

SPQR

On Duties, Book III

MARCUS TULLIUS CICERO

Musean Translation

MOUSEIA

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Translated by Michael Berardi

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THIS EDITION

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Michael Berardi

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Book III



- ¹ My son Marcus, Cato, who was roughly his contemporary, writes that Publius Scipio, the first to be called Africanus, used to say that he was never less idle than when he had leisure, and never less alone than when he was alone. A splendid saying, worthy of a great and wise man! It shows that in his leisure he would think about his work, and in solitude converse with himself, so that he was never inactive and sometimes had no need of another person's conversation. Thus two things that make others languid—leisure and solitude—sharpened his powers. I wish we could truthfully say the same of ourselves. Yet if we cannot match such exceptional gifts by imitation, at least in our desire to do so we come very close. For impious arms and violence have barred us from public life and the business of the courts, and so we seek leisure; and because of this, having left the city to wander through the countryside, we are often alone.
- ² But neither this leisure nor this solitude can compare with Africanus's. He would sometimes take his leisure as a rest from the noblest duties of state, and at times withdraw from the crowds and gatherings of people into solitude as into a harbor. Our leisure, by contrast, has been imposed by a lack of work, not a desire for rest. With the Senate extinguished and the courts destroyed, what can we do in the Senate house or the forum that is worthy of us?

- ³ Thus we, who once lived amid the greatest throngs and in full view of our fellow citizens, now avoid the sight of the criminals who swarm everywhere, hide ourselves as far as we can, and are often alone. But learned men have taught us not only to choose the least among evils, but also to extract whatever good those very evils may contain. I therefore make use of my leisure—though it is not the kind that a man who once secured peace for his country ought to enjoy—and do not let the solitude imposed on me by necessity, not choice, lapse into idleness.
- ⁴ Still, Africanus deserves greater praise, in my judgment. No written record of his genius survives, no work produced in leisure, no gift of solitude. We must therefore conclude that the activity of his mind and his investigation of the matters he pursued in thought kept him from ever being idle or alone. But we, who lack the strength to escape solitude through silent reflection, have turned all our energy and attention to this work of writing. And so, in the short time since the republic was overthrown, we have written more than in the many years when it stood.
- ⁵ Yet although the whole field of philosophy, my dear Cicero, is fertile and fruitful, with no part left uncultivated or neglected, no region within it is richer or more productive than the subject of duties, from which we derive the principles of a steadfast and morally upright life. So although I trust that you constantly hear and learn these things from our Cratippus, the foremost philosopher of our time, I still think it beneficial for such voices to sound around you on every side, and, if possible, for your ears to hear nothing else.
- ⁶ Everyone who intends to enter on an upright life should do this, but I doubt whether anyone should do so more than you. You bear a considerable expectation that you will match my diligence, a great expectation that you will match my public honors, and perhaps some expectation that you will match my reputation. You have also taken on a heavy responsibility toward both Athens and Cratippus. Since you have traveled to them as though to a market for the liberal arts, it would be deeply shameful to return empty-handed, discrediting both

the city's prestige and your teacher's. So bring to bear all the effort your mind can muster, all the exertion you can sustain—if learning is an exertion rather than a pleasure—and do not let it appear that, when I had supplied you with everything, you alone failed yourself. But enough of this: I have often written you at length to encourage you. Let us now return to the remaining part of the division we proposed.

- ⁷ Panaetius, then, who unquestionably gave the most thorough account of duties, and whom we have chiefly followed, with certain corrections, set out three kinds of question on which people commonly deliberate and seek advice about duty. First, they ask whether the action under consideration is morally right or wrong; second, whether it is advantageous or disadvantageous; and third, when something apparently right conflicts with something apparently advantageous, how the two should be distinguished. He explained the first two kinds in three books. He wrote that he would discuss the third next, but did not fulfill his promise.
- ⁸ I find this all the more surprising because his pupil Posidonius writes that Panaetius lived for thirty years after publishing those books. I am also surprised that Posidonius touched only briefly on this subject in some notes, especially since he writes that no subject in the whole of philosophy is so essential.
- ⁹ I entirely disagree with those who deny that Panaetius left this subject unfinished and say instead that he deliberately set it aside, and ought never to have written about it at all, because advantage can never conflict with moral goodness. One of these points is open to question: whether the third kind of inquiry in Panaetius's division should have been included or omitted altogether. The other admits of no doubt: Panaetius undertook it but left it unfinished. A man who completes two parts of a threefold division necessarily has a third remaining. Besides, at the end of his third book he promises to discuss this part next.
- ¹⁰ There is also the authoritative testimony of Posidonius. In one of his letters he writes that Publius Rutilius Rufus, who had studied under Panaetius, used to say that no one had pursued the subjects Panaetius left untouched [and unfin-

ished], because of the excellence of what he had completed—just as no painter had been found to finish the part of the Coan Venus that Apelles had left only begun, since the beauty of her face destroyed any hope of rendering the rest of her body to match.

