to suit myself. It is not the thing that is excellent, but I who am so; as the master of law and thing alike, I simply play with them as with my caprice; my consciously ironical attitude lets the highest perish and I merely hug myself at the thought. This type of subjectivism not merely substitutes a void for the whole content of ethics, right, duties, and laws—and so is evil, in fact evil through and through and universally—but in addition its form is a subjective void, i.e. it knows itself as this contentless void and in this knowledge knows itself as absolute.

In my *Phenomenology of Mind*, I have shown how this absolute self-complacency fails to rest in a solitary worship of itself but builds up a sort of community whose bond and substance is, e.g., the ‘mutual Asseveration of conscientiousness and good intentions, the enjoyment of this mutual purity’, but is above all ‘the refreshment derived from the glory of this self-knowledge and self-expression, from the glory of fostering and cherishing this experience’. I have shown also how what has been called a ‘beautiful soul’—that still nobler type of subjectivism which empties the objective of all content and so fades away until it loses all actuality—is a variation of subjectivism like other forms of the same phenomenon akin to the series of them here considered. What is said here may be compared with the entire section (C), ‘Conscience’, in the *Phenomenology*, especially the part dealing with the transition to a higher stage—a stage, however, there different in characters

Addition: Representative thinking may go further and pervert the evil will into a show of goodness. Although it cannot alter the nature of evil, it can invest it with a show of goodness. Since every action has a positive aspect, and since the category of good as opposed to evil is likewise reduced to positivity, I may claim that my action in its bearing on my intention is good. Thus evil has good linked with it not only in my consciousness but also if we look at my action on its positive side. When self-consciousness gives out, to others only, that its action is good, this form of subjectivism

is hypocrisy. But if it goes so far as to claim that the deed is good in its own eyes also, then we have a still higher peak of the subjectivism which knows itself as absolute. For this type of mind absolute good and absolute evil have both vanished, and the subject is therefore at liberty to pass himself off at discretion as anything he likes. This is the position of the absolute sophistry which usurps the office of lawgiver and rests the distinction between good and evil on its own caprice. The chief hypocrites are the pious ones (the Tartuffes) who are punctilious in every ritual observance and may even be religious to all appearance, while yet they do just as they please. There is little mention of hypocrites nowadays, partly because the accusation of hypocrisy seems to be too harsh; partly, however, because hypocrisy in its naive form has more or less disappeared. This downright falsehood, this veneer of goodness, has now become too transparent not to be seen through, and the divorce between doing good with one hand and evil with the other no longer occurs, since advancing culture has weakened the opposition between these categories.

Instead, hypocrisy has now assumed the subtler form of Probabilism, which involves the agent's attempt to represent a transgression as something good from the point of view of his private conscience. This doctrine can only arise when the moral and the good are determined by authority, with the result that there are as many reasons as there are authorities for supposing that evil is good. Casuist theologians, Jesuits especially, have worked up these cases of conscience and multiplied them *ad infinitum*.

These cases have now been elaborated to such a high degree of subtlety that numerous clashes have arisen between them, and the opposition between good and evil has become so weak that in single instances they appear to turn into one another. The only desideratum now is probability, i.e. something approximately good, something which may be supported by any single reason or authority. Thus the special characteristic of this attitude is that its content is purely abstract; it sets up the concrete content as something inessential or rather abandons it to bare opinion. On this principle, anyone may have committed a crime and yet have willed the good. For example, if a bad character is murdered, the positive side of the action may be given out to be the withstanding of evil and the will to diminish it.

Now the next step beyond Probabilism is that it is no longer a question of someone else's statement or authority; it is a question only of the subject himself, i.e. of his own convictions conviction which alone is able to make a thing good. The defect here is that everything is supposed to fall within the orbit of conviction alone and that the absolutely right, for which this

conviction should be only the form, no longer exists. It is certainly not a matter of indifference whether I do something by habit and custom or because I am actuated throughout by the truth which underlies these. But objective truth is still different from my conviction, because conviction lacks the distinction between good and evil. Conviction always remains conviction, and the bad could only be that of which I am not convinced.

Now while this obliteration of good and evil implies a very lofty attitude, there is involved in this attitude the admission that it is subject to error, and to that extent it is brought down from its pedestal into mere fortuitousness and seems undeserving of respect. Now this form of subjectivism is irony, the consciousness that this principle of conviction is not worth much and that, lofty criterion though it be, it is only caprice that governs it. This attitude is really a product of Fichte's philosophy, which proclaims that the Ego is absolute, i.e. is absolute certainty, the 'universal self-hood' which advances through a course of further development to objectivity. Of Fichte himself it cannot properly be said that he made subjective caprice a guiding principle in ethics, but, later on, this principle of the mere particular, in the sense of 'particular self-hood', was deified by Friedrich von Schlegel with reference to the good and the beautiful. As a result, he made objective goodness only an image of my conviction, receiving support from my efforts alone, and dependent for its appearance and disappearance on me as its lord and master. If I relate myself to something objective, it vanishes at the same moment before my eyes, and so I hover over a pit of nothingness, summoning shapes from the depths and annihilating them. This supreme type of subjectivism can emerge only in a period of advanced culture when faith has lost its seriousness, and its essence is simply 'all is vanity'.

Transition from Morality to Ethical Life

§ 141

For the good as the substantial universal of freedom, but as something still abstract, there are therefore required determinate characteristics of some sort and the principle for determining them, though a principle identical with the good itself. For conscience similarly, as the purely abstract principle of determination, it is required that its decisions shall be universal and objective. If good and conscience are each kept abstract and thereby elevated to independent totalities, then both become the indeterminate which ought to be determined. But the integration of these two relative totalities into an absolute identity has already been implicitly achieved in that this very subjectivity of pure self-certainty, aware in its vacuity of its gradual evaporation, is identical with the abstract universality of the good.

The identity of the good with the subjective will, an identity which therefore is concrete and the truth of them both, is Ethical Life.

Remark: The details of such a transition of the concept are made intelligible in logic. Here, however, it need only be said that it is the nature of the restricted and the finite (i.e. here the abstract good which only ought to be [but is not], and the equally abstract subjectivity which only *ought* to be good [but is not]) to have its opposite implicit within it, the good its actuality, and subjectivity (the moment in which ethical life is actual) the good; but since they are one-sided they are not yet posited in accordance with their implicit nature. They become so posited in their negation. That is to say, in their one-sidedness, when each is bent on declining to have in it what is in it implicitly—when the good is without subjectivity and a determinate character, and the determining principle, subjectivity, is without what is implicit within it—and when both build themselves into independent totalities, they are annulled and thereby reduced to moments, to moments of the concept which becomes manifest as their unity and, having acquired reality precisely through this positing of its moments, is now present as Idea—as the concept which has matured its determinations to reality and at the same time is present in their identity as their implicit essence.

The embodiment of freedom which was [a] first of all immediate as right, is [b] characterised in the reflection of self-consciousness as good. [c] The third stage, originating here, in its transition from [b] to ethical life, as the truth of good and subjectivity, is therefore the truth both of subjectivity and right. Ethical life is a subjective disposition, but one imbued with what is inherently right. The fact that this Idea is the truth of the concept of freedom is something which, in philosophy, must be proved, not presupposed, not adopted from feeling or elsewhere. This demonstration is contained only in the fact that right and the moral self-consciousness both display in themselves their regression to this Idea as their outcome. Those who hope to be able to dispense with proof and demonstration in philosophy show thereby that they are still far from knowing the first thing about what philosophy is. On other topics argue they may, but in philosophy they have no right to join in the argument if they wish to argue without the concept.

Addition: Each of the two principles hitherto discussed, namely good in the abstract and conscience, is defective in lacking its opposite. Good in the abstract evaporates into something completely powerless, into which I may introduce any and every content, while the subjectivity of mind becomes just as worthless because it lacks any objective significance. Thus a longing may arise for an objective order in which man gladly degrades

himself to servitude and total subjection, if only to escape the torment of vacuity and negation. Many Protestants have recently gone over to the Roman Catholic Church, and they have done so because they found their inner life worthless and grasped at something fixed, at a support, an authority, even if it was not exactly the stability of thought which they caught.

The unity of the subjective with the objective and absolute good is ethical life, and in it we find the reconciliation which accords with the concept. Morality is the form of the will in general on its subjective side. Ethical life is more than the subjective form and the self-determination of the will; in addition it has as its content the concept of the will, namely freedom. The right and the moral cannot exist independently; they must have the ethical as their support and foundation, for the right lacks the moment of subjectivity, while morality in turn possesses that moment alone, and consequently both the right and the moral lack actuality by themselves. Only the infinite, the Idea, is actual. Right exists only as a branch of a whole or like the ivy which twines itself round a tree firmly rooted on its own account.

Third Part: Ethical Life

§ 142

ETHICAL LIFE is the Idea of freedom in that on the one hand it is the good become alive—the good endowed in self-consciousness with knowing and willing and actualised by self-conscious action—while on the other hand self-consciousness has in the ethical realm its absolute foundation and the end which actuates its effort. Thus ethical life is the concept of freedom developed into the existing world and the nature of self-consciousness.

§ 143

Since this unity of the concept of the will with its embodiment—i.e. the particular will—is knowing, consciousness of the distinction between these two moments of the Idea is present, but present in such a way that now each of these moments is in its own eyes the totality of the Idea and has that totality as its foundation and content.

§ 144

[a] The objective ethical order, which comes on the scene in place of good in the abstract, is substance made concrete by subjectivity as infinite form. Hence it posits within itself distinctions whose specific character is thereby determined by the concept, and which endow the ethical order

with a stable content independently necessary and subsistent in exaltation above subjective opinion and caprice. These distinctions are absolutely valid laws and institutions.

Addition: Throughout ethical life the objective and subjective moments are alike present, but both of them are only its forms. Its substance is the good, i.e. the objective is filled with subjectivity. If we consider ethical life from the objective standpoint, we may say that in it we are ethical unselfconsciously. In this sense, Antigone proclaims that ‘no one knows whence the laws come; they are everlasting’, i.e. their determinate character is absolute and has its source in the nature of the thing. None the less, however, the substance of ethical life has a consciousness also, though the status of this consciousness is never higher than that of being one moment.

§ 145

It is the fact that the ethical order is the system of these specific determinations of the Idea which constitutes its rationality. Hence the ethical order is freedom or the absolute will as what is objective, a circle of necessity whose moments are the ethical powers which regulate the life of individuals. To these powers individuals are related as accidents to substance, and it is in individuals that these powers are represented, have the shape of appearance, and become actualised.

Addition: Since the laws and institutions of the ethical order make up the concept of freedom, they are the substance or universal essence of individuals, who are thus related to them as accidents only. Whether the individual exists or not is all one to the objective ethical order. It alone is permanent and is the power regulating the life of individuals. Thus the ethical order has been represented by mankind as eternal justice, as gods absolutely existent, in contrast with which the empty business of individuals is only a game of see-saw.

§ 146

[b] The substantial order, in the self-consciousness which it has thus actually attained in individuals, knows itself and so is an object of knowledge. This ethical substance and its laws and powers are on the one hand an object over against the subject, and from his point of view they *are*—are in the highest sense of self-subsistent being. This is an absolute authority and power infinitely more firmly established than the being of nature.

Remark: The sun, the moon, mountains, rivers, and the natural objects of all kinds by which we are surrounded, are. For consciousness they have the

authority not only of mere being but also of possessing a particular nature which it accepts and to which it adjusts itself in dealing with them, using them, or in being otherwise concerned with them. The authority of ethical laws is infinitely higher, because natural objects conceal rationality under the cloak of contingency and exhibit it only in their utterly external and disconnected way.

§ 147

On the other hand, they are not something alien to the subject. On the contrary, his spirit bears witness to them as to its own essence, the essence in which he has a feeling of his selfhood, and in which he lives as in his own element which is not distinguished from himself. The subject is thus directly linked to the ethical order by a relation which is more like an identity than even the relation of faith or trust.

Remark: Faith and trust emerge along with reflection; they presuppose the power of forming ideas and making distinctions. For example, it is one thing to be a pagan, a different thing to believe in a pagan religion. This relation or rather this absence of relation, this identity in which the ethical order is the actual living soul of self-consciousness, can no doubt pass over into a relation of faith and conviction and into a relation produced by means of further reflection, i.e. into an *insight* due to reasoning starting perhaps from some particular purposes interests, and considerations, from fear or hope, or from historical conditions. But adequate *knowledge* of this identity depends on thinking in terms of the concept.

§ 148

As substantive in character, these laws and institutions are duties binding on the will of the individual, because as subjective, as inherently undetermined, or determined as particular, he distinguishes himself from them and hence stands related to them as to the substance of his own being.

Remark: The ‘doctrine of duties’ in moral philosophy (I mean the objective doctrine, not that which is supposed to be contained in the empty principle of moral subjectivity, because that principle determines nothing—(see § 134) is therefore comprised in the systematic development of the circle of ethical necessity which follows in this Third Part. The difference between the exposition in this book and the form of a ‘doctrine of duties’ lies solely in the fact that, in what follows, the specific types of ethical life turn up as necessary relationships; there the exposition ends, without being supplemented in each case by the addition that ‘therefore men have a duty to conform to this institution’.

A ‘doctrine of duties’ which is other than a philosophical science takes its material from existing relationships and shows its connection with the moralist’s personal notions or with principles and thoughts, purposes, impulses, feelings, &c., that are forthcoming everywhere; and as reasons for accepting each duty in turn, it may tack on its further consequences in their bearing on the other ethical relationships or on welfare and opinion. But an immanent and logical ‘doctrine of duties’ can be nothing except the serial exposition of the relationships which are necessitated by the Idea of freedom and are therefore actual in their entirety, to within the state.

§ 149

The bond of duty can appear as a restriction only on indeterminate subjectivity or abstract freedom, and on the impulses either of the natural will or of the moral will which determines its indeterminate good arbitrarily. The truth is, however, that in duty the individual finds his liberation; first, liberation from dependence on mere natural impulse and from the depression which as a particular subject he cannot escape in his moral reflections on what ought to be and what might be; secondly, liberation from the indeterminate subjectivity which, never reaching reality or the objective determinacy of action, remains self-enclosed and devoid of actuality. In duty the individual acquires his substantive freedom.

Addition: Duty is a restriction only on the self-will of subjectivity. It stands in the way only of that abstract good to which subjectivity adheres. When we say: ‘We want to be free’, the primary meaning of the words is simply: ‘We want abstract freedom’, and every institution and every organ of the state passes as a restriction on freedom of that kind. Thus duty is not a restriction on freedom, but only on freedom in the abstract, i.e. on unfreedom. Duty is the attainment of our essence, the winning of *positive* freedom.

§ 150

Virtue is the ethical order reflected in the individual character so far as that character is determined by its natural endowment. When virtue displays itself solely as the individual’s simple conformity with the duties of the station to which he belongs, it is rectitude.

Remark: In an *ethical* community, it is easy to say what man must do, what are the duties he has to fulfil in order to be virtuous: he has simply to follow the well-known and explicit rules of his own situation. Rectitude is the general character which may be demanded of him by law or custom. But from the standpoint of *morality*, rectitude often seems to be something comparatively inferior, something beyond which still higher demands must be made on oneself and others, because the craving to be something

special is not satisfied with what is absolute and universal; it finds consciousness of peculiarity only in what is exceptional.

The various facets of rectitude may equally well be called virtues, since they are also properties of the individual, although not specially of him in contrast with others. Talk about virtue, however, readily borders on empty rhetoric, because it is only about something abstract and indeterminate; and furthermore, argumentative and expository talk of the sort is addressed to the individual as to a being of caprice and subjective inclination. In an existing ethical order in which a complete system of ethical relations has been developed and actualised, virtue in the strict sense of the word is in place and actually appears only in exceptional circumstances or when one obligation clashes with another. The clash, however, must be a genuine one, because moral reflection can manufacture clashes of all sorts to suit its purpose and give itself a consciousness of being something special and having. made sacrifices. It is for this reason that the phenomenon of virtue proper is commoner when societies and communities are uncivilised, since in those circumstances ethical conditions and their actualisation are more a matter of private choice or the natural genius of an exceptional individual. For instance, it was especially to Hercules that the ancients ascribed virtue. In the states of antiquity, ethical life had not grown into this free system of an objective order self-subsistently developed, and consequently it was by the personal genius of individuals that this defect had to be made good. It follows that if a 'doctrine of virtues' is not a mere 'doctrine of duties', and if therefore it embraces the particular facet of character, the facet grounded in natural endowment, it will be a natural history of mind.

Since virtues are ethical principles applied to the particular, and since in this their subjective aspect they are something indeterminate, there turns up here for determining them the quantitative principle of more or less. The result is that consideration of them introduces their corresponding defects or vices, as in Aristotle, who defined each particular virtue as strictly a mean between an excess and a deficiency.

The content which assumes the form of duties and then virtues is the same as that which also has the form of impulses (see Remark to § 19). Impulses have the same basic content as duties and virtues, but in impulses this content still belongs to the immediate will and to instinctive feeling; it has not been developed to the point of, becoming ethical. Consequently, impulses have in common with the content of duties and virtues only the abstract object on which they are directed, an object indeterminate in itself, and so devoid of anything to discriminate them as good or evil. Or in other words, impulses, considered abstractly in their

positive aspect alone, are good, while, considered abstractly in their negative aspect alone, they are evil (see § 18).

Addition: To conform to the ethical order on this or that particular occasion is hardly enough to make a man virtuous; he is virtuous only when this mode of behaviour is a fixed element in his character. Virtue is rather like ethical virtuosity, [Heroes ('ethical virtuosi') lived in uncivilised conditions (see Addition to § 93) and there was no ethical life in society as they found it; but since they introduced ethical institutions for the first time (see Remarks to §§ 167 and 203), they displayed virtue as a kind of virtuosity. Nowadays, ethical life is common to everyone and consists in conformity to the existing order, not in divergence from it.] and the reason why we speak of virtue less nowadays than formerly is that ethical living is less like the form of a particular individual's character. The French are *par excellence* the people who speak most of virtue, and the reason is that amongst them ethical life in the individual is more a matter of his own idiosyncrasies or a natural mode of conduct. The Germans, on the other hand, are more thoughtful, and amongst them the same content acquires the form of universality.

§ 151

But when individuals are simply identified with the actual order, ethical life (*das Sittliche*) appears as their general mode of conduct, i.e. as custom (*Sitte*), while the habitual practice of ethical living appears as a second nature which, put in the place of the initial, purely natural will, is the soul of custom permeating it through and through, the significance and the actuality of its existence. It is mind living and present as a world, and the substance of mind thus exists now for the first time as mind.

Addition: Just as nature has its laws, and as animals, trees, and the sun fulfil their law, so custom (*Sitte*) is the law appropriate to free mind. Right and morality are not yet what ethics (*Sitte*) is, namely mind. In right, particularity is still not the particularity of the concept, but only that of the natural will. So, too, at the standpoint of morality, self-consciousness is not yet *mind's* consciousness of itself. At that level it is only the worth of the subject in himself that is in question, i.e. the subject who determines himself by reference to good in contrast with evil, who still has self-will as the form of his willing. Here, however, at the standpoint of ethics, the will is mind's will and it has a content which is substantive and in conformity with itself.

Education is the art of making men ethical. It begins with pupils whose life is at the instinctive level and shows them the way to a second birth, the way to change their instinctive nature into a second, intellectual, nature, and makes this intellectual level habitual to them. At this point the clash

between the natural and the subjective will disappears, the subject's internal struggle dies away. To this extent, habit is part of ethical life as it is of philosophic thought also, since such thought demands that mind be trained against capricious fancies, and that these be destroyed and overcome to leave the way clear for rational thinking. It is true that a man is killed by habit, i.e. if he has once come to feel completely at home in life, if he has become mentally and physically dull, and if the clash between subjective consciousness and mental activity has disappeared; for man is active only in so far as he has not attained his end and wills to develop his potentialities and vindicate himself in struggling to attain it. When this has been fully achieved, activity and vitality are at an end, and the result—loss of interest in life—is mental or physical death.

§ 152

In this way the ethical substantial order has attained its right, and its right its validity. That is to say, the self-will of the individual has vanished together with his private conscience which had claimed independence and opposed itself to the ethical substance. For, when his character is ethical, he recognises as the end which moves him to act the universal which is itself unmoved but is disclosed in its specific determinations as rationality actualised. He knows that his own dignity and the whole stability of his particular ends are grounded in this same universal, and it is therein that he actually attains these. Subjectivity is itself the absolute form and existent actuality of the substantial order, and the distinction between subject on the one hand and substance on the other, as the object, end, and controlling power of the subject, is the same as, and has vanished directly along with, the distinction between them in form.

Remark: Subjectivity. is the ground wherein the concept of freedom is realised (see § 106). At the level of morality, subjectivity is still distinct from freedom, the concept of subjectivity; but at the level of ethical life it is the realisation of the concept in a way adequate to the concept itself.

§ 153

The right of individuals to be subjectively destined to freedom is fulfilled when they belong to an actual ethical order, because their conviction of their freedom finds its truth in such an objective order, and it is in an ethical order that they are actually in possession of their own essence or their own inner universality (see § 147).

Remark: When a father inquired about the best method of educating his son in ethical conduct, a Pythagorean replied: 'Make him a citizen of a state with good laws.' (The phrase has also been attributed to others.)

Addition: The educational experiments, advocated by Rousseau in *Emile*, of withdrawing children from the common life of every day and bringing them up in the country, have turned out to be futile, since no success can attend an attempt to estrange people from the laws of the world. Even if the young have to be educated in solitude, it is still useless to hope that the fragrance of the intellectual world will not ultimately permeate this solitude or that the power of the world mind is too feeble to gain the mastery of those outlying regions. It is by becoming a citizen of a good state that the individual first comes into his right.

§ 154

The right of individuals to their *particular* satisfaction is also contained in the ethical substantial order, since particularity is the outward appearance of the ethical order—a mode in which that order is existent.

§ 155

Hence in this identity of the universal will with the particular will, right and duty coalesce, and by being in the ethical order a man has rights in so far as he has duties, and duties in so far as he has rights. In the sphere of abstract right, I have the right and another has the corresponding duty. In the moral sphere, the right of my private judgment and will, as well as of my happiness, has not, but only ought to have, coalesced with duties and become objective.

Addition: A slave can have no duties; only a free man has them. If all rights were put on one side and all duties on the other, the whole would be dissolved, since their identity alone is the fundamental thing, and it is to this that we have here to hold fast.

§ 156

The ethical substance, as containing independent self-consciousness united with its concept, is the actual mind of a family and a nation.

Addition: Ethical life is not abstract like the good, but is intensely actual. Mind has actuality, and individuals are accidents of this actuality. Thus in dealing with ethical life, only two views are possible: either we start from the substantiality of the ethical order, or else we proceed atomistically and build on the basis of single individuals. This second point of view excludes mind because it leads only to a juxtaposition. Mind, however, is not something single, but is the unity of the single and the universal.

§ 157

The concept of this Idea has being only as mind, as something knowing itself and actual, because it is the objectification of itself, the movement

running through the form of its moments. It is therefore

(A) ethical mind in its natural or immediate phase—**the Family**. This substantiality loses its unity, passes over into division, and into the phase of relation, i.e. into

(B) **Civil Society**—an association of members as self-subsistent individuals in a universality which, because of their self-subsistence, is only abstract. Their association is brought about by their needs, by the legal system—the means to security of person and property—and by an external organisation for attaining their particular and common interests. This external state

(C) is brought back, to and welded into unity in the **Constitution of the State** which is the end and actuality of both the substantial universal order and the public life devoted thereto.

i The Family

§ 158

THE family, as the immediate substantiality of mind, is specifically characterised by love, which is mind's feeling of its own unity. Hence in a family, one's frame of mind is to have self-consciousness of one's individuality within this unity as the absolute essence of oneself, with the result that one is in it not as an independent person but as a member.

Addition: Love means in general terms the consciousness of my unity with another, so that I am not in selfish isolation but win my self-consciousness only as the renunciation of my independence and through knowing myself as the unity of myself with another and of the other with me. Love, however, is feeling, i.e. ethical life in the form of something natural. In the state, feeling disappears; there we are conscious of unity as law; there the content must be rational and known to us. The first moment in love is that I do not wish to be a self-subsistent and independent person and that, if I were, then I would feel defective and incomplete. The second moment is that I find myself in another person, that I count for something in the other, while the other in turn comes to count for something in me. Love, therefore, is the most tremendous contradiction; the Understanding cannot resolve it since there is nothing more stubborn than this point (*Punktualität*) of self-consciousness which is negated and which nevertheless I ought to possess as affirmative. Love is at once the propounding and the resolving of this contradiction. As the resolving of it, love is unity of an ethical type.

§ 159

The right which the individual enjoys on the strength of the family unity and which is in the first place simply the individual's life within this unity, takes on the form of right (as the abstract moment of determinate individuality) only when the family begins to dissolve. At that point those who should be family-members both in their inclination and in actuality begin to be self-subsistent persons, and whereas they formerly constituted one specific moment within the whole, they now receive their share separately and so only in an external fashion by way of money, food, educational expenses, and the like.

Addition: The right of the family properly consists in the fact that its substantiality should have determinate existence. Thus it is a right against externality and against secessions from the family unity. On the other hand, to repeat, love is a feeling, something subjective, against which unity cannot make itself effective. The demand for unity can be sustained, then, only in relation to such things as are by nature external and not conditioned by feeling.

§ 160

The family is completed in these three phases:

- (a) **Marriage**, the form assumed by the concept of the family in its immediate phase;
- (b) **Family Property and Capital** (the external embodiment of the concept) and attention to these;
- (c) **The Education of Children and the Dissolution of the Family.**

A. Marriage

§ 161

Marriage, as the immediate type of ethical relationship, contains first, the moment of physical life; and since marriage is a substantial tie, the life involved in it is life in its totality, i.e. as the actuality of the race and its life-process. But, secondly, in self-consciousness the natural sexual union—a union purely inward or implicit and for that very reason existent as purely external—is changed into a union on the level of mind, into self-conscious love.

Addition: Marriage is in essence an ethical tie. Formerly, especially in most systems of natural law, attention was paid only to the physical side of marriage or to its natural character. Consequently, it was treated only as a sex relationship, and this completely barred the way to its other

characteristics. This is crude enough, but it is no less so to think of it as only a civil contract, and even Kant does this. On this view, the parties are bound by a contract of mutual caprice, and marriage is thus degraded to the level of a contract for reciprocal use. A third view of marriage is that which bases it on love alone, but this must be rejected like the other two, since love is only a feeling and so is exposed in every respect to contingency, a guise which ethical life may not assume. Marriage, therefore, is to be more precisely characterised as ethico-legal (*rechtlich sittliche*) love, and this eliminates from marriage the transient, fickle, and purely subjective aspects of love.

§ 162

On the subjective side, marriage may have a more obvious source in the particular inclination of the two persons who are entering upon the marriage tie, or in the foresight and contrivance of the parents, and so forth. But its objective source lies in the free consent of the persons, especially in their consent to make themselves one person, to renounce their natural and individual personality to this unity of one with the other. From this point of view, their union is a self-restriction, but in fact it is their liberation, because in it they attain their substantive self-consciousness.

Remark: Our objectively appointed end and so our ethical duty is to enter the married state. The external origin of any particular marriage is in the lure of the case contingent, and it depends principally on the extent which reflective thought has been developed. At one extreme, the step is that the marriage is arranged by the contrivance of benevolent parents; the appointed end of the parties is a union of mutual love, their inclination to marry arises from the fact that each grows acquainted with the other from the first as a destined partner. At the other extreme, it is the inclination of the parties which comes first, appearing in them as *these* two infinitely particularised individuals. The more ethical way to matrimony may be taken to be the former extreme or any way at all whereby the decision to marry comes first and the inclination to do so follows, so that in the actual wedding both decision and inclination coalesce. In the latter extreme, it is the uniqueness of the infinitely particularised which makes good its claims in accordance with the subjective principle of the modern world (see Remark to § 124).

But those works of modern art, dramatic and other, in which the love of the sexes is the main interest, are pervaded by a chill despite the heat of passion they portray, for they associate the passion with accident throughout and represent the entire dramatic interest as if it rested solely

on the characters as *these individuals*; what rests on them may indeed be of infinite importance to *them*, but is of none whatever in itself.

Addition: Amongst peoples who hold the female sex in scant respect, marriages are arranged by the parents at will without consulting the young people. The latter raise no objection, since at that level of culture the particularity of feeling makes no claims for itself. For the woman it is only a matter of getting a husband, for the man, of getting a wife. In other social conditions, considerations of wealth, connections, political ends, may be the determining factor. In such circumstances, great hardships may arise through making marriage a means to other ends.

Nowadays, however, the subjective origin of marriage, the state of being in love, is regarded as the only important originating factor. Here the position is represented to be that a man must wait until his hour has struck and that he can bestow his love only on one specific individual.

§ 163

The ethical aspect of marriage consists in the parties' consciousness of this unity as their substantive aim, and so in their love, trust, and common sharing of their entire existence as individuals. When the parties are in this frame of mind and their union is actual, their physical passion sinks to the level of a physical moment, destined to vanish in its very satisfaction. On the other hand, the spiritual bond of union secures its rights as the substance of marriage and thus rises, inherently indissoluble, to a plane above the contingency of passion and the transience of particular caprice.

Remark: It was noted above (in § 75) that marriage, so far as its essential basis is concerned, is not a contractual relation. On the contrary, though marriage begins in contract, it is precisely a contract to transcend the standpoint of contract, the standpoint from which persons are regarded in their individuality as self-subsistent units. The identification of personalities, whereby the family becomes one person and its members become its accidents (though substance is in essence the relation of accidents to itself), is the ethical mind. Taken by itself and stripped of the manifold externals of which it is possessed owing to its embodiment in these individuals and the interests of the phenomenal realm, interests limited in time and numerous other ways, this mind emerges in a shape for representative thinking and has been revered as *Penates*, &c.; and in general it is in this mind that the religious character of marriage and the family, or *pietas*, is grounded. It is a further abstraction still to separate the divine, or the substantive, from its body, and then to stamp it, together with the feeling and consciousness of mental unity, as what is falsely called 'Platonic' love. This separation is in keeping with the monastic doctrine

which characterises the moment of physical life as purely negative and which, precisely by thus separating the physical from the mental, endows the former by itself with infinite importance.

Addition: The distinction between marriage and concubinage is that the latter is chiefly a matter of satisfying natural desire, while this satisfaction is made secondary in the former. It is for this reason that physical experiences may be mentioned in married life without a blush, although outside the marriage tie their mention would produce a sense of shame. But it is on this account, too, that marriage must be regarded as in principle indissoluble, for the end of marriage is the ethical end, an end so lofty that everything else is manifestly powerless against it and made subject to it. Marriage is not to be dissolved because of passion, since passion is subordinate to it. But it is not indissoluble except in principle, since as Christ says, only ‘for the hardness of your heart’ is divorce established. Since marriage has feeling for one of its moments, it is not absolute but weak and potentially dissoluble. Legislators, however, must make its dissolution as difficult as possible and uphold the right of the ethical order against caprice.

§ 164

Mere agreement to the stipulated terms of a contract in itself involves the genuine transfer of the property in question (see § 79). Similarly, the solemn declaration by the parties of their consent to enter the ethical bond of marriage, and its corresponding recognition and confirmation by their family and community, constitutes the formal completion and actuality of marriage. The knot is tied and made ethical only after this ceremony, whereby through the use of signs, i.e. of language (the most mental embodiment of mind—see § 78), the substantial thing in the marriage is brought completely into being. As a result, the sensuous moment, the one proper to physical life, is put into its ethical place as something only consequential and accidental, belonging to the external embodiment of the ethical bond, which indeed can subsist exclusively in reciprocal love and support.

Remark: If with a view to framing or criticising legal enactments, the question is asked: what should be regarded as the chief end of marriage?, the question may be taken to mean: which single facet of marriage in its actuality is to be regarded as the most essential one? No one facet by itself, however, makes up the whole range of its implicit and explicit content, i.e. of its ethical character, and one or other of its facets may be lacking in an existing marriage without detriment to the essence of marriage itself.

It is in the actual conclusion of a marriage, i.e. in the wedding, that the

essence of the tie is expressed and established beyond dispute as something ethical, raised above the contingency of feeling and private inclination. If this ceremony is taken as an external formality, a mere so-called 'civil requirement', it is thereby stripped of all significance except perhaps that of serving the purpose of edification and attesting the civil relation of the parties. It is reduced indeed to a mere fiat of a civil or ecclesiastical authority. As such it appears as something not merely indifferent to the true nature of marriage, but actually alien to it. The heart is constrained by the law to attach a value to the formal ceremony and the latter is looked upon merely as a condition which must precede the complete mutual surrender of the parties to one another. As such it appears to bring disunion into their loving disposition and, like an alien intruder, to thwart the inwardness of their union. Such a doctrine pretentiously claims to afford the highest conception of the freedom, inwardness, and perfection of love; but in fact it is a travesty of the ethical aspect of love, the higher aspect which restrains purely sensual impulse and puts it in the background. Such restraint is already present at the instinctive level in shame, and it rises to chastity and modesty as consciousness becomes more specifically intelligent. In particular, the view just criticised casts aside marriage's specifically ethical character, which consists in this, that the consciousness of the parties is crystallised out of its physical and subjective mode and lifted to the thought of what is substantive; instead of continually reserving to itself the contingency and caprice of bodily desire, it removes the marriage bond from the province of this caprice, surrenders to the substantive, and swears allegiance to the *Penates*; the physical moment it subordinates until it becomes something wholly conditioned by the true and ethical character of the marriage relation and by the recognition of the bond as an ethical one. It is effrontery and its buttress, the Understanding, which cannot apprehend the speculative character of the substantial tie; nevertheless, with this speculative character there correspond both ethical purity of heart and the legislation of Christian peoples.

Addition: Friedrich von Schlegel in his *Lucinde*, and a follower of his in the *Briefe eines Ungenannten*, have put forward the view that the wedding ceremony is superfluous and a formality which might be discarded. Their reason is that love is, so they say, the substance of marriage and that the celebration therefore detracts from its worth. Surrender to sensual impulse is here represented as necessary to prove the freedom and inwardness of love—an argument not unknown to seducers.

It must be noticed in connection with sex-relations that a girl in surrendering her body loses her honour. With a man, however, the case is

otherwise, because he has a field for ethical activity outside the family. A girl is destined in essence for the marriage tie and for that only; it is therefore demanded of her that her love shall take the form of marriage and that the different moments in love shall attain their true rational relation to each other.

§ 165

The difference in the physical characteristics of the two sexes has a rational basis and consequently acquires an intellectual and ethical significance. This significance is determined by the difference into which the ethical substantiality, as the concept, internally sunders itself in order that its vitality may become a concrete unity consequent upon this difference.

§ 166

Thus one sex is mind in its self-diremption into explicit personal self-subsistence and the knowledge and volition of free universality, i.e. the self-consciousness of conceptual thought and the volition of the objective final end. The other sex is mind maintaining itself in unity as knowledge and volition of the substantive, but knowledge and volition in the form of concrete individuality and feeling. In relation to externality, the former is powerful and active, the latter passive and subjective. It follows that man has his actual substantive life in the state, in learning, and so forth, as well as in labour and struggle with the external world and with himself so that it is only out of his diremption that he fights his way to self-subsistent unity with himself. In the family he has a tranquil intuition of this unity, and there he lives a subjective ethical life on the plane of feeling. Woman, on the other hand, has her substantive destiny in the family, and to be imbued with family piety is her ethical frame of mind.

Remark: For this reason, family piety is expounded in Sophocles' *Antigone*—one of the most sublime presentations of this virtue—as principally the law of woman, and as the law of a substantiality at once subjective and on the plane of feeling, the law of the inward life, a life which has not yet attained its full actualisation; as the law of the ancient gods, 'the Gods of the underworld; as 'an everlasting law, and no man knows at what time it was first put forth'. This law is there displayed as a law opposed to public law, to the law of the land. This is the supreme opposition in ethics and therefore in tragedy; and it is individualised in the same play in the opposing natures of man and woman.

Addition: Women are capable of education, but they are not made for activities which demand a universal faculty such as the more advanced sciences, philosophy, and certain forms of artistic production. Women may have happy ideas, taste, and elegance, but they cannot attain to the

ideal. [*Ideale*. By this word Hegel means ‘the Beautiful and whatever tends thither’ (*Science of Logic*, i. 163, footnote). It is to be distinguished, therefore, from *Ideelle*] The difference between men and women is like that between animals and plants. Men correspond to animals, while women correspond to plants because their development is more placid and the principle that underlies it is the rather vague unity of feeling. When women hold the helm of government, the state is at once in jeopardy, because women regulate their actions not by the demands of universality but by arbitrary inclinations and opinions. Women are educated—who knows how?—as it were by breathing in ideas, by living rather than by acquiring knowledge. The status of manhood, on the other hand, is attained only by the stress of thought and much technical exertion.

§ 167

In essence marriage is monogamy because it is personality—immediate exclusive individuality—which enters into this tie and surrenders itself to it; and hence the tie’s truth and inwardness (i.e. the subjective form of its substantiality) proceeds only from the mutual, whole-hearted, surrender of this personality. Personality attains its right of being conscious of itself in another only in so far as the other is in this identical relationship as a person, i.e. as an atomic individual.

Remark: Marriage, and especially monogamy, is one of the absolute principles on which the ethical life of a community depends. Hence marriage comes to be recorded as one of the moments in the founding of states by gods or heroes.

§ 168

Further, marriage results from the free surrender by both sexes of their personality—a personality in every possible way unique in each of the parties. Consequently, it ought not to be entered by two people identical in stock who are already acquainted and perfectly known to one another; for individuals in the same circle of relationship have no special personality of their own in contrast with that of others in the same circle. On the contrary, the parties should be drawn from separate families and their personalities should be different in origin. Since the very conception of marriage is that it is a freely undertaken ethical transaction, not a tie directly grounded in the physical organism and its desires, it follows that the marriage of blood-relations runs counter to this conception and so also to genuine natural feeling.

Remark: Marriage itself is sometimes said to be grounded not in natural rights but simply in instinctive sexual impulses; or again it is treated as a contract with an arbitrary basis. External arguments in support of

monogamy have been drawn from physical considerations such as the number of men and women. Dark feelings of repulsion are advanced as the sole ground for prohibiting consanguineous marriage. The basis of all these views is the fashionable idea of a state of nature and a natural origin for rights, and the lack of the concept of rationality and freedom.

Addition: A sense of shame—to go no farther—is a bar to consanguineous marriage. But this repugnance finds justification in the concept of the thing. What is already united, I mean, cannot be united for the first time by marriage. It is a commonplace of stock-breeding that the offspring is comparatively weak when animals of the same stock are mated, since if there is to be unification there must first be division. The force of generation, as of mind, is all the greater, the greater the oppositions out of which it is reproduced. Familiarity, close acquaintance, the habit of common pursuits, should not precede marriage; they should come about for the first time within it. And their development has all the more value, the richer it is and the more facets it has.

§ 169

The family, as person, has its real external existence in property; and it is only when this property takes the form of capital that it becomes the embodiment of the substantial personality of the family.

B. The Family Capital

§ 170

It is not merely property which a family possesses; as a universal and enduring person, it requires possessions specifically determined as permanent and secure, i.e. it requires capital. The arbitrariness of a single owner's particular needs is one moment in property taken abstractly; but this moment, together with the selfishness of desire, is here transformed into something ethical, into labour and care for a common possession.

Remark: In the sagas of the founding of states, or at least of a social and orderly life, the introduction of permanent property is linked with the introduction of marriage. The nature of this capital, however, and the proper means of its consolidation will appear in the section on civil society.

§ 171

The family as a legal entity in relation to others must be represented by the husband as its head. Further, it is his prerogative to go out and work for its living, to attend to its needs, and to control and administer its capital. This capital is common property so that, while no member of the family

has property of his own, each has his right in the common stock. This right, however, may come into collision with the head of the family's right of administration owing to the fact that the ethical temper of the family is still only at the level of immediacy (see § 158) and so is exposed to partition and contingency.

§ 172

A marriage brings into being a new family which is self-subsistent and independent of the clans or 'houses' from which its members have been drawn. The tie between these and the new family has a natural basis—consanguinity, but the new family is based on love of an ethical type. Thus an individual's property too has an essential connection with his conjugal relationship and only a comparatively remote one with his relation to his clan or 'house'.

Remark: The significance of marriage settlements which impose a restriction on the couple's common ownership of their goods, of arrangements to secure continued legal assistance for the woman, and so forth, lies in their being provisions in case of the dissolution of the marriage, either naturally by death, or by divorce, &c. They are also safeguards for securing that in such an eventuality the different members of the family shall secure their share of the common stock.

Addition: In many legal codes the wider circle of the clan is adhered to, and this is regarded as the essential bond, while the other bond, that of each particular family, appears less important in comparison. Thus in the older Roman law, the wife in the easily dissolved type of marriage stood in a closer relation to her kinsfolk than to her husband and children. Under feudal law, again, the maintenance of the *splendor familiae* made it necessary for only the males of the family to be reckoned members and for the clan as a whole to count as the important thing, while the newly founded family disappeared in comparison. Nevertheless, each new family is the essential thing in contrast with the more remote connections of clan-kinship, and parents and children form the nucleus proper as opposed to the clan, which is also in a certain sense called a 'family'. Hence an individual's relation to his wealth must have a more essential connection with his marriage than with the wider circle of his kin.

C. The Education of Children and the Dissolution of the Family

§ 173

In substance marriage is a unity, though only a unity of inwardness or disposition; in outward existence, however, the unity is sundered in the

two parties. It is only in the children that the unity itself exists externally, objectively, and explicitly as a unity, because the parents love the children as their love, as the embodiment of their own substance. From the physical point of view, the presupposition—persons immediately existent (as parents)—here becomes a result, a process which runs away into the infinite series of generations, each producing the next and presupposing the one before. This is the mode in which the single mind of the *Penates* reveals its existence in the finite sphere of nature as a race.

Addition: The relation of love between husband and wife is in itself not objective, because even if their feeling is their substantial unity, still this unity has no objectivity. Such an objectivity parents first acquire in their children, in whom they can see objectified the entirety of their union. In the child, a mother loves its father and he its mother. Both have their love objectified for them in the child. While in their goods their unity is embodied only in an external thing, in their children it is embodied in a spiritual one in which the parents are loved and which they love.

§ 174

Children have the right to maintenance and education at the expense of the family's common capital. The right of the parents to the service as service of their children is based upon and is restricted by the common task of looking after the family generally. Similarly, the right of the parents over the wishes of their children is determined by the object in view—discipline and education. The punishment of children does not aim at justice as such; the aim is more subjective and moral in character, i.e. to deter them from exercising a freedom still in the toils of nature and to lift the universal into their consciousness and will.

Addition: Man has to acquire for himself the position which he ought to attain; he is not already in possession of it by instinct. It is on this fact that the child's right to education is based. Peoples under patriarchal government are in the same position as children; they are fed from central stores and not regarded as self-subsistent and adults. The services which may be demanded from children should therefore have education as their sole end and be relevant thereto; they must not be ends in themselves, since a child in slavery is in the most unethical of all situations whatever. One of the chief factors in education is discipline, the purport of which is to break down the child's self-will and thereby eradicate his purely natural and sensuous self. We must not expect to achieve this by mere goodness, since it is just the immediate will which acts on immediate fancies and caprices, not on reasons and representative thinking. If we advance reasons to children, we leave it open to them to decide whether the

reasons are weighty or not, and thus we make everything depend on their whim. So far as children are concerned, universality and the substance of things reside in their parents, and this implies that children must be obedient. If the feeling of subordination, producing the longing to grow up, is not fostered in children, they become forward and impertinent.

§ 175

Children are potentially free and their life directly embodies nothing save potential freedom. Consequently they are not things and cannot be the property either of their parents or others. In respect of his relation to the family, the child's education has the positive aim of instilling ethical principles into him in the form of an immediate feeling for which differences are not yet explicit, so that thus equipped with the foundation of an ethical life, his heart may live its early years in love, trust, and obedience. In respect of the same relation, this education has the negative aim of raising children out of the instinctive, physical, level on which they are originally, to self-subsistence and freedom of personality and so to the level on which they have power to leave the natural unity of the family.

Remark: One of the blackest marks against Roman legislation is the law whereby children were treated by their fathers as slaves. This gangrene of the ethical order at the tenderest point of its innermost life is one of the most important clues for understanding the place of the Romans in the history of the world and their tendency towards legal formalism.

The necessity for education is present in children as their own feeling of dissatisfaction with themselves as they are, as the desire to belong to the adult world whose superiority they divine, as the longing to grow up. The play theory of education assumes that what is childish is itself already something of inherent worth and presents it as such to the children; in their eyes it lowers serious pursuits, and education itself, to a form of childishness for which the children themselves have scant respect. The advocates of this method represent the child, in the immaturity in which he feels himself to be, as really mature and they struggle to make him satisfied with himself as he is. But they corrupt and distort his genuine and proper need for something better, and create in him a blind indifference to the substantial ties of the intellectual world, a contempt of his elders because they have thus posed before him, a child, in a contemptible and childish fashion, and finally a vanity and conceit which feeds on the notion of its own superiority.

Addition: As a child, man must have lived with his parents encircled by their love and trust, and rationality must appear in him as his very own subjectivity. In the early years it is education by the mother especially

which is important, since ethical principles must be implanted in the child in the form of feeling. It is noteworthy that on the whole children love their parents less than their parents love them. The reason for this is that they are gradually increasing in strength, and are learning to stand on their own feet, and so are leaving their parents behind them. The parents, on the other hand, possess in their children the objective embodiment of their union.

§ 176

Marriage is but the ethical Idea in its *immediacy* and so has its objective actuality only in the inwardness of subjective feeling and disposition. In this fact is rooted the fundamental contingency of marriage in the world of existence. There can be no compulsion on people to marry; and, on the other hand, there is no merely legal or positive bond which can hold the parties together once their dispositions and actions have become hostile and contrary. A third ethical authority, however, is called for to maintain the right of marriage—an ethical substantiality—against the mere whims of hostile disposition or the accident of a purely passing mood, and so forth. Such an authority distinguishes these from the total estrangement of the two parties and may not grant divorce until it is satisfied that the estrangement is total.

Addition: It is because marriage depends entirely on feeling, something subjective and contingent, that it may be dissolved. The state, on the other hand, is not subject to partition, because it rests on law. To be sure, marriage *ought* to be indissoluble, but here again we have to stop at this ‘ought’; yet, since marriage is an ethical institution, it cannot be dissolved at will but only by an ethical authority, whether the church or the law-court. If the parties are completely estranged, e.g. owing to adultery, then even the ecclesiastical authority must permit divorce.

§ 177

The ethical dissolution of the family consists in this, that once the children have been educated to freedom of personality, and have come of age, they become recognised as persons in the eyes of the law and as capable of holding free property of their own and founding families of their own, the sons as heads of new families, the daughters as wives. They now have their substantive destiny in the new family; the old family on the other hand falls into the background as merely their ultimate basis and origin, while *a fortiori* the clan is an abstraction, devoid of rights.

§ 178

The natural dissolution of the family by the death of the parents,

particularly the father, has inheritance as its consequence so far as the family capital is concerned. The essence of inheritance is the transfer to private ownership of property which is in principle common. When comparatively remote degrees of kinship are in question, and when persons and families are so dispersed in civil society that they have begun to gain self-subsistence, this transfer becomes the less hard and fast as the sense of family unity fades away and as every marriage becomes the surrender of previous family relationships and the founding of a new self-subsistent family.

Remark: It has been suggested that the basis of inheritance ties in the fact that, by a man's death, his property becomes wealth without an owner, and as such falls to the first person who takes possession of it, because of course it is the relatives who are normally nearest a man's death-bed and so they are generally the first to take possession. Hence it is supposed that this customary occurrence is made a rule by positive legislation in the interests of orderliness. This ingenious idea disregards the nature of family relationship.

§ 179

The result of this disintegration of the family is that a man may at will either squander his capital altogether, mainly in accordance with his private caprices, opinions, and ends, or else look upon a circle of friends and acquaintances, &c., as if they were his family and make a will embodying a declaration to that effect, with the result that they become his legal heirs.

Remark: The ethical justification of freedom to dispose of one's property by will to a circle of friends would depend on the formation of such a circle; there goes to its formation so much accident, arbitrariness, and self-seeking, &c.—especially since testamentary hopes have a bearing on readiness to enter it—that the ethical moment in it is only something very vague. Further, the recognition of a man's competence to bequeath his property arbitrarily is much more likely to be an occasion for breach of ethical obligations and for mean exertions and equally mean subservience; and it also provides opportunity and justification for the folly, caprice, and malice of attaching to professed benefactions and gifts vain, tyrannical, and vexatious conditions operative after the testator's death and so in any case after his property ceases to be his.

§ 180

The principle that the members of the family grow up to be self-subsistent persons in the eyes of the law (see § 177) lets into the circle of the family something of the same arbitrariness and discrimination among the natural heirs, though its exercise there must be restricted to a minimum in order

to prevent injury to the basic family relationship.

Remark: The mere downright arbitrariness of the deceased cannot be made the principle underlying the right to make a will, especially if it runs counter to the substantive right of the family. For after all no respect would be forthcoming for his wishes after his death, if not from the family's love and veneration for its deceased fellow-member. Such arbitrariness by itself contains nothing worthy of higher respect than the right of the family as such—on the contrary.

The other ground for the validity of testamentary disposition would consist simply in its arbitrary recognition by others. But such an argument may *prima facie* be admitted only when family ties, to which testamentary disposition is intrinsic, become remoter and more ineffective. If they are actually present, however, without being effective, the situation is unethical; and to give extended validity to arbitrary dispositions at the expense of family ties *eo ipso* weakens the ethical character of the latter.

To make the father's arbitrary will within the family the main principle of inheritance was part of the harsh and unethical legal system of Rome to which reference has been made already.

That system even gave a father power to sell his son, and if the son was manumitted by a third party, he came under his father's *potestas* once more. Not until he was manumitted a third time was he actually and finally free. The son never attained his majority *de jure* nor did he become a person in law; the only property he could hold was booty won in war (*peculium castrense*). If he passed out of his father's *potestas* after being thrice sold and manumitted, he did not inherit along with those who had continued in bondage to the head of the family, unless the will specifically so provided. Similarly, a wife remained attached to her family of origin rather than to the new family which by her marriage she had helped to found, and which was now properly her own, and she was therefore precluded from inheriting any share of the goods of what was properly her own family, for neither wife nor mother shared in the distribution of an estate.

Later, with the growing feeling for rationality, the unethical provisions of laws such as these and others were evaded in the course of their administration, for example with the help of the expression *bonorum possessio* instead of *hereditas*, and through the fiction of nicknaming a *filia a filius*. This was referred to above (see Remark to § 3) as the sad necessity to which the judge was reduced in the face of bad laws—the necessity of smuggling reason into them on the sly, or at least into some of their consequences. Connected with this were the terrible instability of the chief political institutions and a riot of legislation to stem the outbreak of

resulting evils.

From Roman history and the writings of Lucian and others, we are sufficiently familiar with the unethical consequences of giving the head of a Roman family the right to name whom he pleased as his heir.

Marriage is ethical life at the level of immediacy; in the very nature of the case, therefore, it must be a mixture of a substantial tie with natural contingency and inner arbitrariness. Now when by the slave-status of children, by legal provisions such as those mentioned above as well as others consequential upon them, and in addition by the ease of Roman divorce, pride of place is given to arbitrariness instead of to the right of the substantial (so that even Cicero—and what fine writing about the *Honestum* and *Decorum* there is in his *De Officiis* and in all sorts of other places!—even Cicero divorced his wife as a business speculation in order to pay his debts with his new wife's dowry), then a legal road is paved to the corruption of manners, or rather the laws themselves necessitate such corruption.

The institution of heirs-at-law with a view to preserving the family and its *splendour* by means of *fideicommissa* and *substitutiones* (in order to favour sons by excluding daughters from inheriting, or to favour the eldest son by excluding the other children) is an infringement of the principle of the freedom of property (see § 62), like the admission of any other inequality in the treatment of heirs. And besides, such an institution depends on an arbitrariness which in and by itself has no right to recognition, or more precisely on the thought of wishing to preserve intact not so much *this* family but rather *this* clan or 'house'. Yet it is not this clan or 'house', but the family proper which is the Idea and which therefore possesses the right to recognition, and both the ethical disposition and family trees are much more likely to be preserved by freedom of property and equality of inheritance than by the reverse of these.

Institutions of this kind, like the Roman, wholly ignore the right due to marriage, because by a marriage the foundation of a unique actual family is *eo ipso* completed (see § 172), and because what is called, in contrast with the new family, the family in the wide sense, i.e. *the* stirps or gens, becomes only an abstraction (see § 177) growing less and less actual the further it recedes into the background as one generation succeeds another. Love, the ethical moment in marriage, is by its very nature a feeling for actual living individuals, not for an abstraction. This abstraction of the Understanding [the *gens*] appears in history as the principle underlying the contribution of the Roman Empire to world history (see § 357). In the higher sphere of the state, a right of primogeniture arises together with estates rigidly entailed; it arises, however, not arbitrarily but as the

inevitable outcome of the Idea of the state. On this point see below, § 306.

Addition: In earlier times, a Roman father had the right to disinherit his children and even kill them. Later he lost both these rights. Attempts were made to forge into a legal system this incoherence between unethical institutions and devices to rob them of that character, and it is the retention of this incoherence which constitutes the deficiency and difficulty of the German law of inheritance. To be sure, the right to make a will must be conceded; but in conceding it our point of view must be that this right of free choice arises or is magnified with the dispersion and estrangement of the members of the family. Further, the so-called ‘family of friends’ which testamentary disposition brings with it may be admitted only in defect of members of the family proper, i.e. of spouse and children. To make a will at all entails something obnoxious and disagreeable, because in making it I reveal the names of my favourites. Favour, however, is arbitrary; it may be gained surreptitiously by a variety of expedients, it may depend on all sorts of foolish reasons, and as a condition of having his name included in a will, a beneficiary may be required to subject himself to the most abject servilities. In England, the home of all sorts of eccentricity, there is no end to the folly and whimsicality of bequests.

Transition of the Family into Civil Society

§ 181

The family disintegrates (both essentially, through the working of the principle of personality, and also in the course of nature) into a plurality of families, each of which conducts itself as in principle a self-subsistent concrete person and therefore as externally related to its neighbours. In other words, the moments bound together in the unity of the family, since the family is the ethical Idea still in its concept, must be released from the concept to self-subsistent objective reality. This is the stage of difference. This gives us, to use abstract language in the first place, the determination of particularity which is related to universality but in such a way that universality is its basic principle, though still only an inward principle; for that reason, the universal merely shows in the particular as its form. Hence this relation of reflection *prima facie* portrays the disappearance of ethical life or, since this life as the essence necessarily shows itself, this relation constitutes the world of ethical appearance—civil society.

Remark: The expansion of the family, as its transition into a new principle, is in the external world sometimes its peaceful expansion until it becomes a people, i.e. a nation, which thus has a common natural origin, or sometimes the federation of scattered groups of families under the

influence of an overlord's power or as a result of a voluntary association produced by the tie of needs and the reciprocity of their satisfaction.

Addition: The starting-point for the universal here is the self-subsistence of the particular, and the ethical order seems therefore to be lost at this point, since it is precisely the identity of the family which consciousness takes to be the primary thing, the divine, and the source of obligation. Now, however, a situation arises in which the particular is to be my primary determining principle, and thus my determinacy by ethical factors has been annulled. But this is nothing but a pure mistake, since, while I suppose that I am adhering to the particular, the universal and the necessity of the link between particulars remains the primary and essential thing. I am thus altogether on the level of show, and while my particularity remains my determining principle, i.e. my end, I am for that very reason the servant of the universal which properly retains power over me in the last resort.

ii Civil Society

§ 182

THE concrete person, who is himself the object of his particular aims, is, as a totality and a mixture of caprice and physical necessity, one principle of civil society. But the particular person is essentially so related to other particular persons that each establishes himself and finds satisfaction by means of the others, and at the same time purely and simply by means of the form of universality, the second principle here.

Addition: Civil society is the [stage of] difference which intervenes between the family and the state, even if its formation follows later in time than that of the state, because, as [the stage of] difference, it presupposes the state; to subsist itself, it must have the state before its eyes as something self-subsistent. Moreover, the creation of civil society is the achievement of the modern world which has for the first time given all determinations of the Idea their due. If the state is represented as a unity of different persons, as a unity which is only a partnership, then what is really meant is only civil society. Many modern constitutional lawyers have been able to bring within their purview no theory of the state but this. In civil society each member is his own end, everything else is nothing to him. But except in contact with others he cannot attain the whole compass of his ends, and therefore these others are means to the end of the particular member. A particular end, however, assumes the form of universality through this relation to other people, and it is attained in the simultaneous attainment of the welfare of others. Since particularity is inevitably conditioned by universality, the whole sphere of civil society is

the territory of mediation where there is free play for every idiosyncrasy, every talent, every accident of birth and fortune, and where waves of every passion gush forth, regulated only by reason glinting through them. Particularity, restricted by universality, is the only standard whereby each particular member promotes his welfare.

§ 183

In the course of the actual attainment of selfish ends—an attainment conditioned in this way by universality—there is formed a system of complete interdependence, wherein the livelihood, happiness, and legal status of one man is interwoven with the livelihood, happiness, and rights of all. On this system, individual happiness, &c., depend, and only in this connected system are they actualised and secured. This system may be *prima facie* regarded as the external state, the state based on need, the state as the Understanding envisages it.

§ 184

The Idea in this its stage of division imparts to each of its moments a characteristic embodiment; to particularity it gives the right to develop and launch forth in all directions; and to universality the right to prove itself not only the ground and necessary form of particularity, but also the authority standing over it and its final end. It is the system of the ethical order, split into its extremes and lost, which constitutes the Idea's abstract moment, its moment of reality. Here the Idea is present only as a relative totality and as the inner necessity behind this outward appearance.

Addition: Here ethical life is split into its extremes and lost; the immediate unity of the family has fallen apart into a plurality. Reality here is externality, the decomposing of the concept, the self-subsistence of its moments which have now won their freedom and their determinate existence. Though in civil society universal and particular have fallen apart, yet both are still reciprocally bound together and conditioned. While each of them seems to do just the opposite to the other and supposes that it can exist only by keeping the other at arm's length, none the less each still conditions the other. Thus, for example, most people regard the paying of taxes as injurious to their particular interest, as something inimical and obstructive of their own ends. Yet, however true this *seems*, particular ends cannot be attained without the help of the universal, and a country where no taxes were paid could not be singled out as invigorating its citizens. Similarly, it might seem that universal ends would be more readily attainable if the universal absorbed the strength of the particulars in the way described, for instance, in Plato's *Republic*. But this, too, is only an illusion, since both universal and particular turn into one another and exist

only for and by means of one another. If I further my ends, I further the ends of the universal, and this in turn furthers my end.

§ 185

Particularity by itself, given free rein in every direction to satisfy its needs, accidental caprices, and subjective desires, destroys itself and its substantive concept in this process of gratification. At the same time, the satisfaction of need, necessary and accidental alike, is accidental because it breeds new desires without end, is in thoroughgoing dependence on caprice and external accident, and is held in check by the power of universality. In these contrasts and their complexity, civil society affords a spectacle of extravagance and want as well as of the physical and ethical degeneration common to them both.

Remark: The development of particularity to self-subsistence (compare Remark to § 124) is the moment which appeared in the ancient world as an invasion of ethical corruption and as the ultimate cause of that world's downfall. Some of these ancient states were built on the patriarchal and religious principle, others on the principle of an ethical order which was more explicitly intellectual, though still comparatively simple; in either case they rested on primitive unsophisticated intuition. Hence they could not withstand the disruption of this state of mind when self-consciousness was infinitely reflected into itself; when this reflection began to emerge, they succumbed to it, first in spirit and then in substance, because the simple principle underlying them lacked the truly infinite power to be found only in that unity which allows both sides of the antithesis of reason to develop themselves separately in all their strength and which has so overcome the antithesis that it maintains itself in it and integrates it in itself.

In his *Republic*, Plato displays the substance of ethical life in its ideal beauty and truth; but he could only cope with the principle of self-subsistent particularity, which in his day had forced its way into Greek ethical life, by setting up in opposition to it his purely substantial state. He absolutely excluded it from his state, even in its very beginnings in private property (see Remark to § 46) and the family, as well as in its more mature form as the subjective will, the choice of a social position, and so forth. It is this defect which is responsible both for the misunderstanding of the deep and substantial truth of Plato's state and also for the usual view of it as a dream of abstract thinking, as what is often called a 'mere ideal'. The principle of the self-subsistent inherently infinite personality of the individual, the principle of subjective freedom, is denied its right in the purely substantial form which Plato gave to mind in its actuality. This principle dawned in an inward form in the Christian religion and in an external form (and

therefore in one linked with abstract universality) in the Roman world. It is historically subsequent to the Greek world, and the philosophic reflection which descends to its depth is likewise subsequent to the substantial Idea of Greek philosophy.

Addition: Particularity by itself is measureless excess, and the forms of this excess are themselves measureless. By means of his ideas and reflections man expands his desires, which are not a closed circle like animal instinct, and carries them on to the false infinite. At the other end of the scale, however, want and destitution are measureless too, and the discord of this situation can be brought into a harmony only by the state which has powers over it. Plato wished to exclude particularity from his state, but this is no help, since help on these lines would contravene the infinite right of the Idea to allow freedom to the particular.

It was in the Christian religion in the first place that the right of subjectivity arose, together with the infinity of self-awareness, and while granting this right, the whole order must at the same time retain strength enough to put particularity in harmony with the unity of ethical life.

§ 186

But in developing itself independently to totality, the principle of particularity passes over into universality, and only there does it attain its truth and the right to which its positive actuality is entitled. This unity is not the identity which the ethical order requires, because at this level, that of division (see § 184), both principles are self-subsistent. It follows that this unity is present here not as freedom but as necessity, since it is by compulsion that the particular rises to the form of universality and seeks and gains its stability in that form.

§ 187

Individuals in their capacity as burghers in this state are private persons whose end is their own interest. This end is *mediated* through the universal which thus *appears* as a *means* to its realisation. Consequently, individuals can attain their ends only in so far as they themselves determine their knowing, willing, and acting in a universal way and make themselves links in this chain of social connections. In these circumstances, the interest of the Idea—an interest of which these members of civil society are as such unconscious—lies in the process whereby their singularity and their natural condition are raised, as a result of the necessities imposed by nature as well as of arbitrary needs, to formal freedom and formal universality of knowing and willing—the process whereby their particularity is educated up to subjectivity.

Remark: The idea that the state of nature is one of innocence and that there is a simplicity of manners in uncivilised (*ungebildeter*) peoples, implies treating education (*Bildung*) as something purely external, the ally of corruption. Similarly, the feeling that needs, their satisfaction, the pleasures and comforts of private life, and so forth, are absolute ends, implies treating education as a mere means to these ends. Both these views display lack of acquaintance with the nature of mind and the end of reason. Mind attains its actuality only by creating a dualism within itself, by submitting itself to physical needs and the chain of these external necessities, and so imposing on itself this barrier and this finitude, and finally by maturing (*bildet*) itself inwardly even when under this barrier until it overcomes it and attains its objective reality in the finite. The end of reason, therefore, is neither the manners of an unsophisticated state of nature, nor, as particularity develops, the pleasure for pleasure's sake which education procures. On the contrary, its end is to banish natural simplicity, whether the passivity which is the absence of the self, or the crude type of knowing and willing, i.e. immediacy and singularity, in which mind is absorbed. It aims in the first instance at securing for this, its external condition, the rationality of which it is capable, i.e. the form of universality or the Understanding (*Verständigkeit*). By this means alone does mind become at home with itself within this pure externality.

There, then, mind's freedom is existent and mind becomes objective to itself in this element which is implicitly inimical to mind's appointed end, freedom; it has to do there only with what it has itself produced and stamped with its seal. It is in this way then that the form of universality comes explicitly into existence in thought, and this form is the only worthy element for the existence of the Idea. The final purpose of education, therefore, is liberation and the struggle for a higher liberation still; education is the absolute transition from an ethical substantiality which is immediate and natural to the one which is intellectual and so both infinitely subjective and lofty enough to have attained universality of form. In the individual subject, this liberation is the hard struggle against pure subjectivity of demeanour, against the immediacy of desire, against the empty subjectivity of feeling and the caprice of inclination.

The disfavour showered on education is due in part to its being this hard struggle; but it is through this educational struggle that the subjective will itself attains objectivity within, an objectivity in which alone it is for its part capable and worthy of being the actuality of the Idea.

Moreover, this form of universality—the Understanding, to which particularity has worked its way and developed itself, brings it about at the same time that particularity becomes individuality genuinely existent in its

own eyes. And since it is from this particularity that the universal derives the content which fills it as well as its character as infinite self-determination, particularity itself is present in ethical life as infinitely independent free subjectivity. This is the position which reveals education as a moment immanent in the Absolute and which makes plain its infinite value.

Addition: By educated men, we may *prima facie* understand those who without the obtrusion of personal idiosyncrasy can do what others do. It is precisely this idiosyncrasy, however, which uneducated men display, since their behaviour is not governed by the universal characteristics of the situation. Similarly, an uneducated man is apt to hurt the feelings of his neighbours. He simply lets himself go and does not reflect on the susceptibilities of others. It is not that he intends to hurt them, but his conduct is not consonant with his intention. Thus education rubs the edges off particular characteristics until a man conducts himself in accordance with the nature of the thing. Genuine originality, which produces the real thing, demands genuine education, while bastard originality adopts eccentricities which only enter the heads of the uneducated.

§ 188

Civil society contains three moments:

- (A) The mediation of need and one man's satisfaction through his labour and the satisfaction of the needs of all others—the **System of Needs**.
- (B) The actuality of the universal principle of freedom therein contained—the protection of property through the **Administration of Justice**.
- (C) Provision against contingencies still lurking in systems (A) and (B), and care for particular interest, as a common interest, by means of the **Public Authority** and the **Corporation**.

A. The System of Needs

§ 189

Particularity is in the first instance characterised in general by its contrast with the universal principle of the will and thus is subjective need (see § 59). This attains its objectivity i.e. its satisfaction, by means of [a] external things, which at this stage are likewise the property and product of the needs and wills of others, and [b] labour and effort, the middle term between the subjective and

the objective. The aim here is the satisfaction of subjective particularity, but the universal asserts itself in the bearing which this satisfaction has on the needs of others and their free arbitrary wills. The show of rationality thus produced in this sphere of finitude is the Understanding, and this is the aspect which is of most importance in considering this sphere and which itself constitutes the reconciling element within it.

Remark: Political economy is the science which starts from this view of needs and labour but then has the task of explaining mass-relationships and mass-movements in their complexity and their qualitative and quantitative character. This is one of the sciences which have arisen out of the conditions of the modern world. Its development affords the interesting spectacle (as in Smith, Say, and Ricardo) of thought working upon the endless mass of details which confront it at the outset and extracting therefrom the simple principles of the thing, the Understanding effective in the thing and directing it. It is to find reconciliation here to discover in the sphere of needs this show of rationality lying in the thing and effective there; but if we look at it from the opposite point of view, this is the field in which the Understanding with its subjective aims and moral fancies vents its discontent and moral frustration.

Addition: There are certain universal needs such as food, drink, clothing, &c., and it depends entirely on accidental circumstances how these are satisfied. The fertility of the soil varies from place to place, harvests vary from year to year, one man is industrious, another indolent. But this medley of arbitrariness generates universal characteristics by its own working; and this apparently scattered and thoughtless sphere is upheld by a necessity which automatically enters it. To discover this necessary element here is the object of political economy, a science which is a credit to thought because it finds laws for a mass of accidents. It is an interesting spectacle here to see all chains of activity leading back to the same point; particular spheres of action fall into groups, influence others, and are helped or hindered by others. The most remarkable thing here is this mutual interlocking of particulars, which is what one would least expect because at first sight everything seems to be given over to the arbitrariness of the individual, and it has a parallel in the solar system which displays to the eye only irregular movements, though its laws may none the less be ascertained.

(a) The Kind of Need and Satisfaction [typical of civil society]

§ 190

An animal's needs and its ways and means of satisfying them are both alike

restricted in scope. Though man is subject to this restriction too, yet at the same time he evinces his transcendence of it and his universality, first by the multiplication of needs and means of satisfying them, and secondly by the differentiation and division of concrete need into single parts and aspects which in turn become different needs, particularised and so more abstract.

Remark: In [abstract] right, what we had before us was the person; in the sphere of morality, the subject; in the family, the family-member; in civil society as a whole, the burgher or *bourgeois*. Here at the standpoint of needs (compare Remark to § 123) what we have before us is the composite idea which we call *man*. Thus this is the first time, and indeed properly the only time, to speak of *man* in this sense.

Addition: An animal is restricted to particularity. It has its instincts and means of satisfying them, means which are limited and which it cannot overstep. Some insects are parasitic on a certain kind of plant; some animals have a wider range and can live in different climates, but there is always a restriction preventing them from having the range open to man. The need of shelter and clothing, the necessity of cooking his food to make it fit to eat and to overcome its natural rawness, both mean that man has less comfort than an animal, and indeed, as mind, he ought to have less. Intelligence, with its grasp of distinctions, multiplies these human needs, and since taste and utility become criteria of judgment, even the needs themselves are affected thereby. Finally, it is no longer need but opinion which has to be satisfied, and it is just the educated man who analyses the concrete into its particulars. The very multiplication of needs involves a check on desire, because when many things are in use, the urge to obtain any one thing which might be needed is less strong, and this is a sign that want altogether is not so imperious.

§ 191

Similarly, the means to particularised needs and all the ways of satisfying these are themselves divided and multiplied and so in turn become proximate ends and abstract needs. This multiplication goes on *ad infinitum*; taken as a whole, it is refinement, i.e. a discrimination between these multiplied needs, and judgment on the suitability of means to their ends.

Addition: What the English call ‘comfort’ is something inexhaustible and illimitable. [Others can discover to you that what you take to be] comfort at any stage is discomfort, and these discoveries never come to an end. Hence the need for greater comfort does not exactly arise within you directly; it is suggested to you by those who hope to make a profit from its

creation.

§ 192

Needs and means, as things existent *realiter*, become something which has being for others by whose needs and labour satisfaction for all alike is conditioned. When needs and means become abstract in quality (see § 191), abstraction is also a character of the reciprocal relation of individuals to one another. This abstract character, universality, is the character of being recognised and is the moment which makes concrete, i.e. social, the isolated and abstract needs and their ways and means of satisfaction.

Addition: The fact that I must direct my conduct by reference to others introduces here the form of universality. It is from others that I acquire the means of satisfaction and I must accordingly accept their views. At the same time, however, I am compelled to produce means for the satisfaction of others. We play into each other's hands and so hang together. To this extent everything private becomes something social. In dress fashions and hours of meals, there are certain conventions which we have to accept because in these things it is not worth the trouble to insist on displaying one's own discernment. The wisest thing here is to do as others do.

§ 193

This social moment thus becomes a particular end-determinant for means in themselves and their acquisition, as well as for the manner in which needs are satisfied. Further, it directly involves the demand for equality of satisfaction with others. The need for this equality and for emulation, which is the equalising of oneself with others, as well as the other need also present here, the need of the particular to assert itself in some distinctive way, become themselves a fruitful source of the multiplication of needs and their expansion.

§ 194

Since in social needs, as the conjunction of immediate or natural needs with mental needs arising from ideas, it is needs of the latter type which because of their universality make themselves preponderant, this social moment has in it the aspect of liberation, i.e. the strict natural necessity of need is obscured and man is concerned with his own opinion, indeed with an opinion which is universal, and with a necessity of his own making alone, instead of with an external necessity, an inner contingency, and mere caprice.

Remark: The idea has been advanced that in respect of his needs man lived in freedom in the so-called 'state of nature' when his needs were supposed to be confined to what are known as the simple necessities of

nature, and when he required for their satisfaction only the means which the accidents of nature directly assured to him. This view takes no account of the moment of liberation intrinsic to labour, on which see the following Paragraphs. And apart from this, it is false, because to be confined to mere physical needs as such and their direct satisfaction would simply be the condition in which the mental is plunged in the natural and so would be one of savagery and unfreedom, while freedom itself is to be found only in the reflection of mind into itself, in mind's distinction from nature, and in the reflex of mind in nature.

§ 195

This liberation is abstract since the particularity of the ends remains their basic content. When social conditions tend to multiply and subdivide needs, means, and enjoyments indefinitely—a process which, like the distinction between natural and refined needs, has no qualitative limits—this is luxury. In this same process, however, dependence and want increase *ad infinitum*, and the material to meet these is permanently barred to the needy man because it consists of external objects with the special character of being property, the embodiment of the free will of others, and hence from his point of view its recalcitrance is absolute.

Addition: The entire Cynical mode of life adopted by Diogenes was nothing more or less than a product of Athenian social life, and what determined it was the way of thinking against which his whole manner protested. Hence it was not independent of social conditions but simply their result; it was itself a rude product of luxury. When luxury is at its height, distress and depravity are equally extreme, and in such circumstances Cynicism is the outcome of opposition to refinement.

(b) **The Kind of Labour [typical of civil society]**

§ 196

The means of acquiring and preparing the particularised means appropriate to our similarly particularised needs is labour. Through labour the raw material directly supplied by nature is specifically adapted to these numerous ends by all sorts of different processes. Now this formative change confers value on means and gives them their utility, and hence man in what he consumes is mainly concerned with the products of men. It is the products of human effort which man consumes.

Addition: There is hardly any raw material which does not need to be worked on before use. Even air has to be worked for because we have to warm it. Water is perhaps the only exception, because we can drink it as we find it. It is by the sweat of his brow and the toil of his hands that man

obtains the means to satisfy his needs.

§ 197

The multiplicity of objects and situations which excite interest is the stage on which theoretical education develops. This education consists in possessing not simply a multiplicity of ideas and facts, but also a flexibility and rapidity of mind, ability to pass from one idea to another, to grasp complex and general relations, and so on. It is the education of the understanding in every way, and so also the building up of language. Practical education, acquired through working, consists first in the automatically recurrent need for something to do and the habit of simply being busy; next, in the strict adaptation of one's activity according not only to the nature of the material worked on, but also, and especially, to the pleasure of other workers; and finally, in a habit, produced by this discipline, of objective activity and universally recognised aptitudes.

Addition: The savage is lazy and is distinguished from the educated man by his brooding stupidity, because practical education is just education in the need and habit of being busy. A clumsy man always produces a result he does not intend; he is not master of his own job. The skilled worker, on the other hand, may be said to be the man who produces the thing as it ought to be and who hits the nail on the head without shrinking (*keine Sprödigkeit in seinem subjektiven Tun gegen den Zweck findet*).

§ 198

The universal and objective element in labour, on the other hand, lies in the abstracting process which effects the subdivision of needs and means and thereby *eo ipso* subdivides production and brings about the division of labour. By this division, the labour of the individual becomes less complex, and consequently his skill at his section of the job increases, like his output. At the same time, this abstraction of one man's skill and means of production from another's completes and makes necessary everywhere the dependence of men on one another and their reciprocal relation in the satisfaction of their other needs. Further, the abstraction of one man's production from another's makes labour more and more mechanical, until finally man is able to step aside and install machines in his place.

(c) **Capital [and class-divisions]**

§ 199

When men are thus dependent on one another and reciprocally related to one another in their labour and the satisfaction of their needs, subjective self-seeking turns into a contribution to the satisfaction of the needs of everyone else. That is to say, by a dialectical advance, subjective self-seeking turns into the mediation of the particular through the universal, with the result that each man in earning, producing, and enjoying on his own account is *eo ipso* producing and earning for the enjoyment of everyone else. The compulsion which brings this about is rooted in the complex interdependence of each on all, and it now presents itself to each as the universal permanent capital (see § 170) which gives each the opportunity, by the exercise of his education and skill, to draw a share from it and so be assured of his livelihood, while what he thus earns by means of his labour maintains and increases the general capital.

§ 200

A particular man's resources, or in other words his opportunity of sharing in the general resources, are conditioned, however, partly by his own unearned principal (his capital), and partly by his skill; this in turn is itself dependent not only on his capital, but also on accidental circumstances whose multiplicity introduces differences in the development of natural, bodily, and mental characteristics, which were already in themselves dissimilar. In this sphere of particularity, these differences are conspicuous in every direction and on every level, and, together with the arbitrariness and accident which this sphere contains as well, they have as their inevitable consequence disparities of individual resources and ability.

Remark: The objective right of the particularity of mind is contained in the Idea. Men are made unequal by nature, where inequality is in its element, and in civil society the right of particularity is so far from annulling this natural inequality that it produces it out of mind and raises it to an inequality of skill and resources, and even to one of moral and intellectual attainment. To oppose to this right a demand for equality is a folly of the Understanding which takes as real and rational its abstract equality and its 'ought-to-be'.

This sphere of particularity, which fancies itself the universal, is still only relatively identical with the universal, and consequently it still retains in itself the particularity of nature, i.e. arbitrariness, or in other words the relics of the state of nature. Further, it is reason, immanent in the restless system of human needs, which articulates it into an organic whole with

different members (see the following §).

§ 201

The infinitely complex, criss-cross, movements of reciprocal production and exchange, and the equally infinite multiplicity of means therein employed, become crystallised, owing to the universality inherent in their content, and distinguished into general groups. As a result, the entire complex is built up into particular systems of needs, means, and types of work relative to these needs, modes of satisfaction and of theoretical and practical education, i.e. into systems, to one or other of which individuals are assigned—in other words, into class-divisions.

Addition: The ways and means of sharing in the capital of society are left to each man's particular choice, but the subdivision of civil society into different general branches is a necessity. The family is the first precondition of the state, but class divisions are the second. The importance of the latter is due to the fact that although private persons are self-seeking, they are compelled to direct their attention to others. Here then is the root which connects self-seeking to the universal, i.e. to the state, whose care it must be that this tie is a hard and fast one.