- 11 There can therefore be no doubt about Panaetius's intention. Whether he was right to add this third part to the inquiry into duty is perhaps open to debate. For whether moral goodness is the only good, as the Stoics hold, or whether it is the highest good in the sense maintained by your Peripatetics—so that everything placed in the opposite scale scarcely has the slightest weight—there can be no doubt that advantage can never contend with moral goodness. Thus we are told that Socrates used to curse those who first separated in thought what nature had joined together. The Stoics agreed with him so fully that they held whatever was morally right to be advantageous, and nothing advantageous that was not morally right.
- 12 Now if Panaetius were the sort of thinker to say that virtue should be cultivated because it produces advantage, as do those who measure the things worth seeking by pleasure or freedom from pain, he would be entitled to say that advantage sometimes conflicts with moral goodness. But he holds that only what is morally right is good, and that the things opposed to it, despite some appearance of advantage, neither make life better by their presence nor worse by their absence. He therefore seems to have had no reason to introduce a deliberation in which what appears advantageous is weighed against what is morally right.
- 13 For what the Stoics call the highest good, living in agreement with nature, means, as I understand it, always being in accord with virtue, and choosing other things that conform to nature only if they do not conflict with virtue. Since this is so, some think that this comparison was wrongly introduced and that no instruction at all should have been given on this kind of question. Now moral goodness in its strict and true sense belongs only to the wise and can never be separated from virtue. But in those whose wisdom is not complete, that perfect moral goodness itself cannot exist at all, though likenesses of it can.

- ¹⁴ For the duties we discuss in these books are what the Stoics call intermediate duties. They are common to people generally and have a wide reach; many attain them both through natural goodness of character and through progress in learning. But the duty they also call right action is perfect and complete, possessing, as they themselves say, every element of perfection, and it can belong to no one but the wise.
- ¹⁵ Yet when an action displays these intermediate duties, it seems to have been carried out to full perfection, because ordinary people generally do not understand how far it falls short of perfection; as far as they can see, nothing has been left out. The same thing happens with poems, paintings, and a great many other things: the untrained take pleasure in works and praise them when they do not deserve praise. The reason, I think, is that these works contain something sound that appeals to people without knowledge, who cannot at the same time judge what is defective in each case. And so, once experts have instructed them, they readily abandon their judgment. These duties, then, which we discuss in these books, are described as a kind of moral goodness of the second order, not the exclusive possession of the wise but shared with the whole human race.
- ¹⁶ They therefore appeal to everyone who has the seeds of virtue. Yet when the two Decii or the two Scipios are remembered as brave men, or when Fabricius or Aristides is called just, we do not seek in the former examples of courage, or in the latter examples of justice, of the kind we would seek in a wise man. None of them was wise in the sense in which we wish the word to be understood. Nor were Marcus Cato and Gaius Laelius wise, though they were regarded and called so; not even the Seven Sages were. But through their frequent performance of intermediate duties they bore a certain likeness and appearance of wise men.
- ¹⁷ Therefore it is wrong to weigh true moral goodness against a conflicting advantage. Nor should what we commonly call moral goodness, cultivated by those who wish to be regarded as good men, ever be weighed against material gains.

We must guard and preserve the moral goodness within the reach of our understanding just as the wise must guard what is properly called, and truly is, moral goodness. Otherwise we cannot hold on to whatever progress we have made toward virtue. But these remarks concern those who are considered good because they observe their duties.

- ¹⁸ Those, however, who measure everything by gains and benefits, and refuse to let moral goodness outweigh them, habitually compare what is morally right with what they think advantageous when they deliberate. Good men do not. I therefore think that when Panaetius said people commonly hesitate over this comparison, he meant precisely what he said: that they commonly do so, not that they ought to. For it is deeply shameful not only to value what appears advantageous above what is morally right, but even to compare the two and hesitate between them. What, then, sometimes gives rise to uncertainty and seems to call for consideration? I believe that, whenever uncertainty arises, it concerns the nature of the action under consideration.
- ¹⁹ For circumstances often make an action that is usually considered wrong turn out not to be wrong. Let us take an example with broad implications. What crime can be greater than killing not merely a human being, but a close friend? Has someone, then, bound himself in guilt by killing a tyrant, even if that tyrant was his friend? The Roman people certainly do not think so: of all glorious deeds, they consider this the finest. Has advantage therefore defeated moral goodness? Rather, moral goodness has followed advantage. Thus, if we are to judge without error whenever what we call advantageous seems to conflict with what we understand to be morally right, we must establish a rule. If we follow it in weighing actions, we shall never depart from duty.
- ²⁰ This rule will be most closely in accord with Stoic reasoning and teaching. We follow that teaching in these books for this reason: although both the Old Academics and your Peripatetics, who were once identical with the Academics, place what is morally right above what appears advantageous, these matters receive more illuminating treatment from those who hold that everything

morally right is also advantageous, and nothing advantageous that is not morally right, than from those who admit either moral goodness without advantage or advantage without moral goodness. Our own Academy gives us great freedom: we are entitled to defend whatever position strikes us as most probable. But I return to the rule.