§ 202

The classes are specifically determined in accordance with the concept as

- (a) the *substantial* or immediate [or agricultural] class;
- (b) the reflecting or *formal* [or business] class; and finally,
- (c) the *universal class* [the class of civil servants].

§ 203

(a) The substantial [or agricultural] class has its capital in the natural products of the soil which it cultivates—soil which is capable of exclusively private ownership and which demands formation in an objective way and not mere haphazard exploitation. In face of the connection of [agricultural] labour and its fruits with separate and fixed times of the year, and the dependence of harvests on the variability of natural processes, the aim of need in this class turns into provision for the future; but owing to the conditions here, the agricultural mode of subsistence remains one which owes comparatively little to reflection and independence of will, and this mode of life is in general such that this class has the substantial disposition of an ethical life which is immediate, resting on family relationship and trust.

Remark: The real beginning and original foundation of states has been rightly ascribed to the introduction of agriculture along with marriage,

because the principle of agriculture brings with it the formation of the land and consequentially exclusively private property (compare Remark to § 170); the nomadic life of savages, who seek their livelihood from place to place, it brings back to the tranquillity of private rights and the assured satisfaction of their needs.

Along with these changes, sexual love is restricted to marriage, and this bond in turn grows into an enduring league, inherently universal, while needs expand into care for a family, and personal possessions into family goods. Security, consolidation, lasting satisfaction of needs, and so forth—things which are the most obvious recommendations of marriage and agriculture—are nothing but forms of universality, modes in which rationality, the final end and aim, asserts itself in these spheres.

In this matter, nothing is of more interest than the ingenious and learned explanations which my distinguished friend, Herr Creuzer, has given of the agrarian festivals, images, and sanctuaries of the ancients. He shows that it was because the ancients themselves had become conscious of the divine origin of agriculture and other institutions associated with it that they held them in such religious veneration.

In course of time, the character of this class as ‘substantial’ undergoes modifications through the working of the civil law, in particular the administration of justice, as well as through the working of education, instruction, and religion. These modifications, which occur in the other classes also, do not affect the substantial content of the class but only its form and the development of its power of reflection.

Addition: In our day agriculture is conducted on methods devised by reflective thinking, i.e. like a factory. This has given it a character like that of industry and contrary to its natural one. Still, the agricultural class will always retain a mode of life which is patriarchal and the substantial frame of mind proper to such a life. The member of this class accepts unreflectively what is given him and takes what he gets, thanking God for it and living in faith and confidence that this goodness will continue. What comes to him suffices him; once it is consumed, more comes again. This is the simple attitude of mind not concentrated on the struggle for riches. It may be described as the attitude of the old nobility which just ate what there was. So far as this class is concerned, nature does the major part, while individual effort is secondary. In the business class, however, it is intelligence which is the essential thing, and natural products can be treated only as raw materials.

§ 204

(b) The business class has for its task the adaptation of raw materials,

and for its means of livelihood it is thrown back on its work, on reflection and intelligence, and essentially on the mediation of one man's needs and labour with those of others. For what this class produces and enjoys, it has mainly itself, its own industry, to thank. The task of this class is subdivided into:

- [a] work to satisfy single needs in a comparatively concrete way and to supply single orders—craftsmanship;
- [b] work of a more abstract kind, mass-production to satisfy single needs, but needs in more universal demand—manufacture;
- [c] the business of exchange, whereby separate utilities are exchanged the one for the other, principally through the use of the universal medium of exchange, money, which actualises the abstract value of all commodities—trade.

Addition: In the business class, the individual is thrown back on himself, and this feeling of self-hood is most intimately connected with the demand for law and order. The sense of freedom and order has therefore arisen above all in towns. The agricultural class, on the other hand, has little occasion to think of itself; what it obtains is the gift of a stranger, of nature. Its feeling of dependence is fundamental to it, and with this feeling there is readily associated a willingness to submit to whatever may befall it at other men's hands. The agricultural class is thus more inclined to subservience, the business class to freedom.

§ 205

(c) The universal class [the class of civil servants] has for its task the universal interests of the community. It must therefore be relieved from direct labour to supply its needs, either by having private means or by receiving an allowance from the state which claims its industry, with the result that private interest finds its satisfaction in its work for the universal.

§ 206

It is in accordance with the concept that class-organisation, as particularity become objective to itself, is split in this way into its general divisions. But the question of the particular class to which an individual is to belong is one on which natural capacity, birth, and other circumstances have their influence, though the essential and final determining factors are subjective opinion and the individual's arbitrary will, which win in this sphere their right, their merit, and their dignity. Hence what happens here by inner necessity occurs at the same time by the mediation of the arbitrary will, and to the conscious subject it has the shape of being the work of his own will.

Remark: In this respect too there is a conspicuous difference, in relation to the principle of particularity and the subject's arbitrary will, between the political life of the east and the west, and also between that of the ancient and the modern world. In the former, the division of the whole into classes came about objectively of itself, because it is inherently rational; but the principle of subjective particularity was at the same time denied its rights, in that, for example, the allotment of individuals to classes was left to the ruling class, as in Plato's *Republic*, or to the accident of birth, as in the Indian caste-system. Thus subjective particularity was not incorporated into the organisation of society as a whole; it was not reconciled in the whole, and therefore—since as an essential moment it emerges there in any event—it shows itself there as something hostile, as a corruption of the social order (see Remark to § 185) Either it overthrows society, as happened in the Greek states and in the Roman Republic; or else, should society preserve itself in being as a force or as a religious authority, for instance, it appears as inner corruption and complete degeneration, as was the case to some extent in Sparta and is now altogether the case in India.

But when subjective particularity is upheld by the objective order in conformity with it and is at the same time allowed its rights, then it becomes the animating principle of the entire civil society, of the development alike of mental activity, merit, and dignity. The recognition and the right that what is brought about by reason of necessity in civil society and the state shall at the same time be effected by the mediation of the arbitrary will is the more precise definition of what is primarily meant by freedom in common parlance (see § 121).

§ 207

A man actualises himself only in becoming something definite, i.e. something specifically particularised; this means restricting himself exclusively to one of the particular spheres of need. In this class-system, the ethical frame of mind therefore is rectitude and *esprit de corps*, i.e. the disposition to make oneself a member of one of the moments of civil society by one's own act, through one's energy, industry, and skill, to maintain oneself in this position, and to fend for oneself only through this process of mediating oneself with the universal, while in this way gaining recognition both in one's own eyes and in the eyes of others. Morality has its proper place in this sphere where the paramount thing is reflection on one's doings, and the quest of happiness and private wants, and where the contingency in satisfying these makes into a duty even a single and contingent act of assistance.

Remark: At first (i.e. especially in youth) a man chafes at the idea of

resolving on a particular social position, and looks upon this as a restriction on his universal character and as a necessity imposed on him purely *ab extra*. This is because his thinking is still of that abstract kind which refuses to move beyond the universal and so never reaches the actual. It does not realise that if the concept is to be determinate, it must first of all advance into the distinction between the concept and its real existence and thereby into determinacy and particularity (see § 7)—It is only thus that the concept can win actuality and ethical objectivity.

Addition: When we say that a man must be a ‘somebody’, we mean that he should belong to some specific social class, since to be a somebody means to have substantive being. A man with no class is a mere private person and his universality is not actualised. On the other hand, the individual in his particularity may take himself as the universal and presume that by entering a class he is surrendering himself to an indignity. This is the false idea that in attaining a determinacy necessary to it, a thing is restricting and surrendering itself.

§ 208

As the private particularity of knowing and willing, the principle of this system of needs contains absolute universality, the universality of freedom, only abstractly and therefore as the right of property. At this point, however, this right is no longer merely implicit but has attained its recognised actuality as the protection of property through the administration of justice.

B. Administration of Justice

§ 209

The relatedness arising from the reciprocal bearing on one another of needs and labour to satisfy these is first of all reflected into itself as infinite personality, as abstract right. But it is this very sphere of relatedness—a sphere of education, which gives abstract right the determinate existence of being something universally recognised, known, and willed, and having a validity and an objective actuality mediated by this known and willed character.

Remark: It is part of education, of thinking as the consciousness of the single in the form of universality, that the ego comes to be apprehended as a universal person in which all are identical. A man counts as a man in virtue of his manhood alone, not because he is a Jew, Catholic, Protestant, German, Italian, &c. This is an assertion which thinking ratifies and to be conscious of it is of infinite importance. It is defective only when it is crystallised, e.g. as a cosmopolitanism in opposition to the concrete life of

the state.

Addition: From one point of view, it is through the working of the system of particularity that right becomes an external compulsion as a protection of particular interests. Even though this result is due to the concept, right none the less only becomes something existent because this is useful for men's needs. To become conscious in thought of his right, man must be trained to think and give up dallying with mere sensation. We must invest the objects of our thought with the form of universality and similarly we must direct our willing by a universal principle. It is only after man has devised numerous needs and after their acquisition has become intertwined with his satisfaction, that he can frame laws for himself.

§ 210

The objective actuality of the right consists, first, in its existence for consciousness, in its being known in some way or other; secondly, in its possessing the power which the actual possesses, in its being valid, and so also in its becoming known as universally valid.

(a)

Right as Law

§ 211

The principle of rightness becomes the law (*Gesetz*) when, in its objective existence, it is posited (*gesetzt*), i.e. when thinking makes it determinate for consciousness and makes it known as what is right and valid; and in acquiring this determinate character, the right becomes positive law in general.

Remark: To posit something as universal, i.e. to bring it before consciousness as universal, is, I need hardly say, to think (compare Remarks to §§ 13 and 21). Thereby its content is reduced to its simplest form and so is given its final determinacy. In becoming law, what is right acquires for the first time not only the form proper to its universality, but also its determinacy. Hence making a law is not to be represented as merely the expression of a rule of behaviour valid for everyone, though that is one moment in legislation; the more important moment, the inner essence of the matter, is knowledge of the content of the law in its determinate universality.

Since it is only animals which have their law as instinct, while it is man alone who has law as custom, even systems of customary law contain the moment of being thoughts and being known. Their difference from positive law consists solely in this, that they are known only in a subjective and accidental way, with the result that in themselves they are less determinate and the universality of thought is less clear in them. (And

apart from this, knowledge of a system of law either in general or in its details, is the accidental possession of a few.) The supposition that it is customary law, on the strength of its character as custom, which possesses the privilege of having become part of life is a delusion, since the valid laws of a nation do not cease to be its customs by being written and codified—and besides, it is as a rule precisely those versed in the dearest of topics and the dearest of thoughts who talk nowadays of ‘life’ and of ‘becoming part of life’. When a nation begins to acquire even a little culture, its customary law must soon come to be collected and put together. Such a collection is a legal code, but one which, as a mere collection, is markedly formless, indeterminate, and fragmentary. The main difference between it and a code properly so-called is that in the latter the principles of jurisprudence in their universality, and so in their determinacy, have been apprehended in terms of thought and expressed. English national law or municipal law is contained, as is well known, in statutes (written laws) and in so-called ‘unwritten’ laws. This unwritten law, however, is as good as written, and knowledge of it may, and indeed must, be acquired simply by reading the numerous quartos which it fills. The monstrous confusion, however, which prevails both in English law and its administration is graphically portrayed by those acquainted with the matter. In particular, they comment on the fact that, since this unwritten law is contained in court verdicts and judgments, the judges are continually legislators. The authority of precedent is binding on them, since their predecessors have done nothing but give expression to the unwritten law; and yet they are just as much exempt from its authority, because they are themselves repositories of the unwritten law and so have the right to criticise previous judgments and pronounce whether they accorded with the unwritten law or not.

A similar confusion might have arisen in the legal system of the later Roman Empire owing to the different but authoritative judgments of all the famous jurists. An Emperor met the situation, however, by a sensible expedient when, by what was called the Law of Citations, he set up a kind of College of the jurists who were longest deceased. There was a President, and the majority vote was accepted.

No greater insult could be offered to a civilised people or to its lawyers than to deny them ability to codify their law; for such ability cannot be that of constructing a legal system with a novel content, but only that of apprehending, i.e. grasping in thought, the content of existing laws in its determinate universality and then applying them to particular cases.

Addition: The sun and the planets have their laws too, but they do not know them. Savages are governed by impulses, customs, and feelings, but

they are unconscious of this. When right is posited as law and is known, every accident of feeling vanishes together with the form of revenge, sympathy, and selfishness, and in this way the right attains for the first time its true determinacy and is given its due honour. It is as a result of the discipline of comprehending the right that the right first becomes capable of universality. In the course of applying the laws, clashes occur, and in dealing with these the judge's intelligence has its proper scope; this is quite inevitable, because otherwise carrying out the law would be something mechanical from start to finish. But to go so far as to get rid of clashes altogether by leaving much to the judge's discretion is a far worse solution, because even the clash is intrinsic to thought, to conscious thinking and its dialectic, while the mere fiat of a judge would be arbitrary.

It is generally alleged in favour of customary law that it is 'living', but this vitality, i.e. the identity between the subject and what the law provides, is not the whole essence of the matter. Law (*Recht*) must be known by thought, it must be a system in itself, and only as such can it be recognised in a civilised country. The recent denial that nations 'have a vocation to codify their laws' is not only an insult; it also implies the absurdity of supposing that not a single individual has been endowed with skill enough to bring into a coherent system the endless mass of existing laws. The truth is that it is just systematisation, i.e. elevation to the universal, which our time is pressing for without any limit. A similar view is that collections of judgments, like those available in a *Corpus Juris*, are far superior to a code worked out in the most general way. The reason alleged is that such judgments always retain a certain particularity and a certain reminiscence of history which men are unwilling to sacrifice. But the mischievousness of such collections is made clear enough by the practice of English law.

§ 212

It is only because of this identity between its implicit and its posited character that positive law has obligatory force in virtue of its rightness. In being posited in positive law, the right acquires determinate existence. Into such existence there may enter the contingency of self-will and other particular circumstances and hence there may be a discrepancy between the content of the law and the principle of rightness.

Remark: In positive law, therefore, it is the legal which is the source of our knowledge of what is right, or, more exactly, of our legal rights (*Rechtens*). Thus the science of positive law is to that extent an historical science with authority as its guiding principle. Anything over and above this historical study is matter for the Understanding and concerns the collection of laws, their classification on external principles, deductions

from them, their application to fresh details, &c. When the Understanding meddles with the nature of the thing itself, its theories, e.g. of criminal law, show what its deductive argumentation can concoct.

The science of positive law has not only the right, but even the inescapable duty, to study given laws, to deduce from its positive data their progress in history, their applications and subdivisions, down to the last detail, and to exhibit their implications. On the other hand, if, after all these deductions have been proved, the further question about the rationality of a specific law is still raised, the question may seem perverse to those who are busied with these pursuits, but their astonishment at it should at least stop short of dismay.

With this Remark, compare what was said in the Remark to § 3 about ‘understanding’ the law.

§ 213

Right becomes determinate in the first place when it has the form of being posited as positive law; it also becomes determinate in content by being applied both to the material of civil society (i.e. to the endlessly growing complexity and subdivision of social ties and the different species of property and contract within the society) and also to ethical ties based on the heart, on love and trust, though only in so far as these involve abstract right as one of their aspects (see § 159)—Morality and moral commands concern the will on its most private, subjective, and particular side, and so cannot be a matter for positive legislation. Further material for the determinate content of law is provided by the rights and duties which have their source in the administration of justice itself, in the state, and so forth.

Addition: In the higher relationships of marriage, love, religion, and the state, the only aspects which can become the subject of legislation are those of such a nature as to permit of their being in principle external. Still, in this respect there is a wide difference between the laws of different peoples. The Chinese, for instance, have a law requiring a husband to love his first wife more than his other wives. If he is convicted of doing the opposite, corporal punishment follows. Similarly, the legislation of the ancients in earlier times was full of precepts about uprightness and integrity which are unsuited by nature to legal enactment because they fall wholly within the field of the inner life. It is only in the case of the oath, whereby things are brought home to conscience, that uprightness and integrity must be taken into account as the substance of the matter.

§ 214

But apart from being applied to particular instances, right by being

embodied in positive law becomes applicable to the single case. Hence it enters the sphere where quantity, not the concept, is the principle of determination. This is the sphere of the quantitative as such, of the quantitative as that which determines the relative value in exchange of *qualia*. In this sphere, the concept merely lays down a general limit, within which vacillation is still allowed. This vacillation must be terminated, however, in the interest of getting something done, and for this reason there is a place within that limit for contingent and arbitrary decisions.

Remark: The purely positive side of law lies chiefly in this focusing of the universal not merely on a particular instance, but on an isolated case, i.e. in its *direct* application. Reason cannot determine, nor can the concept provide any principle whose application could decide whether justice requires for an offence (i) a corporal punishment of forty lashes or thirty-nine, or (ii) a fine of five dollars or four dollars ninety-three, four, &c., cents, or (iii) imprisonment of a year or three hundred and sixty-four, three, &c., days, or a year and one, two, or three days. And yet injustice is done at once if there is one lash too many, or one dollar or one cent, one week in prison or one day, too many or too few.

Reason itself requires us to recognise that contingency, contradiction, and show have a sphere and a right of their own, restricted though it be, and it is irrational to strive to resolve and rectify contradictions within that sphere. Here the only interest present is that something be actually done, that the matter be settled and decided somehow, no matter how (within a certain limit). This decision pertains to abstract subjectivity, to formal self-certainty, which may decide either by simply holding to its power (within that limit) of settling the matter by merely terminating deliberation and thereby dismissing it out of hand, or else by adopting some reason for decision such as keeping to round numbers or always adopting, say thirty-nine.

It is true that the law does not settle these ultimate decisions required by actual life; it leaves them instead to the judge's discretion, merely limiting him by a maximum and minimum. But this does not affect the point at issue, because the maximum and minimum are themselves in every instance only round numbers once more. To fix them, therefore, does not exempt the judge from making a finite, purely positive, decision, since on the contrary such a decision is still left to him by the necessities of the case.

Addition: There is one essential element in law and the administration of justice which contains a measure of contingency and which arises from the fact that the law is a universal prescription which has to be applied to the

single case. If you wished to declare yourself against this contingency, you would be talking in abstractions. The measure of a man's punishment, for example, cannot be made equivalent to any determination of the concept of punishment, and the decision made, whatever it be, is from this point of view arbitrary always. But this contingency is itself necessary, and if you argue against having a code at all on the ground that any code is incomplete, you are overlooking just that element of law in which completion is not to be achieved and which therefore must just be accepted as it stands.

(b) Law determinately existent

§ 215

If laws are to have a binding force, it follows that, in view of the right of self-consciousness (see § 132 and the Remark thereto) they must be made universally known.

Remark: To hang the laws so high that no citizen could read them (as Dionysius the Tyrant did) is injustice of one and the same kind as to bury them in row upon row of learned tomes, collections of dissenting judgments and opinions, records of customs, &c., and in a dead language too, so that knowledge of the law of the land is accessible only to those who have made it their professional study. Rulers who have given a national law to their peoples in the form of a well-arranged and clear-cut legal code or even a mere formless collection of laws, like Justinian's—have been the greatest benefactors of their peoples and have received thanks and praise for their beneficence. But the truth is that their work was at the same time a great act of justice.

Addition: The legal profession, possessed of a special knowledge of the law, often claims this knowledge as its monopoly and refuses to allow any layman to discuss the subject. Physicists similarly have taken amiss Goethe's theory about colours because he did not belong to their craft and was a poet into the bargain. But we do not need to be shoemakers to know if our shoes fit, and just as little have we any need to be professionals to acquire knowledge of matters of universal interest. Law is concerned with freedom, the worthiest and holiest thing in man, the thing man must know if it is to have obligatory force for him.

§ 216

For a public legal code, simple general laws are required, and yet the nature of the *finite* material to which law is applied leads to the further determining of general laws *ad infinitum*. On the one hand, the law ought to be a comprehensive whole, closed and complete; and yet, on the other

hand, the need for further determinations is continual. But since this antinomy arises only when universal principles, which remain fixed and unchanged, are applied to particular types of case, the right to a complete legal code remains unimpaired, like the right that these simple general principles should be capable of being laid down and understood apart and in distinction from their application to such particular types.

Remark: A fruitful source of complexity in legislation is the gradual intrusion of reason, of what is inherently and actually right, into primitive institutions which have something wrong at their roots and so are purely historical survivals. This occurred in Roman law, as was remarked above (see Remark to § 180), in medieval feudal law, &c. It is essential to notice, however, that the very nature of the finite material to which law is applied necessarily entails an infinite progress in the application to it of principles universal in themselves and inherently and actually rational.

It is misunderstanding which has given rise alike to the demand—a morbid craving of German scholars chiefly—that a legal code should be something absolutely complete, incapable of any fresh determination in detail, and also to the argument that because a code is incapable of such completion, therefore we ought not to produce something ‘incomplete’, i.e. we ought not to produce a code at all. The misunderstanding rests in both cases on a misconception of the nature of a finite subject-matter like private law, whose so-called ‘completeness’ is a perennial approximation to completeness, on a misconception of the differences between the universal of reason and the universal of the Understanding, and also in the application of the latter to the material of finitude and atomicity which goes on for ever.—*Le plus grand ennemi du Bien, c’est le Meilleur* is the utterance of true common sense against the common sense of idle argumentation and abstract reflection.

Addition: Completeness means the exhaustive collection of every single thing, pertaining to a given field, and no science or branch of knowledge can be complete in this sense. Now, if we say that philosophy or any one of the sciences is incomplete, we are not far from holding that we must wait until the deficiency is made up, since the best part may still be wanting. But take up this attitude and advance is impossible, either in geometry, which seems to be a closed science although new propositions do arise, or in philosophy, which is always capable of freshness in detail even though its subject is the universal Idea. In the past, the universal law always consisted of the ten commandments; now we can see at once that not to lay down the law ‘Thou shalt not kill’, on the ground that a legal code cannot be complete, is an obvious absurdity. Any code could be still better—no effort of reflection is required to justify this affirmation; we

can think of the best, finest, and noblest as still better, finer, and nobler. But a big old tree puts forth more and more branches without thereby becoming a new tree; though it would be silly to refuse to plant a tree at all simply because it might produce new branches.

§ 217

The principle of rightness passes over in civil society into law. My individual right, whose embodiment has hitherto been immediate and abstract, now similarly becomes embodied in the existent will and knowledge of everyone, in the sense that it becomes recognised. Hence property acquisitions and transfers must now be undertaken and concluded only in the form which that embodiment gives to them. In civil society, property rests on contract and on the formalities which make ownership capable of proof and valid in law.

Remark: Original, i.e. direct, titles and means of acquisition (see §§ 54 ff.) are simply discarded in civil society and appear only as isolated accidents or as subordinated factors of property transactions. It is either feeling, refusing to move beyond the subjective, or reflection, clinging to its abstract essences, which casts formalities aside, while the dry-as-dust Understanding may for its part cling to formalities instead of the real thing and multiply them indefinitely.

Apart from this, however, the march of mental development is the long and hard struggle to free a content from its sensuous and immediate form, endow it with its appropriate form of thought, and thereby give it simple and adequate expression. It is because this is the case that when the development of law is just beginning, ceremonies and formalities are more circumstantial and count rather as the thing itself than as its symbol. Thus even in Roman law, a number of forms and especially phrases were retained from old-fashioned ceremonial usages, instead of being replaced by intelligible forms and phrases adequately expressing them.

Addition: Law and the right are identical in the sense that what is implicitly right is posited in the law. I possess something, own a property, which I occupied when it was ownerless. This possession must now further be recognised and posited as mine. Hence in civil society formalities arise in connection with property. Boundary stones are erected as a symbol for others to recognise. Entries are made in mortgage and property registers. Most property in civil society is held on contract, and contractual forms are fixed and determinate. Now we may have an antipathy to formalities of this kind and we may suppose that they only exist to bring in money to the authorities; we may even regard them as something offensive and a sign of mistrust because they impair the validity

of the saying: 'A man is as good as his word.' But the formality is essential because what is inherently right must also be posited as right. My will is a rational will; it has validity, and its validity should be recognised by others. At this point, then, my subjectivity and that of others must be set aside and the will must achieve the security, stability, and objectivity which can be attained only through such formalities.

§ 218

Since property and personality have legal recognition and validity in civil society, wrongdoing now becomes an infringement, not merely of what is subjectively infinite, but of the universal thing which is existent with inherent stability and strength. Hence a new attitude arises: the action is seen as a danger to society and thereby the magnitude of the wrongdoing is increased. On the other hand, however, the fact that society has become strong and sure of itself diminishes the external importance of the injury and so leads to a mitigation of its punishment.

Remark: The fact that an injury to one member of society is an injury to all others does not alter the conception of wrongdoing, but it does alter it in respect of its outward existence as an injury done, an injury which now affects the mind and consciousness of civil society as a whole, not merely the external embodiment of the person directly injured. In heroic times, as we see in the tragedy of the ancients, the citizens did not feel themselves injured by wrongs which members of the royal houses did to one another.

Implicitly, crime is an infinite injury; but as an existent fact it must be measured in quantity and quality (see § 96), and since its field of existence here has the essential character of affecting an idea and consciousness of the validity of the laws, its danger to civil society is a determinant of the magnitude of a crime, or even one of its qualitative characteristics.

Now this quality or magnitude varies with the state of civil society; and this is the justification for sometimes attaching the penalty of death to a theft of a few pence or a turnip, and at other times a light penalty to a theft of a hundred or more times that amount. If we consider its danger to society, this seems at first sight to aggravate the crime; but in fact it is just this which has been the prime cause of the mitigation of its punishment. A penal code, then, is primarily the child of its age and the state of civil society at the time.

Addition: It seems to be a contradiction that a crime committed in society appears more heinous and yet is punished more leniently. But while it would be impossible for society to leave a crime unpunished, since that would be to posit it as right, still since society is sure of itself, a crime must always be something idiosyncratic in comparison, something unstable and

exceptional. The very stability of society gives a crime the status of something purely subjective which seems to be the product rather of natural impulse than of a prudent will. In this light, crime acquires a milder status, and for this reason its punishment too becomes milder. If society is still internally weak, then an example must be made by inflicting punishments, since punishment is itself an example over against the example of crime. But in a society which is internally strong, the commission of crime is something so feeble that its annulment must be commensurable with its feebleness. Harsh punishments, therefore, are not unjust in and by themselves; they are related to contemporary conditions. A criminal code cannot hold good for all time, and crimes are only shows of reality which may draw on themselves a greater or lesser degree of disavowal.

(c) **The Court of Justice**

§ 219

By taking the form of law, right steps into a determinate mode of being. It is then something on its own account, and in contrast with particular willing and opining of the right, it is self-subsistent and has to vindicate itself as something universal. This is achieved by recognising it and making it actual in a particular case without the subjective feeling of private interest; and this is the business of a public authority—the court of justice.

Remark: The historical origin of the judge and his court may have had the form of a patriarch's gift to his people or of force or free choice; but this makes no difference to the concept of the thing. To regard the introduction of a legal system as no more than an optional act of grace or favour on the part of monarchs and governments (as Herr von Haller does in his *Restauration der Staatswissenschaft*) is a piece of the mere thoughtlessness which has no inkling of the point at issue in a discussion of law and the state. The point is that legal and political institutions are rational in principle and therefore absolutely necessary, and the question of the form in which they arose or were introduced is entirely irrelevant to a consideration of their rational basis.

At the other extreme from Herr von Haller's point of view is the barbarous notion that the administration of justice is now, as it was in the days when might was right, an improper exercise of force, a suppression of freedom, and a despotism. The administration of justice must be regarded as the fulfilment of a duty by the public authority, no less than as the exercise of a right; and so far as it is a right, it does not depend upon an optional delegation to one authority by the individual members of society.

§ 220

When the right against crime has the form of revenge (see § 102), it is only right implicit, not right in the form of right, i.e. no *act* of revenge is justified. Instead of the injured party, the injured *universal* now comes on the scene, and this has its proper actuality in the court of law. It takes over the pursuit and the avenging of crime, and this pursuit consequently ceases to be the subjective and contingent retribution of revenge and is transformed into the genuine reconciliation of right with itself, i.e. into punishment. Objectively, this is the reconciliation of the law with itself; by the annulment of the crime, the law is restored and its authority is thereby actualised. Subjectively, it is the reconciliation of the criminal with himself, i.e. with the law known by him as his own and as valid for him and his protection; when this law is executed upon him, he himself finds in this process the satisfaction of justice and nothing save his own act.

§ 221

A member of civil society has the right *in judicio stare* and, correspondingly, the duty of acknowledging the jurisdiction of the court and accepting its decision as final when his own rights are in dispute.

Addition: Since any individual has the right *in judicio stare*, he must also know what the law is or otherwise this privilege would be useless to him. But it is also his *duty* to stand his trial. Under the feudal system, the nobles often refused to stand their trial. They defied the court and alleged that the court was wrong to demand their appearance. Feudal conditions, however, contravened the very idea of a court. Nowadays monarchs have to recognise the jurisdiction of the court in their private affairs, and in free states they commonly lose their case.

§ 222

In court the specific character which rightness acquires is that it must be demonstrable. When parties go to law, they are put in the position of having to make good their evidence and their claims and to make the judge acquainted with the facts. These steps in a legal process are themselves rights, and their course must therefore be fixed by law. They also constitute an essential part of jurisprudence.

Addition: A man may be indignant if a right which he knows he has is refused him because he cannot prove it. But if I have a right, it must at the same time be a right posited in law. I must be able to explain and prove it, and its validity can only be recognised in society if its rightness in principle is also made a posited rightness in law.

§ 223

These steps in a legal process are subdivided continually within no fixed limits into more and more actions, each being distinct in itself and a right. Hence a legal process, in itself in any case a means, now begins to be something external to its end and contrasted with it. This long course of formalities is a right of the parties at law and they have the right to traverse it from beginning to end. Still, it may be turned into an evil, and even an instrument of wrong, and for this reason it is by law made the duty of the parties to submit themselves to the simple process of arbitration (before a tribunal of arbitrators) and to the attempt to reconcile their differences out of court, in order that they—and right itself, as the substance of the thing and so the thing really at issue—may be protected against legal processes and their misuse.

Remark: Equity involves a departure from formal rights owing to moral or other considerations and is concerned primarily with the content of the lawsuit. A court of equity, however, comes to mean a court which decides in a single case without insisting on the formalities of a legal process or, in particular, on the objective evidence which the letter of the law may require. Further, it decides on the merits of the single case as a unique one, not with a view to disposing of it in such a way as to create a binding legal precedent for the future.

§ 224

Amongst the rights of the subjective consciousness are not only the publication of the laws (see § 215) but also the possibility of ascertaining the actualisation of the law in a particular case (the course of the proceedings, the legal argument, &c.)—i.e. the publicity of judicial proceedings. The reason for this is that a trial is implicitly an event of universal validity, and although the particular content of the action affects the interests of the parties alone, its universal content, i.e. the right at issue and the judgment thereon, affects the interests of everybody.

Remark: If the members of the bench deliberate amongst themselves about the judgment which they are to deliver, such deliberations express opinions and views still personal and so naturally are not public.

Addition: It is straightforward common sense to hold that the publicity of legal proceedings is right and just. A strong reason against such publicity has always been the rank of justices; they

are unwilling to sit in public and they regard themselves as a sanctuary of law which laymen are not to enter. But an integral part of justice is the confidence which citizens have in it, and it is this which requires that proceedings shall be public. The right of publicity depends on the fact that (i) the aim of the court is justice, which as universal falls under the cognisance of everyone, and (ii) it is through publicity that the citizens become convinced that the judgment was actually just.

§ 225

By the judgment of the court, the law is applied to a single case, and the work of judgment has two distinct aspects: first, ascertainment of the nature of the case as a unique, single, occurrence (e.g. whether a contract, &c., &c., has been made, whether a trespass has been committed, and if so by whom) and, in criminal cases, reflection to determine the essential, criminal, character of the deed (see Remark to § 119); secondly, the subsumption of the case under the law that right must be restored. Punishment in criminal cases is a conception falling under this law. Decisions on these two different aspects are given by different functionaries.

Remark: In the Roman judicial system, this distinction of functions appeared in that the Praetor pronounced judgment on the assumption that the facts were so and so, and then appointed a special *judex* to inquire into the facts.

In English law, it is left to the insight or option of the prosecutor to determine the precise character of a criminal act (e.g. whether it is murder or manslaughter) and the court is powerless to alter the indictment if it finds the prosecutor's choice wrong.

§ 226

First, the conduct of the entire process of inquiry, secondly, the detailed stages of the action between the parties (these stages themselves being rights—see § 222), and then also the second of the aspects of the work of judgment mentioned in the previous paragraph, are all a task which properly belongs to the judge at law. He is the organ of the law, and the case must be prepared for him in such a way as to make possible its subsumption under some principle; that is to say, it must be stripped of its apparent, empirical, character and exalted into a recognised fact of a general type.

§ 227

The first aspect of the work of judgment, i.e. the knowledge of the facts of the case as a unique, single, occurrence, and the description of its general

character, involves in itself no pronouncement on points of law. This is knowledge attainable by any educated man. In settling the character of an action, the subjective moment, i.e. the agent's insight and intention (see the Second Part), is the essential thing; and apart from this, the proof depends not on objects of reason or abstractions of the Understanding, but only on single details and circumstances, objects of sensuous intuition and subjective certainty, and therefore does not contain in itself any absolute, objective, probative factor. It follows that judgment on the facts lies in the last resort with subjective conviction and conscience (*animi sententia*), while the proof, resting as it does on the statements and affidavits of others, receives its final though purely subjective verification from the oath.

Remark: In this matter it is of the first importance to fix our eyes on the type of proof here in question and to distinguish it from knowledge and proof of another sort. To establish by proof a rational category, like the concept of right itself, means to apprehend its necessity, and so demands a method other than that requisite for the proof of a geometrical theorem. Further, in this latter case, the figure is determined by the Understanding and made abstract in advance according to a rule. But in the case of something empirical in content, like a fact, the material of knowledge is a given sensuous intuition and subjective sense-certainty, and statements and affidavits about such material. It is then a question of drawing conclusions and putting two and two together out of depositions of that kind, attestations and other details, &c. The objective truth which emerges from material of this kind and the method appropriate to it leads, when attempts are made to determine it rigidly and objectively, to half-proofs and then, by further sincere deductions from these—deductions which at the same time involve formal illogicality—to extraordinary punishments. But such objective truth means something quite different from the truth of a rational category or a proposition whose content the Understanding has determined for itself abstractly in advance. To show that, since the strictly legal character of a court covers competence to ascertain this sort of truth about empirical events, it thereby properly qualifies a court for this task and so gives it an inherent exclusive right to perform it and lays on it the necessity of performing it—that is the best approach to settling the question of how far decisions on points of fact, as well as on points of law, should be ascribed to courts as strictly juristic bodies.

Addition: No grounds can be adduced for supposing that the judge, i.e. the legal expert, should be the only person to establish how the facts lie, for ability to do so depends on general, not on purely legal, education. Determination of the facts of the case depends on empirical details, on

depositions about what happened, and on similar perceptual data, or again on facts from which inferences can be drawn about the deed in question and which make it probable or improbable. Here then, it is an assurance which should be required, not truth in the higher sense in which it is always something eternal. Here such assurance is subjective conviction, or conscience, and the problem is: What form should this assurance take in a court of law? The demand, commonly made in German law, that a criminal should confess his guilt, has this to be said for it, that the right of self-consciousness thereby attains a measure of satisfaction; consciousness must chime in with the judge's sentence, and it is only when the criminal has confessed that the judgment loses its alien character so far as he is concerned. But a difficulty arises here, because the criminal may lie, and the interest of justice may be jeopardised. If, on the other hand, the subjective conviction of the judge is to hold good, some hardship is once more involved, because the accused is no longer being treated as a free man. Now the middle term between these extremes is trial by jury, which meets the demand that the declaration of guilt or innocence shall spring from the soul of the accused.

§ 228

When judgment is pronounced—so far as the function of judgment is the subsumption under the law of the case whose nature has been settled—the right due to the parties on the score of their self-consciousness is preserved in relation to the law because the law is known and so is the law of the parties themselves, and in relation to the *subsumption*, because the trial is public. But when a verdict is given on the particular, subjective, and external facts of the case (knowledge of which falls under the first of the aspects described in § 225), this right is satisfied by the confidence which the parties feel in the subjectivity of those who give the verdict. This confidence is based primarily on the similarity between them and the parties in respect of their particularity, i.e. their social position, &c.

Remark: The right of self-consciousness, the moment of subjective freedom, may be regarded as the fundamental thing to keep before us in considering the necessity for publicity in legal proceedings and for the so-called jury-courts, and this in the last resort is the essence of whatever may be advanced in favour of these institutions on the score of their utility. Other points of view and reasoning about their several advantages and disadvantages may give rise to an argumentative exchange, but reasoning of this kind, like all deductive reasoning, is either secondary and inconclusive, or else drawn from other and perhaps higher spheres than that of advantage. It may be the case that if the administration of justice were entirely in the hands of professional lawyers, and there were no lay

institutions like juries, it would in theory be managed just as well, if not better. It may be so, but even if this possibility rises by general consent to probability, or even certainty, it still does not matter, for on the other side there is always the right of self-consciousness, insisting on its claims and dissatisfied if laymen play no part.

Owing to the character of the entire body of the laws, knowledge both of what is right and also of the course of legal proceedings may become, together with the capacity to prosecute an action at law, the property of a class which makes itself an exclusive clique by the use of a terminology like a foreign tongue to those whose rights are at issue. If this happens, the members of civil society, who depend for their livelihood on their industry, on their own knowledge and will, are kept strangers to the law, not only to those parts of it affecting their most personal and intimate affairs, but also to its substantive and rational basis, the right itself, and the result is that they become the wards, or even in a sense the bondsmen, of the legal profession. They may indeed have the right to appear in court in person and to ‘stand’ there (*in judicio stare*), but their bodily presence is a trifle if their minds are not to be there also, if they are not to follow the proceedings with their own knowledge, and if the justice they receive remains in their eyes a doom pronounced *ab extra*.

§ 229

In civil society, the Idea is lost in particularity and has fallen asunder with the separation of inward and outward. In the administration of justice, however, civil society returns to its concept, to the unity of the implicit universal with the subjective particular, although here the latter is only that present in single cases and the universality in question is that of **abstract** right. The actualisation of this unity through its extension to the whole ambit of particularity is (i) the specific function of the Police, though the unification which it effects is only relative; (ii) it is the Corporation which actualises the unity completely, though only in a whole which, while concrete, is restricted.

Addition: In civil society, universality is necessity only. When we are dealing with human needs, it is only right as such which is steadfast. But this right—only a restricted sphere—has a bearing simply on the protection of property; welfare is something external to right as such. This welfare, however, is an essential end in the system of needs. Hence the universal, which in the first instance is the right only, has to be extended over the whole field of particularity. Justice is a big thing in civil society. Given good laws, a state can flourish, and freedom of property is a fundamental condition of its prosperity. Still, since I am inextricably

involved in particularity, I have a right to claim that in this association with other particulars, my particular welfare too shall be promoted. Regard should be paid to my welfare, to my particular interest, and this is done through the Police and the Corporation.

C. The Public Authorities

§ 230

In the system of needs, the livelihood and welfare of every single person is a possibility whose actual attainment is just as much conditioned by his caprices and particular endowment as by the objective system of needs. Through the administration of justice, offences against property or personality are annulled. But the right actually present in the particular requires, first, that accidental hindrances to one aim or another be removed, and undisturbed safety of person and property be attained; and secondly, that the securing of every single person's livelihood and welfare be treated and actualised as a right, i.e. that particular welfare as such be so treated.

(a) Police [or the public authority]

§ 231

Inasmuch as it is still the particular will which governs the choice of this or that end, the universal authority by which security is ensured remains in the first instance, (a) restricted to the sphere of contingencies, and (b) an external organisation.

§ 232

Crime is contingency as subjective willing of evil, and this is what the universal authority must prevent or bring to justice. But, crime apart, the subjective willing which is permissible in actions lawful *per se* and in the private use of property, also comes into external relation with other single persons, as well as with public institutions, other than law-courts, established for realising a common end. This universal aspect makes private actions a matter of contingency which escapes the agent's control and which either does or may injure others and wrong them.

§ 233

There is here only a possibility of injury; but the actual non-occurrence of injury is at this stage not just another contingency. The point is that the actions of individuals may always be wrongful, and this is the ultimate reason for police control and penal justice.

§ 234

The relations between external existents fall into the infinite of the Understanding; there is, therefore, no inherent line of distinction between what is and what is not injurious, even where crime is concerned, or between what is and what is not suspicious, or between what is to be forbidden or subjected to supervision and what is to be exempt from prohibition, from surveillance and suspicion, from inquiry and the demand to render an account of itself. These details are determined by custom, the spirit of the rest of the constitution, contemporary conditions, the crisis of the hour, and so forth.

Addition: Here nothing hard and fast can be laid down and no absolute lines can be drawn. Everything here is personal; subjective opinion enters in, and the spirit of the constitution and the crisis of the day have to provide precision of detail. In time of war, for instance, many a thing, harmless at other times, has to be regarded as harmful. As a result of this presence of accident, of personal arbitrariness, the public authority acquires a measure of odium. When reflective thinking is very highly developed, the public authority may tend to draw into its orbit everything it possibly can, for in everything some factor may be found which might make it dangerous in one of its bearings. In such circumstances, the public authority may set to work very pedantically and embarrass the day-to-day life of people. But however great this annoyance, no objective line can be drawn here either.

§ 235

In the indefinite multiplication and interconnection of day-to-day needs, (a) the acquisition and exchange of the means to their satisfactions—satisfaction which everyone confidently expects to be possible of attainment without hindrance, and (b) the endeavours made and the transactions carried out in order to shorten the process of attainment as much as possible, give rise to factors which are a common interest, and when one man occupies himself with these his labour is at the same time done for all. The situation is productive too of contrivances and organisations which may be of use to the community as a whole. These universal activities and organisations of general utility call for the oversight and care of the public authority.

§ 236

The differing interests of producers and consumers may come into collision with each other; and although a fair balance between them on the whole may be brought about automatically, still their adjustment also

requires a control which stands above both and is consciously undertaken. The right to the exercise of such control in a single case (e.g. in the fixing of the prices of the commonest necessities of life) depends on the fact that, by being publicly exposed for sale, goods in absolutely universal daily demand are offered not so much to an individual as such but rather to a universal purchaser, the public; and thus both the defence of the public's right not to be defrauded, and also the management of goods inspection, may lie, as a common concern, with a public authority. But public care and direction are most of all necessary in the case of the larger branches of industry, because these are dependent on conditions abroad and on combinations of distant circumstances which cannot be grasped as a whole by the individuals tied to these industries for their living.

Remark: At the other extreme to freedom of trade and commerce in civil society is public organisation to provide for everything and determine everyone's labour—take for example in ancient times the labour on the pyramids and the other huge monuments in Egypt and Asia which were constructed for public ends, and the worker's task was not mediated through his private choice and particular interest. This interest invokes freedom of trade and commerce against control from above; but the more blindly it sinks into self-seeking aims, the more it requires such control to bring it back to the universal. Control is also necessary to diminish the danger of upheavals arising from clashing interests and to abbreviate the period in which their tension should be eased through the working of a necessity of which they themselves know nothing.

Addition: The oversight and care exercised by the public authority aims at being a middle term between an individual and the universal possibility, afforded by society, of attaining individual ends. It has to undertake street-lighting, bridge-building, the pricing of daily necessities, and the care of public health. In this connection, two main views predominate at the present time. One asserts that the superintendence of everything properly belongs to the public authority, the other that the public authority has nothing at all to settle here because everyone will direct his conduct according to the needs of others. The individual must have a right to work for his bread as he pleases, but the public also has a right to insist that essential tasks shall be properly done. Both points of view must be satisfied, and freedom of trade should not be such as to jeopardise the general good.

§ 237

Now while the possibility of sharing in the general wealth is open to individuals and is assured to them by the public authority, still it is subject

to contingencies on the subjective side (quite apart from the fact that this assurance must remain incomplete), and the more it presupposes skill, health, capital, and so forth as its conditions, the more is it so subject.

§ 238

Originally the family is the substantive whole whose function it is to provide for the individual on his particular side by giving him either the means and the skill necessary to enable him to earn his living out of the resources of society, or else subsistence and maintenance in the event of his suffering a disability. But civil society tears the individual from his family ties, estranges the members of the family from one another, and recognises them as self-subsistent persons. Further, for the paternal soil and the external inorganic resources of nature from which the individual formerly derived his livelihood, it substitutes its own soil and subjects the permanent existence of even the entire family to dependence on itself and to contingency. Thus the individual becomes a son of civil society which has as many claims upon him as he has rights against it.

Addition: To be sure, the family has to provide bread for its members, but in civil society the family' is something subordinate and only lays the foundations; its effective range is no longer so comprehensive. Civil society is rather the tremendous power which draws men into itself and claims from them that they work for it, owe everything to it, and do everything by its means. If man is to be a member of civil society in this sense, he has rights and claims against it just as he had rights and claims in the family. Civil society must protect its members and defend their rights, while its rights impose duties on every one of its members.

§ 239

In its character as a universal family, civil society has the right and duty of superintending and influencing education, inasmuch as education bears upon the child's capacity to become a member of society. Society's right here is paramount over the arbitrary and contingent preferences of parents, particularly in cases where education is to be completed not by the parents but by others. To the same end, society must provide public educational facilities so far as is practicable.

Addition: The line which demarcates the rights of parents from those of civil society is very hard to draw here. Parents usually suppose that in the matter of education they have complete freedom and may arrange everything as they like. The chief opposition to any form of public education usually comes from parents and it is they who talk and make an outcry about teachers and schools because they have a faddish dislike of them. Nonetheless, society has a right to act on principles tested by its

experience and to compel parents to send their children to school, to have them vaccinated, and so forth. The disputes that have arisen in France between the advocates of state supervision and those who demand that education shall be free, i.e. at the option of the parents, are relevant here.

§ 240

Similarly, society has the right and duty of acting as trustee to those whose extravagance destroys the security of their own subsistence or their families. It must substitute for extravagance the pursuit of the ends of society and the individuals concerned.

Addition: There was an Athenian law compelling every citizen to give an account of his source of livelihoods. Nowadays we take the view that this is nobody's business but his own. Of course every individual is from one point of view independent, but he also plays his part in the system of civil society, and while every man has the right to demand subsistence from it, it must at the same time protect him from himself. It is not simply starvation which is at issue; the further end in view is to prevent the formation of a pauperised rabble. Since civil society is responsible for feeding its members, it also has the right to press them to provide for their own livelihood.

§ 241

Not only caprice, however, but also contingencies, physical conditions, and factors grounded in external circumstances (see § 200) may reduce men to poverty. The poor still have the needs common to civil society, and yet since society has withdrawn from them the natural means of acquisition (see § 217) and broken the bond of the family—in the wider sense of the clan (see § 181)—their poverty leaves them more or less deprived of all the advantages of society, of the opportunity of acquiring skill or education of any kind, as well as of the administration of justice, the public health services, and often even of the consolations of religion, and so forth. The public authority takes the place of the family where the poor are concerned in respect not only of their immediate want but also of laziness of disposition, malignity, and the other vices which arise out of their plight and their sense of wrong.

§ 242

Poverty and, in general, the distress of every kind to which every individual is exposed from the start in the cycle of his natural life has a subjective side which demands similarly subjective aid, arising both from the special circumstances of a particular case and also from love and sympathy. This is the place where morality finds plenty to do despite all

public organisation. Subjective aid, however, both in itself and in its operation, is dependent on contingency and consequently society struggles to make it less necessary, by discovering the general causes of penury and general means of its relief, and by organising relief accordingly.

Remark: Casual almsgiving and casual endowments, e.g. for the burning of lamps before holy images, &c., are supplemented by public almshouses, hospitals, street-lighting, and so forth. There is still quite enough left over and above these things for charity to do on its own account. A false view is implied both when charity insists on having this poor-relief reserved solely to private sympathy and the accidental occurrence of knowledge and a charitable disposition, and also when it feels injured or mortified by universal regulations and ordinances which *are obligatory*. Public social conditions are on the contrary to be regarded as all the more perfect the less (in comparison with what is arranged publicly) is left for an individual to do by himself as his private inclination directs.

§ 243

When civil society is in a state of unimpeded activity, it is engaged in expanding internally in population and industry. The amassing of wealth is intensified by generalising (a) the linkage of men by their needs, and (b) the methods of preparing and distributing the means to satisfy these needs, because it is from this double process of generalisation that the largest profits are derived. That is one side of the picture. The other side is the subdivision and restriction of particular jobs. This results in the dependence and distress of the class tied to work of that sort, and these again entail inability to feel and enjoy the broader freedoms and especially the intellectual benefits of civil society.

§ 244

When the standard of living of a large mass of people falls below a certain subsistence level—a level regulated automatically as the one necessary for a member of the society—and when there is a consequent loss of the sense of right and wrong, of honesty and the self-respect which makes a man insist on maintaining himself by his own work and effort, the result is the creation of a rabble of paupers. At the same time this brings with it, at the other end of the social scale, conditions which greatly facilitate the concentration of disproportionate wealth in a few hands.

Addition: The lowest subsistence level, that of a rabble of paupers, is fixed automatically, but the minimum varies considerably in different countries. In England, even the very poorest believe that they have rights; this is different from what satisfies the poor in other countries.

Poverty in itself does not make men into a rabble; a rabble is created only when there is joined to poverty a disposition of mind, an inner indignation against the rich, against society, against the government, &c. A further consequence of this attitude is that through their dependence on chance men become frivolous and idle, like the Neapolitan lazzaroni for example. In this way there is born in the rabble the evil of lacking self-respect enough to secure subsistence by its own labour and yet at the same time of claiming to receive subsistence as its right. Against nature man can claim no right, but once society is established, poverty immediately takes the form of a wrong done to one class by another. The important question of how poverty is to be abolished is one of the most disturbing problems which agitate modern society.

§ 245

When the masses begin to decline into poverty, (a) the burden of maintaining them at their ordinary standard of living might be directly laid on the wealthier classes, or they might receive the means of livelihood directly from other public sources of wealth (e.g. from the endowments of rich hospitals, monasteries, and other foundations). In either case, however, the needy would receive subsistence directly, not by means of their work, and this would violate the principle of civil society and the feeling of individual independence and self-respect in its individual members. (b) As an alternative, they might be given subsistence indirectly through being given work, i.e. the opportunity to work. In this event the volume of production would be increased, but the evil consists precisely in an excess of production and in the lack of a proportionate number of consumers who are themselves also producers, and thus it is simply intensified by both of the methods (a) and (b) by which it is sought to alleviate it. It hence becomes apparent that despite an excess of wealth civil society is not rich enough, i.e. its own resources are insufficient to check excessive poverty and the creation of a penurious rabble.

Remark: In the example of England we may study these phenomena on a large scale and also in particular the results of poor-rates, immense foundations, unlimited private beneficence, and above all the abolition of the Guild Corporations. In Britain, particularly in Scotland, the most direct measure against poverty and especially against the loss of shame and self-respect—the subjective bases of society—as well as against laziness and extravagance, &c., the begetters of the rabble, has turned out to be to leave the poor to their fate and instruct them to beg in the streets.

§ 246

This inner dialectic of civil society thus drives it—or at any rate drives a

specific civil society—to push beyond its own limits and seek markets, and so its necessary means of subsistence, in other lands which are either deficient in the goods it has over-produced, or else generally backward in industry, &c.

§ 247

The principle of family life is dependence on the soil, on land, *terra firma*. Similarly, the natural element for industry, animating its outward movement, is the sea. Since the passion for gain involves risk, industry though bent on gain yet lifts itself above it; instead of remaining rooted to the soil and the limited circle of civil life with its pleasures and desires, it embraces the element of flux, danger, and destruction. Further, the sea is the greatest means of communication, and trade by sea creates commercial connections between distant countries and so relations involving contractual rights. At the same time, commerce of this kind is the most potent instrument of culture, and through it trade acquires its significance in the history of the world.

Rivers are not natural boundaries of separation, which is what they have been accounted to be in modern times. On the contrary, it is truer to say that they, and the sea likewise, link men together. Horace is wrong when he says:

*deus abscidit
prudens Oceano dissociabili terras.*

[vain was the purpose of the god in severing the lands
by the estranging ocean.]

Remark: The proof of this lies not merely in the fact that the basins of rivers are inhabited by a single clan or tribe, but also, for example, in the ancient bonds between Greece, Ionia, and Magna Graecia, between Brittany and Britain, between Denmark and Norway, Sweden, Finland, Livonia, &c., bonds, further, which are especially striking in contrast with the comparatively slight intercourse between the inhabitants of the littoral and those of the hinterland. To realise what an instrument of culture lies in the link with the sea, consider countries where industry flourishes and contrast their relation to the sea with that of countries which have eschewed sea-faring and which, like Egypt and India, have become stagnant and in the most frightful and scandalous superstition. Notice also how all great progressive peoples press onward to the sea.

§ 248

This far-flung connecting link affords the means for the colonising activity—sporadic or systematic—to which mature civil society is driven

and by which it supplies to a part of its population a return to life on the family basis in a new land and so also supplies itself with a new demand and field for its industry.

Addition: Civil society is thus driven to found colonies. Increase of population alone has this effect, but it is due in particular to the appearance of a number of people who cannot secure the satisfaction of their needs by their own labour once production rises above the requirements of consumers. Sporadic colonisation is particularly characteristic of Germany. The emigrants withdraw to America or Russia and remain there with no home ties, and so prove useless to their native land. The second and entirely different type of colonisation is the systematic; the state undertakes it, is aware of the proper method of carrying it out and regulates it accordingly. This type was common amongst the ancients, particularly the Greeks. Hard work was not the business of the citizens in Greece, since their energy was directed rather to public affairs. So if the population increased to such an extent that there might be difficulty in feeding it, the young people would be sent away to a new district, sometimes specifically chosen, sometimes left to chance discovery. In modern times, colonists have not been allowed the same rights as those left at home, and the result of this situation has been wars and finally independence, as may be seen in the history of the English and Spanish colonies. Colonial independence proves to be of the greatest advantage to the mother country, just as the emancipation of slaves turns out to the greatest advantage of the owners.

§ 249

While the public authority must also undertake the higher directive function of providing for the interests which lead beyond the borders of its society (see § 246), its primary purpose is to actualise and maintain the universal contained within the particularity of civil society, and its control takes the form of an external system and organisation for the protection and security of particular ends and interests *en masse*, inasmuch as these interests subsist only in this universal. This universal is immanent in the interests of particularity itself and, in accordance with the Idea, particularity makes it the end and object of its own willing and activity. In this way ethical principles circle back and appear in civil society as a factor immanent in it; this constitutes the specific character of the Corporation.

(b)

The Corporation

§ 250

In virtue of the substantiality of its natural and family life, the agricultural

class has directly within itself the concrete universal in which it lives. The class of civil servants is universal in character and so has the universal explicitly as its ground and as the aim of its activity. The class between them, the business class, is essentially concentrated on the particular, and hence it is to it that Corporations are specially appropriate.

§ 251

The labour organisation of civil society is split, in accordance with the nature of its particulars, into different branches. The implicit likeness of such particulars to one another becomes really existent in an association, as something common to its members. Hence a selfish purpose, directed towards its particular self-interest, apprehends and evinces itself at the same time as universal; and a member of civil society is in virtue of his own particular skill a member of a Corporation, whose universal purpose is thus wholly concrete and no wider in scope than the purpose involved in business, its proper task and interest.

§ 252

In accordance with this definition of its functions, a Corporation has the right, under the surveillance of the public authority, (a) to look after its own interests within its own sphere, (b) to co-opt members, qualified objectively by the requisite skill and rectitude, to a number fixed by the general structure of society, (c) to protect its members against particular contingencies, (d) to provide the education requisite to fit others to become members. In short, its right is to come on the scene like a second family for its members, while civil society can only be an indeterminate sort of family because it comprises everyone and so is farther removed from individuals and their special exigencies.

Remark: The Corporation member is to be distinguished from a day labourer or from a man who is prepared to undertake casual employment on a single occasion. The former who is, or will become, master of his craft, is a member of the association not for casual gain on single occasions but for the whole range, the universality, of his personal livelihood.

Privileges, in the sense of the rights of a branch of civil society organised into a Corporation, are distinct in meaning from privileges-proper, in the etymological sense. The latter are casual exceptions to universal rules; the former, however, are only the crystallisation, as regulations, of characteristics inherent in an essential branch of society itself owing to its nature as particular.

§ 253

In the Corporation, the family has its stable basis in the sense that its livelihood is assured there, conditionally upon capability, i.e. it has a stable capital (see § 170)—In addition, his nexus of capability and livelihood is a *recognised* fact, with the result that the Corporation member needs no external marks beyond his own membership as evidence of his skill and his regular income and subsistence, i.e. as evidence that he is a somebody. It is also recognised that he belongs to a whole which is itself an organ of the entire society, and that he is actively concerned in promoting the comparatively disinterested end of this whole. Thus he commands the respect due to one in his social position.

Remark: The institution of Corporations corresponds, on account of its assurance of capital, to the introduction of agriculture and private property in another sphere (see Remark to § 203).

When complaints are made about the luxury of the business classes their passion for extravagance—which have as their concomitant creation of a rabble of paupers (see § 244)—we must not forget that besides its other causes (e.g. increasing mechanisation of labour) this phenomenon has an ethical ground, as was indicated above. Unless he is a member of an authorised Corporation (and it is only by being authorised that an association becomes a Corporation), an individual is without rank or dignity, his isolation reduces his business to mere self-seeking, and his livelihood and satisfaction become insecure. Consequently, he has to try to gain recognition for himself by giving external proofs of success in his business, and to these proofs no limits can be set. He cannot live in the manner of his class, for no class really exists for him, since in civil society it is only something common to particular persons which really exists, i.e. something legally constituted and recognised. Hence he cannot achieve for himself a way of life proper to his class and less idiosyncratic.

Within the Corporation the help which poverty receives loses its accidental character and the humiliation wrongfully associated with it. The wealthy perform their duties to their fellow associates and thus riches cease to inspire either pride or envy, pride in their owners, envy in others. In these conditions rectitude obtains its proper recognition and respect.

§ 254

The so-called ‘natural’ right of exercising one’s skill and thereby earning what there is to be earned is restricted within the Corporation only in so far as it is therein made rational instead of

natural. That is to say, it becomes freed from personal opinion and contingency, saved from endangering either the individual workman or others, recognised, guaranteed, and at the same time elevated to conscious effort for a common end.

§ 255

As the family was the first, so the Corporation is the second ethical root of the state, the one planted in civil society. The former contains the moments of subjective particularity and objective universality in a substantial unity. But these moments are sundered in civil society to begin with; on the one side there is the particularity of need and satisfaction, reflected into itself, and on the other side the universality of abstract rights. In the Corporation these moments are united in an inward fashion, so that in this union particular welfare is present as a right and is actualised.

Remark: The sanctity of marriage and the dignity of Corporation membership are the two fixed points round which the unorganised atoms of civil society revolve.

Addition: The consideration behind the abolition of Corporations in recent times is that the individual should fend for himself. But we may grant this and still hold that corporation membership does not alter a man's obligation to earn his living. Under modern political conditions, the citizens have only a restricted share in the public business of the state, yet it is essential to provide men—ethical entities—with work of a public character over and above their private business. This work of a public character, which the modern state does not always provide, is found in the Corporation. We saw earlier [Addition to § 184] that in fending for himself a member of civil society is also working for others. But this unconscious compulsion is not enough; it is in the Corporation that it first changes into a known and thoughtful ethical mode of life. Of course Corporations must fall under the higher surveillance of the state, because otherwise they would ossify, build themselves in, and decline into a miserable system of castes. In and by itself, however, a Corporation is not a closed caste; its purpose is rather to bring an isolated trade into the social order and elevate it to a sphere in which it gains strength and respect.

§ 256

The end of the Corporation is restricted and finite, while the public authority was an external organisation involving a separation and a merely relative identity of controller and controlled. The end of the former and the externality and relative identity of the latter find their truth in the absolutely universal end and its absolute actuality. Hence the sphere of

civil society passes over into the state.

Remark: The town is the seat of the civil life of business. There reflection arises, turns in upon itself, and pursues its atomising task; each man maintains himself in and through his relation to others who, like himself, are persons possessed of rights. The country, on the other hand, is the seat of an ethical life resting on nature and the family. Town and country thus constitute the two moments, still ideal moments, whose true ground is the state, although it is from them that the state springs.

The philosophic proof of the concept of the state is this development of ethical life from its immediate phase through civil society, the phase of division, to the state, which then reveals itself as the true ground of these phases. A proof in philosophic science can only be a development of this kind.

Since the state appears as a result in the advance of the philosophic concept through displaying itself as the true ground [of the earlier phases], that show of mediation is now cancelled and the state has become directly present before us. Actually, therefore, the state as such is not so much the result as the beginning. It is within the state that the family is first developed into civil society, and it is the Idea of the state itself which disrupts itself into these two moments. Through the development of civil society, the substance of ethical life acquires its infinite form, which contains in itself these two moments: (1) infinite differentiation down to the inward experience of independent self-consciousness, and (2) the form of universality involved in education, the form of thought whereby mind is objective and actual to itself as an organic totality in laws and institutions which are its will in terms of thought.

iii. The State

§ 257

The state is the actuality of the ethical Idea. It is ethical mind *qua* the substantial will manifest and revealed to itself, knowing and thinking itself, accomplishing what it knows and in so far as it knows it. The state exists immediately in custom, mediately in individual self-consciousness, knowledge, and activity, while self-consciousness in virtue of its sentiment towards the state, finds in the state, as its essence and the end-product of its activity, its substantive freedom.

Remark: The *Penates* are inward gods, gods of the underworld; the mind of a nation (Athene for instance) is the divine, knowing and willing itself. Family piety is feeling, ethical behaviour directed by feeling; political virtue is the willing of the absolute end in terms of thought.

§ 258

The state is absolutely rational inasmuch as it is the actuality of the substantial will which it possesses in the particular self-consciousness once that consciousness has been raised to consciousness of its universality. This substantial unity is an absolute unmoved end in itself, in which freedom comes into its supreme right. On the other hand this final end has supreme right against the individual, whose supreme duty is to be a member of the state.

Remark: If the state is confused with civil society, and if its specific end is laid down as the security and protection of property and personal freedom, then the interest of the individuals as such becomes the ultimate end of their association, and it follows that membership of the state is something optional. But the state's relation to the individual is quite different from this. Since the state is mind objectified, it is only as one of its members that the individual himself has objectivity, genuine individuality, and an ethical life. Unification pure and simple is the true content and aim of the individual, and the individual's destiny is the living of a universal life. His further particular satisfaction, activity and mode of conduct have this substantive and universally valid life as their starting point and their result.

Rationality, taken generally and in the abstract, consists in the thoroughgoing unity of the universal and the single. Rationality, concrete in the state, consists (a) so far as its *content* is concerned, in the unity of objective freedom (i.e. freedom of the universal or substantial will) and subjective freedom (i.e. freedom of everyone in his knowing and in his volition of particular ends); and consequently, (b) so far as its *form* is concerned, in self-determining action on laws and principles which are thoughts and so universal. This Idea is the absolutely eternal and necessary being of mind.

But if we ask what is or has been the historical origin of the state in general, still more if we ask about the origin of any particular state, of its rights and institutions, or again if we inquire whether the state originally arose out of patriarchal conditions or out of fear or trust, or out of Corporations, &c., or finally if we ask in what light the basis of the state's rights has been conceived and consciously established, whether this basis has been supposed to be positive divine right, or contract, custom, &c.—all these questions are no concern of the Idea of the state. We are here dealing exclusively with the philosophic science of the state, and from that point of view all these things are mere appearance and therefore matters for history. So far as the authority of any existing state has anything to do with reasons, these reasons are culled from the forms of the law

authoritative within it.

The philosophical treatment of these topics is concerned only with their inward side, with the thought of their concept. The merit of Rousseau's contribution to the search for this concept is that, by adducing the will as the principle of the state, he is adducing a principle which has thought both for its form and its content, a principle indeed which is thinking itself, not a principle, like gregarious instinct, for instance, or divine authority, which has thought as its form only. Unfortunately, however, as Fichte did later, he takes the will only in a determinate form as the individual will, and he regards the universal will not as the absolutely rational element in the will, but only as a 'general' will which proceeds out of this individual will as out of a conscious will. The result is that he reduces the union of individuals in the state to a contract and therefore to something based on their arbitrary wills, their opinion, and their capriciously given express consent; and abstract reasoning proceeds to draw the logical inferences which destroy the absolutely divine principle of the state, together with its majesty and absolute authority. For this reason, when these abstract conclusions came into power, they afforded for the first time in human history the prodigious spectacle of the overthrow of the constitution of a great actual state and its complete reconstruction *ab initio* on the basis of pure thought alone, after the destruction of all existing and given material. The will of its re-founders was to give it what they alleged was a purely rational basis, but it was only abstractions that were being used; the Idea was lacking; and the experiment ended in the maximum of frightfulness and terror.

Confronted with the claims made for the individual will, we must remember the fundamental conception that the objective will is rationality implicit or in conception, whether it be recognised or not by individuals, whether their whims be deliberately for it or not. We must remember that its opposite, i.e. knowing and willing, or subjective freedom (the only thing contained in the principle of the individual will) comprises only one moment, and therefore a one-sided moment, of the Idea of the rational will, i.e. of the will which is rational solely because what it is implicitly, that it also is explicitly.

The opposite to thinking of the state as something to be known and apprehended as explicitly rational is taking external appearances—i.e. contingencies such as distress, need for protection, force, riches, &c.—not as moments in the state's historical development, but as its substance. Here again what constitutes the guiding thread of discovery is the individual in isolation—not, however, even so much as the *thought* of this individuality, but instead only empirical individuals, with attention focused

on their accidental characteristics, their strength and weakness, riches and poverty, &c. This ingenious idea of ignoring the absolute infinity and rationality in the state and excluding thought from apprehension of its inward nature has assuredly never been put forward in such an unadulterated form as in Herr von Haller's *Restauration der Staatswissenschaft*. I say 'unadulterated', because in all other attempts to grasp the essence of the state, no matter on what one-sided or superficial principles, this very intention of comprehending the state rationally has brought with it thoughts, i.e. universal determinations. Herr von Haller, however, with his eyes open, has not merely renounced the rational material of which the state consists, as well as the form of thought, but he has even gone on with passionate fervour to inveigh against the form and the material so set aside. Part of what Herr von Haller assures us is the 'widespread' effect of his principles. This *Restauration* undoubtedly owes to the fact that, in his exposition, he has deliberately dispensed with thought altogether, and has deliberately kept his whole book all of a piece with its lack of thought. For in this way he has eliminated the confusion and disorder which lessen the force of an exposition where the accidental is treated along with hints of the substantial, where the purely empirical and external are mixed with a reminiscence of the universal and rational, and where in the midst of wretched inanities the reader is now and again reminded of the loftier sphere of the infinite. For the same reason again his exposition is consistent. He takes as the essence of the state, not what is substantive but the sphere of accident, and consistency in dealing with a sphere of that kind amounts to the complete inconsistency of utter thoughtlessness which jogs along without looking behind, and is just as much at home now with the exact opposite of what it approved a moment ago.

Addition: The state in and by itself is the ethical whole, the actualisation of freedom; and it is an absolute end of reason that freedom should be actual. The state is mind on earth and consciously realising itself there. In nature, on the other hand, mind actualises itself only as its own other, as mind asleep. Only when it is present in consciousness, when it knows itself as a really existent object, is it the state. In considering freedom, the starting-point must be not individuality, the single self-consciousness, but only the essence of self-consciousness; for whether man knows it or not, this essence is externally realised as a self-subsistent power in which single individuals are only moments. The march of God in the world, that is what the state is. The basis of the state is the power of reason actualising itself as will. In considering the Idea of the state, we must not have our eyes on particular states or on particular institutions. Instead we must consider the Idea, this actual God, by itself. On some principle or other,

any state may be shown to be bad, this or that defect may be found in it; and yet, at any rate if one of the mature states of our epoch is in question, it has in it the moments essential to the existence of the state. But since it is easier to find defects than to understand the affirmative, we may readily fall into the mistake of looking at isolated aspects of the state and so forgetting its inward organic life. The state is no ideal work of art; it stands on earth and so in the sphere of caprice, chance, and error, and bad behaviour may disfigure it in many respects. But the ugliest of men, or a criminal, or an invalid, or a cripple, is still always a living man. The affirmative, life, subsists despite his defects, and it is this affirmative factor which is our theme here.

Footnote: I have described the book sufficiently to show that it is of an original kind. There might be something noble in the author's indignation by itself, since it was kindled by the false theories, mentioned above, emanating principally from Rousseau, and especially by the attempt to realise them in practice. But to save himself from these theories, Herr von Haller has gone to the other extreme by dispensing with thought altogether and consequently it cannot be said that there is anything of intrinsic value in his virulent hatred of all laws and legislation, of all expressly and legally determinate rights. The hatred of law, of right made determinate in law, is the shibboleth whereby fanaticism, flabby-mindedness, and the hypocrisy of good intentions are clearly and infallibly recognised for what they are, disguise themselves as they may.

Originality like Herr von Haller's is always a curious phenomenon, and for those of my readers who are not yet acquainted with his book I will quote a few specimen passages. This is how he lays down his most important basic proposition: 'Just as, in the inorganic world, the greater dislodges the less and the mighty the weak ... so in the animal kingdom, and then amongst human beings, the same law appears in nobler' (often, too, surely in ignobler?) 'forms', and 'this, therefore, is the eternal, unalterable, ordinance of God, that the mightier rules, must rule, and will always rule'. It is clear enough from this, let alone from what follows, in what sense 'might' is taken here. It is not the might of justice and ethics, but only the irrational power of brute force. Herr von Haller then goes on to support this doctrine on various grounds, amongst them that 'nature with amazing wisdom has so ordered it that the mere sense of personal superiority irresistibly ennobles the character and encourages the development of just those virtues which are most necessary for dealing with subordinates'. He asks with a great elaboration of undergraduate rhetoric [*ibid.*] 'whether it is the strong or the weak in the kingdom of science who more misuse their trust and their authority in order to achieve their petty selfish ends and the ruin of the credulous; whether to be a past master in legal learning is not to be a pettifogger, a leguleius, one who cheats the hopes of unsuspecting clients, who makes white black and black white, who misapplies the law and makes it a vehicle for wrongdoing, who brings to beggary those who need his assistance and tends them as the hungry vulture tends the innocent lamb', &c., &c. Herr von Haller forgets here that the point of this rhetoric is to support his proposition that the rule of the mightier is an everlasting ordinance of God; so presumably it is by the same ordinance

that the vulture rends the innocent lamb, and that hence the mighty are quite right to treat their unsuspecting clients as the weak and to make use of knowledge of the law to empty their pockets. It would be too much, however, to ask that two thoughts should be put together where there is really not a single one.

It goes without saying that Herr von Haller is an enemy of codes of law. In his view, the laws of the land, are on the one hand, in principle ‘unnecessary, because they spring self-explanatory from the laws of nature’. If men had remained satisfied with ‘self-explanatory’ as the basis of their thinking, then they would have been spared the endless labour devoted, since ever there were states, to legislation and legal codes, and which is still devoted thereto and to the study of positive law. ‘On the other hand, laws are not exactly promulgated for private individuals, but as instructions to puisne judges, acquainting them with the will of the high court’. Apart from that, the provision of law-courts is (and all over the place) not a state duty, but a favour, help rendered by the authorities, and ‘quite supererogatory’; it is not the most perfect method of guaranteeing men’s rights; on the contrary, it is an insecure and uncertain method, ‘the only one left to us by our modern lawyers. They have reft us of the other three methods, of just those which lead most swiftly and surely to the goal, those which, unlike law-courts, friendly nature has given to man for the safeguarding of his rightful freedom’. And these three methods are—what do you suppose?—(1) Personal acceptance and inculcation of the law of nature; (2) Resistance to wrong; (3) Flight, when there is no other remedy’.

Lawyers are unfriendly indeed, it appears, in comparison with the friendliness of nature! ‘But the natural, divine, law, given to everyone by nature the all-bountiful, is: Honour everyone as thine equal’ (on the author’s principles this should read ‘Honour not the man who is thine equal, but the one who is mightier’); ‘hurt no man who hurts thee not; demand from him nothing but what he owes’ (but what does he owe?); ‘nay more, love thy neighbour and serve him when thou canst’. The ‘implanting of this law’ is to make a legislator and a constitution superfluous. It would be curious to see how Herr von Haller makes it intelligible why legislators and constitutions have appeared in the world despite this ‘implanting’.

In vol. iii, the author comes to the ‘so-called national liberties’, by which he means the laws and constitutions of nation states. Every legally constituted right is in this wide sense of the word a ‘liberty’. Of these laws he says, inter alia, that ‘their content is usually very insignificant, although in books a high value may be placed on documentary liberties of that kind’. When we then realise that the author is speaking here of the national liberties of the German Estates, of the English people (e.g. Magna Carta which is little read, and on account of its archaic phraseology still less understood’, the Bill of Rights, and so forth), of the people of Hungary, &c., we are surprised to find that these Possessions, formerly so highly prized, are only insignificant; and no less Surprised to learn that it is only in books that these nations place a value on laws whose co-operation has entered into every coat that is worn and every crust that is eaten, and still enters into every day and hour of the lives of everyone.

To carry quotation further, Herr von Haller speaks particularly, ill of the Prussian General Legal Code, because of the ‘incredible’ influence on it of the errors of false philosophy (though in this instance at any rate the fault cannot be ascribed to Kant’s

philosophy, a topic on which Herr von Haller is at his angriest), especially where it speaks of the state, the resources of the state, the end of the state, the head of the state, his duties, and those of civil servants, and so forth. Herr von Haller finds particularly mischievous ‘the right of defraying the expenses of the state by levying taxes on the private wealth of individuals, on their businesses, on goods produced or consumed. Under those circumstances, neither the king himself (since the resources of the state belong to the state and are not the private property of the king), nor the Prussian citizens can call anything their own, neither their person nor their property; and all subjects are bondslaves to the law, since they may not withdraw themselves from the service of the state.’

In this welter of incredible crudity, what is perhaps most comical of all is the emotion with which Herr von Haller describes his unspeakable pleasure in his discoveries—‘a joy such as only the friend of truth can feel when after honest search he has become confident that he has found as it were’ (yes indeed? ‘is it were’ is right!) ‘the voice of nature, the very word of God’. (The truth is that the word of God very clearly distinguishes its revelations from the voices of nature and unregenerate man.) ‘The author could have sunk to the ground in open amazement, a stream of joyful tears burst from his eyes, and living religious feeling sprang up in him there and then., Herr von Haller might have discovered by his ‘religious feeling’ that he should rather bewail his condition as the hardest chastisement of God. For the hardest thing which man can experience is to be so far excluded from thought and reason, from respect for the laws, and from knowing how infinitely important and divine it is that the duties of the state and the rights of the citizens, as well as the rights of the state and the duties of the citizens, should be defined by law—to be so far excluded from all this that absurdity can foist itself upon him as the word of God.

§ 259

The Idea of the state:

(A) has immediate actuality and is the individual state as a self-dependent organism—the

***Constitution* or *Constitutional Law*,**

(B) passes over into the relation of one state to other states—the

***International Law*,**

(C) is the universal Idea as a genus and as an absolute power over individual states—the mind which gives itself its actuality in the process of ***World-History*.**

Remark: The state in its actuality is essentially an individual state, and beyond that a particular state. Individuality is to be distinguished from particularity. The former is a moment in the very Idea of the state, while the latter belongs to history. States as such are independent of one another, and therefore their relation to one another can only be an external one, so that there must be a third thing standing above them to bind them together. Now this third thing is the mind which gives itself

actuality in world-history and is the absolute judge of states.

Several states may form an alliance to be a sort of court with jurisdiction over others, there may be confederations of states, like the Holy Alliance for example, but these are always relative only and restricted, like perpetual peace. The one and only absolute judge, which makes itself authoritative against the particular and at all times, is the absolute mind which manifests itself in the history of the world as the universal and as the genus there operative.

A. Constitutional Law

§ 260

The state is the actuality of concrete freedom. But concrete freedom consists in this, that personal individuality and its particular interests not only achieve their complete development and gain explicit recognition for their right (as they do in the sphere of the family and civil society) but, for one thing, they also pass over of their own accord into the interest of the universal, and, for another thing, they know and will the universal; they even recognise it as their own substantive mind; they take it as their end and aim and are active in its pursuit. The result is that the universal does not prevail or achieve completion except along with particular interests and through the co-operation of particular knowing and willing; and individuals likewise do not live as private persons for their own ends alone, but in the very act of willing these they will the universal in the light of the universal, and their activity is consciously aimed at none but the universal end. The principle of modern states has prodigious strength and depth because it allows the principle of subjectivity to progress to its culmination in the extreme of self-subsistent personal particularity, and yet at the same time brings it back to the substantive unity and so maintains this unity in the principle of subjectivity itself.

Addition: The Idea of the state in modern times has a special character in that the state is the actualisation of freedom not in accordance with subjective whim but in accordance with the concept of the will, i.e. in accordance with its universality and divinity. Immature states are those in which the Idea of the state is still veiled and where its particular determinations have not yet attained free self-subsistence. In the states of classical antiquity, universality was present, but particularity had not then been released, given free scope, and brought back to universality, i.e. to the Universal end of the whole. The essence of the modern state is that the universal be bound up with the complete freedom of its particular members and with private well-being, that thus the interests of family and civil society must concentrate themselves on the state, although the

universal end cannot be advanced without the personal knowledge and will of its particular members, whose own rights must be maintained. Thus the universal must be furthered, but subjectivity on the other hand must attain its full and living development. It is only when both these moments subsist in their strength that the state can be regarded as articulated and genuinely organised.