- ²¹ To take something from another person, then, and for one human being to increase his own well-being at another's expense is more contrary to nature than death, poverty, pain, or anything else that can befall our bodies or our external circumstances. For, to begin with, it destroys human fellowship and society. If we are so disposed that each of us robs or injures another for his own gain, the fellowship of the human race, which accords most closely with nature, must inevitably be torn apart.
- ²² Suppose each limb had a mind of its own and thought it could flourish by drawing into itself the health of the limb next to it: the whole body would inevitably grow weak and die. In the same way, if each of us seizes the benefits of others for himself and takes whatever he can from anyone for his own gain, human society and fellowship must inevitably be overthrown. Nature allows each person to prefer acquiring the necessities of life for himself rather than for another. But nature does not permit us to increase our resources, our stores, and our wealth by plundering others.
- ²³ Nor is it nature alone—that is, the law of nations—that has established this principle. The laws of peoples, by which the state is held together in each community, likewise forbid anyone to harm another for his own benefit. This is the aim and intention of the laws: to preserve the bond between citizens unharmed. Those who break it they restrain by death, exile, imprisonment, and financial penalties. The rational order of nature itself, which is both divine and human law, enforces this far more strongly. Anyone who wishes to obey it—and all who wish to live according to nature will obey it—will never reach for another's property and appropriate what he has taken from someone else.

- ²⁴ For loftiness and greatness of spirit, and likewise kindness, justice, and generosity, accord far more closely with nature than pleasure, life, or riches. To look down on these last and count them as nothing when comparing them with the common advantage is itself the mark of a great and lofty spirit. [To take something from another for one's own benefit, however, is more contrary to nature than death, pain, or other things of that kind.]
- ²⁵ Likewise, it accords more closely with nature to undertake the greatest labors and hardships to preserve or help all the nations of the earth, if possible, following the example of Hercules, whom human tradition, remembering his services, placed in the council of the heavenly gods, than to live in solitude, not only free of every hardship but surrounded by the greatest pleasures, abounding in every resource and even excelling in beauty and strength. Thus the finest and most brilliant spirits vastly prefer the former life to the latter. It follows that a human being who obeys nature cannot harm another human being.
- ²⁶ Furthermore, a person who injures another to secure some benefit for himself either thinks he is doing nothing contrary to nature, or believes that death, poverty, pain, and even the loss of children, relatives, and friends are more to be avoided than doing anyone an injustice. If he thinks that injuring people does nothing contrary to nature, how can you reason with someone who strips human beings of their very humanity? But if he thinks injustice should indeed be avoided, yet death, poverty, and pain are far worse, his mistake is to regard any affliction of the body or of fortune as more serious than defects of character. Everyone, then, should have one aim: that the advantage of each should be the same as the advantage of all. If each person snatches it for himself, all human fellowship will dissolve.
- ²⁷ Moreover, if nature prescribes that one human being should wish to look after another, whoever that person may be, for the very reason that he is human, then by that same nature everyone's advantage must be shared. If that is so, we

are all bound by one and the same law of nature; and if that in turn is so, the law of nature certainly forbids us to injure another. But the first proposition is true; therefore the last is true as well.

- ²⁸ For it is plainly absurd to say, as some do, that they would take nothing from a parent or brother for their own benefit, but that other citizens are a different matter. They hold that no bond of law, no fellowship for the common advantage, unites them with their fellow citizens—a view that tears apart the whole society of the state. Those who say we must consider our fellow citizens but not foreigners break the common fellowship of the human race. Once that is removed, kindness, generosity, goodness, and justice are uprooted. Those who uproot these must be judged impious even toward the immortal gods. For they overthrow the fellowship the gods established among human beings. Its closest bond is the conviction that for one human being to take something from another for his own benefit is more contrary to nature than to endure every hardship, whether in external circumstances, in the body, or even in the mind itself. For justice alone is the mistress and queen of all the virtues.
- ²⁹ Someone may perhaps say, “Would not a wise man, then, if he were dying of hunger himself, take food from another man who was of no use for anything?” Certainly not. For my life is not more advantageous to me than a disposition of mind that keeps me from injuring anyone for my own benefit. What, then? If a good man could strip Phalaris, that cruel and savage tyrant, of his clothing to keep himself from dying of cold, should he not do it?
- ³⁰ These cases are very easy to judge. If you take something for your own advantage from a person who is of no use in any respect, you act inhumanely and against the law of nature. But if you are someone who, by remaining alive, can bring great advantage to the state and to human society, you should not be blamed if you take something from another for that reason. If that is not the case, however, each person must bear his own hardship rather than diminish

another's well-being. Illness, then, or poverty, or anything of that kind, is not more contrary to nature than taking and coveting what belongs to another; but abandoning the common advantage is contrary to nature, for it is unjust.