§ 261

In contrast with the spheres of private rights and private welfare (the family and civil society), the state is from one point of view an external necessity and their higher authority; its nature is such that their laws and interests are subordinate to it and dependent on it. On the other hand, however, it is the end immanent within them, and its strength lies in the unity of its own universal end and aim with the particular interest of individuals, in the fact that individuals have duties to the state in proportion as they have rights against it (see § 155).

Remark: In the Remark to § 3 above, reference was made to the fact that it was Montesquieu above all who, in his famous work *L'Esprit des Loix*, kept in sight and tried to work out in detail both the thought of the dependence of laws—in particular, laws concerning the rights of persons—on the specific character of the state, and also the philosophic notion of always treating the part in its relation to the whole.

Duty is primarily a relation to something which from my point of view is substantive, absolutely universal. A right, on the other hand, is simply the embodiment of this substance and thus is the particular aspect of it and enshrines my particular freedom. Hence at abstract levels, right and duty appear parcelled out on different sides or in different persons. In the state, as something ethical, as the inter-penetration of the substantive and the particular, my obligation to what is substantive is at the same time the embodiment of my particular freedom. This means that in the state duty and right are united in one and the same relation. But further, since none the less the distinct moments acquire in the state the shape and reality peculiar to each, and since therefore the distinction between right and duty enters here once again, it follows that while implicitly, i.e. in form, identical, they at the same time differ in content. In the spheres of personal rights and morality, the necessary bearing of right and duty on one another falls short of actualisation; and hence there is at that point only an abstract similarity of content between them, i.e. in those abstract spheres, what is one man's right ought also to be another's, and what is one man's duty ought also to be another's. The absolute identity of right and duty in the state is present in these spheres not as a genuine identity

but only as a similarity of content, because in them this content is determined as quite general and is simply the fundamental principle of both right and duty, i.e. the principle that men, as persons, are free. Slaves, therefore, have no duties because they have no rights, and vice versa. (Religious duties are not here in point.)

In the course of the inward development of the concrete Idea, however, its moments become distinguished and their specific determinacy becomes at the same time a difference of content. In the family, the content of a son's duties to his father differs from the content of his rights against him; the content of the rights of a member of civil society is not the same as the content of his duties to his prince and government.

This concept of the union of duty and right is a point of vital importance and in it the inner strength of states is contained.

Duty on its abstract side goes no farther than the persistent neglect and proscription of a man's particular interest, on the ground that it is the inessential, even the discreditable, moment in his life. Duty, taken concretely as Idea, reveals the moment of particularity as itself essential and so regards its satisfaction as indisputably necessary. In whatever way an individual may fulfil his duty, he must at the same time find his account therein and attain his personal interest and satisfaction. Out of his position in the state, a right must accrue to him whereby public affairs shall be his own particular affair. Particular interests should in fact not be set aside or completely suppressed; instead, they should be put in correspondence with the universal, and thereby both they and the universal are upheld. The *isolated* individual, so far as his duties are concerned, is in subjection; but as a member of *civil society* he finds in fulfilling his duties to it protection of his person and property, regard for his private welfare, the satisfaction of the depths of his being, the consciousness and feeling of himself as a member of the whole; and, in so far as he completely fulfils his duties by performing tasks and services for the *state*, he is upheld and preserved. Take duty abstractly, and the universal's interest would consist simply in the completion as duties of the tasks and services which it exacts.

Addition: In the state everything depends on the unity of universal and particular. In the states of antiquity, the subjective end simply coincided with the state's will. In modern times, however, we make claims for private judgment, private willing, and private conscience. The ancients had none of these in the modern sense; the ultimate thing with them was the will of the state. Whereas under the despots of Asia the individual had no inner life and no justification in himself, in the modern world Man insists on respect being paid to his inner life. The conjunction of duty and right has a

twofold aspect: what the state demands from us as a duty is *eo ipso* our right as individuals, since the state is nothing but the articulation of the concept of freedom. The determinations of the individual will are given an objective embodiment through the state and thereby they attain their truth and their actualisation for the first time. The State is the one and only prerequisite of the attainment of particular ends and welfare.

§ 262

The actual Idea is mind, which, sundering itself into the two ideal spheres of its concept, family and civil society, enters upon its finite phase, but it does so only in order to rise above its ideality and become explicit as infinite actual mind. It is therefore to these ideal spheres that the actual Idea assigns the material of this its finite actuality, *viz.* human beings as a mass, in such a way that the function assigned to any given individual is visibly mediated by circumstances, his caprice and his personal choice of his station in life (see § 185 and the Remark thereto).

Addition: In Plato's state, subjective freedom does not count, because people have their occupations assigned to them by the Guardians. In many oriental states, this assignment is determined by birth. But subjective freedom, which must be respected, demands that individuals should have free choice in this matter.

§ 263

In these spheres in which its moments, particularity and individuality, have their immediate and reflected reality, mind is present as their objective universality glimmering in them as the power of reason in necessity (see § 184), i.e. as the institutions considered above.

Addition: The state, as mind, sunders itself into the particular determinations of its concept, of its mode of being. We might use here an illustration drawn from nature. The nervous system is the sensitive system proper; it is the abstract moment, the moment of being by oneself and so of having identity with oneself. But analysis of sensation reveals, that it has two aspects and these are distinct in such a way that each of them seems to be a whole system by itself. The first is feeling in the abstract, keeping oneself self-enclosed, the dull movement which goes on internally, reproduction, internal self-nutrition, growth, and digestion. The second moment is that this self-related existence has over against it the moment of difference, a movement outwards. This is irritability, sensation moving outwards. This constitutes a system of its own, and there are some of the lower types of animals which have developed this system alone, while they lack the soul-charged unity of inner sensation. If we compare these natural features with those of mind, then the family must be paralleled with

sensibility and civil society with irritability. Now the third is the state, the nervous system as a whole, something inwardly organised; but this lives only in so far as both moments (in this case family and civil society) are developed within it. The laws regulating family and civil society are the institutions of the rational order which glimmers in them. But the ground and final truth of these institutions is mind, their universal end and known objective. The family too is ethical, only its end is not known as such, while it is the separation between one man and another which makes civil society what it is.

§ 264

Mind is the nature of human beings *en masse* and their nature is therefore twofold: (i) at one extreme, explicit individuality of consciousness and will, and (ii) at the other extreme, universality which knows and wills what is substantive. Hence they attain their right in both these respects only in so far as both their private personality and its substantive basis are actualised. Now in the family and civil society they acquire their right in the first of these respects directly and in the second indirectly, in that (i) they find their substantive self-consciousness in social institutions which are the universal implicit in their particular interests, and (ii) the Corporation supplies them with an occupation and an activity directed on a universal end.

§ 265

These institutions are the components of the constitution (i.e. of rationality developed and actualised) in the sphere of particularity. They are, therefore, the firm foundation not only of the state but also of the citizen's trust in it and sentiment towards it. They are the pillars of public freedom since in them particular freedom is realised and rational, and therefore there is implicitly present even in them the union of freedom and necessity.

Addition: As was remarked earlier on, the sanctity of marriage and the institutions in which civil society is an appearance of ethical life constitute the stability of the whole, i.e. stability is secured when universal affairs are the affairs of each member in his particular capacity. What is of the utmost importance is that the law of reason should be shot through and through by the law of particular freedom, and that my particular end should become identified with the universal end, or otherwise the state is left in the air. The state is actual only when its members have a feeling of their own self-hood and it is stable only when public and private ends are identical. It has often been said that the end of the state is the happiness of the citizens. That imperfectly true. If all is not well with them, if their

subjective aims are not satisfied, if they do not find that the state as such is the means to their satisfaction, then the footing of the state itself is insecure.

§ 266

But mind is objective and actual to itself not merely as this necessity and as a realm of appearance, but also as the ideality and the heart of this necessity. Only in this way is this substantive universality aware of itself as its own object and end, with the result that the necessity appears to itself in the shape of freedom as well.

§ 267

This necessity in ideality is the inner self-development of the Idea. As the substance of the individual subject, it is his political sentiment [patriotism]; in distinction therefrom, as the substance of the objective world, it is the organism of the state, i.e. it is the strictly political state and its constitution.

Addition: The unity of the freedom which knows and wills itself is present first of all as necessity. Here substance is present as the subjective existence of individuals. Necessity's other mode of being, however, is the organism, i.e. mind is a process internal to itself, it articulates itself within, posits differences in itself, and thereby completes the cycle of its life.

§ 268

The political sentiment, patriotism pure and simple, is assured conviction with truth as its basis—mere subjective assurance is not the outcome of truth but is only opinion—and a volition which has become habitual. In this sense it is simply a product of the institutions subsisting in the state, since rationality is actually present in the state, while action in conformity with these institutions gives rationality its practical proof. This sentiment is, in general, trust (which may pass over into a greater or lesser degree of educated insight), or the consciousness that my interest, both substantive and particular, is contained and preserved in another's (i.e. in the state's) interest and end, i.e. in the other's relation to me as an individual. In this way, this very other is immediately not an other in my eyes, and in being conscious of this fact, I am free.

Remark: Patriotism is often understood to mean only a readiness for exceptional sacrifices and actions. Essentially, however, it is the sentiment which, in the relationships of our daily life and under ordinary conditions, habitually recognises that the community is one's substantive groundwork and end. It is out of this consciousness, which during life's daily round stands the test in all circumstances, that there subsequently also arises the readiness for extraordinary exertions. But since men would often rather be

magnanimous than law-abiding, they readily persuade themselves that they possess this exceptional patriotism in order to be sparing in the expression of a genuine patriotic sentiment or to excuse their lack of it. If again this genuine patriotism is looked upon as that which may begin of itself and arise from subjective ideas and thoughts, it is being confused with opinion, because so regarded patriotism is deprived of its true ground, objective reality.

Addition: Immature minds delight in argumentation and fault-finding, because it is easy enough to find fault, though hard to see the good and its inner necessity. The learner always begins by finding fault, but the scholar sees the positive merit in everything. In religion, this or that is quickly dismissed as superstitious, but it is infinitely harder to apprehend the truth underlying the superstition. Hence men's apparent sentiment towards the state is to be distinguished from what they really will; inwardly they really will the thing, but they cling to details and take delight in the vanity of pretending to know better. We are confident that the state must subsist and that in it alone can particular interests be secured. But habit blinds us to that on which our whole existence depends. When we walk the streets at night in safety, it does not strike us that this might be otherwise. This habit of feeling safe has become second nature, and we do not reflect on just how this is due solely to the working of special institutions. Commonplace thinking often has the impression that force holds the state together, but in fact its only bond is the fundamental sense of order which everybody possesses.

§ 269

The patriotic sentiment acquires its specifically determined content from the various members of the organism of the state. This organism is the development of the Idea to its differences and their objective actuality. Hence these different members are the various powers of the state with their functions and spheres of action, by means of which the universal continually engenders itself, and engenders itself in a necessary way because their specific character is fixed by the nature of the concept. Throughout this process the universal maintains its identity, since it is itself the presupposition of its own production. This organism is the constitution of the state.

Addition: The state is an organism, i.e. the development of the Idea to the articulation of its differences. Thus these different sides of the state are its various powers with their functions and spheres of action, by means of which the universal continually engenders itself in a necessary way; in this process it maintains its identity since it is presupposed even in its own

production. This organism is the constitution of the state; it is produced perpetually by the state, while it is through it that the state maintains itself. If the state and its constitution fall apart, if the various members of the organism free themselves, then the unity produced by the constitution is no longer an accomplished fact. This tallies with the fable about the belly and the other members. The nature of an organism is such that unless each of its parts is brought into identity with the others, unless each of them is prevented from achieving autonomy, the whole must perish. By listing attributes, axioms, &c., no progress can be made in assessing the nature of the state; it must be apprehended as an organism. One might as well try to understand the nature of God by listing his attributes, while the truth is that we must intuit God's life in that life itself.

§ 270

(1) The abstract actuality or the substantiality of the state consists in the fact that its end is the universal interest as such and the conservation therein of particular interests since the universal interest is the substance of these.

(2) But this substantiality of the state is also its necessity, since its substantiality is divided into the distinct spheres of its activity which correspond to the moments of its concept, and these spheres, owing to this substantiality, are thus actually fixed determinate characteristics of the state, i.e. its Powers.

(3) But this very substantiality of the state is mind knowing and willing itself after passing through the forming process of education. The state, therefore, knows what it wills and knows it in its universality, i.e. as something thought.

Hence it works and acts by reference to consciously adopted ends, known principles, and laws which are not merely implicit but are actually present to consciousness; and further, it acts with precise knowledge of existing conditions and circumstances, inasmuch as its actions have a bearing on these.

Remark: This is the place to allude to the relation of the state to religion, because it is often reiterated nowadays that religion is the basis of the state, and because those who make this assertion even have the impertinence to suggest that, once it is made, political science has said its last word. No doctrine is more fitted to produce so much confusion, more fitted—indeed to exalt confusion itself to be the constitution of the state and the proper form of knowledge.

In the first place, it may seem suspicious that religion is principally sought

and recommended for times of public calamity, disorder, and oppression, and that people are referred to it as a solace in face of wrong or as a hope in compensation for loss. Then further, while the state is mind on earth (*der Geist der in der Welt steht*), religion may sometimes be looked upon as commanding downright indifference to earthly interests, the march of events, and current affairs, and so to turn men's attention to religion does not seem to be the way to exalt the interest and business of the state into the fundamental and serious aim of life. On the contrary, this suggestion seems to assert that politics is wholly a matter of caprice and indifference, either because this way of talking merely amounts to saying that it is only the aims of passion and lawless force, &c., which bear sway in the state, or because this recommendation of religion is supposed to be of self-sufficient validity, and religion is to claim to decide the law and administer it. While it might seem a bitter jest to stifle all animus against tyranny by asserting that the oppressed find their consolation in religion, it still must not be forgotten that religion may take a form leading to the harshest bondage in the fetters of superstition and man's degraded subservience to animals. (The Egyptians and the Hindus, for instance, revere animals as beings higher than themselves.) This phenomenon may at least make it evident that we ought not to speak of religion at all in general terms and that we really need a power to protect us from it in some of its forms and to espouse against them the rights of reason and self-consciousness.

The essence of the relation between religion and the state can be determined, however, only if we recall the concept of religion. The content of religion is absolute truth, and consequently the religious is the most sublime of all dispositions. As intuition, feeling, representative knowledge, its task is concentrated upon God as the unrestricted principle and cause on which everything hangs. It thus involves the demand that everything else shall be seen in this light and depend on it for corroboration, justification, and verification. It is in being thus related to religion that state, laws, and duties all alike acquire for consciousness their supreme confirmation and their supreme obligatoriness, because even the state, laws, and duties are in their actuality something determinate which passes over into a higher sphere and so into that on which it is grounded. It is for this reason that in religion there lies the place where man is always assured of finding a consciousness of the unchangeable, of the highest freedom and satisfaction, even within all the mutability of the world and despite the frustration of his aims and the loss of his interests and possessions.

Footnote: Religion, knowledge and science have as their principle a form peculiar to each and different from that of the state. They therefore enter the state partly as means—means to education and (a higher) mentality—partly in so far as they are in

essence *ends* in themselves, for the reason that they are embodied in existent institutions. In both these respects the principles of the state have, in their application, a bearing on them. A comprehensive, concrete treatise on the state would also have to deal with those spheres of life as well as with art and such things as mere geographical matters, and to consider their place in the state and their bearing on it. In this book, however, it is the principle of the state in its own special sphere which is being fully expounded in accordance with the Ideal, and it is only in passing that reference can be made to the principles of religion, &c., and to the application of the right of the state to them.

Remark: Now if religion is in this way the groundwork which includes the ethical realm in general, and the state's fundamental nature—the divine will—in particular, it is at the same time only a groundwork; and it is at this point that state and religion begin to diverge. The state is the divine will, in the sense that it is mind present on earth, unfolding itself to be the actual shape and organisation of a world. Those who insist on stopping at the form of *religion*, as opposed to the state, are acting like those logicians who think they are right if they continually stop at the essence and refuse to advance beyond that abstraction to existence, or like those moralists (see Remark to § 140) who will only good in the abstract and leave it to caprice to decide what is good. Religion is a relation to the Absolute, a relation which takes the form of feeling, representative thinking, faith; and, brought within its all-embracing circumference, everything becomes only accidental and transient. Now if, in relation to the state, we cling to this form of experience and make it the authority for the state and its essential determinant, the state must become a prey to weakness, insecurity, and disorder, because it is an organism in which firmly fixed distinct powers, laws, and institutions have been developed. In contrast with the form of religion, a form which draws a veil over everything determinate, and so comes to be purely subjective, the objective and universal element in the state, i.e. the laws, acquires a negative instead of a stable and authoritative character, and the result is the production of maxims of conduct like the following: 'To the righteous man no law is given; only be pious, and for the rest, practise what thou wilt; yield to thine own caprice and passion, and if thereby others suffer wrong, commend them to the consolations and hopes of religion, or better still, call them irreligious and condemn them to perdition.' This negative attitude, however, may not confine itself to an inner disposition and attitude of mind; it may turn instead to the outside world and assert its authority there, and then there is an outbreak of the religious fanaticism which, like fanaticism in politics, discards all government and legal order as barriers cramping the inner life of the heart and incompatible with its infinity, and at the same time proscribes private property, marriage, the ties and work involved in civil society, &c., &c., as degrading to love and the freedom of feeling. But since even then

decisions must somehow be made for everyday life and practice, the same doctrine which we had before (see Remark to § 140, where we dealt generally with the subjectivity of the will which knows itself to be absolute) turns up again here, namely that subjective ideas, i.e. opinion and capricious inclination, are to do the deciding.

In contrast with the truth thus veiled behind subjective ideas and feelings, the genuine truth is the prodigious transfer of the inner into the outer, the building of reason into the real world, and this has been the task of the world during the whole course of its history. It is by working at this task that civilised man has actually given reason an embodiment in law and government and achieved consciousness of the fact. Those who 'seek guidance from the Lord' and are assured that the whole truth is directly present in their unschooled opinions, fail to apply themselves to the task of exalting their subjectivity to consciousness of the truth and to knowledge of duty and objective right. The only possible fruits of their attitude are folly, abomination, and the demolition of the whole ethical order, and these fruits must inevitably be reaped if the religious disposition holds firmly and exclusively to its intuitive form and so turns against the real world and the truth present in it in the form of the universal, i.e. of the laws. Still, there is no necessity for this disposition to turn outward and actualise itself in this way. With its negative standpoint, it is of course also open to it to remain something inward, to accommodate itself to government and law, and to acquiesce in these with sneers and idle longings, or with a sigh of resignation. It is not strength but weakness which has turned religious feeling nowadays into piety of a polemical kind, whether the polemic be connected with some genuine need or simply with unsatisfied vanity. Instead of subduing one's opinions by the labour of study, and subjecting one's will to discipline and so elevating it to free obedience, the line of least resistance is to renounce knowledge of objective truth. Along this line we may preserve a feeling of abject humility and so also of self-conceit, and claim to have ready to hand in godliness everything requisite for seeing into the heart of law and government, for passing sentence on them, and laying down what their character should and must be; and of course if we take this line, the source of our claims is a pious heart, and they are therefore infallible and unimpeachable, and the upshot is that since we make religion the basis of our intentions and assertions, they cannot be criticised on the score of their shallowness or their immorality.

But if religion be religion of a genuine kind, it does not run counter to the state in a negative or polemical way like the kind just described. It rather recognises the state and upholds it, and furthermore it has a position and

an external organisation of its own. The practice of its worship consists in ritual and doctrinal instruction, and for this purpose possessions and property are required, as well as individuals dedicated to the service of the flock. There thus arises a relation between the state and the church. To determine this relation is a simple matter. In the nature of the case, the state discharges a duty by affording every assistance and protection to the church in the furtherance of its religious ends; and, in addition, since religion is an integrating factor in the state, implanting a sense of unity in the depths of men's minds, the state should even require all its citizens to belong to a church—a church is all that can be said, because since the content of a man's faith depends on his private ideas, the state cannot interfere with it. A state which is strong because its organisation is mature may be all the more liberal in this matter; it may entirely overlook details of religious practice which affect it, and may even tolerate a sect (though, of course, all depends on its numbers) which on religious grounds declines to recognise even its direct duties to the state. The reason for the state's liberal attitude here is that it makes over the members of such sects to civil society and its laws, and is content if they fulfil their direct duties to the state passively, for instance by such means as commutation or the performance of a different service.

Footnote: Quakers, Anabaptists, &c., may be said to be active members only of civil society, and they may be regarded as private persons standing in merely private relations to others.

Even when this position has been allowed them, they have been exempted from taking the oath. They fulfil their direct duties to the state in a passive way; one of the most important of these duties, the defence of the state against its enemies, they refuse outright to fulfil, and their refusal may perhaps be admitted provided they perform some other service instead. To sects of this kind, the state's attitude is toleration in the strict sense of the word, because since they decline to recognise their duty to the state, they may not claim the rights of citizenship. On one occasion when the abolition of the slave-trade was being pressed with great vigour in the American Congress, a member from one of the Southern States made the striking retort: 'Give us our slaves, and you may keep your Quakers.' Only if the state is otherwise strong can it overlook and suffer such anomalies, because it can then rely principally on the strength of custom and the inner rationality of its institutions to diminish and close the gap between the existence of anomalies and the full assertion of its own strict rights. Thus technically it may have been right to refuse a grant of even civil rights to the Jews on the ground that they should be regarded as belonging not merely to a religious sect but to a foreign race. But the fierce outcry

raised against the Jews, from that point of view and others, ignores the fact that they are, above all, *men*; and manhood, so far from being a mere superficial, abstract quality (see Remark to § 209), is on the contrary itself the basis of the fact that what civil rights rouse in their possessors is the feeling of oneself as counting in civil society as a person with rights, and this feeling of self-hood, infinite and free from all restrictions, is the root from which the desired similarity indisposition and ways of thinking comes into being. To exclude the Jews from rights, on the other hand, would rather be to confirm the isolation with which they have been reproached—a result for which the state refusing them rights would be blamable and reproachable, because by so refusing, it would misunderstand its own basic principle, its nature as an objective and powerful institution (compare the end of the Remark to § 268). The exclusion of the Jews from civil rights may be supposed to be a right of the highest kind and may be demanded on that ground; but experience has shown that so to exclude them is the silliest folly, and the way in which governments now treat them has proved itself to be both prudent and dignified.

Remark: But since the church owns property and carries on besides the practice of worship, and since therefore it must have people in its service, it forsakes the inner for the worldly life and therefore enters the domain of the state, and *eo ipso* comes under its laws. The oath and ethical ties generally, like the marriage bond, entail that inner permeation and elevation of *sentiment* which acquires its deepest confirmation through religion. But since ethical ties are in essence ties within the actual *rational* order, the first thing is to affirm within that order the rights which it involves. Confirmation of these rights by the church is secondary and is only the inward, comparatively abstract, side of the matter.

As for the other ways in which an ecclesiastical communion gives expression to itself, so far as doctrine is concerned the inward preponderates over the outward to a greater extent than is the case with acts of worship and other lines of conduct connected with these, in which the legal side at least seems at once to be a matter for the state. (It is true, of course, that churches have managed to exempt their ministers and property from the power and jurisdiction of the state, and they have even arrogated to themselves jurisdiction over laymen as well in matters in which religion co-operates, such as divorce and the taking of the oath, &c.) Public control of actions of this kind is indeterminate in extent, but this is due to the nature of public control itself and obtains similarly in purely civil transactions (see § 234). When individuals, holding religious views in common, form themselves into a church, a Corporation, they fall

under the general control and oversight of the higher state officials. Doctrine as such, however, has its domain in conscience and falls within the right of the subjective freedom of self-consciousness, the sphere of the inner life, which as such is not the domain of the state. Yet the state, too, has a doctrine, since its organisation and whatever rights and constitution are authoritative within it 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, it follows that an essential moment in the actual state is the mental attitude of the citizens, and so their consciousness of *the principles* which this attitude implies. On the other hand, the doctrine of the church is not purely and simply an inward concern of conscience. As doctrine it is rather the expression of something, in fact the expression of a subject-matter which is most closely linked, or even directly concerned, with ethical principles and the law of the land. Hence at this point the paths of church and state either coincide or diverge at right angles. The difference of their two domains may be pushed by the church into sheer antagonism since, by regarding itself as enshrining the content of religions content which is absolute—it may claim as its portion mind in general, and so the whole ethical sphere, and conceive the state as a mere mechanical scaffolding for the attainment of external, non-mental, ends. It may take itself to be the Kingdom of God, or at least as the road to it or its vestibule, while it regards the state as the kingdom of this world, i.e. of the transient and the finite. In a word, it may think that it is an end in itself, while the state is a mere means. These claims produce the demand, in connection with doctrinal instruction, that the state should not only allow the church to do as it likes with complete freedom, but that it should pay unconditional respect to the church's doctrines as doctrines, whatever their character, because their determination is supposed to be the task of the church alone. The church bases this claim on the wide ground that the whole domain of mind (*Geist*) is its property. But science and all types of knowledge also have a footing in that domain and, like a church, they build themselves into a whole with a guiding principle of its own, and, with even better justification, may regard themselves as occupying the position which the church claims. Hence science also may in the same way demand to be independent of the state, which is then supposed to be a mere means with the task of providing for science as though science were an end in itself.

Further, for determining the relation between church and state, it makes no difference whether the leaders of congregations or individuals ordained to the service of the church feel impelled to withdraw from the state and

lead a sort of secluded life of their own, so that only the other church members are subject to the state's control, or whether they remain within the state except in their capacity as ecclesiastics, a capacity which they take to be but one side of their life. The most striking thing about such a—conception of the church's relation to the state is that it implies the idea—that the state's specific function consists in protecting and securing everyone's life, property, and caprice, in so far as these do not encroach upon the life, property, and caprice of others. The state from this point of view is treated simply as an organisation to satisfy men's necessities. In this way the element of absolute truth, of mind in its higher development, is placed, as subjective religious feeling or theoretical science, beyond the reach of the state. The state, as the laity pure and simple, is confined to paying its respects to this element and so is entirely deprived of any strictly ethical character. Now it is, of course, a matter of history that in times and under conditions of barbarism, all higher forms of intellectual life had their seat only in the church, while the state was a mere mundane rule of force, caprice, and passion. At such times it was the abstract opposition of state and church which was the main underlying principle of history (see § 359). But it is far too blind and shallow a proceeding to declare that this situation is the one which truly corresponds with the Idea. The development of this Idea has proved this rather to be the truth, that mind, as free and rational, is implicitly ethical, while the Idea in its truth is rationality actualised; and this it is which exists as the state. Further, this Idea has made it no less clearly evident that the ethical truth in it is present to conscious thought as a content worked up into the form of universality, i.e. as law—in short, that the state *knows* its aims, apprehends and gives practical proof of them with a clear—cut consciousness and in accordance with principles. Now, as I said earlier, religion has the truth as its universal subject-matter, but it possesses it only as a given content which has not been apprehended in its fundamental characteristics as a result of thinking and the use of concepts. Similarly, the relation of the individual to this subject-matter is an obligation grounded on authority, while the 'witness of his own spirit and heart', i.e. that wherein the moment of freedom resides, is faith and feeling. It is philosophic insight which sees that while church and state differ in form, they do not stand opposed in content, for truth and rationality are the content of both. Thus when the church begins to teach doctrines (though there are and have been some churches with a ritual only, and others in which ritual is the chief thing, while doctrine and a more educated consciousness are only secondary), and when these doctrines touch on objective principles, on thoughts of the ethical and the rational, 'then their expression *eo ipso* brings the church into the domain of the state. In contrast with the church's faith and authority in matters

affecting ethical principles, rightness, laws, institutions, in contrast with the church's subjective conviction, the state is that which knows. Its principle is such that its content is in essence no longer clothed with the form of feeling and faith but is determinate thought.

If the content of absolute truth appears in the form of religion as a particular content, i.e. as the doctrines peculiar to the church as a religious community, then these doctrines remain out of the reach of the state (in Protestantism they are out of the reach of priests too because, as there is no laity there, so there is no priesthood to be an exclusive depository of church doctrine).

Since ethical principles and the organisation of the state in general are drawn into the domain of religion and not only may, but also should, be established by reference thereto, this reference gives religious credentials to the state itself. On the other hand, however, the state retains the right and the form of self-conscious, objective, rationality, the right to make this form count and to maintain it against pretensions springing from truth in a subjective dress, no matter how such truth may girdle itself with certitude and authority.

The state is universal in form, a form whose essential principle is thought. This explains why it was in the state that freedom of thought and science had their origin. It was a church, on the other hand, which burnt Giordano Bruno, forced Galileo to recant on his knees his exposition of the Copernican view of the solar system, and so forth.

Footnote: 'When Galileo published the discoveries' about the phases of Venus, &c., which he had made with the aid of the telescope, 'he showed that they incontestably proved the motion of the earth. But this idea of the motion of the earth was declared heretical by an assembly of Cardinals, and Galileo, its most famous advocate, was haled before the Inquisition and compelled to recant it, under pain of severe imprisonment. One of the strongest of passions is the love of truth in a man of genius. Convinced of the motion of the earth as a result of his own observations, Galileo meditated a long while on a new work in which he had resolved to develop all the proofs in its favour. But in order at the same time to escape from the persecution of which otherwise he would inevitably have been the victim, he hit upon the device of expounding them in the form of dialogues between three speakers It is obvious enough in them that the advantage lies with the advocate of the Copernican system; but since Galileo did not decide between the speakers, and gave as much weight as possible to the objections raised by the partisans of Ptolemy, he might well have expected to be left to enjoy undisturbed the peace to which his advanced age and his labours had entitled him. ... In

his seventieth year he was haled once more before the tribunal of the Inquisition. ... He was imprisoned and required to recant his opinions a second time under threat of the penalty fixed for a relapse into heresy. ... He was made to sign an abjuration in the

following terms: "I, Galileo, appearing in person before the court in my seventieth year, kneeling, and with my eyes on the holy Gospels which I hold in my hands, abjure, damn, and execrate with my whole heart and true belief the absurd, false, and heretical doctrine of the motion of the earth."

What a spectacle! An aged, venerable man, famous throughout a long life exclusively devoted to the study of nature, abjuring on his knees, against the witness of his own conscience, the truth which he had demonstrated so convincingly! By the judgment of the Inquisition he was condemned to perpetual imprisonment. A year later he was set at liberty through the intercession of the Grand Duke of Florence. . . . He died in 1642. . . . Europe mourned his loss.

It had been enlightened by his labours and was exasperated by the judgment passed by a detested tribunal on a man of his greatness.' (Laplace: *Exposition du système du monde*, Book V, chap. 4.)

Remark: Science too, therefore, has its place on the side of the state since it has one element, its form, in common with the state, and its aim is knowledge, knowledge of objective truth and rationality in terms of thought. Such knowledge may, of course, fall from the heights of science into opinion and deductive argumentation, and, turning its attention to ethical matters and the organisation of the state, set itself against their basic principles. And it may perhaps do this while making for this opining as if it were reason and the right of subjective self-consciousness—the same pretentious claim as the church makes for its own sphere, the claim, namely, to be free from restraint in its opinions and convictions.

This principle of the subjectivity of knowing has been dealt with above (see Remark to § 140)—It is here only necessary to add a note on the twofold attitude of the state to this opining. On the one hand, in so far as opining is mere opining, a purely subjective matter, it is without any genuine inherent force or power, plume itself as it may; and from this point of view the state may be as totally indifferent to it as the painter who sticks to the three primary colours on his palette is indifferent to the academic wisdom which tells him there are seven. On the other hand, however, when this opining of bad principles embodies itself in a general organisation corrosive of the actual order, the state has to set its face against it and protect objective truth and the principles of ethical life (and it must do the same in face of the formulae of unconditioned subjectivity if these have proposed to take the starting point of science as their basis, and turn state educational institutions against the state by encouraging them to make against it claims as pretentious as those of a church); while, vice versa, in face of a church claiming unrestricted and unconditional authority, the state has in general to make good the formal right of self-consciousness to its own insight, its own conviction, and, in short, its own thought of what is to hold good as objective truth.

Mention may also be made of the 'unity of state and church' - a favourite topic of modern discussion and held up by some as the highest of ideals. While state and church are essentially one in truth of principle and disposition, it is no less essential that, despite this unity, the distinction between their forms of consciousness should be externalised as a distinction between their special modes of existence. This often desired unity of church and state is found under oriental despotisms, but an oriental despotism is not a state, or at any rate not the self-conscious form of state which is alone worthy of mind, the form which is organically developed and where there are rights and a free ethical life.

Further, if the state is to come into existence as the *self-knowing* ethical actuality of mind, it is essential that its form should be distinct from that of authority and faith. But this distinction emerges only in so far as the church is subjected to inward divisions. It is only thereafter that the state, in contrast with the particular sects, has attained to universality of thought—its formal principle—and is bringing this universality into existence. (In order to understand this, it is necessary to know not only what universality is in itself, but also what its existence is.

Hence so far from its being or its having been a misfortune for the state that the church is disunited, it is only as a result of that disunion that the state has been able to reach its appointed end as a self-consciously rational and ethical organisation. Moreover, this disunion is the best piece of good fortune which could have befallen either the church or thought so far as the freedom and rationality of either is concerned).

Addition: The state is actual, and its actuality consists in this, that the interest of the whole is realised in and through particular ends. Actuality is always the unity of universal and particular, the universal dismembered in the particulars which seem to be self-subsistent, although they really are upheld and contained only in the whole. Where this unity is not present, a thing is not actual even though it may have acquired existence. A bad state is one which merely exists; a sick body exists too, but it has no genuine reality. A hand which is cut off still looks like a hand, and it exists, but without being actual. Genuine actuality is necessity; what is actual is inherently necessary. Necessity consists in this, that the whole is sundered into the differences of the concept and that this divided whole yields a fixed and permanent determinacy, though one which is not fossilised but perpetually recreates itself in its dissolution.

To a mature state thought and consciousness essentially belong. Therefore the state knows what it wills and knows it as something thought. Now since knowing has its seat in the state, the seat of science must be there

too and not in the church. Despite this, it is often said nowadays that the state must grow out of religion. The state is mind fully mature and it exhibits its moments in the daylight of consciousness. Now the fact that what is hidden in the Idea steps forth into objective existence gives the state the appearance of something finite, and so the state reveals itself as a domain of worldliness, while religion displays itself as a domain of the infinite. If this be so, the state seems to be the subordinate, and since what is finite cannot stand on its own feet, the state is therefore said to need the church as its basis. As finite, it lacks justification, and it is only through religion that it can become sacrosanct and pertain to the infinite. This handling of the matter, however, is supremely one-sided. Of course the state is essentially worldly and finite; it has particular ends and particular powers; but its worldly character is only one of its aspects, and it is only to an unintelligent superficial glance that it is finite and nothing more. For the state has a life-giving soul, and the soul which animates it is subjectivity, which creates differences and yet at the same time holds them together in unity. In the realm of religion too there are distinctions and limitations. God, it is said, is triune; thus there are three persons whose unity alone is Spirit (*Geist*). Therefore to apprehend the nature of God concretely is to apprehend it through distinctions alone. Hence in the kingdom of God there are limitations, just as there are in the world, and to hold that mind (*Geist*) on earth, i.e. the state, is only a finite mind, is a one-sided view, since there is nothing irrational about actuality. Of course a bad state is worldly and finite and nothing else, but the rational state is inherently infinite.

Secondly, it is averred that the state must deny its justification from religion. In religion, the Idea is mind in the inwardness of the heart, but it is this same Idea which gives itself a worldly form as the state and fashions for itself an embodiment and an actuality in knowing and willing. Now if you say that the state must be grounded on religion, you may mean that it should rest on rationality and arise out of it; but your statement may also be misunderstood to mean that men are most adroitly schooled to obedience if their minds are shackled by a slavish religion. (The Christian religion, however, is the religion of freedom, though it must be admitted that this religion may become changed in character and perverted from freedom to bondage when it is infected with superstition.) Now if you mean that men must have religion so that their minds, already shackled, may the more easily be oppressed by the state, then the purport of your statement is bad. But if you mean that men ought to respect the state, this whole whose limbs they are, then of course the best means of effecting this is to give them philosophical insight into the essence of the state,

though, in default of that, a religious frame of mind may lead to the same result. For this reason, the state may have need of religion and faith. But the state remains essentially distinct from religion, since whatever it claims, it claims in the form of a legal duty, and it is a matter of indifference to it in what spirit that duty is performed. The field of religion, on the other hand, is the inner life, and just as the state would jeopardise the right of that life if, like religion, it made claims on it, so also when the church acts like a state and imposes penalties, it degenerates into a religion of tyranny.

A third difference which is connected with the foregoing is that the content of religion is and remains veiled, and consequently religion's place is in the field of the heart, feeling, and representative thinking. In this field everything has the form of *subjectivity*. The state, on the other hand, actualises itself and gives its specific institutions a stable, *objective*, existence.

Now if religious feeling wished to assert itself in the state in the same way as it is wont to do in its own field, it would overturn the organisation of the state, because the different organs of the state have latitude to pursue their several distinct paths, while in religion everything is always referred back to the whole. If this whole, then, wished to engulf all the concerns of the state, this would be tantamount to fanaticism; the wish to have the whole in every particular could be fulfilled only by the destruction of the particular, and fanaticism is just the refusal to give scope to particular differences. Hence to say: 'To the pious man no law is given' is nothing but an expression of this same fanaticism. Once piety usurps the place of the state, it cannot tolerate the determinate but simply shatters it. It is quite consistent with this if piety leaves decisions to conscience, to the inner life, and is not governed by reasons. This inner life does not develop into reasoned argument or give an account of itself. Hence if piety is to pass for the actuality of the state, all laws are cast to the winds and subjective feeling is the legislator. This feeling may be pure caprice, and whether it is or not can only be learnt from its actions. But by becoming actions and precepts, its actions assume the guise of laws, and this is just the very opposite of the subjective feeling with which we started. This feeling has God for its object, and we might make him the determinant of everything. But God is the universal Idea and this feeling can regard him only as the indeterminate, which is too immature to determine what is existent in the state in a developed form. It is precisely the fact that everything in the state is fixed and secure which is the bulwark against caprice and dogmatic opinion. Religion as such, then, ought not to be the governor.

The constitution of the state is, in the first place, the organisation of the state and the self-related process of its organic life, a process whereby it differentiates its moments within itself and develops them to self-subsistence. Secondly, the state is an individual, unique and exclusive, and therefore related to others. Thus it turns its differentiating activity outward and accordingly establishes within itself the ideality of its subsisting inward differentiations.

Addition: Just as irritability in the living organism is itself from one point of view something inward, something pertaining to the organism as such, so here again the outward reference is an inward tendency. The inner side of the state as such is the civil power, while its outward tendency is the military power, although this has a fixed place inside the state itself. Now to have both these powers in equilibrium constitutes an important factor in the spirit of the state. Sometimes the civil power is wholly effaced and rests entirely on the military power, as was the case, for instance, in the time of the Roman Emperors and the Praetorians. At other times, nowadays for example, the military power is a mere by-product of the civil power once all the citizens are conscriptable.