- 31 And so the very law of nature, which safeguards and sustains human advantage, will surely decree that the necessities of life should pass from an idle, useless man to one who is wise, good, and brave, whose death would seriously diminish the common advantage. But he must not, out of self-esteem and self-love, make this an excuse for injustice. In this way he will always fulfill his duty, looking to the advantage of humanity and to that human fellowship I so often mention.
- 32 As for Phalaris, the judgment is quite simple. We have no fellowship with tyrants; rather, we are utterly opposed to them. Nor is it against nature to strip a man of his possessions, if you can, when it is right to kill him. This entire pestilent, godless breed must be expelled from the human community. Just as certain limbs are amputated when they have begun to lose their blood and, as it were, their breath of life, and are harming the rest of the body, so this savage brutality of a beast in human form must be severed from the common body of humanity. All questions in which duty must be determined by circumstances belong to this class.
- 33 These, I believe, are the kinds of matters Panaetius would have pursued, had some accident or other occupation not frustrated his plan. The preceding books contain quite enough precepts to let us discern, in these very inquiries, what must be avoided because it is wrong, and what need not be avoided because there is nothing wrong in it at all. But since we are now setting something like a roof upon a work begun and already nearly finished, I shall follow the geometers: they do not ordinarily demonstrate everything, but ask that certain things be granted them so they can more easily explain what they wish. So I ask you, my dear Cicero, to grant me, if you can, that nothing but what is right should be sought for its own sake. If Cratippus will not allow you that, you will

at least grant that what is right should be sought for its own sake above all else. Either will satisfy me. At one time I find one view more persuasive, at another the other; beyond these, I find nothing persuasive at all.

34 First, Panaetius must be defended on this point: he did not say that what is advantageous can sometimes conflict with what is right—his principles would not have allowed it—but that what seems advantageous can. He repeatedly declares that nothing is advantageous unless it is also right, and nothing right unless it is also advantageous. He denies that any greater plague has invaded human life than the belief of those who have torn the two apart. Thus he introduced this apparent, not actual, conflict, not so that we might sometimes prefer advantage to what is right, but so that, when such cases arose, we could judge them without error. We shall therefore complete the part he left unfinished without outside support, fighting, as the saying goes, under our own Mars. For among the writings on this subject since Panaetius that have come into my hands, I have found nothing satisfactory.

35 When some prospect of advantage presents itself, we are bound to be moved by it. But if closer attention reveals something wrong bound up with the thing that offered this prospect, we must not think we are giving up an advantage: we must understand that where there is wrongdoing, there can be no genuine advantage. Now, if nothing is so contrary to nature as wrongdoing—for nature calls for rightness, harmony, and consistency, and rejects their opposites—and nothing is so much in accord with nature as genuine advantage, then advantage and wrongdoing certainly cannot exist in the same thing. Again, if we are born for moral goodness, and it alone should be sought, as Zeno held, or at least must be given far greater weight than everything else combined, as Aristotle maintained, then what is right must be either the sole good or the highest good. And what is good is certainly advantageous. Therefore whatever is right is advantageous.

- ³⁶ Dishonest men make this mistake: once they seize upon something that seems advantageous, they immediately separate it from what is right. From this come daggers, poisons, forged wills; from this theft, embezzlement, the plundering and pillaging of allies and citizens; from this arise desires for excessive wealth, for intolerable power, and finally, even in free states, for kingship. Nothing more hideous or more shameful can be imagined than these desires. With their distorted judgment they see the profits to be made, but they do not see the penalty—I do not mean the penalty imposed by laws, which they often break through, but that of wrongdoing itself, the bitterest penalty of all.
- ³⁷ Let us therefore exclude this whole class of deliberators, utterly criminal and godless as they are: those who deliberate whether to follow what they see is right or knowingly stain themselves with crime. There is guilt in the very hesitation, even if they never carry it into action. We must not deliberate at all over matters in which the deliberation itself is wrong.
- ³⁸ We must also remove from every deliberation the hope or expectation of concealing and hiding what we do. If we have made any progress in philosophy, we should be firmly convinced that even if we could hide our actions from all gods and human beings, we must still do nothing greedy, nothing unjust, nothing lustful, nothing unrestrained. This is why Plato introduces his Gyges. When the earth split open after heavy rains, he descended into the chasm and, as the story goes, noticed a bronze horse with doors in its sides. Opening these, he saw the body of a dead man of extraordinary size, with a gold ring on his finger. He pulled it off and put it on himself. He was a royal shepherd, and then returned to a gathering of the shepherds. There, whenever he turned the ring's setting toward his palm, no one could see him, although he could see everything; when he turned the ring back into place, he became visible again. Taking advantage of the ring's power, he seduced the queen and, with her help, killed the king, his master, and disposed of those he thought stood in his way. No one could see him committing these crimes. Thus, thanks to the ring, he suddenly became

king of Lydia. Now, if a wise man had this very ring, he would think himself no freer to do wrong than if he did not have it. Good men seek what is right, not what can be concealed.

39 At this point some philosophers, by no means bad men but not sufficiently acute, say that Plato has brought forward an invented, imaginary tale—as though he claimed that it really happened or could have happened. Here is the force of the ring and of the example: if no one would ever know, or even suspect, that you had done something for wealth, power, mastery, or lust, if it would remain forever unknown to gods and human beings, would you do it? They say this is impossible. It is possible, in fact; but I am asking what they would do if what they say is impossible were possible. They press their objection with quite obtuse insistence. They say it is impossible and stand by that, failing to see the force of the word “if.” When we ask what they would do if they could conceal it, we are not asking whether they can conceal it. Rather, we are putting them to a kind of torture: if they answer that, with impunity assured, they would do whatever paid, they confess themselves criminals; if they say they would not, they concede that everything wrong must be avoided for its own sake. But let us now return to our subject.

40 Many situations often arise that unsettle our minds with the appearance of advantage. The question is not whether moral goodness should be abandoned for the sake of some great advantage—that would certainly be wicked—but whether something that seems advantageous can be done without wrongdoing. When Brutus removed his colleague Collatinus from office, his action could have seemed unjust: Collatinus had shared in Brutus’s plans to expel the kings and had helped carry them out. But once the leading men had resolved that the relatives of Tarquin the Proud, the name of the Tarquins, and the memory of kingship must all be removed, what was advantageous—taking thought for the country—was so clearly right that Collatinus himself ought to have approved. Thus advantage prevailed because the action was right; without that, it could not even have been advantageous.

- ⁴¹ Not so, however, with the king who founded our city. The appearance of advantage drove him on: thinking it more advantageous to rule alone than with another, he killed his brother. He abandoned both family devotion and humanity to secure what seemed advantageous but was not. Yet he put forward the matter of the wall as his excuse, a pretense of righteousness neither plausible nor at all sufficient. He did wrong, then, if I may say so with the permission of Quirinus—or Romulus.
- ⁴² Still, we need not surrender our own advantages and hand them over to others when we need them ourselves. Each of us should pursue his own advantage, provided he can do so without injuring another. Chrysippus puts it well, as he does so many things: “A man running a race should exert himself and strive as hard as he can to win, but he must never trip his competitor or push him aside with his hand. So in life it is not unfair for each person to seek what serves his needs, but he has no right to snatch it from someone else.”
- ⁴³ Duties become most entangled in friendships: it is contrary to duty both to withhold from friends what we can rightly grant and to grant what is not fair. But there is a brief and simple rule for this whole subject. The things that seem advantageous—public honors, wealth, pleasures, and the rest of that kind—must never be preferred to friendship. Yet a good man will not act against his country or against his oath and good faith for a friend’s sake, not even when he is sitting in judgment on that very friend. He puts aside the role of friend when he takes on that of judge. He will grant friendship this much: he would rather his friend’s case were just, and he will arrange the time for pleading the case to accommodate him, as far as the law allows.
- ⁴⁴ But when he must pronounce judgment under oath, he should remember that he is calling God as his witness—that is, as I understand it, his own mind, the most divine thing God himself has given humanity. We have therefore inherited from our ancestors an admirable form of request to a judge, if only we held to it: “Whatever you can do without compromising your good faith.” This

request concerns the concessions I mentioned a little earlier, which a judge may rightly make to a friend. For if everything friends want must be done, such relationships should be called conspiracies, not friendships.

⁴⁵ I am speaking of ordinary friendships; among men of wisdom and perfect character, nothing of this sort can occur. They say the Pythagoreans Damon and Phintias were so devoted to one another that, when the tyrant Dionysius had fixed a day for the execution of one of them, and the condemned man had asked for a few days to make arrangements for his family, the other stood surety for his return, on condition that he himself would die if his friend did not come back. When the man returned on the appointed day, the tyrant, astonished at their faithfulness, asked them to admit him as a third member of their friendship.