1. The Constitution (on its internal side only)

§ 272

The constitution is rational in so far as the state inwardly differentiates and determines its activity in accordance with the nature of the concept. The result of this is that each of these powers is in itself the totality of the constitution, because each contains the other moments and has them effective in itself, and because the moments, being expressions of the differentiation of the concept, simply abide in their ideality and constitute nothing but a single individual whole.

Remark: In our day there has come before the public an endless amount of babble about the constitution, as about reason itself, and the stalest babble of all has been produced in Germany, thanks to those who have persuaded themselves that they have the best, or even the sole, understanding of what a constitution is. Elsewhere, particularly in governments, misunderstanding is supposed to reign. And these gentlemen are convinced that they have an unassailable justification for what they say because they claim that religion and piety are the basis of all this shallow thinking of theirs. It is no wonder that this babble has made reasonable men just as sick of the words ‘reason’, ‘enlightenment’, ‘right’, &c., as of the words ‘constitution’ and ‘freedom’, and a man might well be ashamed now to go on discussing the constitution of the state at all! However, we may, at least hope that this surfeit will be effective in

producing the general conviction that philosophical knowledge of such topics cannot arise from argumentation, deduction, calculations of purpose and utility, still less from the heart, love, and inspiration, but only from the concept. We may also hope that those who hold that the divine is inconceivable and the knowledge of truth a wild-goose chase will feel themselves bound to refrain from taking part in the discussion. The products of their hearts and their inspirations are either undigested chatter or mere edification, and whatever the worth of these neither can pretend to notice from philosophy.

Amongst current ideas, mention may be made (in connection with § 269) of the necessity for a division of powers within the state. This point is of the highest importance and, if taken in its true sense, may rightly be regarded as the guarantee of public freedom. It is an idea, however, with which the very people who pretend to talk out of their inspiration and love neither have, nor desire to have, any acquaintance, since it is precisely there that the moment of rational determinacy lies. That is to say, the principle of the division of powers contains the essential moment of difference, of rationality realised. But when the abstract Understanding handles it, it reads into it the false doctrine of the absolute self-subsistence of each of the powers against the others, and then one-sidedly interprets their relation to each other as negative, as a mutual restriction. This view implies that the attitude adopted by each power to the others is hostile and apprehensive, as if the others were evils, and that their function is to oppose one another and as a result of this counterpoise to effect an equilibrium on the whole, but never a living unity. It is only the inner self-determination of the concept, not any other consideration, whether of purpose or advantage, that is the absolute source of the division of powers, and in virtue of this alone is the organisation of the state something inherently rational and the image of eternal reason.

How the concept and then, more concretely, how the Idea, determine themselves inwardly and so posit their moments—universality, particularity, and individuality—in abstraction from one another, is discoverable from my logic, though not of course from the logic current elsewhere. To take the merely negative as a starting-point and to exalt to the first place the volition of evil and the mistrust of this volition, and then on the basis of this presupposition slyly to construct dykes whose efficiency simply necessitates corresponding dykes over against them, is characteristic in thought of the negative Understanding and in sentiment of the outlook of the rabble (see § 244).

If the powers (e.g. what are called the ‘Executive’ and the ‘Legislature’) become self-subsistent, then as we have recently seen on a grand scale,

the destruction of the state is forthwith a *fait accompli*. Alternatively, if the state is maintained in essentials, it is strife which through the subjection by one power of the others, produces unity at least, however defective, and so secures the bare essential, the maintenance of the state.

Addition: We should desire to have in the state nothing except what is an expression of rationality. The state is the world which mind has made for itself; its march, therefore, is on lines that are fixed and absolute. How often we talk of the wisdom of God in nature! But we are not to assume for that reason that the physical world of nature is a loftier thing than the world of mind. As high as mind stands above nature, so high does the state stand above physical life. Man must therefore venerate the state as a secular deity, and observe that if it is difficult to comprehend nature, it is infinitely harder to understand the state. It is a fact of the highest importance that nowadays we have gained a clear-cut intuition into the state in general and have been so much engaged in discussing and making constitutions. But by getting so far we have not yet settled everything. In addition, it is necessary to bring to bear on a rational topic the reason underlying intuition, to know what the essence of the matter is and to realise that the obvious is not always the essential.

The powers of the state, then, must certainly be distinguished, but each of them 'must' build itself inwardly into a whole and contain in itself the other moments. When we speak of the distinct activities of these powers, we must not slip into the monstrous error of so interpreting their distinction as to suppose that each power should subsist independently in abstraction from the others. The truth is that the powers are to be distinguished only as moments of the concept. If instead they subsist independently in abstraction from one another, then it is as clear as day that two independent units cannot constitute a unity but must of course give rise to strife, whereby either the whole is destroyed or else unity is restored by force. Thus in the French Revolution, the legislative power sometimes engulfed the so-called 'executive', the executive sometimes engulfed the legislative, and in such a case it must be stupid to formulate e.g. the moral demand for harmony.

Leave the thing to the heart if you like and be saved all trouble; but even if ethical feeling is indispensable, it has no right to determine the powers of the state by reference to itself alone. The vital point, then, is that since the fixed characters of the powers are implicitly the whole, so also all the powers as existents constitute the concept as a whole. Mention is usually made of three powers, the legislative, the executive, and the judiciary; of these the first corresponds to universality and the second to particularity, but the judiciary is not the third moment of the concept, since the

individuality intrinsic to the concept lies outside these spheres.

§ 273

The state as a political entity is thus cleft into three substantive divisions:

- (a) the power to determine and establish the universal—the *Legislature*;
- (b) the power to subsume single cases and the spheres of particularity under the universal—the

Executive;

- (c) the power of subjectivity, as the will with the power of ultimate decision—the *Crown*. In the crown, the different powers are bound into an individual unity which is thus at once the apex and basis of the whole, i.e. of constitutional monarchy.

Remark: The development of the state to constitutional monarchy is the achievement of the modern world, a world in which the substantial Idea has won the infinite form [of subjectivity—see § 144]. The history of this inner deepening of the world mind—or in other words this free maturation in course of which the Idea, realising rationality in the external, releases its moments (and they are only its moments) from itself as totalities, and just for that reason still retains them in the ideal unity of the concept—the history of this genuine formation of ethical life is the content of the whole course of world-history.

The ancient division of constitutions into monarchy, aristocracy, and democracy, is based upon the notion of substantial, still undivided, unity, a unity which has not yet come to its inner differentiation (to a matured, internal organisation) and which therefore has not yet attained depth or concrete rationality. From the standpoint of the ancient world, therefore, this division is the true and correct one, since for a unity of that still substantial type, a unity inwardly too immature to have attained its absolutely complete development, difference is essentially an external difference and appears at first as a difference in the number of those in whom that substantial unity is supposed to be immanent. These forms, which on this principle belong to different wholes, are given in limited monarchy the humbler position of moments in a whole. The monarch is a *single* person; the few come on the scene with the executive, and the *many* en masse with the legislative. But, as has been indicated purely quantitative distinctions like these are only superficial and do not afford the concept of the thing. Equally inadequate is the mass of contemporary talk about the democratic and aristocratic elements in monarchy, because when the elements specified in such talk are found in a monarchy there is no longer anything democratic or aristocratic about them. There are notions of

constitutions in which the state is portrayed from top to bottom as an abstraction which is supposed to rule and command, and how many individuals are at the head of such a state, whether one or a few or all, is a question left undecided and regarded as a matter of indifference. [E.g.:] ‘All these forms’, says Fichte, ‘... are justified, provided there be an ephorate’ (a scheme devised by Fichte to be a counterpoise to the chief power in the state) ‘and may ... be the means of introducing universal rights into the state and maintaining them there.’ A view of this kind—and the device of the ephorate also—is begotten by the superficial conception of the state to which reference has just been made. It is true enough that in quite simple social conditions these differences of constitutional form have little or no meaning. For instance, in the course of his legislation Moses prescribed that, in the event of his people’s desiring a king, its institutions should remain unchanged except for the new requirement that the king should not ‘multiply horses to himself ... nor wives ... nor silver and gold’.^t Besides, in a sense one may of course say that the Idea too is indifferent to these forms (including monarchy, but only when it is restricted in meaning by being defined as an *alternative* on a parity with aristocracy and democracy). But the Idea is indifferent to them, not in Fichte’s but in the opposite sense, because every one of them is inadequate to it in its rational development (see § 272) and in none of them, taken singly, could the Idea attain its right and its actuality. Consequently, it is quite idle to inquire which of the three is most to be preferred. Such forms must be discussed historically or not at all.

Still, here again, as in so many other places, we must recognise the depth of Montesquieu’s insight in his now famous treatment of the basic principles of these forms of government. To recognise the accuracy of his account, however, we must not misunderstand it. As is well known, he held that ‘virtue’ was the principle of democracy [and rightly], since it is in fact the case that that type of constitution rests on sentiment, i.e. on the purely substantial form in which the rationality of the absolute will still exists in democracy. But Montesquieu goes on to say that in the seventeenth century England provided ‘a fine spectacle of the way in which efforts to found a democracy were rendered ineffective by a lack of virtue in the leaders’. And again he adds ‘when virtue vanishes from the republic, ambition enters hearts which are capable of it and greed masters everyone ... so that the state beeches everyone’s booty and its strength now consists only in the power of a few citizens and the licence of all alike’. These quotations call for the comment that in more mature social conditions and when the powers of particularity have developed and become free, a form of rational law other than the form of sentiment is

required, because virtue in the heads of the state is not enough if the state as a whole is to gain the power to resist disruption and to bestow on the powers of particularity, now become mature, both their positive and their negative rights. Similarly, we must remove the misunderstanding of supposing that because the sentiment of virtue is the substantial form of a democratic republic, it is evidently superfluous in monarchy or even absent from it altogether, and, finally, we may not suppose that there is an opposition and an incompatibility between virtue and the legally determinate agency of a state whose organisation is fully articulated.

The fact that ‘moderation’ is cited as the principle of aristocracy implies the beginning at this point of a divorce between public authority and private interest. And yet at the same time these touch each other so directly that this constitution by its very nature stands on the verge of lapsing forthwith into tyranny or anarchy—the harshest of political conditions—and so into self-annihilation. See Roman history, for example.

The fact that Montesquieu discerns ‘honour’ as the principle of monarchy at once makes it clear that by ‘monarchy’ he understands, not the patriarchal or any ancient type, nor, on the other hand, the type organised into an objective constitution, but only feudal monarchy, the type in which the relationships recognised in its constitutional law are crystallised into the rights of private property and the privileges of individuals and Corporations. In this type of constitution, political life rests on privileged persons and a great part of what must be done for the maintenance of the state is settled at their pleasure. The result is that their services are the objects not of duty but only of ideas and opinions. Thus it is not duty but only honour which holds the state together.

Another question readily presents itself here: ‘Who is to frame the constitution?’ This question seems clear, but closer inspection shows at once that it is meaningless, for it presupposes that there is no constitution there, but only an agglomeration of atomic individuals. How an agglomeration of individuals could acquire a constitution, whether automatically or by someone’s aid, whether as a present or by force or by thought, it would have to be allowed to settle for itself, since with an agglomeration the concept has nothing to do. But if the question presupposes an already existent constitution, then it is not about framing, but only about altering the constitution, and the very presupposition of a constitution directly implies that its

alteration may come about only by constitutional means. In any case, however, it is absolutely essential that the constitution should not be regarded as something made, even though it has come into being in time. It must be treated rather as something simply existent in and by itself, as divine therefore, and constant, and so as exalted above the sphere of things that are made.

Addition: The principle of the modern world is freedom of subjectivity, the principle that all the essential factors present in the intellectual whole are now coming into their right in the course of their development. Starting from this point of view, we can hardly raise the idle question: Which is the better form of government, monarchy or democracy? We may only say that all constitutional forms are one-sided unless they can sustain in themselves the principle of free subjectivity and know how to correspond with a matured rationality.

§ 274

Mind is actual only as that which it knows itself to be, and in the state, as the mind of a nation, is both the law permeating all relationships within the state and also at the same time the manners and consciousness of its citizens. It follows, therefore, that the constitution of any given nation depends in general on the character and development of its self-consciousness. In its self-consciousness its subjective freedom is rooted and so, therefore, is the actuality of its constitution.

Remark: The proposal to give a constitution—even one more or less rational in content—to a nation *a priori* would be a happy thought overlooking precisely that factor in a constitution which makes it more than an *ens rationis*. Hence every nation has the constitution appropriate to it and suitable for it.

Addition: The state in its constitution must permeate all relationships within the state. Napoleon, for instance, wished to give the Spaniards a constitution *a priori*, but the project turned out badly enough. A constitution is not just something manufactured; it is the work of centuries, it is the Idea, the consciousness of rationality so far as that consciousness is developed in a particular nation. No constitution, therefore, is just the creation of its subjects. What Napoleon gave to the Spaniards was more rational than what they had before, and yet they recoiled from it as from something alien, because they were not yet educated up to its level. A nation's constitution must embody its feeling for its rights and its position, otherwise there may be a constitution there in an external way, but it is meaningless and valueless.

Isolated individuals may often feel the need and the longing for a better constitution, but it is quite another thing, and one that does not arise till later, for the mass of the people to be animated by such an idea. The principle of morality, of the inner life of Socrates, was a necessary product of his age, but time was required before it could become part and parcel of the self-consciousness of everyone.

[a] **The Crown**

§ 275

The power of the crown contains in itself the three moments of the whole (see § 272), *viz.* [a] the universality of the constitution and the laws; [b] counsel, which refers the particular to the universal; and [c] the moment of ultimate decision, as the self-determination to which everything else reverts and from which everything else derives the beginning of its actuality. This absolute self-determination constitutes the distinctive principle of the power of the crown as such, and with this principle our exposition is to begin.

Addition: We begin with the power of the crown, i.e. with the moment of individuality, since this includes the state's three moments as a totality in itself. The ego, that is to say, is at once the most individual thing and the most universal. *Prima facie*, individuality occurs in nature too, but reality, the opposite of ideality, and reciprocal externality are not the same as self-enclosed existence. On the contrary, in nature the various individual things subsist alongside one another. In mind, on the other hand, variety exists only as something ideal and as a unity. The state, then, as something mental, is the exhibition of all its moments, but individuality is at the same time the bearer of its soul and its life-giving principle, i.e. the sovereignty which contains all differences in itself.

§ 276

(1) The fundamental characteristic of the state as a political entity is the substantial unity, i.e. the ideality, of its moments.

[a] In this unity, the particular powers and their activities are dissolved and yet retained. They are retained, however, only in the sense that their authority is no independent one but only one of the order and breadth determined by the Idea of the whole; from its might they originate, and they are its flexible limbs while it is their single self.

Addition: Much the same thing as this ideality of the moments in the state occurs with life in the physical organism. Life is present in every cell. There is only one life in all the cells and nothing withstands it. Separated

from that life, every cell dies. This is the same as the ideality of every single class, power, and Corporation as soon as they have the impulse to subsist and be independent. It is with them as it is with the belly in the organism. It, too, asserts its independence, but at the same time its independence is set aside and it is sacrificed and absorbed into the whole.

§ 277

[b] The particular activities and agencies of the state are its essential moments and therefore are proper to it. The individual functionaries and agents are attached to their office not on the strength of their immediate personality, but only on the strength of their universal and objective qualities. Hence it is in an external and contingent way that these offices are linked with particular persons, and therefore the functions and powers of the state cannot be private property.

Addition: The business of the state is in the hands of individuals. But their authority to conduct its affairs is based not on their birth but on their objective qualities. Ability, skill, character, all belong to a man in his *particular* capacity. He must be educated and be trained to a particular task. Hence an office may not be saleable or hereditary. In France, seats in parliament were formerly saleable, and in the English army commissions up to a certain rank are saleable to this day. This saleability of office, however, was or is still connected with the medieval constitution of certain states, and such constitutions are nowadays gradually disappearing.

§ 278

These two points [a] and [b] constitute the sovereignty of the state. That is to say, sovereignty depends on the fact that the particular functions and powers of the state are not self-subsistent or firmly grounded either on their own account or in the particular will of the individual functionaries, but have their roots ultimately in the unity of the state as their single self.

Remark: This is the sovereignty of the state at home. Sovereignty has another side, i.e. sovereignty *vis-à-vis* foreign states, on which see below.

In feudal times, the state was certainly sovereign *vis-à-vis* other states; at home however, not only was the monarch not sovereign at all, but the state itself was not sovereign either. For one thing, the particular functions and powers of the state and civil society were arranged (compare Remark to § 273) into independent Corporations and societies, so that the state as a whole was rather an aggregate than an organism; and, for another thing, office was the private property of individuals, and hence what they were to do in their public capacity was left to their own opinion and caprice.

The idealism which constitutes sovereignty is the same characteristic as that in accordance with which the so-called ‘parts’ of an animal organism are not parts but members, moments in an organ whose isolation and independence spell disease. The principle here is the same as that which came before us (see §7) in the abstract concept of the will (see Remark to § 279) as self-related negativity, and therefore as the universality of the will determining itself to individuality and so cancelling all particularity and determinacy, as the absolute self-determining ground of all volition. To understand this, one must have mastered the whole conception of the substance and genuine subjectivity of the concept.

The fact that the sovereignty of the state is the ideality of all particular authorities within it gives rise to the easy and also very common misunderstanding that this ideality is only might and pure arbitrariness ; while ‘sovereignty’ is a synonym for ‘despotism’. But despotism means any state of affairs where law has disappeared and where the particular will as such, whether of a monarch or a mob (ochlocracy), counts as law; or rather takes the place of law; while it is precisely in legal, constitutional, government that sovereignty is to be found as the moment of ideality—the ideality of the particular spheres and functions. That is to say, sovereignty brings it about that each of these spheres is a thing independent, self-subsistent in its aims and modes of working, something immersed solely in itself, but that instead, even in these aims and modes of working, each is determined by and dependent on the aim of the whole (the aim which has been denominated in general terms by the rather vague expression ‘welfare of the state’).

This ideality manifests itself in a twofold way:

(i) In times of peace, the particular spheres and functions pursue the path of satisfying their particular aims and minding their own business, and it is in part only by way of the unconscious necessity of the thing that their self-seeking is turned into a contribution to reciprocal support and to the support of the whole (see § 183). In part, however, it is by the direct influence of higher authority that they are not only continually brought back to the aims of the whole and restricted accordingly (see § 289), but are also constrained to perform direct services for the support of the whole.

(ii) In a situation of exigency, however, whether in home or foreign affairs, the organism of which these particular spheres are members fuses into the single concept of sovereignty. The sovereign is entrusted with the salvation of the state at the sacrifice of these particular authorities whose powers are valid at other times, and it is then that that ideality comes into

its proper actuality (see § 321).

§ 279

(2) Sovereignty, at first simply the universal thought of this ideality, comes into existence only as subjectivity sure of itself, as the will's abstract and to that extent ungrounded self-determination in which finality of decision is rooted. This is the strictly individual aspect of the state, and in virtue of this alone is the state one. The truth of subjectivity, however, is attained only in a subject, and the truth of personality only in a person; and in a constitution which has become mature as a realisation of rationality, each of the three moments of the concept has its explicitly actual and separate formations. Hence this absolutely decisive moment of the whole is not individuality in general, but a single individual, the monarch.

Remark: The immanent development of a science, the derivations of its entire content from the concept in its simplicity (a science otherwise derived, whatever its merit, does not deserve the name of a philosophical science) exhibits this peculiarity, that one and the same concept

— the will in this instance—which begins by being abstract (because it is at the beginning), maintains its identity even while it consolidates its specific determinations, and that too solely by its own activity, and in this way gains a concrete content. Hence it is the basic moment of personality, abstract at the start in immediate rights, which has matured itself through its various forms of subjectivity, and now—at the stage of absolute rights, of the state, of the completely concrete objectivity of the will—has become the personality of the state, its certainty of itself. This last reabsorbs all particularity into its single self, cuts short the weighing of pros and cons between which it lets itself oscillate perpetually now this way and now that, and by saying 'I will' makes its decision and so inaugurates all activity and actuality.

Further, however, personality, like subjectivity in general, as infinitely self-related, has its truth (to be precise, its most elementary, immediate, truth) only in a person, in a subject existing 'for' himself, and what exists 'for' itself is just simply a unit. It is only as a person, the monarch, that the personality of the state is actual. Personality expresses the concept as such; but the person enshrines the actuality of the concept, and only when the concept is determined as person is it the Idea or truth. A so-called 'artificial person', be it a society, a community, or a family, however inherently concrete it may be, contains personality only abstractly, as one moment of itself. In an 'artificial person', personality has not achieved its

true mode of existence. The state, however, is precisely this totality in which the moments of the concept have attained the actuality correspondent to their degree of truth. All these categories, both in themselves and in their external formations, have been discussed in the whole course of this treatise. They are repeated here, however, because while their existence in their particular external formations is readily granted, it does not follow at all that they are recognised and apprehended again when they appear in their true place, not isolated, but in their truth as moments of the Idea.

The conception of the monarch is therefore of all conceptions the hardest for ratiocination, i.e. for the method of reflection employed by the Understanding. This method refuses to move beyond isolated categories and hence here again knows only *raisonnement*, finite points of view, and deductive argumentation. Consequently it exhibits the dignity of the monarch as something deduced, not only in its form, but in its essence. The truth is, however, that to be something not deduced but purely self-originating is precisely the conception of monarchy.

Akin, then, to this reasoning is the idea of treating the monarch's right as grounded in the authority of God, since it is in its divinity that its unconditional character is contained. We are familiar, however, with the misunderstandings connected with this idea, and it is precisely this 'divine' element which it is the task of a philosophic treatment to Comprehend.

We may speak of the 'sovereignty of the people' in the sense that any people whatever is self-subsistent *vis-à-vis* other peoples, and constitutes a state of its own, like the British people for instance. But the peoples of England, Scotland, or Ireland, or the peoples of Venice, Genoa, Ceylon, &c., are not sovereign peoples at all now that they have ceased to have rulers or supreme governments of their own.

We may also speak of sovereignty in home affairs residing in the people, provided that we are speaking generally about the whole state and meaning only what was shown above (see §§ 277, 278), namely that it is to the state that sovereignty belongs.

The usual sense, however, in which men have recently begun to speak of the 'sovereignty of the people' is that it is something opposed to the sovereignty existent in the monarch. So opposed to the sovereignty of the monarch, the sovereignty of the people is one of the confused notions based on the wild idea of the 'people'. Taken without its monarch and the articulation of the whole which is the indispensable and direct concomitant of monarchy, the people is a formless mass and no longer a

state. It lacks every one of those determinate characteristics—sovereignty, government, judges, magistrates, class-divisions, &c.,—which are to be found only in a whole which is inwardly organised. By the very emergence into a people's life of moments of this kind which have a bearing on an organisation, on political life, a people ceases to be that indeterminate abstraction which, when represented in a quite general way, is called the 'people'.

If by 'sovereignty of the people' is understood a republican form of government, or to speak more specifically (since under 'republic' are comprised all sorts of other mixed forms of government, which are purely empirical, let alone irrelevant in a philosophical treatise) a democratic form, then all that is needed in reply has been said already (in the Remark to § 273); and besides, such a notion cannot be further discussed in face of the Idea of the state in its full development.

If the 'people' is represented neither as a patriarchal clan, nor as living under the simple conditions which make democracy or aristocracy possible as forms of government (see Remark to § 273),—nor as living under some other unorganised and haphazard conditions, but instead as an inwardly developed, genuinely organic, totality, then sovereignty is there as the personality of the whole, and this personality is there, in the real existence adequate to its concept, as the person of the monarch.

At the stage at which constitutions are divided, as above mentioned, into democracy, aristocracy, and monarchy, the point of view taken is that of a still substantial unity, abiding in itself, without having yet embarked on its infinite differentiation and the plumbing of its own depths. At that stage, the moment of the final, self-determining, decision of the will does not come on the scene explicitly in its own proper actuality as an organic moment immanent in the state. None the less, even in those comparatively immature constitutional forms, there must always be individuals at the head. Leaders must either be available already, as they are in monarchies of that type, or, as happens in aristocracies, but more particularly in democracies, they may rise to the top, as statesmen or generals, by chance and in accordance with the particular needs of the hour. This must happen, since everything done and everything actual is inaugurated and brought to completion by the single decisive act of a leader. But comprised in a union of powers which remains undifferentiated, this subjectivity of decision is inevitably either contingent in its origin and appearance, or else is in one way or another subordinate to something else. Hence in such states, the power of the leaders was conditioned, and only in something beyond them could there be found a pure unambiguous

decision, a *fatum*, determining affairs from without. As a moment of the Idea, this decision had to come into existence, though rooted in something outside the circle of human freedom with which the state is concerned. Herein lies the origin of the need for deriving the last word on great events and important affairs of state from oracles, a 'divine sign' (in the case of Socrates), the entrails of animals, the feeding and flight of birds, &c. It was when men had not yet plumbed the depths of self-consciousness or risen out of their undifferentiated unity of substance to their independence that they lacked strength to look within their own being for the final word.

In the 'divine sign' of Socrates (compare Remark to § 138) we see the will which formerly had simply transferred itself beyond itself now beginning to apply itself to itself and so to recognise its own inward nature. This is the beginning of a self-knowing and so of a genuine freedom. This realised freedom of the Idea consists precisely in giving to each of the moments of rationality its own self-conscious actuality here and now. Hence it is this freedom which makes the ultimate self-determining certitude—the culmination of the concept of the will—the function of a single consciousness. This ultimate self-determination, however, can fall within the sphere of human freedom only in so far as it has the position of a pinnacle, explicitly distinct from, and raised above, all that is particular and conditional, for only so is it actual in a way adequate to its concept.

Addition: In the organisation of the state—which here means in constitutional monarchy—we must have nothing before our minds except the inherent necessity of the Idea. All other points of view must vanish. The state must be treated as a great architectonic structure, as a hieroglyph of the reason which reveals itself in actuality. Everything to do with mere utility, externality, and so forth, must be eliminated from the philosophical treatment of the subject. Now our ordinary ideas can quite well grasp the conception of the state as a self-determining and completely sovereign will, as final decision. What is more difficult is to apprehend this 'I will' as a person. To do so is not to say that the monarch may act capriciously. As a matter of fact, he is bound by the concrete decisions of his counsellors, and if the constitution is stable, he has often no more to do than sign his name. But this name is important. It is the last word beyond which it is impossible to go. It might be said that an organic, articulated, constitution was present even in the beautiful democracy of Athens, and yet we cannot help noticing that the Greeks derived their final decisions from the observation of quite external phenomena such as oracles, the entrails of sacrificial animals, and the flight of birds. They treated nature as a power

which in those ways revealed and expressed what was good for men. At that time, self-consciousness had not yet advanced to the abstraction of subjectivity, not even so far as to understand that, when a decision is to be made, an 'I will' must be pronounced by man himself. This 'I will' constitutes the great difference between the ancient world and the modern, and in the great edifice of the state it must therefore have its appropriate objective existence. Unfortunately, however, this requirement is regarded as only external and optional.

§ 280

(3) This ultimate self in which the will of the state is concentrated is, when thus taken in abstraction, a single self and therefore is immediate individuality. Hence its 'natural' character is implied in its very conception. The monarch, therefore, is essentially characterised as this individual, in abstraction from all his other characteristics, and this individual is raised to the dignity of monarchy in an immediate, natural, fashion, i.e. through his birth in the course of nature.

Remark: This transition of the concept of pure self-determination into the immediacy of being and so into the realm of nature is of a purely speculative character, and apprehension of it therefore belongs to logic. Moreover, this transition is on the whole the same as that familiar to us in the nature of willing, and there the process is to translate something from subjectivity (i.e. some purpose held before the mind) into existence (see § 8). But the proper form of the Idea and of the transition here under consideration is the immediate conversion of the pure self-determination of the will (i.e. of the simple concept itself) into a single and natural existent without the mediation of a particular content (like a purpose in the case of action).

In the so-called 'ontological' proof of the existence of God, we have the same conversion of the absolute concept into existence. This conversion has constituted the depth of the Idea in the modern world, although recently it has been declared inconceivable, with the result that knowledge of truth has been renounced, since truth is simply the unity of concept and existence (see § 23). Since the Understanding has no inner consciousness of this unity and refuses to move beyond the separation of these two moments of the truth, it may perhaps, so far as God is concerned, still permit a 'faith' in this unity. But since the idea of the monarch is regarded as being quite familiar to ordinary consciousness, the Understanding clings here all the more tenaciously to its separatism and the conclusions which its astute ratiocination deduces therefrom. As a result, it denies that the moment of ultimate decision in the state is linked implicitly and actually

(i.e. in the rational concept) with the immediate birthright of the monarch. consequently it infers, first, that this link is a matter of accident, and further—since it has claimed that the absolute diversity of these moments is the rational thing—that such a link is irrational, and then there follow the other deductions disruptive of the Idea of the state.

Addition: It is often alleged against monarchy that it makes the welfare of the state dependent on chance, for, it is urged, the monarch may be ill-educated, he may perhaps be unworthy of the highest position in the state, and it is senseless that such a state of affairs should exist because it is supposed to be rational. But all this rests on a presupposition which is nugatory, namely that everything depends on the monarch's *particular* character. In a completely organised state, it is only a question of the culminating point of formal decision (and a natural bulwark against passion. It is wrong therefore to demand objective qualities in a monarch); he has only to say 'yes' and dot the 'i', because the throne should be such that the significant thing in its holder is not his particular make-up. (Monarchy in this sense is rational because it corresponds with the concept, but since this is hard to grasp, we often fail to notice the rationality of monarchy. Monarchy must be inherently stable and) whatever else the monarch may have in addition to this power of final decision is part and parcel of his private character and should be of no consequence. Of course there may be circumstances in which it is this private character alone which has prominence, but in that event the state is either not fully developed, or else is badly constructed. In a well-organised monarchy, the objective aspect belongs to law alone, and the monarch's part is merely to set to the law the subjective 'I will'.

§ 281

Both moments in their undivided unity—(a) the will's ultimate ungrounded self, and (b) therefore its similarly ungrounded objective existence (existence being the category which is at home in nature)

— constitute the Idea of something against which caprice is powerless, the 'majesty' of the monarch. In this unity lies the actual unity of the state, and it is only through this, its inward and outward immediacy, that the unity of the state is saved from the risk of being drawn down into the sphere of particularity and its caprices, ends, and opinions, and saved too from the war of factions round the throne and from the enfeeblement and overthrow of the power of the state.

Remark: The rights of birth and inheritance constitute the basis of legitimacy, the basis of a right not purely positive but contained in the

Idea.

If succession to the throne is rigidly determined, i.e. if it is hereditary, then faction is obviated at a demise of the crown; this is one aspect of hereditary succession and it has long been rightly stressed as a point in its favour. This aspect, however, is only consequential, and to make it the reason for hereditary succession is to drag down the majesty of the throne into the sphere of argumentation, to ignore its true character as ungrounded immediacy, ultimate inwardness, and to base it not on the Idea of the state immanent within it, but on something external to itself, on some extraneous notion such as the 'welfare of the state' or the 'welfare of the people'. Once it has been so based, its hereditary character may of course be deduced by the use of *media termini*. But other *media termini* are equally available, and so therefore are different conclusions, and it is only too well known what conclusions have in fact been drawn from this 'welfare of the people' (*salut du peuple*). Hence the majesty of the monarch is a topic for thoughtful treatment by philosophy alone, since every method of inquiry, other than the speculative method of the infinite Idea which is purely self-grounded, annuls the nature of majesty altogether.

An elective monarchy seems of course to be the most natural idea, i.e. the idea which superficial thinking finds handiest. Because it is the concerns and interests of his people for which a monarch has to provide, so the argument runs, it must be left to the people to entrust 'With its welfare whomsoever it pleases, and only with the grant of this trust does his right to rule arise. This view, like the notion of the monarch as the highest executive official in the state, or the notion of a contractual relation between him and his people, &c., &c., is grounded on the will interpreted as the whim, opinion, and caprice of the Many. A will of this character counts as the first thing in civil society (as was pointed out long ago) or rather it tries to count as the one thing there but it is not the guiding principle of the family, still less of the state, and in short it stands opposed to the Idea of ethical life.

It is truer to say that elective monarchy is the worst of institutions, and its results suffice to reveal this to ratiocination. To ratiocination, however, these results have the appearance of something merely possible and probable, though they are in fact inherent in the very essence of this institution. In an elective monarchy, I mean, the nature of the relation between king and people implies that the ultimate decision is left with the particular will, and hence the constitution becomes a Compact of Election, i.e. a surrender of the power of the state at the discretion of the particular

will. The result of this is that the particular offices of state turn into private property, the sovereignty of the state is enfeebled and lost, and finally the state disintegrates within and is overthrown from without.

Addition: If we are to grasp the Idea of the monarch, we cannot be content with saying that God has appointed kings to rule over us, since God has made everything, even the worst of things. The point of view of utility does not get us very far either, and it is always possible to point out counterbalancing disadvantages. Still less does it help to regard monarchy as a *positive* right. That I should hold property is necessary, but my holding of this particular property is contingent; and in the same way, the right that there must be one man at the head of affairs seems contingent too if it is treated as abstract and as posited. This right, however, is inevitably present both as a felt want and as a requirement of the situation. Monarchs are not exactly distinguished for bodily prowess or intellectual gifts, and yet millions submit to their rule. Now to say that men allow themselves to be ruled counter to their own interests, ends, and intentions is preposterous. Men are not so stupid. It is their need, it is the inner might of the Idea, which, even against what they appear to think, constrains them to obedience and keeps them in that relation.

If then the monarch comes on the scene as the head and a part of the constitution, we are compelled to hold that there is no constitutional identity between a conquered people and its prince. A rebellion in a province conquered in war is a different thing from a rising in a well-organised state. It is not against their prince that the conquered are in rebellion, and they are committing no crime against the state, because their connection with their master is not a connection within the Idea or one within the inner necessity of the constitution. In such a case, there is only a contract, no political tie. *Je ne sais pas votre prince, je suis votre maître*, Napoleon retorted to the envoys at Erfurt.

§ 282

The right to pardon criminals arises from the sovereignty of the monarch, since it is this alone which is empowered to actualise mind's power of making undone what has been done and wiping out a crime by forgiving and forgetting it.

Remark: The right of pardon is one of the highest recognitions of the majesty of mind. Moreover it is one of those cases where a category which belongs to a higher sphere is applied to or reflected in the sphere below. Applications of higher categories to a lower sphere, however, concern the particular science which has to handle its subject-matter in all its empirical

details (see the second footnote to the Remark to § 270). Another instance of the same kind of thing is the subsumption under the concept of crime (which came before us earlier—see §§ 95-102) of injuries against the state in general, or against the sovereignty, majesty, and person of the prince. In fact these acquire the character of crime of the worst kind, requiring a special procedure, &c.

Addition: Pardon is the remission of punishment, but it does not annul the law (*Recht*). On the contrary, the law stands and the pardoned man remains a criminal as before. Pardon does not mean that he has not committed a crime. This annulment of punishment may take place through religion, since something done may by spirit (*Geist*) be made undone in spirit. But the power to accomplish this on earth resides in the king's majesty alone and must belong solely to his self-determined decision.

§ 283

The second moment in the power of the crown is the moment of particularity, or the moment of a determinate content and its subsumption under the universal. When this acquires a special objective existence, it becomes the supreme council and the individuals who compose it. They bring before the monarch for his decision the content of current affairs of state or the legal provisions required to meet existing needs, together with their objective aspects, i.e. the grounds on which decision is to be based, the relative laws, circumstances, &c. The individuals who discharge these duties are in direct contact with the person of the monarch and therefore their choice and dismissal alike rest with his unrestricted caprice.

§ 284

It is only for the objective side of decision, i.e. for knowledge of the problem and the attendant circumstances, and for the legal and other reasons which determine its solution, that men are answerable; in other words, it is these alone which are capable of objective proof. It is for this reason that these may fall within the province of a council which is distinct from the personal will of the monarch as such. Hence it is only councils or their individual members that are made answerable. The personal majesty of the monarch, on the other hand, as the final subjectivity of decision, is above all answerability for acts of government.

§ 285

The third moment in the power of the crown concerns the absolute universality which subsists subjectively in the conscience of the monarch

and objectively in the whole of the constitution and the laws. Hence the power of the Crown presupposes the other moments in the state just as it is presupposed by each of them.

§ 286

The objective guarantee of the power of the crown, of the hereditary right of succession to the throne, and so forth, consists in the fact that just as monarchy has its own actuality in distinction from that of the other rationally determined moments in the state, so these others explicitly possess the rights and duties appropriate to their own character. In the rational organism of the state, each member, by maintaining itself in its own position, *eo ipso* maintains the others in theirs.

Remark: One of the results of more recent history is the development of a monarchical constitution with succession to the throne firmly fixed on hereditary principles in accordance with primogeniture. With this development, monarchy has been brought back to the patriarchal principle in which it had its historical origin, but its determinate character is now higher, because the monarch is the absolute apex of an organically developed state. This historical result is of the utmost importance for public freedom and for rationality in the constitution, but, as was remarked above, it is often grossly misunderstood despite the respect paid to it.

The history of despotisms, as of the now obsolete, purely feudal, monarchies, is a tale of the vicissitudes of revolt, monarchical tyranny, civil war, the ruin of princes of the blood and whole dynasties, and, consequentially the general devastation and overthrow of the state in both its home and foreign concerns. This is all due to the fact that, in monarchies of that type, the division of the business of the state is purely mechanical, the various sections being merely handed over to pashas, vassals, &c. The difference between the departments is simply one of greater or lesser power instead of being one of form and specific character. Hence each department maintains itself and in doing so is productive only of itself and not of the others at the same time; each is independent and autonomous and completely incorporates in itself all the moments of the concept. When there is an *organic* relation subsisting between members, not parts, then each member by fulfilling the functions of its own sphere is *eo ipso* maintaining the others; what each fundamentally aims at and achieves in maintaining itself is the maintenance of the others.

The guarantees in question here for the maintenance of the succession to

the throne or for the power of the crown generally, or for justice, public freedom, &c., are modes of securing these things by means of institutions. For *subjective* guarantees we may look to the affection of the people, to character, oaths of allegiance, power, and so forth, but, when the constitution is being discussed, it is only objective guarantees that are relevant. And such guarantees are institutions, i.e. mutually, conditioning moments, organically interconnected. Hence publish freedom in general and an hereditary monarchy guarantee each other; they stand or fall together of necessity, because public freedom means a rational constitution, while the hereditary character of the power of the crown is, as has been shown, the moment lying in the concept of that power.

[b]

The Executive

§ 287

There is a distinction between the monarch's decision and their execution and application, or in general between his decisions and the continued execution or maintenance of past decisions, existing laws, regulations, organisations for the securing of common ends, and so forth. This task of merely subsuming the particular under the universal is comprised in the executive power, which also includes the powers of the judiciary and the police. The latter have a more immediate bearing on the particular concerns of civil society and they make the universal interest authoritative over its particular aims.