⁴⁶ When, therefore, what seems advantageous in friendship is weighed against what is right, let the appearance of advantage fall and moral goodness prevail. When friends ask for things that are not right, religious obligation and good faith must take precedence over friendship. In this way we shall achieve the discrimination in matters of duty that we are seeking. But in public affairs wrongdoing is very often prompted by the appearance of advantage, as when our people destroyed Corinth. The Athenians acted even more harshly when they decreed that the Aeginetans, who had a powerful fleet, should have their thumbs cut off. This seemed advantageous, since Aegina lay so near the Piraeus that it posed a serious threat. But nothing cruel is advantageous: cruelty is the greatest enemy of human nature, which we ought to follow.

⁴⁷ Those who deny foreigners the use of their cities and expel them also act wrongly, as Pennus did in our fathers' day and Papius has done recently. It is right that someone who is not a citizen should not be allowed to pass as one: that was the law enacted by those eminently wise consuls Crassus and Scaevola. But to deny foreigners the use of a city is certainly inhuman. Splendid, by contrast, are the deeds in which the appearance of public advantage is disregarded in favor of what is right. Our state is full of examples, at many times but espe-

cially in the Second Punic War. After the disaster at Cannae it showed greater spirit than ever in prosperity: no sign of fear, no mention of peace. Such is the power of moral goodness that it eclipses the appearance of advantage.

- ⁴⁸ When the Athenians could no longer withstand the Persian assault, they decided to leave their city, entrust their wives and children to Troezen, embark on their ships, and defend the freedom of Greece with their fleet. A certain Cyrsilus urged them to remain in the city and admit Xerxes, and they stoned him to death. He seemed to be pursuing advantage; but there was none, since it conflicted with what was right.
- ⁴⁹ After victory in the war with Persia, Themistocles told the assembly that he had a plan that would save the state, but that it ought not to be made known. He asked the people to appoint someone with whom he could share it; Aristides was appointed. Themistocles told him that the Spartan fleet, which had been hauled ashore at Gythium, could be secretly burned, and that this would inevitably break Spartan power. After hearing him, Aristides came before the assembly amid great anticipation and said that Themistocles' proposal was extremely advantageous but utterly wrong. The Athenians therefore judged that, because it was not right, it was not advantageous either, and on Aristides' authority rejected the entire proposal without even hearing it. They acted better than we do, who exempt pirates from tribute and make our allies pay it. Let it stand, then, that what is wrong can never be advantageous, not even when you obtain what you think an advantage. The very belief that something wrong is advantageous is disastrous.
- ⁵⁰ But, as I said above, situations often arise in which advantage seems to conflict with moral goodness, and we must examine whether the conflict is real or whether the two can be reconciled. Here is a question of that kind. Suppose, for example, that a good man has brought a large cargo of grain from Alexandria to Rhodes, when the Rhodians are suffering from scarcity and famine and grain prices are extremely high. Suppose he also knows that several merchants have sailed from Alexandria, and has seen ships laden with grain on

their way to Rhodes. Will he tell the Rhodians, or will he keep silent and sell his own grain at the highest possible price? We are imagining a wise and good man. We are asking about the deliberations and reflections of someone who will not keep the Rhodians in the dark if he thinks it wrong, but who is uncertain whether it is wrong.

- ⁵¹ In cases of this kind, Diogenes of Babylon, a great and distinguished Stoic, generally takes one view, and his pupil Antipater, a man of exceptional acuteness, another. Antipater holds that everything must be disclosed, so that the buyer remains ignorant of nothing at all that the seller knows. Diogenes holds that the seller must declare defects to the extent required by civil law, deal otherwise without trickery, and, since he is selling, wish to sell on the best possible terms. "I have brought my grain here and put it on display. I am selling my own property for no more than others do, perhaps even for less, now that the supply is greater. Whom am I wronging?"
- ⁵² On the other side, Antipater's argument rises to meet him: "What are you saying? You ought to look after human beings and serve human fellowship. You were born under that law and have those principles of nature which you must obey and follow: your advantage must be the common advantage, and the common advantage yours in turn. Will you conceal from people the benefits and plentiful supplies that await them?" Diogenes will perhaps answer like this: "Concealing is one thing, keeping silent another. Nor am I concealing anything from you now if I do not tell you the nature of the gods or the ultimate good, though knowing these would benefit you more than cheap wheat. But not everything it would benefit you to hear is something I am obliged to say."
- ⁵³ "On the contrary," the other will say, "you are obliged, if you remember that a fellowship unites human beings by nature." "I remember," Diogenes will say, "but is this fellowship such that no one can have anything of his own? If that is so, nothing should even be sold: everything should be given away."

You see that throughout this dispute no one says, “Although this is wrong, I shall still do it because it pays.” Rather, one side argues that it is advantageous in a way that involves no wrong, while the other argues that it must not be done precisely because it is wrong.

- ⁵⁴ Suppose a good man is selling a house because of certain defects that he knows about but others do not. It is unhealthy but thought to be healthy; no one knows that snakes appear in every bedroom; it is built of unsound timber and threatens to collapse, but no one except the owner knows this. My question is this: if the seller does not tell the buyers these things, and sells the house for much more than he had expected to get, has he acted unjustly or dishonestly? “Certainly he has,” says Antipater. “If allowing a buyer to rush headlong into a ruinous swindle through his mistake is not refusing to show a lost traveler the way—an offense condemned by public curses at Athens—what is? It is even worse than not showing the way: it is knowingly leading someone else astray.”
- ⁵⁵ Diogenes replies: “Did the man force you to buy, when he did not even urge you to? He advertised what he did not like; you bought what you liked. If people who advertise a good, well-built country house are not thought to have deceived anyone, even if it is neither good nor soundly built, how much less have those who did not praise their house at all? Where the decision rests with the buyer, what fraud can there be on the seller’s part? And if he is not bound to make good every statement he has made, do you think he is bound to make good what he has not said? What could be more foolish than for a seller to list the defects of the thing he is selling? What could be more absurd than for an auctioneer, on the owner’s orders, to announce, ‘I am selling an unhealthy house’?”
- ⁵⁶ Thus, in some doubtful cases, one side defends moral goodness, while the other argues for advantage in such a way that doing what seems advantageous is not merely right, but failing to do it is actually wrong. This is the conflict that so

often seems to arise between what is advantageous and what is right. These questions must be decided: we have set them out not to leave them as questions, but to explain them.

- ⁵⁷ It seems, then, that neither the grain merchant should have kept the Rhodians in the dark nor the seller of the house his buyers. Not everything you leave unsaid amounts to concealment. Concealment is wanting, for your own profit, to keep what you know from people whose interest it is to know it. Who cannot see what sort of concealment this is, and what sort of man practices it? Certainly not an open, straightforward, honorable, just, or good man, but rather one who is shifty, secretive, crafty, deceitful, malicious, cunning, practiced in trickery, wily. Is it not disadvantageous to be called by all these names for vice, and many more besides?
- ⁵⁸ But if those who keep silent deserve blame, what are we to think of those who resort to outright falsehood? Gaius Canius, a Roman knight, a man not without wit and quite well read, had gone to Syracuse for leisure, as he used to say, not business. He often said he wanted to buy a small garden estate where he could invite friends and enjoy himself without interruptions. When this became widely known, a certain Pythius, who was a banker at Syracuse, told him that his gardens were not for sale, but that Canius was welcome to use them as his own if he wished. At the same time he invited him to dinner there the next day. Once Canius had accepted, Pythius, who as a banker had influence among all classes, summoned the fishermen and asked them to fish in front of his gardens the following day, giving them directions for what he wanted done. Canius arrived for dinner on time. Pythius had prepared a lavish banquet; a crowd of boats lay before their eyes; each fisherman brought in his own catch, and the fish were tossed down at Pythius' feet.
- ⁵⁹ Then Canius said, "Tell me, Pythius, what is all this? So many fish? So many boats?" "What is surprising about it?" he replied. "All the fish in Syracuse are here. This is where they get their water; these men cannot do without this estate." Burning with desire, Canius pressed Pythius to sell. At first Pythius was

reluctant. Why say more? Canius prevailed. Eager and wealthy, he bought at the price Pythius wanted, and bought the place fully furnished. He recorded the debt and completed the transaction. The next day Canius invited his close friends. He arrived early himself and saw not a single oarlock. He asked his nearest neighbor whether it was some holiday for fishermen, since he saw none of them. “None that I know of,” the man replied, “but no one ordinarily fishes here. That is why I wondered yesterday what had happened.”

⁶⁰ Canius was furious, but what could he do? My colleague and close friend Gaius Aquilius had not yet introduced his forms of legal action for fraud. When asked, in connection with these very forms, what fraud was, he answered that it consisted in pretending one thing and doing another. A thoroughly clear definition, as one would expect from a man skilled at defining. Pythius, then, and everyone who does one thing while pretending another are faithless, dishonest, and malicious. No act of theirs can therefore be advantageous, stained as it is with so many vices.

⁶¹ But if Aquilius’s definition is true, pretense and concealment must be banished from every part of life. A good man, then, will neither pretend nor conceal anything to buy on better terms or to sell. Such fraud was already punishable under the laws: misconduct in guardianship under the Twelve Tables, the cheating of young people under the Plaetorian law, and, without a specific law, in proceedings whose formula includes the words “in good faith.” Among the other judicial formulas, these words stand out: in arbitration over a wife’s property, “what is better and fairer”; in a trust, “that dealings between good men be conducted well.” What, then? Can there be any element of fraud in “what is better and fairer”? Or when the formula says “dealings between good men be conducted well,” can anything be done deceitfully or maliciously? Fraud, as Aquilius says, consists in pretense. Every falsehood, then, must be removed from transactions. A seller will not plant a bidder to drive up the price, nor a buyer someone to bid against him. If either comes to naming a price, he will name it only once.