§ 288

Particular interests which are common to everyone fall within civil society and lie outside the absolutely universal interest of the state proper (see § 256). The administration of these is in the hands of Corporations (see § 251), commercial and professional as well as municipal, and their officials, directors, managers, and the like. It is the business of these officials to manage the private property and interests of these particular spheres and, from that point of view, their authority rests on the confidence of their commonalties and professional equals. On the other hand, however, these circles of particular interests must be subordinated to the higher interests of the state, and hence the filling of positions of responsibility in Corporations, &c., will generally be effected by a mixture of popular election by those interested with appointment and ratification by higher authority.

§ 289

The maintenance of the state's universal interest, and of legality, in this

sphere of particular rights, and the work of bringing these rights back to the universal, require to be superintended by holders of the executive power, by (a) the executive civil servants, and (b) the higher advisory officials (who are organised into committees). These converge in their supreme heads who are in direct contact with the monarch.

Remark: Just as civil society is the battlefield where everyone's individual private interest meets everyone else's, so here we have the struggle (a) of private interests against particular matters of common concern and (b) of both of these together against the organisation of the state and its higher outlook. At the same time the corporation mind, engendered when the particular spheres gain their title to rights, is now inwardly converted into the mind of the state, since it finds in the state the means of maintaining its particular ends. This is the secret of the patriotism of the citizens in the sense that they know the state as their substance, because it is the state that maintains their particular spheres of interest together with the title, authority, and welfare of these. In the corporation mind the rooting of the particular in the universal is directly entailed, and for this reason it is in that mind that the depth and strength which the state possesses in sentiment is seated.

The administration of a Corporation's business by its own officials is frequently clumsy, because although they keep before their minds and are acquainted with its special interests and affairs, they have a far less complete appreciation of the connection of those affairs with more remote conditions and the outlook of the state. In addition, other circumstances contribute to the same result, e.g. close private relationships and other factors putting officials on a footing of equality with those who should be their subordinates, the rather numerous ways in which officials lack independence, and so on. This sphere of private interests, however, may be regarded as the one left to the moment of formal freedom, the one which affords a playground for personal knowledge, personal decisions and their execution, petty passions and conceits.

This is all the more permissible, the more trivial, from the point of view of the more universal affairs of state, is the intrinsic worth of the business which in this way comes to ruin or is managed less well or more laboriously, &c. And further, it is all the more permissible, the more this laborious or foolish management of such trivial affairs stands in direct relation with the self-satisfaction and vanity derived therefrom.

§ 290

Division of labour (see § 198) occurs in the business of the executive also.

For this reason, the organisation of officials has the abstract though difficult task of so arranging that (a) civil life shall be governed in a concrete manner from below where it is concrete, but that (b) none the less the business of government shall be divided into its abstract branches manned by special officials as different centres of administration, and further that (c) the operations of these various departments shall converge again when they are directed on civil life from above, in the same way as they converge into a general supervision in the supreme executive.

Addition: The point of special importance in the executive is the division of functions. The executive is concerned with the transition from the universal to the particular and the individual, and its functions must be divided in accordance with the differences between its branches. The difficulty, however, is that these different branches meet again at both the top and the bottom. The police and the judiciary, for instance, move at right angles to one another, but in each particular case they coincide again. The usual expedient adopted to meet this difficulty is to appoint a Chancellor, a Prime Minister, or a *Président du Conseil des Ministres* to unify control at the top. But the result of this is that once more everything may have its source in the Minister's power, and the business of the state is, as we say, centralised. This entails the maximum of simplification, speed, and efficiency in meeting state requirements. A system of this kind was introduced by the French revolutionaries, elaborated by Napoleon, and still exists in France today. On the other hand, France lacks Corporations and local government, i.e. associations wherein particular and universal interests meet. It is true that these associations won too great a measure of self-subsistence in the Middle Ages, when they were states within states and obstinately persisted in behaving like independent corporate bodies. But while that should not be allowed to happen, we may none the less affirm that the proper strength of the state lies in these associations. In them the executive meets with legitimate interests which it must respect, and since the administration cannot be other than helpful to such interests, though it must also supervise them, the individual finds protection in the exercise of his rights and so links his private interest with the maintenance of the whole.

For some time past organisations have been framed with a view to controlling these particular spheres from above, and effort has chiefly been expended on organisations of that type, while the lower classes, the mass of the population, have been left more or less unorganised. And yet it is of the utmost importance that the masses should be organised, because only so do they become mighty and powerful. Otherwise they are

nothing but a heap, an aggregate of atomic units. Only when the particular associations are organised members of the state are they possessed of legitimate power.

§ 291

The nature of the executive functions is that they are objective and that in their substance they have been explicitly fixed by previous decisions (see § 287); these functions have to be fulfilled and carried out by individuals. Between an individual and his office there is no immediate natural link. Hence individuals are not appointed to office on account of their birth or native personal gifts. The objective factor in their appointment is knowledge and proof of ability. Such proof guarantees that the state will get what it requires; and since it is the sole condition of appointment, it also guarantees to every citizen the chance of joining the class of civil servants.

§ 292

Since the objective qualification for the civil service is not genius (as it is for work as an artist, for example), there is of necessity an indefinite plurality of eligible candidates whose relative excellence is not determinable with absolute precision. The selection of one of the candidates, his nomination to office, and the grant to him of full authority to transact public business—all this, as the linking of two things, a man and his office, which in relation to each other must always be fortuitous, is the subjective aspect of election to office, and it must lie with the crown as the power in the state which is sovereign and has the last word.

§ 293

The particular public functions which the monarch entrusts to officials constitute one part of the objective aspect of the sovereignty residing in the crown. Their specific discrimination is therefore given in the nature of the thing. And while the actions of the officials are the fulfilment of their duty, their office is also a right exempt from contingency.

§ 294

Once an individual has been appointed to his official position by the sovereign's act (see § 292), the tenure of his post is conditional on his fulfilling its duties. Such fulfilment is the very essence of his appointment, and it is only consequential that he finds in his office his livelihood and the assured satisfaction of his particular interests (see § 264), and further that his external circumstances and his official work are freed from other kinds of subjective dependence and influence.

Remark: The state does not count on optional, discretionary, services (e.g. on justice administered by knights errant). It is just because such services are optional and discretionary that the state cannot rely on them, for casual servants may fail for private reasons to fulfil their duties completely, or they may arbitrarily decide not to fulfil them at all but pursue their private ends instead. The opposite extreme to a knight errant, so far as the service of the state goes, would be an official who clung to his office purely and simply to make a living without any real sense of duty and so without any real right to go on holding it.

What the service of the state really requires is that men shall forgo the selfish and capricious satisfaction of their subjective ends; by this very sacrifice, they acquire the right to find their satisfaction in, but only in, the dutiful discharge of their public functions. In this fact, so far—as public business is concerned, there lies the link between universal and particular interests which constitutes both the concept of the state and its inner stability (see § 260).

It follows that a man's tenure of his civil service post is not contractual (see § 75), although his appointment involves a consent and an undertaking on both sides. A civil servant is not appointed, like an agent, to perform a single casual act of service; on the contrary, he concentrates his main interests (not only his particular interests but his mental interests also) on his relation to his work. Similarly, the work imposed upon him and entrusted to him is not merely a particular thing, external in character; the value of such a thing is something inward and therefore distinct from its outward character, so that it is in no way impaired if what has been stipulated is not fulfilled (see § 77). The work of a civil servant, however, is as such a value in and for itself. Hence the wrong committed through its non-performance, or positive mis-performance (i.e. through an action contrary to official duty, and both of these are of that type), is an infringement of the universal content itself (i.e. is a negatively infinite judgment—see § 95) and so is a trespass or even a crime.

The assured satisfaction of particular needs removes the external compulsion which may tempt a man to seek ways and means of satisfying them at the expense of his official duties. Those who are entrusted with affairs of state find in its universal power the protection they need against another subjective phenomenon, namely the personal passions of the governed, whose private interests, &c., suffer injury as the interest of the state is made to prevail against them.

The security of the state and its subjects against the misuse of power by ministers and their officials lies directly in their hierarchical organisation and their answerability; but it lies too in the authority given to societies and Corporations, because in itself this is a barrier against the intrusion of subjective caprice into the power entrusted to a civil servant, and it completes from below the state control which does not reach down as far as the conduct of individuals.

Remark: The conduct and culture of officials is the sphere where the laws and the government's decisions come into contact with individuals and are actually made good. Hence it is on the conduct of officials that there depend not only the contentment of citizens and their confidence in the government, but also the execution—or alternatively the distortion and frustration—of state projects; at any rate, this is the case in the sense that feeling and sentiment may easily rate the manner of execution as highly as the very content of the command to be executed, even though the content may in fact be the imposition of a tax.

Owing to the direct and personal nature of this contact with individuals, control from above can attain its ends in this respect only to a rather incomplete extent. Moreover, its ends may also be hindered by interests common to officials who form a clique over against their inferiors on one side and their superiors on the other. In states whose institutions may perhaps be imperfectly developed in other respects also, the removal of hindrances like these requires and justifies the higher intervention of the sovereign (as for example of Frederick the Great in the notorious affair of Arnold the miller).

§ 296

But the fact that a dispassionate, upright, and polite demeanour becomes customary [in civil servants] is (i) partly a result of direct education in thought and ethical conduct. Such an education is a mental counterpoise to the mechanical and semi-mechanical activity involved in acquiring the so-called 'sciences' of matters connected with administration, in the requisite business training, in the actual work done, &c. (ii) The size of the state, however, is an important factor in producing this result, since it diminishes the stress of family and other personal ties, and also makes less potent and so less keen such passions as hatred, revenge, &c. In those who are busy with the important questions arising in a great state, these subjective interests automatically disappear, and the habit is generated of adopting universal interests, points of view, and activities.

§ 297

Civil servants and the members of the executive constitute the greater part of the middle class, the class in which the consciousness of right and the developed intelligence of the mass of the people is found. The sovereign working on the middle class at the top, and Corporation-rights working on it at the bottom, are the institutions which effectually prevent it from acquiring the isolated position of an aristocracy and using its education and skill as means to an arbitrary tyranny.

Remark: At one time the administration of justice, which is concerned with the private interests of all members of the state, was in this way turned into an instrument of profit and tyranny, when the knowledge of the law was buried in pedantry and a foreign tongue, and knowledge of legal processes was similarly buried in involved formalities.

Addition: The middle class, to which civil servants belong, is politically conscious and the one in which education is most prominent. For this reason it is also the pillar of the state so far as honesty and intelligence are concerned. A state without a middle class must therefore remain on a low level. Russia, for instance, has a mass of serfs on the one hand and a mass of rulers on the other. It is a prime concern of the state that a middle class should be developed, but this can be done only if the state is an organic unity like the one described here, i.e. it can be done only by giving authority to spheres of particular interests, which are relatively independent, and by appointing an army of officials whose personal arbitrariness is broken against such authorised bodies. Action in accordance with everyone's rights, and the habit of such action, is a consequence of the counterpoise to officialdom which independent and self-subsistent bodies create.

[c]

The Legislature

§ 298

The legislature is concerned (a) with the laws as such in so far as they require fresh and extended determination; and (b) with the content of home affairs affecting the entire state. The legislature is itself a part of the constitution which is presupposed by it and to that extent lies absolutely outside the sphere directly determined by it; none the less, the constitution becomes progressively more mature in the course of the further elaboration of the laws and the advancing character of the universal business of government.

Addition: The constitution must in and by itself be the fixed and recognised ground on which the legislature stands, and for this reason it must not first be constructed. Thus the constitution is, but just as

essentially it *becomes*, i.e. it advances and matures. This advance is an alteration which is imperceptible and which lacks the form of alteration. For example, the wealth of the German princes and their families began by being private property but then without any struggle or opposition it was converted into crown lands, i.e. into public property. This came about because the princes felt the need of integrating their possessions and demanded property guarantees from their country and Estates; and these guarantees were intertwined with such a mode of stabilising property that it ceased to be at the sole disposal of the princes. An analogous case is that [in the Holy Roman Empire] the Emperor was formerly a judge and travelled the Empire on circuit, and then, owing to the purely superficial results of cultural progress, external reasons made it necessary for him to delegate more and more of his judicial functions to others, with the result that the judicial power was transferred from the person of the monarch to groups of judges. Hence the advance from one state of affairs to another is tranquil in appearance and unnoticed. In this way a constitution changes over a long period of time into something quite different from what it was originally.

§ 299

Legislative business is more precisely determined, in relation to private individuals, under these two heads: [a] provision by the state for their well-being and happiness, and [b] the exaction of services from them. The former comprises the laws dealing with all sorts of private rights, the rights of communities, Corporations, and organisations affecting the entire state, and further it indirectly (see § 298) comprises the whole of the constitution. As for the services to be exacted, it is only if these are reduced to terms of money, the really existent and universal value of both things and services, that they can be fixed justly and at the same time in such a way that any particular tasks and services which an individual may perform come to be mediated through his own arbitrary will.

Remark: The proper object of universal legislation may be distinguished in a general way from the proper function of administrative officials or of some kind of state regulation, in that the content of the former is wholly universal, i.e. determinate laws, while it is what is particular in content which falls to the latter, together with ways and means of enforcing the law. This distinction, however, is not a hard and fast one, because a law, by being a law, is *ab initio* something more than a mere command in general terms (such as ‘Thou shalt not kill’—compare Remark (d) to § 140). A law must in itself be something determinate, but the more determinate it is, the more readily are its terms capable of being carried out as they stand. At the

same time, however, to give to laws such a fully detailed determinacy would give them empirical features subject inevitably to alteration in the course of their being actually carried out, and this would contravene their character as laws. The organic unity of the powers of the state itself implies that it is one single mind which both firmly establishes the universal and also brings it into its determinate actuality and carries it out.

In the state it may happen, to begin with, that the numerous aptitudes, possessions, pursuits, and talents of its members, together with the infinitely varied richness of life intrinsic to these — all of which are at the same time linked with their owner's mentality—are not subject to direct levy by the state. It lays claim only to a single form of riches, namely money. (Services requisitioned for the defence of the state in war arise for the first time in connection with the duty considered in the next subdivision of this book.) In fact, however, money is not one particular type of wealth amongst others, but the universal form of all types so far as they are expressed in an external embodiment and so can be taken as 'things'. Only by being translated into terms of this extreme culmination of externality can services exacted by the state be fixed quantitatively and so justly and equitably.

In Plato's *Republic*, the Guardians are left to allot individuals to their particular classes and impose on them their particular tasks (compare Remark to as § 185). Under the feudal monarchies the services required from vassals were equally indeterminate, but they had also to serve in their *particular* capacity, e.g. as judges. The same particular character pertains to tasks imposed in the East and in Egypt in connection with colossal architectural undertakings, and so forth. In these circumstances the principle of subjective freedom is lacking, i.e. the principle that the individual's substantive activity—which in any case becomes something particular in content in services like those mentioned—shall be mediated through his particular volition. This is a right which can be secured only when the demand for service takes the form of a demand for something of universal value, and it is this right which has brought with it this conversion of the state's demands into demands for cash.

Addition: The two sides of the constitution bear respectively on the rights and the services of individuals. Services are now almost entirely reduced to money payments, and military service is now almost the only personal one exacted. In the past, far more claims were made directly on a man's own person, and he used to be called upon for work according to his ability. In our day, the state purchases what it requires. This may at first sight seem an abstract, heartless, and dead state of affairs, and for the state to be

satisfied with indirect services may also look like decadence in the state. But the principle of the modern state requires that the whole of an individual's activity shall be mediated through his will. By means of money, however, the justice of equality can be achieved much more efficiently. Otherwise, if assessment depended on concrete ability, a talented man would be more heavily taxed than an untalented one. But nowadays respect for subjective freedom is publicly recognised precisely in the fact that the state lays hold of a man only by that which is capable of being held.

§ 300

In the legislature as a whole the other powers are the first two moments which are effective, (i) the monarchy as that to which ultimate decisions belong; (ii) the executive as the advisory body since it is the moment possessed of [a] a concrete knowledge and oversight of the whole state in its numerous facets and the actual principles firmly established within it, and [b] a knowledge in particular of what the state's power needs. The last moment in the legislature is the Estates.

Addition: The proposal to exclude members of the executive from legislative bodies, as for instance the Constituent Assembly did, is a consequence of false views of the state. In England, ministers must be members of parliament, and this is right, because executive officers should be linked with and not opposed to the legislature. The ideal of the so-called 'independence of powers' contains the fundamental error of supposing that the powers, though independent, are to check one another. This independence, however, destroys the unity of the state, and unity is the chief of all desiderata.

§ 301

The Estates have the function of bringing public affairs into existence not only implicitly, but also actually, i.e. of bringing into existence the moment of subjective formal freedom, the public consciousness as an empirical universal, of which the thoughts and opinions of the Many are particulars.

Remark: The phrase 'the Many' (*o polli*) denotes empirical universality more strictly than 'All', which is in current use. If it is said to be obvious that this 'all' prima facie excludes at least children, women, &c., then it is surely still more obvious that the quite definite word 'all' should not be used when something quite indefinite is meant.

Current opinion has put into general circulation such a host of perverse and false ideas and ways of speaking about 'People', 'Constitution', and

'Estates' that it would be a waste of energy to try to specify, expound, and correct them. The idea uppermost in men's minds when they speak about the necessity or the expediency of 'summoning the Estates' is generally something of this sort: (i) The deputies of the people, or even the people themselves, must know best what is in their best interest, and (ii) their will for its promotion is undoubtedly the most disinterested. So far as the first of these points is concerned, however, the truth is that if 'people' means a particular section of the citizens, then it means precisely that section which does *not* know what it wills. To know what one wills, and still more to know what the absolute will, Reason, wills, is the fruit of profound apprehension and insight, precisely the things which are not popular.

The Estates are a guarantee of the general welfare and public freedom. A little reflection will show that this guarantee does not lie in their particular power of insight, because the highest civil servants necessarily have a deeper and more comprehensive insight into the nature of the state's organisation and requirements. They are also more habituated to the business of government and have greater skill in it, so that even without the Estates they are *able* to do what is best, just as they also continually have to do while the Estates are in session. No, the guarantee lies on the contrary [a] in the *additional* insight of the deputies, insight in the first place into the activity of such officials as are not immediately under the eye of the higher functionaries of state, and in particular into the more pressing and more specialised needs and deficiencies which are directly in their view; [b] in the fact that the anticipation of criticism from the Many, particularly of public criticism, has the effect of inducing officials to devote their best attention beforehand to their duties and the schemes under consideration, and to deal with these only in accordance with the purest motives. This same compulsion is effective also on the members of the Estates themselves.

As for the conspicuously good will for the general welfare which the Estates are supposed to possess, it has been pointed out already (in the Remark to § 272) that to regard the will of the executive as bad, or as less good [than that of the ruled] is a presupposition characteristic of the rabble or of the negative outlook generally. This presupposition might at once be answered on its own ground by the counter-charge that the Estates start from isolated individuals, from a private point of view, from particular interests, and so are inclined to devote their activities to these at the expense of the general interests, while *per contra* the other moments in the power of the state explicitly take up the standpoint of the state from the start and devote themselves to the universal end.

As for the general guarantee which is supposed to lie peculiarly in the Estates, each of the other political institutions shares with the Estates in being a guarantee of public welfare and rational freedom, and some of these institutions, as for instance the sovereignty of the monarch, hereditary succession to the throne, the judicial system, &c., guarantee these things far more effectively than the Estates can.

Hence the specific function which the concept assigns to the Estates is to be sought in the fact that in them the subjective moment in universal freedom—the private judgment and private will of the sphere called civil society' in this book—comes into existence integrally related to the state. This moment is a determination of the Idea once the Idea has developed to totality, a moment arising as a result of an inner necessity not to be confused with external necessities and expediencies. The proof of this follows, like all the rest of our account of the state, from adopting the philosophical point of view.

Addition: The attitude of the executive to the Estates should not be essentially hostile, and a belief in the necessity of such hostility is a sad mistake. The executive is not a party standing over against another party in such a way that each has continually to steal a march on the other and wrest something from the other. If such a situation arises in the state, that is a misfortune, but it cannot be called health. The taxes voted by the Estates, moreover, are not to be regarded as a present given to the state. On the contrary, they are voted in the best interests of the voters themselves. The real significance of the Estates lies in the fact that it is through them that the state enters the subjective consciousness of the people and that the people begins to participate in the state.

§ 302

Regarded as a mediating organ, the Estates stand between the government in general on the one hand and the nation broken up into particulars (people and associations) on the other. Their function requires them to possess a political and administrative sense and temper, no less than a sense for the interests of individuals and particular groups. At the same time the significance of their position is that, in common with the organised executive, they are a middle term preventing both the extreme isolation of the power of the crown, which otherwise might seem a mere arbitrary tyranny, and also the isolation of the particular interests of persons, societies, and Corporations. Further, and more important, they prevent individuals from having the appearance of a mass or an aggregate and so from acquiring an unorganised opinion and volition and from crystallising into a powerful bloc in opposition to the organised state.

Remark: It is one of the most important discoveries of logic that a specific moment which, by standing in an opposition, has the position of an extreme, ceases to be such and is a moment in an organic whole by being at the same time a mean. In connection with our present topic it is the more important to emphasise this aspect of the matter because of the popular, but most dangerous, prejudice which regards the Estates principally from the point of view of their opposition to the executive, as if that were their essential attitude. If the Estates become an organ in the whole by being taken up into the state, they evince themselves solely through their mediating function. In this way their opposition to the executive is reduced to a show.

There may indeed be an appearance of opposition between them, but if they were opposed, not merely superficially, but actually and in substance, then the state would be in the throes of destruction. That the clash is not of this kind is evident in the nature of the thing, because the Estates have to deal, not with the essential elements in the organism of the state, but only with rather specialised and trifling matters, while the passion which even these arouse spends itself in party cravings in connection with purely subjective interests such as appointments to the higher offices of state.

Addition: The constitution is essentially a system of mediation. In despotisms where there are only rulers and people, the people is effective, if at all, only as a mass destructive of the organisation of the state. When the multitude enters the state as one of its organs, it achieves its interests by legal and orderly means. But if these means are lacking, the voice of the masses is always for violence. Hence, in despotic states, the despot always indulges the mob and keeps his wrath for his entourage. For the same reason too the mob in such states pays only a few taxes. Taxes rise in a constitutionally governed state simply owing to the people's own consciousness. In no country are so many taxes paid as in England.

§ 303

The universal class, or, more precisely, the class of civil servants, must, purely in virtue of its character as universal, have the universal as the end of its essential activity. In the Estates, as an element in the legislative power, the unofficial class acquires its political significance and efficacy; it appears, therefore, in the Estates neither as a mere indiscriminate multitude nor as an aggregate dispersed into its atoms, but as what it already is, namely a class subdivided into two, one sub-class [the agricultural class] being based on a tie of substance between its members, and the other [the business class] on particular needs and the work whereby these are met (see § 201 ff). It is only in this way that there is a

genuine link between the particular which is effective in the state and the universal.

Remark: This runs counter to another prevalent idea, the idea that since it is in the legislature that the unofficial class rises to the level of participating in matters of state, it must appear there in the form of individuals, whether individuals are to choose representatives for this purpose, or whether every single individual is to have a vote in the legislature himself. This atomistic and abstract point of view vanishes at the stage of the family, as well as that of civil society where the individual is in evidence only as a member of a general group. The state, however, is essentially an organisation each of whose members is in itself a group of this kind, and hence no one of its moments should appear as an unorganised aggregate. The Many, as units—a congenial interpretation of ‘people’, are of course something connected, but they are connected only as an aggregate, a formless mass whose commotion and activity could therefore only be elementary, irrational, barbarous, and frightful. When we hear speakers on the constitution expatiating about the ‘people’—this unorganised collection—we know from the start that we have nothing to expect but generalities and perverse declamations.

The circles of association in civil society are already communities. To picture these communities as once more breaking up into a mere conglomeration of individuals as soon as they enter the field of politics, i.e. the field of the highest concrete universality, is *eo ipso* to hold civil and political life apart from one another and as it were to hang the latter in the air, because its basis could then only be the abstract individuality of caprice and opinion, and hence it would be grounded on chance and not on what is absolutely stable and justified.

So-called ‘theories’ of this kind involve the idea that the classes (*Stände*) of civil society and the Estates (*Stände*), which are the ‘classes’ given a political significance, stand wide apart from each other. But the German language, by calling them both *Stände* has still maintained the unity which in any case they actually possessed in former times.

§ 304

The Estates, as an element in political life, still retain in their own function the class distinctions already present in the lower spheres of civil life. The position of the classes is abstract to begin with,

i.e. in contrast with the whole principle of monarchy or the crown, their position is that of an extreme—empirical universality. This extreme opposition implies the possibility, though no more, of harmonisation, and

the equally likely possibility of set hostility. This abstract position changes into a rational relation (into a syllogism, see Remark to § 302) only if the middle term between the opposites comes into existence. From the point of view of the crown, the executive already has this character (see § 300)—So, from the point of view of the classes, one moment in them must be adapted to the task of existing as in essence the moment of mediation.

§ 305

The principle of one of the classes of civil society is in itself capable of adaptation to this political position. The class in question is the one whose ethical life is natural, whose basis is family life, and, so far as its livelihood is concerned, the possession of land. Its particular members attain their position by birth, just as the monarch does, and, in common with him, they possess a will which rests on itself alone.

§ 306

This class is more particularly fitted for political position and significance in that its capital is independent alike of the state's capital, the uncertainty of business, the quest for profit, and any sort of fluctuation in possessions. It is likewise independent of favour, whether from the executive or the mob. It is even fortified against its own wilfulness, because those members of this class who are called to political life are not entitled, as other citizens are, either to dispose of their entire property at will, or to the assurance that it will pass to their children, whom they love equally, in similarly equal divisions. Hence their wealth becomes inalienable, entailed, and burdened by primogeniture.

Addition: This class has a volition of a more independent character. On the whole, the class of landed-property owners is divided into an educated section and a section of farmers. But over against both of these sorts of the business class, which is dependent on needs and people there stands concentrated on their satisfaction, and the civil servant class, which is essentially dependent on the state. The security and stability of the agricultural class may be still further increased by the institution of primogeniture, though this institution is desirable only from the point of view of politics, since it entails a sacrifice for the political end of giving the eldest son a life of independence. Primogeniture is grounded on the fact that the state should be able to reckon not on the bare possibility of political inclinations, but on something necessary. Now an inclination for politics is of course not bound up with wealth, but there is a relatively necessary connection between the two, because a man with independent means is not hemmed in by external circumstances and so there is nothing

to prevent him from entering politics and working for the state. Where political institutions are lacking, however, the foundation and encouragement of primogeniture is nothing but a chain on the freedom of private rights, and either political meaning must be given to it, or else it will in due course disappear.

§ 307

The right of this section of the agricultural class is thus based in a way on the natural principle of the family. But this principle is at the same time reversed owing to hard sacrifices made for political ends, and thereby the activity of this class is essentially directed to those ends. As a consequence of this, this class is summoned and entitled to its political vocation by birth without the hazards of election. It therefore has the fixed, substantive position between the subjective wilfulness or contingency of both extremes; and while it mirrors in itself (see § 305) the moment of the monarchical power, it also shares in other respects the needs and rights of the other extreme [i.e. civil society] and hence it becomes a support at once of the throne and society.

§ 308

The second section of the Estates comprises the fluctuating element in civil society. This element can enter politics only through its deputies; the multiplicity of its members is an external reason for this, but the essential reason is the specific character of this element and its activity. Since these deputies are the deputies of civil society, it follows as a direct consequence that their appointment is made by the society as a society. That is to say, in making the appointment, society is not dispersed into atomic units, collected to perform only a single and temporary act, and kept together for a moment and no longer. On the contrary, it makes the appointment as a society, articulated into associations, communities, and Corporations, which although constituted already for other purposes, acquire in this way a connection with politics. The existence of the Estates and their assembly finds a constitutional guarantee of its own in the fact that this class is entitled to send deputies at the summons of the crown, while members of the former class are entitled to present themselves in person in the Estates (see § 307).

Remark: To hold that every single person should share in deliberating and deciding on political matters of general concern on the ground that all individuals are members of the state, that its concerns are their concerns, and that it is their right that what is done should be done with their knowledge and volition, is tantamount to a proposal to put the democratic

element without any rational form into the organism of the state, although it is only in virtue of the possession of such a form that the state is an organism at all. This idea comes readily to mind because it does not go beyond the abstraction of 'being a member of the state', and it is superficial thinking which clings to abstractions. The rational consideration of a topic, the consciousness of the Idea, is concrete, and to that extent coincides with a genuine practical sense. Such a sense is itself nothing but the sense of rationality or the Idea, though it is not to be confused with mere business routine or the horizon of a restricted sphere. The concrete state is the whole, articulated into its particular groups. The member of a state is a member of such a group, i.e. of a social class, and it is only as characterised in this objective way that he comes under consideration when we are dealing with the state. His mere character as universal implies that he is at one and the same time both a private person and also a thinking consciousness, a will which wills the universal. This consciousness and will, however, lose their emptiness and acquire a content and a living actuality only when they are filled with particularity, and particularity means determinacy as particular and a particular class-status; or, to put the matter otherwise, abstract individuality is a generic essence, but has its immanent universal actuality as the generic essence next higher in the scale. Hence the single person attains his actual and living destiny for universality only when he becomes a member of a Corporation, a society, &c. (see § 251), and thereby it becomes open to him, on the strength of his skill, to enter an class for which he is qualified, the class of civil servants included.

Another presupposition of the idea that all should participate in the business of the state is that everyone is at home in this business—a ridiculous notion, however commonly we may hear it sponsored. Still, in public opinion (see § 316) a field is open to everyone where he can express his purely personal political opinions and make them count.

§ 309

Since deputies are elected to deliberate and decide on public affairs, the point about their election is that it is a choice of individuals on the strength of confidence felt in them, i.e. a choice of such individuals as have a better understanding of these affairs than their electors have and such also as essentially vindicate the universal interest, not the particular interest of a society or a Corporation in preference to that interest. Hence their relation to their electors is not that of agents with a commission or specific instructions. A further bar to their being so is the fact that their assembly is meant to be a living body in which all members deliberate in

common and reciprocally instruct and convince each other.

Addition: The introduction of representation implies that consent is to be given not directly by all but only by plenipotentiaries, since under a representative system the individual, qua infinite person, no longer comes into the picture. Representation is grounded on trust, but trusting another is something different from giving my vote myself in my own personal capacity. Hence majority voting runs counter to the principle that I should be personally present in anything which is to be obligatory on me. We have confidence in a man when we take him to be a man of discretion who will manage our affairs conscientiously and to the best of his knowledge, just as if they were his own. Thus the principle of the individual subjective will disappears, since confidence is given to a thing, to a man's principles, or his demeanour or his conduct or his concrete mentality generally. The important thing, then, is that a member of the Estates shall have a character, insight, and will adequate to his task of concentrating on public business. In other words there is no question of an individual's talking as an abstract single person. The point is rather that his interests are made good in an assembly whose business is with the general interest. 'The electors require a guarantee that their deputy will further and secure this general interest.'

§ 310

The guarantee that deputies will have the qualifications and disposition that accord with this end—since independent means attains its right in the first section of the Estates—is to be found so far as the second section is concerned—the section drawn from the fluctuating and changeable element in civil society above all in the knowledge (of the organisation and interests of the state and civil society), the temperament, and the skill which a deputy acquires as a result of the actual transaction of business in managerial or official positions, and then evinces in his actions. As a result, he also acquires and develops a managerial and political sense, tested by his experience, and this is a further guarantee of—his suitability as a deputy.

Remark: Subjective opinion, naturally enough, finds superfluous and even perhaps offensive the demand for such guarantees, if the demand is made with reference to what is called the 'people'. The state, however, is characterised by objectivity, not by a subjective opinion and its self-confidence. Hence it can recognise in individuals only their objectively recognisable and tested character, and it must be all the more careful on this point in connection with the second section of the Estates, since this section is rooted in interests and activities directed towards the particular,

i.e. in the sphere where chance, mutability, and caprice enjoy their right of free play.

The external guarantee, a property qualification, is, if taken by itself, evidently just as one-sided in its externality as, at the other extreme, are purely subjective confidence and the opinion of the electorate. Both alike are abstractions in contrast with the concrete qualifications requisite for deliberation on affairs of state and comprised in the points indicated in Paragraph 302. This apart, however, a property qualification has a sphere, where it may work effectively, in the choice of the heads and other officers of the associations and societies, especially if many of these posts are honorary, and in direct reference to Estates business if the members draw no salary.

§ 311

A further point about the election of deputies is that, since civil society is the electorate, the deputies should themselves be conversant with and participate in its special needs, difficulties, and particular interests. Owing to the nature of civil society, its deputies are the deputies of the various Corporations (see § 308), and this simple mode of appointment obviates any confusion due to conceiving the electorate abstractly and as an agglomeration of atoms. Hence the deputies *eo ipso* adopt the point of view of society, and their actual election is' therefore either something wholly superfluous or else reduced to a trivial play of opinion and caprice.

Remark: It is obviously of advantage that the deputies should include representatives of each particular main branch of society (e.g. trade, manufactures, &c., &c.)—representatives who are thoroughly conversant with it and who themselves belong to it. The idea of free unrestricted election leaves this important consideration entirely at the mercy of chance. All such branches of society, however, have equal rights of representation. Deputies are sometimes regarded as 'representatives'; but they are representatives in an organic, rational sense only if they are representatives not of individuals or a conglomeration of them, but of one of the essential spheres of society and its large-scale interests. Hence representation cannot now be taken to mean simply the substitution of one man for another; the point is rather that the interest itself is actually present in its representative, while he himself is there to represent the objective element of his own being.

As for popular suffrage, it may be further remarked that especially in large states it leads inevitably to electoral indifference, since the casting of a single vote is of no significance where there is a multitude of electors.

Even if a voting qualification is highly valued and esteemed by those who are entitled to it, they still do not enter the polling booth. Thus the result of an institution of this kind is more likely to be the opposite of what was intended; election actually falls into the power of a few, of a caucus, and so of the particular and contingent interest which is precisely what was to have been neutralised.

§ 312

Each class in the Estates (see §§ 305-8) contributes something peculiarly its own to the work of deliberation. Further, one moment in the class-element has in the sphere of politics the special function of mediation, mediation between two existing things. Hence this moment must likewise acquire a separate existence of its own. For this reason the assembly of the Estates is divided into two houses.

§ 313

This division, by providing chambers of the first and second instance, is a surer guarantee for ripeness of decision and it obviates the accidental character which a snap-division has and which a numerical majority may acquire. But the principal advantage of this arrangement is that there is less chance of the Estates being in direct opposition to the executive; or that, if the mediating element is at the same time on the side of the lower house, the weight of the lower house's opinion is all the stronger, because it appears less partisan and its opposition appears neutralised.

§ 314

The purpose of the Estates as an institution is not to be an inherent *sine qua non* of maximum efficiency in the consideration and dispatch of state business, since in fact it is only an added efficiency that they can supply (see § 301). Their distinctive purpose is that in their pooled political knowledge, deliberations, and decisions, the moment of formal freedom shall come into its right in respect of those members of civil society who are without any share in the executive. Consequently, it is knowledge of public business above all which is extended by the publicity of Estates debates.

§ 315

The opening of this opportunity to know has a more universal aspect because by this means public opinion first reaches thoughts that are true and attains insight into the situation and concept of the state and its affairs, and so first acquires ability to estimate these more rationally. By this means also, it becomes acquainted with and learns to respect the

work, abilities, virtues, and dexterity of ministers and officials. While such publicity provides these abilities with a potent means of development and a theatre of higher distinction, it is at the same time another antidote to the self-conceit of individuals singly and en masse, and another means—indeed one of the chief means—of their education.

Addition: Estates Assemblies, open to the public, are a great spectacle and an excellent education for the citizen, and it is from them that the people learns best how to recognise the true character of its interests. The idea usually dominant is that everyone knows from the start what is best for the state and that the Assembly debate is a more discussion of this knowledge. In fact, however, the precise contrary is the truth. It is here that there first begin to develop the virtues, abilities, dexterities, which have to serve as examples to the public. Of course such debates are irksome to ministers, who have to equip themselves with wit and eloquence to meet the criticisms there directed against them. None the less, publicity here is the chief means of educating the public in national affairs. A nation which has such public sittings is far more vitally related to the state than one which has no Estates Assembly or one which meets in private. It is only because their every step is made known publicly in this way that the two Houses keep pace with the advance of public opinion, and it then becomes clear that a man's castle building at his fireside with his wife and his friends is one thing, while what happens in a great Assembly, where one shrewd idea devours another, is something quite different.

§ 316

The formal subjective freedom of individuals consists in their having and expressing their own private judgments, opinions, and recommendations on affairs of state. This freedom is collectively manifested as what is called 'public opinion', in which what is absolutely universal, the substantive and the true, is linked with its opposite, the purely particular and private opinions of the Many. Public opinion as it exists is thus a standing self-contradiction, knowledge as appearance, the essential just as directly present as the inessential.

Addition: Public opinion is the unorganised way in which a people's opinions and wishes are made known. What is actually made authoritative in the state must operate in an organised manner as the parts of the constitution do. But at all times public opinion has been a great power and it is particularly so in our day when the principle of subjective freedom has such importance and significance. What is to be authoritative nowadays derives its authority, not at all from force, only to a small extent from habit

and custom, really from insight and argument.

§ 317

Public opinion, therefore, is a repository not only of the genuine needs and correct tendencies of common life, but also, in the form of common sense (i.e. all-pervasive fundamental ethical principles disguised as prejudices), of the eternal, substantive principles of justice, the true content and result of legislation, the whole constitution, and the general position of the state. At the same time, when this inner truth emerges into consciousness and, embodied in general maxims, enters representative thinking whether it be there on its own account or in support of concrete arguments about felt wants, public affairs, the organisation of the state, and relations of parties within it—it becomes infected by all the accidents of opinion, by its ignorance and perversity, by its mistakes and falsity of judgment. Since in considering such opinion we have to do with the consciousness of an insight and conviction peculiarly one's own, the more peculiarly one's own an opinion may be the worse its content is, because the bad is that which is wholly private and personal in its content; the rational, on the other hand, is the absolutely universal, while it is on peculiarity that opining prides itself.

Remark: Hence it is not simply due to a subjective difference of view that we find it said that *vox populi, vox Dei*, and on the other hand, as Ariosto has it,

Che 'l volgare ignorante ogn' un riprenda E parli più di quel che meno intenda

or, as Goethe puts it, 'the masses are respectable hands at fighting, but miserable hands at judging'.

Both types of assertion are true at one and the same time of public opinion, and since it is such a hotch-potch of truth and endless error, it cannot be genuinely serious about both of these.

But about which is it serious? The question may seem hard to answer, and it will actually be hard if we cling simply to the words in which public opinion is directly expressed. The substantial, however, is the heart of public opinion, and therefore it is with that alone that it is truly serious. What the substantial is, though, is not discoverable from public opinion, because its very substantiality implies that it is known in and from itself alone. The passion with which an opinion is urged or the seriousness with which it is maintained or attacked and disputed is no criterion of its real content; and yet the last thing which opinion could be made to see is that its seriousness is nothing serious.

A great genius propounded as a problem for a public essay competition the question ‘whether it be permissible to deceive a people’. The answer must have been that a people does not allow itself to be deceived about its substantive basis, the essence and specific character of its mind. On the other hand, it is self-deceived about the manner of its knowledge of these things and about its corresponding judgment of its actions, experiences, &c.

Addition: The principle of the modern world requires that what anyone is to recognise shall reveal itself to him as something entitled to recognition. Apart from that, however, everyone wishes to have some share in discussion and deliberation. Once he has had his say and so his share of responsibility, his subjectivity has been satisfied and he puts up with a lot. In France freedom of speech has turned out far less dangerous than enforced silence, because with the latter the fear is that men bottle up their objections to a thing, whereas argument gives them an outlet and a measure of satisfaction, and this is in addition a means whereby the thing can be pushed ahead more easily.

§ 318

Public opinion therefore deserves to be as much respected as despised—despised for its concrete expression and for the concrete consciousness it expresses, respected for its essential basis, a basis which only glimmers more or less dimly in that concrete expression. But in itself it has no criterion of discrimination, nor has it the ability to extract the substantive element it contains and raise it to precise knowledge. Thus to be independent of public opinion is the first formal condition of achieving anything great or rational whether in life or in science. Great achievement is assured, however, of subsequent recognition and grateful acceptance by public opinion, which in due course will make it one of its own prejudices.

Addition: Public opinion contains all kinds of falsity and truth, but it takes a great man to find the truth in it. The great man of the age is the one who can put into words the will of his age, tell his age what its will is, and accomplish it. What he does is the heart and the essence of his age, he actualises his age. The man who lacks sense enough to despise public opinion expressed in gossip will never do anything great.

§ 319

Freedom of public communication—of the two modes of communication, the press and the spoken word, the first exceeds the second in range of contact but lags behind it in vivacity—satisfaction of the goading desire to say one’s say and to have said it, is directly assured by

the laws and by-laws which control or punish its excesses. But it is assured indirectly by the innocuous character which it acquires as a result principally of the rationality of the constitution, the stability of government, and secondly of the publicity of Estates Assemblies. The reason why the latter makes free speech harmless is that what is voiced in these Assemblies is a sound and mature insight into the concerns of the state, with the result that members of the general public are left with nothing of much importance to say, and above all are deprived of the opinion that what they say is of peculiar importance and efficacy. A further safeguard of free speech is the indifference and contempt speedily and necessarily visited on shallow and cantankerous talking.

Remark: To define freedom of the press as freedom to say and write whatever we please is parallel to the assertion that freedom as such means freedom to do as we please. Talk of this kind is due to wholly uneducated, crude, and superficial ideas. Moreover, it is in the very nature of the thing that abstract thinking should nowhere be so stubborn, so unintelligent, as in this matter of free speech, because what it is considering is the most fleeting, the most contingent, and the most personal side of opinion in its infinite diversity of content and tergiversation. Beyond the direct incitation to theft, murder, rebellion, &c., there lies its artfully constructed expression—an expression which seems in itself quite general and vague, while all the time it conceals a meaning anything but vague or else is compatible with inferences which are not actually expressed, and it is impossible to determine whether they rightly follow from it, or whether they were meant to be inferred from it. This vagueness of matter and form precludes laws on these topics from attaining the requisite determinacy of law, and since the trespass, wrong, and injury here are so extremely personal and subjective in form, judgment on them is reduced equally to a wholly subjective verdict. Such an injury is directed against the thoughts, opinions, and wills of others, but apart from that, these form the element in which alone it is actually anything. But this element is the sphere of the freedom of others, and it therefore depends on them whether the injurious expression of opinion is or is not actually an effective act.

Laws then [against libel, &c.] may be criticised by exhibiting their indeterminacy as well as by arguing that they leave it open to the speaker or writer to devise turns of phrase or tricks of expression, and so evade the laws or claim that judicial decisions are mere subjective verdicts. Further, however, against the view that the expression of opinion is an act with injurious effects, it may be maintained that it is not an act at all, but only opining and thinking, or only talking. And so we have before us a

claim that mere opining and talking is to go unpunished because it is of a purely subjective character both in form and content, because it does not mean anything and is of no importance. And yet in the same breath we have the claim that this same opining and talking should be held in high esteem and respect—the opining because it is personal property and in fact pre-eminently the property of mind; the talking because it is only this same property being expressed and used.

But the substance of the matter is and remains that traducing the honour of anyone, slander, abuse, the contemptuous caricature of government, its ministers, officials, and in particular the person of the monarch, defiance of the laws, incitement to rebellion, &c., &c., are all crimes or misdemeanours in one or other of their numerous gradations. The rather high degree of indeterminability which such actions acquire on account of the element in which they are expressed does not annul this fundamental character of theirs. Its only effect is that the subjective field in which they are committed also determines the nature and form of the reaction to the offence. It is the field in which the offence was committed which itself necessitates subjectivity of view, contingency, &c., in the reaction to the offence, whether the reaction takes the form of punishment proper or of police action to prevent crimes. Here, as always, abstract thinking sets itself to explain away the fundamental and concrete nature of the thing by concentrating on isolated aspects of its external appearance and on abstractions drawn therefrom.

The sciences, however, are not to be found anywhere in the field of opinion and subjective views, provided of course that they be sciences in other respects. Their exposition is not a matter of clever turns of phrase, allusiveness, half-utterances, and semi-reticences, but consists in the unambiguous, determinate, and open expression of their meaning and purport. It follows that they do not fall under the category of public opinion (see § 316). Apart from this, however, as I said just now the element in which views and their expression become actions in the full sense and exist effectively, consists of the intelligence, principles, and opinions of others. Hence this aspect of these actions, i.e. their effectiveness proper and their danger to individuals, society, and the state (compare § 218), depends on the character of the ground on which they fall, just as a spark falling on a heap of gunpowder is more dangerous than if it falls on hard ground where it vanishes without trace. Thus, just as the right of science to express itself depends on and is safeguarded by its subject-matter and content, so an illegitimate expression may also acquire a measure of security, or at least sufferance, in the scorn which it has

brought upon itself. An offence of this sort is punishable on its own account too, but part of it may be accounted that kind of nemesis which inner impotence, feeling itself oppressed by the preponderating abilities and virtues of others, is impelled to vent in order to come to itself again in face of such superiority, and to restore some self-consciousness to its own nullity. It was a nemesis of a more harmless type which Roman soldiers vented against their generals when they sang scurrilous songs about them in triumphal processions in order in a way to get even with them for all the hard service and discipline they had undergone, and especially for the omission of their names from the triumphal honours. The former type of nemesis, the bad and hateful type, is deprived of its effect by being treated with scorn, and hence, like the public, which perhaps forms a circle of spectators of scurrility, it is restricted to futile malice and to the self-condemnation which it implicitly contains.

§ 320

Subjectivity is manifested in its most external form as the undermining of the established life of the state by opinion and ratiocination when they endeavour to assert the authority of their own fortuitous character and so bring about their own destruction. But its true actuality is attained in the opposite of this, i.e. in the subjectivity identical with the substantial will of the state, the subjectivity which constitutes the concept of the power of the crown and which, as the ideality of the whole state, has not up to this point attained its right or its existences.

Addition: Subjectivity has been treated once already (§§ 279 ff) as the apex of the state, as the crown. Its other aspect is its arbitrary manifestation in public opinion, its most external mode of appearance. The subjectivity of the monarch is inherently abstract, but it should be something concrete and so be the ideality which diffuses itself over the whole state. The state at peace is that in which all branches of civil life subsist, but they possess their subsistence outside and alongside one another as something which issues from the Idea of the whole. The fact that it so issues must also come into appearance as the ideality of the whole.

2. Sovereignty vis-à-vis foreign States

§ 321

Sovereignty at home (see § 278) is this ideality in the sense that the moments of mind and its actuality, the state, have become developed in their necessity and subsist as the organs of the state. Mind in its freedom is an infinitely negative relation to itself and hence its essential character

from its own point of view is its singleness, a singleness which has incorporated these subsistent differences into itself and so is a unit, exclusive of other units. So characterised, the state has individuality, and individuality is in essence an individual, and in the sovereign an actual, immediate individual (see § 279).

§ 322

Individuality is awareness of one's existence as a unit in sharp distinction from others. It manifests itself here in the state as a relation to other states, each of which is autonomous vis-a-vis the others. This autonomy embodies mind's actual awareness of itself as a unit and hence it is the most fundamental freedom which a people possesses as well as its highest dignity.

Remark: Those who talk of the 'wishes' of a collection of people constituting a more or less autonomous state with its own centre, of its 'wishes' to renounce this centre and its autonomy in order to unite with others to form a new whole, have very little knowledge of the nature of a collection or of the feeling of selfhood which a nation possesses in its independence.

Thus the dominion which a state has at its first entry into history is this bare autonomy, even if it be quite abstract and without further inner development. For this reason, to have an individual at its head - a patriarch, a chieftain, &c. - is appropriate to this original appearance of the state.

§ 323

This negative relation of the state to itself is embodied in the world as the relation of one state to another and as if the negative were something external. In the world of existence, therefore, this negative relation has the shape of a happening and an entanglement with chance events coming from without. But in fact this negative relation is that moment in the state which is most supremely its own, the state's actual infinity as the ideality of everything finite within it. It is the moment wherein the substance of the state—i.e. its absolute power against everything individual and particular, against life, property, and their rights, even against societies and associations—makes the nullity of these finite things an accomplished fact and brings it home to consciousness.

§ 324

This destiny whereby the rights and interests of individuals are established as a passing phase, is at the same time the positive moment, i.e. the

positing of their absolute, not their contingent and unstable, individuality. This relation and the recognition of it is therefore the individual's substantive duty, the duty to maintain this substantive individuality, i.e. the independence and sovereignty of the state, at the risk and the sacrifice of property and life, as well as of opinion and everything else naturally comprised in the compass of life.

Remark: An entirely distorted account of the demand for this sacrifice results from regarding the state as a mere civil society and from regarding its final end as only the security of individual life and property. This security cannot possibly be obtained by the sacrifice of what is to be secured - on the contrary.

The ethical moment in war is implied in what has been said in this Paragraph. War is not to be regarded as an absolute evil and as a purely external accident, which itself therefore has some accidental cause, be it injustices, the passions of nations or the holders of power, &c., or in short, something or other which ought not to be. It is to what is by nature accidental that accidents happen, and the fate whereby they happen is thus a necessity. Here as elsewhere, the point of view from which things seem pure accidents vanishes if we look at them in the light of the concept and philosophy, because philosophy knows accident for a show and sees in it its essence, necessity. It is necessary that the finite—property and life—should be definitely established as accidental, because accidentality is the concept of the finite. From one point of view this necessity appears in the form of the power of nature, and everything is mortal and transient. But in the ethical substance, the state, nature is robbed of this power, and the necessity is exalted to be the work of freedom, to be something ethical. The transience of the finite becomes a willed passing away, and the negativity lying at the roots of the finite becomes the substantive individuality proper to the ethical substance.

War is the state of affairs which deals in earnest with the vanity of temporal goods and concerns—a vanity at other times a common theme of edifying sermonising. This is what makes it the moment in which the ideality of the particular attains its right and is actualised. War has the higher significance that by its agency, as I have remarked elsewhere, 'the ethical health of peoples is preserved in their indifference to the stabilisation of finite institutions; just as the blowing of the winds preserves the sea from the foulness which would be the result of a prolonged calm, so also corruption in nations would be the product of prolonged, let alone 'perpetual', peace. This, however, is said to be only a philosophic idea, or, to use another common expression, a 'justification of

Providence', and it is maintained that actual wars require some other justification. On this point, see below.

The ideality which is in evidence in war, i.e. in an accidental relation of a state to a foreign state, is the same as the ideality in accordance with which the domestic powers of the state are organic moments in a whole. This fact appears in history in various forms, e.g. successful wars have checked domestic unrest and consolidated the power of the state at home. Other phenomena illustrate the same point: e.g. peoples unwilling or afraid to tolerate sovereignty at home have been subjugated from abroad, and they have struggled for their independence with the less glory and success the less they have been able previously to organise the powers of the state in home affairs - their freedom has died from the fear of dying; states whose autonomy has been guaranteed not by their armed forces but in other ways (e.g. by their disproportionate smallness in comparison with their neighbours) have been able to subsist with a constitution of their own which by itself would not have assured peace in either home or foreign affairs.

Addition: In peace civil life continually expands; all its departments wall themselves in, and in the long run men stagnate. Their idiosyncrasies become continually more fixed and ossified. But for health the unity of the body is required, and if its parts harden themselves into exclusiveness, that is death. Perpetual peace is often advocated as an ideal towards which humanity should strive. With that end in view, Kant proposed a league of monarchs to adjust differences between states, and the Holy Alliance was meant to be a league of much the same kind. But the state is an individual, and individuality essentially implies negation. Hence even if a number of states make themselves into a family, this group as an individual must engender an opposite and create an enemy. As a result of war, nations are strengthened, but peoples involved in civil strife also acquire peace at home through making wars abroad. To be sure, war produces insecurity of property, but this insecurity of things is nothing but their transience, which is inevitable. We hear plenty of sermons from the pulpit about the insecurity, vanity, and instability of temporal things, but everyone thinks, however much he is moved by what he hears, that he at least will be able to retain his own. But if this insecurity now comes on the scene in the form of hussars with shining sabres and they actualise in real earnest what the preachers have said, then the moving and edifying discourses which foretold all these events turn into curses against the invader. Be that as it may, the fact remains that wars occur when the necessity of the case requires. The seeds burgeon once more, and harangues are silenced by the

solemn cycles of history.

§ 325

Sacrifice on behalf of the individuality of the state is the substantial tie between the state and all its members and so is a universal duty. Since this tie is a single aspect of the ideality, as contrasted with the reality, of subsistent particulars, it becomes at the same time a particular tie, and those who are in it form a class of their own with the characteristic of courage.

§ 326

The matter at issue in disputes between states may be only one particular aspect of their relation to each other, and it is for such disputes that the particular class devoted to the state's defence is principally appointed. But if the state as such, if its autonomy, is in jeopardy, all its citizens are in duty bound to answer the summons to its defence. If in such circumstances the entire state is under arms and is torn from its domestic life at home to fight abroad, the war of defence turns into a war of conquest.

Remark: The armed force of the state becomes a standing army, while its appointment to the particular task of state defence makes it a class. This happens from the same necessity as compels other particular moments, interests, and activities in the state to crystallise into a given status or class, e.g. into the status of marriage or into the business or civil servant class, or into the Estates of the Realm. Ratiocination, running hither and thither from ground to consequent, launches forth into reflections about the relative advantages and disadvantages of standing armies. Opinion readily decides that the latter preponderate, partly because the concept of a thing is harder to grasp than its single and external aspects, but also because particular interests and ends (the expense of a standing army, and its result, higher taxation, &c.) are rated in the consciousness of civil society more highly than what is necessary in and by itself. In this way the latter comes to count only as a means to particular ends.

§ 327

In itself, courage is a formal virtue, because (i) it is a display of freedom by radical abstraction from all particular ends, possessions, pleasure, and life; but (ii) this negation is a negation of externalities, and their alienation, the culmination of courage, is not intrinsically of a spiritual (*geistiger*) character; (iii) the courageous man's inner motive need only be some particular reason or other, and even the actual result of what he does need be

present solely to the minds of others and not to his own.

Addition: The military class is that universal class which is charged with the defence of the state, and its duty is to make real the ideality implicit within itself, i.e. to sacrifice itself.

Courage to be sure is multiform. The mettle of an animal or a brigand, courage for the sake of honour, the courage of a knight, these are not true forms of courage. The true courage of civilised nations is readiness for sacrifice in the service of the state, so that the individual counts as only one amongst many. The important thing here is not personal mettle but aligning oneself with the universal. In India five hundred men conquered twenty thousand who were not cowards, but who only lacked this disposition to work in close co-operation with others.

§ 328

The intrinsic worth of courage as a disposition of mind is to be found in the genuine, absolute, final end, the sovereignty of the state. The work of courage is to actualise this final end, and the means to this end is the sacrifice of personal actuality. This form of experience thus contains the harshness of extreme contradictions: a self-sacrifice which yet is the real existence of one's freedom; the maximum self-subsistence of individuality, yet only as a cog playing its part in the mechanism of an external organisation; absolute obedience, renunciation of personal opinions and reasonings, in fact complete absence of mind, coupled with the most intense and comprehensive presence of mind and decision in the moment of acting; the most hostile and so most personal action against individuals, coupled with an attitude of complete indifference or even liking towards them as individuals.

Remark: To risk one's life is better than merely fearing death, but is still purely negative and so indeterminate and without value in itself. It is the positive aspect, the end and content, which first gives significance to this spiritedness. Robbers and murderers bent on crime as their end, adventurers pursuing ends planned to suit their own whims, &c., these too have spirit enough to risk their lives.

The principle of the modern world - thought and the universal - has given courage a higher form, because its display now seems to be more mechanical, the act not of this particular person, but of a member of a whole. Moreover, it seems to be turned not against single persons, but against a hostile group, and hence personal bravery appears impersonal. It is for this reason that thought has invented the gun, and the invention of this weapon, which has changed the purely personal form of bravery into a

more abstract one, is no accident.

§ 329

The state's tendency to look abroad lies in the fact that it is an individual subject. Its relation to other states therefore falls to the power of the crown. Hence it directly devolves on the monarch, and on him alone, to command the armed forces, to conduct foreign affairs through ambassadors &c., to make war and peace, and to conclude treaties of all kinds.

Addition: In almost all European countries the individual head of the state is the monarch, and foreign affairs are his business. Where the Estates have constitutional powers, the question may arise whether they should not decide on war and peace, and in any case they have their influence on the question, particularly in connection with ways and means. In England, for example, no unpopular war care be waged. If, however, it is supposed that monarchs and cabinets are more subject to passion than parliaments are, and if for this reason an attempt is made to juggle the decision on war and peace into the hands of the latter, then we must point out that whole peoples may often be a prey to excitement or be carried away by passion to a greater extent than their leaders. In England the whole nation has frequently pressed for war and to a certain extent compelled ministers to wage it. The popularity of Pitt was due to his knowing how to fall in with what the people wanted at the time. It was only later that the people cooled down and so began to reflect that the war was useless and unnecessary and had been undertaken without counting the cost. Moreover, a state stands in relation not with one other state only, but with many. And the complexities of their relations become so delicate that they can be handled only by the head of the state.

B. International Law

§ 330

International law springs from the relations between autonomous states. It is for this reason that what is absolute in it retains the form of an ought-to-be, since its actuality depends on different wills each of which is sovereign.

Addition: States are not private persons but completely autonomous totalities in themselves, and so the relation between them differs from a moral relation and a relation involving private rights. Attempts have often been made to regard the state as a person with the rights of persons and as a moral entity. But the position with private persons is that they are under

the jurisdiction of a court which gives effect to what is right in principle. Now a relation between states ought also to be right in principle, but in mundane affairs a principle ought also to have power. Now since there is no power in existence which decides in face of the state what is right in principle and actualises this decision, it follows that so far as international relations are concerned we can never get beyond an 'ought'. The relation between states is a relation between autonomous entities which make mutual stipulations but which at the same time are superior to these stipulations.

§ 331

The nation state is mind in its substantive rationality and immediate actuality and is therefore the absolute power on earth. It follows that every state is sovereign and autonomous against its neighbours. It is entitled in the first place and without qualification to be sovereign from their point of view, i.e. to be recognised by them as sovereign. At the same time, however, this title is purely formal, and the demand for this recognition of the state, merely on the ground that it is a state, is abstract. Whether a state is in fact something absolute depends on its content, i.e. on its constitution and general situation; and recognition, implying as it does an identity of both form and content, is conditional on the neighbouring state's judgment and will.

Remark: A state is as little an actual individual without relations to other states (see § 322) as an individual is actually a person without *rapport* with other persons (see § 71 and elsewhere). The authority of a state and, more particularly, so far as its foreign relations are concerned, of its monarch also, is partly a purely domestic matter (one state should not meddle with the domestic affairs of another). On the other hand, however, it is no less essential that this authority should receive its full and final legitimation through its recognition by other states, although this recognition requires to be safeguarded by the proviso that where a state is to be recognised by others, it shall likewise recognise them, i.e. respect their autonomy; and so it comes about that they cannot be indifferent to each other's domestic affairs.

The question arises how far a nomadic people, for instance, or any people on a low level of civilisation, can be regarded as a state. As once was the case with the Jews and the Mohammedan peoples, religious views may entail an opposition at a higher level between one people and its neighbours and so preclude the general identity which is requisite for recognition.

Addition: When Napoleon said before the Peace of Campoformio that ‘the French Republic needs recognition as little as the sun requires it’, what his words implied was simply the thing’s *strength* which carries with it, without any verbal expression, the guarantee of recognition.

§ 332

The immediate actuality which any state possesses from the point of view of other states is particularised into a multiplicity of relations which are determined by the arbitrary will of both autonomous parties and which therefore possess the formal nature of contracts pure and simple. The subject-matter of these contracts, however, is infinitely less varied than it is in civil society, because in civil society individuals are reciprocally interdependent in the most numerous respects, while autonomous states are principally wholes whose needs are met within their own borders.

§ 333

The fundamental proposition of international law (i.e. the universal law which ought to be absolutely valid between states, as distinguished from the particular content of positive treaties) is that treaties, as the ground of obligations between states, ought to be kept. But since the sovereignty of a state is the principle of its relations to others, states are to that extent in a state of nature in relation to each other. Their rights are actualised only in their particular wills and not in a universal will with constitutional powers over them. This universal proviso of international law therefore does not go beyond an ought-to-be, and what really happens is that international relations in accordance with treaty alternate with the severance of these relations.

Remark: There is no Praetor to judge between states; at best there may be an arbitrator or a mediator, and even he exercises his functions contingently only, i.e. in dependence on the particular wills of the disputants. Kant had an idea for securing ‘perpetual peace’ by a League of Nations to adjust every dispute. It was to be a power recognised by each individual state, and was to arbitrate in all cases of dissension in order to make it impossible for disputants to resort to war in order to settle them. This idea presupposes an accord between states; this would rest on moral or religious or other grounds and considerations, but in any case would always depend ultimately on a particular sovereign will and for that reason would remain infected with contingency.

§ 334

It follows that if states disagree and their particular wills cannot be

harmonised, the matter can only be settled by war. A state through its subjects has widespread connections and many-sided interests, and these may be readily and considerably injured; but it remains inherently indeterminable which of these injuries is to be regarded as a specific breach of treaty or as an injury to the honour and autonomy of the state. The reason for this is that a state may regard its infinity and honour as at stake in each of its concerns, however minute, and it is all the more inclined to susceptibility to injury the more its strong individuality is impelled as a result of long domestic peace to seek and create a sphere of activity abroad.

§ 335

Apart from this, the state is in essence mind and therefore cannot be prepared to stop at just taking notice of an injury after it has actually occurred. On the contrary, there arises in addition as a cause of strife the idea of such an injury as the idea of a danger threatening from another state, together with calculations of degrees of probability on this side and that, guessing at intentions, &c., &c.

§ 336

Since states are related to one another as autonomous entities and so as particular wills on which the very validity of treaties depends, and since the particular will of the whole is in content a will for its own welfare pure and simple, it follows that welfare is the highest law governing the relation of one state to another. This is all the more the case since the Idea of the state is precisely the supersession of the clash between right (i.e. empty abstract freedom) and welfare (i.e. the particular content which fills that void), and it is when states become concrete wholes that they first attain recognition (see § 331).

§ 337

The substantial welfare of the state is its welfare as a particular state in its specific interest and situation and its no less special foreign affairs, including its particular treaty relations.. Its government therefore is a matter of particular wisdom, not of universal Providence (compare Remark to § 324). Similarly, its aim in relation to other states and its principle for justifying wars and treaties is not a universal thought (the thought of philanthropy) but only its actually injured or threatened welfare as something specific. and peculiar to itself.

Remark: At one time the opposition between morals and politics, and the demand that the latter should conform to the former, were much

canvassed. On this point only a general remark is required here. The welfare of a state has claims to recognition totally different from those of the welfare of the individual. The ethical substance, the state, has its determinate being, i.e. its right, directly embodied in something existent, something not abstract but concrete, and the principle of its conduct and behaviour can only be this concrete existent and not one of the many universal thoughts supposed to be moral commands. When politics is alleged to clash with morals and so to be always wrong, the doctrine propounded rests on superficial ideas about morality, the nature of the state, and the state's relation to the moral point of view.

§ 338

The fact that states reciprocally recognise each other as states remains, even in war—the state of affairs when rights disappear and force and chance hold sway—a bond wherein each counts to the rest as something absolute. Hence in war, war itself is characterised as something which ought to pass away. It implies therefore the proviso of, the *jus gentium*—that the possibility of peace be retained (and so, for example, that envoys must be respected), and, in general, that war be not waged against domestic institutions, against the peace of family and private life, or against persons in their private capacity.

Addition: Modern wars are therefore humanely waged, and person is not set over against person in hatred. At most, personal enmities appear in the vanguard, but in the main body of the army hostility is something vague and gives place to each side's respect for the duty of the other.

§ 339

Apart from this, relations between states (e.g. in war-time, reciprocal agreements about taking prisoners; in peace-time, concessions of rights to subjects of other states for the purpose of private trade and intercourse, &c.) depend principally upon the customs of nations, custom being the inner universality of behaviour maintained in all circumstances.

Addition: The European peoples form a family in accordance with the universal principle underlying their legal codes, their customs, and their civilisation. This principle has modified their international conduct accordingly in a state of affairs [i.e. war] otherwise dominated by the mutual infliction of evils. The relations of state to state are uncertain, and there is no Praetor available to adjust them. The only higher judge is the universal absolute mind, the world mind.

§ 340

It is as particular entities that states enter into relations with one another. Hence their relations are on the largest scale a maelstrom of external contingency and the inner particularity of passions, private interests and selfish ends, abilities and virtues, vices, force, and wrong. All these whirl together, and in their vortex the ethical whole itself, the autonomy of the state, is exposed to contingency. The principles of the national minds are wholly restricted on account of their particularity, for it is in this particularity that, as existent individuals, they have their objective actuality and their self-consciousness. Their deeds and destinies in their reciprocal relations to one another are the dialectic of the finitude of these minds, and out of it arises the universal mind, the mind of the world, free from all restriction, producing itself as that which exercises its right—and its right is the highest right of all—over these finite minds in the ‘history of the world which is the world’s court of judgment’.

C. World History

§ 341

The element in which the universal mind exists in art is intuition and imagery, in religion feeling and representative thinking, in philosophy pure freedom of thought. In world history this element is the actuality of mind in its whole compass of internality and externality alike. World history is a court of judgment because in its absolute universality, the particular—i.e. the Penates, civil society, and the national minds in their variegated actuality is present as only ideal, and the movement of mind in this element is the exhibition of that fact.

§ 342

Further, world history is not the verdict of mere might, i.e. the abstract and non-rational inevitability of a blind destiny. On the contrary, since mind is implicitly and actually reason, and reason is explicit to itself in mind as knowledge, world history is the necessary development, out of the concept of mind’s freedom alone, of the moments of reason and so of the self-consciousness and freedom of mind. This development is the interpretation and actualisation of the universal mind.

§ 343

The history of mind is its own act. Mind is only what it does, and its act is to make itself the object of its own consciousness. In history its act is to gain consciousness of itself as mind, to apprehend itself in its interpretation of itself to itself. This apprehension is its being and its principle, and the completion of apprehension at one stage is at the same

time the rejection of that stage and its transition to a higher. To use abstract phraseology, the mind apprehending this apprehension anew, or in other words returning to itself again out of its rejection of this lower stage of apprehension, is the mind of the stage higher than that on which it stood in its earlier apprehension.

Remark: The question of the perfectibility and *Education of the Human Race* arises here. Those who have maintained this perfectibility have divined something of the nature of mind, something of the fact that it is its nature to have *gnothi seanton* as the law of its being, and, since it apprehends that which it is, to have a form higher than that which constituted its mere being. But to those who reject this doctrine, mind has remained an empty word, and history a superficial play of casual, so-called ‘merely human’, strivings and passions. Even if, in connection with history, they speak of Providence and the plan of Providence, and so express a faith in a higher power, their ideas remain empty because they expressly declare that for them the plan of Providence is inscrutable and incomprehensible.

§ 344

In the course of this work of the world mind, states, nations, and individuals arise animated by their particular determinate principle which has its interpretation and actuality in their constitutions and in the whole range of their life and condition. While their consciousness is limited to these and they are absorbed in their mundane interests, they are all the time the unconscious tools and organs of the world mind at work within them. The shapes which they take pass away, while the absolute mind prepares and works out its transition to its next higher stage.

§ 345

Justice and virtue, wrongdoing, power and vice, talents and their achievements, passions strong and weak, guilt and innocence, grandeur in individual and national life, autonomy, fortune and misfortune of states and individuals, all these have their specific significance and worth in the field of known actuality; therein they are judged and therein they have their partial, though only partial justification. World-history, however, is above the point of view from which these things matter. Each of its stages is the presence of a necessary moment in the Idea of the world mind, and that moment attains its absolute right in that stage. The nation whose life embodies this moment secures its good fortune and fame, and its deeds are brought to fruition.

§ 346

History is mind clothing itself with the form of events or the immediate actuality of nature. The stages of its development are therefore presented as immediate natural principles. These, because they are natural, are a plurality external to one another, and they are present therefore in such a way that each of them is assigned to one nation in the external form of its geographical and anthropological conditions.

§ 347

The nation to which is ascribed a moment of the Idea in the form of a natural principle is entrusted with giving complete effect to it in the advance of the self-developing self-consciousness of the world mind. This nation is dominant in world history during this one epoch, and it is only once (see § 345) that it can make its hour strike. In contrast with this its absolute right of being the vehicle of this present stage in the world mind's development, the minds of the other nations are without rights, and they, along with those whose hour has struck already, count no longer in world history.

Remark: The history of a single world-historical nation contains (a) the development of its principle from its latent embryonic stage until it blossoms into the self-conscious freedom of ethical life and presses in upon world history; and (b) the period of its decline and fall, since it is its decline and fall that signals the emergence in it of a higher principle as the pure negative of its own. When this happens, mind passes over into the new principle and so marks out another nation for world-historical significance. After this period, the declining nation has lost the interest of the absolute; it may indeed absorb the higher principle positively and begin building its life on it, but the principle is only like an adopted child, not like a relative to whom its ties are immanently vital and vigorous. Perhaps it loses its autonomy, or it may still exist, or drag out its existence, as a particular state or a group of states and involve itself without rhyme or reason in manifold enterprises at home and battles abroad.

§ 348

All actions, including world-historical actions, culminate with individuals as subjects giving actuality to the substantial (see Remark to § 279). They are the living instruments of what is in substance the deed of the world mind and they are therefore directly at one with that deed though it is concealed from them and is not their aim and object (see § 344). For the deeds of the world mind, therefore, they receive no honour or thanks either from their contemporaries (see § 344) or from public opinion in later ages. All that is vouchsafed to them by such opinion is undying fame

in respect of the subjective form of their acts.

§ 349

A nation does not begin by being a state. The transition from a family, a horde, a clan, a multitude, &c., to political conditions is the realisation of the Idea in the form of that nation. Without this form, a nation, as—an ethical substance—which is what it is implicitly, lacks the objectivity of possessing in its own eyes and in the eyes of others, a universal and universally valid embodiment in laws, i.e. in determinate thoughts, and as a result it fails to secure recognition from others. So long as it lacks objective law and an explicitly established rational constitution, its autonomy is formal only and is not sovereignty.

Remark: It would be contrary even to commonplace ideas to call patriarchal conditions a ‘constitution’ or a people under patriarchal government a state ‘or its independence ‘sovereignty’. Hence, before history actually begins, we have on the one hand dull innocence, devoid of interest, and, on the other, the courage of revenge and of the struggle for formal recognition (see § 331 and Remark to § 57)

§ 350

It is the absolute right of the Idea to step into existence in clear-cut laws and objective institutions, beginning with marriage and agriculture (see Remark to § 203), whether this right be actualised in the form of divine legislation and favour, or in the form of force and wrong. This right is the right of heroes to found states.

§ 351

The same consideration justifies civilised nations in regarding and treating as barbarians those who lag behind them in institutions which are the essential moments of the state. Thus a pastoral people may treat hunters as barbarians, and both of these are barbarians from the point of view of agriculturists, &c. The civilised nation is conscious that the rights of barbarians are unequal to its own and treats their autonomy as only a formality.

Remark: When wars and disputes arise in such circumstances, the trait which gives them a significance for world history is the fact that they are struggles for recognition in connection with something of specific intrinsic worth.

§ 352

The concrete Ideas, the minds of the nations, have their truth and their

destiny in the concrete Idea which is absolute universality, i.e. in the world mind. Around its throne they stand as the executors of its actualisation and as signs and ornaments of its grandeur. As mind, it is nothing but its active movement towards absolute knowledge of itself and therefore towards freeing its consciousness from the form of natural immediacy and so coming to itself. Therefore the principles of the formations of this self-consciousness in the course of its liberation—the world-historical realms—are four in number.

§ 353

In its **first** and immediate revelation, mind has as its principle the shape of the substantial mind,

i.e. the shape of the identity in which individuality is absorbed in its essence and its claims are not explicitly recognised.

The **second** principle is this substantial mind endowed with knowledge so that mind is both the positive content and filling of mind and also the individual self-awareness which is the living form of mind. This principle is ethical individuality as beauty.

The **third** principle is the inward deepening of this individual self-awareness and knowledge until it reaches abstract universality and therefore infinite opposition to the objective world which in the same process has become mind-forsaken.

The principle of the **fourth** formation is the conversion of this opposition so that mind receives in its inner life its truth and concrete essence, while in objectivity it is at home and reconciled with itself. The mind which has thus reverted to the substantiality with which it began is the mind which has returned out of the infinite opposition, and which consequently engenders and knows this its truth as thought and as a world of actual laws.

§ 354

In accordance with these four principles, the world-historical realms are the following: (1) the Oriental, (2) the Greek, (3) the Roman, (4) the Germanic.

§ 355

(1) **The Oriental realm**

The world-view of this first realm is substantial, without inward division, and it arises in natural communities patriarchally governed. According to this view, the mundane form of government is theocratic, the ruler is also

a high priest or God himself; constitution and legislation are at the same time religion, while religious and moral commands, or usages rather, are at the same time natural and positive law. In the magnificence of this régime as a whole, individual personality loses its rights and perishes; the external world of nature is either directly divine or else God's ornament, and the history of the actual is poetry. Distinctions are developed in customs, government, and state on their many sides, and in default of laws and amidst the simplicity of manners, they become unwieldy, diffuse, and superstitious ceremonies, the accidents of personal power and arbitrary rule, and class differences become crystallised into hereditary castes. Hence in the Oriental state nothing is fixed, and what is stable is fossilised; it lives therefore only in an outward movement which becomes in the end an elemental fury and desolation. Its inner calm is merely the calm of non-political life and immersion in feebleness and exhaustion.

Remark: A still substantial, natural, mentality is a moment in the development of the state, and the point at which any state takes this form is the absolute beginning of its history. This has been emphasised and demonstrated with learning and profound insight in connection with the history of particular states by Dr. Stuhr in his book *Der Untergang der Naturstaaten*—work in which he leads the way to a rational treatment of constitutional history and of history generally. The principle of subjectivity and self-conscious freedom is there too shown to be the principle of the Germanic people, but the book goes no further than the decline of natural states, and consequently the principle is only brought to the point where it appears either as a restless mobility, as human caprice and corruption, or in its particular form as emotion, and where it has not yet developed to the objectivity of the self-conscious substantiality or to an organised legal system.

§ 356

(2) The Greek realm

This realm possesses this substantial unity of finite and infinite, but only as a mysterious background, suppressed in dim recesses of the memory, in caves and traditional imagery. This background, reborn out of the mind which differentiates itself to individual mentality, emerges into the daylight of knowing and is tempered and transfigured into beauty and a free and unruffled ethical life. Hence it is in a world of this character that the principle of personal individuality arises, though it is still not self-enclosed but kept in its ideal unity. The result is that the whole is divided into a group of particular national minds; ultimate decision is ascribed not to the subjectivity of explicitly independent self-consciousness but to a power

standing above and outside it (see Remark to § 279); on the other hand, the due satisfaction of particular needs is not yet comprised in the sphere of freedom but is relegated exclusively to a class of slaves.

§ 357

(3) **The Roman realm**

In this realm, differentiation is carried to its conclusion, and ethical life is sundered without end into the extremes of the private self-consciousness of persons on the one hand, and abstract universality on the other. This opposition begins in the clash between the substantial intuition of an aristocracy and the principle of free personality in democratic form. As the opposition grows, the first of these opponents develops into superstition and the maintenance of heartless self-seeking power, while the second becomes more and more corrupt until it sinks into a rabble. Finally, the whole is dissolved and the result is universal misfortune and the destruction of ethical life. National heroes die away into the unity of a Pantheon, all individuals are degraded to the level of private persons equal with one another, possessed of formal rights, and the only bond left to hold them together is abstract insatiable self-will.

§ 358

(4) **The Germanic realm**

Mind and its world are thus both alike lost and plunged in the infinite grief of that fate for which a people, the Jewish people, was held in readiness. Mind is here pressed back upon itself in the extreme of its absolute negativity. This is the absolute turning point; mind rises out of this situation and grasps the infinite positivity of this its inward character, i.e. it grasps the principle of the unity of the divine nature and the human, the reconciliation of objective truth and freedom as the truth and freedom appearing within self-consciousness and subjectivity, a reconciliation with the fulfilment of which the principle of the north, the principle of the Germanic peoples, has been entrusted.

§ 359

This principle is first of all inward and abstract; it exists in feeling as faith, love, and hope, the reconciliation and resolution of all contradiction. It then discloses its content, raising it to become actuality and self-conscious rationality, to become a mundane realm proceeding from the heart, fidelity, and comradeship of free men, a realm which in this its subjectivity is equally a realm of crude individual caprice and barbarous manners. This realm it sets over against a world of beyond, an intellectual realm, whose

content is indeed the truth of its (the principle's) mind, but a truth not yet thought and so still veiled in barbarous imagery. This world of beyond, as the power of mind over the mundane heart, acts against the latter as a compulsive and frightful force.

§ 360

These two realms stand distinguished from one another though at the same time they are rooted in a single unity and Idea. Here their distinction is intensified to absolute opposition and a stern struggle ensues in the course of which the realm of mind lowers the place of its heaven to an earthly here and now, to a common worldliness of fact and idea. The mundane realm, on the other hand, builds up its abstract independence into thought and the principle of rational being and knowing, i.e. into the rationality of right and law. In this way their opposition implicitly loses its marrow and disappears. The realm of fact has discarded its barbarity and unrighteous, caprice, while the realm of truth has abandoned the world of beyond and its arbitrary force, so that the true reconciliation which discloses the state as the image and actuality of reason has become objective. In the state, self-consciousness finds in an organic development the actuality of its substantive knowing and willing; in religion, it finds the feeling and the representation of this its own truth as an ideal essentiality; while in philosophic science, it finds the free comprehension and knowledge of this truth as one and the same in its mutually complementary manifestations, i.e. in the state, in nature, and in the ideal world.

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