- ⁶² Quintus Scaevola, the son of Publius, asked the seller of an estate he was buying to name his price once and for all. When the seller did so, Scaevola said that he valued it more highly and added a hundred thousand sesterces. No one denies that this was the act of a good man; they deny that it was the act of a wise one, just as they would if he had sold for less than he could have obtained. Here, then, is the source of the damage: people suppose that goodness belongs to one class of men and wisdom to another. Hence Ennius's line: "The wise man's wisdom is in vain if he cannot benefit himself." True enough—if Ennius and I agreed on what it means to benefit oneself.
- ⁶³ I find that Hecato of Rhodes, a pupil of Panaetius, says in the books on duty he wrote for Quintus Tubero that a wise man should look after his property without doing anything contrary to custom, law, or established institutions. For we wish to be rich not for ourselves alone, but for our children, relatives, friends, and, above all, our country. The resources and wealth of individuals make up the riches of the state. Hecato cannot possibly approve of Scaevola's conduct, which I mentioned a little earlier. For the only thing he says he will not do for his own profit is something unlawful.
- ⁶⁴ For that he deserves neither much praise nor much gratitude. But if both pretense and concealment constitute fraud, very few dealings are free of it; and if a good man is one who helps everyone he can and harms no one, we certainly do not find such a man easily. Wrongdoing, then, is never advantageous, because it is always shameful; and since being a good man is always morally right, it is always advantageous.
- ⁶⁵ As for the law governing real estate, our civil law requires sellers to disclose defects known to them. Under the Twelve Tables it was enough to make good whatever had been expressly declared, and anyone who denied his declaration incurred a penalty of twice the amount. But the jurists also established a penalty for silence. They ruled that a seller must answer for any defect in an estate that he knew about unless he had expressly disclosed it.

⁶⁶ For example, when the augurs were about to take the auspices on the citadel, they ordered Tiberius Claudius Centumalus, who owned a house on the Caelian Hill, to demolish the parts whose height obstructed their observations. Claudius advertised the building for sale [sold it], and Publius Calpurnius Lanarius bought it. The augurs gave him the same notice. After Calpurnius had carried out the demolition and learned that Claudius had advertised the house only after receiving the augurs' order to demolish it, he compelled him to submit to arbitration on "whatever he ought in good faith to give or do for him." Marcus Cato gave judgment—the father of our Cato; for while others are identified by their fathers, the man who brought that shining light into the world should be identified by his son. As judge, then, he ruled that since the seller had known the facts and had not disclosed them at the sale, he must compensate the buyer for his loss.

⁶⁷ He therefore held that good faith requires a defect known to the seller to be made known to the buyer. If his judgment was right, neither that grain merchant nor the seller of the unhealthy house was right to remain silent. But civil law cannot cover every instance of silence of this kind; those it can cover it deals with carefully. Our relative Marcus Marius Gratidianus had sold Gaius Sergius Orata a house he himself had bought from Orata a few years earlier. It was subject to an easement, but Marius had not mentioned this in the formal conveyance. The matter went to court. Crassus defended Orata, Antonius Gratidianus. Crassus pressed the law: "A seller must answer for a defect he knowingly failed to disclose." Antonius pressed equity: "Since Sergius, who had sold the house himself, was not ignorant of the defect, there had been no need to mention it; nor had a man been deceived when he knew the legal condition of what he had bought." Why do I tell you this? To make you understand that our ancestors had no liking for sharp practice.

⁶⁸ But law and philosophy abolish sharp practice in different ways: law as far as it can lay its hands on it, philosophy as far as reason and understanding can reach. Reason, then, requires that nothing be done treacherously, nothing under false pretenses, nothing deceitfully. Is setting nets a form of entrapment even if you

do not intend to rouse the game or drive it toward them? Wild animals often fall into nets with no one pursuing them. Are you, then, to advertise a house for sale, set up your notice like a net, [sell the house because of its defects,] and let someone stumble into it unwittingly?

⁶⁹ I see that, because our customary conduct has become corrupt, this is not considered shameful by convention and is not forbidden by statute or civil law. It is, nevertheless, forbidden by the law of nature. For there is a fellowship—often as this has been said, it must be said still more often—whose widest reach embraces everyone in relation to everyone else; within it is the closer fellowship of those of the same people, and closer still that of citizens of the same state. Accordingly, our ancestors distinguished the law of nations from civil law. What belongs to civil law does not necessarily belong to the law of nations, but what belongs to the law of nations must also belong to civil law. Yet we possess no firm and distinct image of true law and genuine justice; we make do with shadows and likenesses. If only we followed even those! For they are drawn from the finest models of nature and truth.

⁷⁰ How much those words are worth: “So that I may not be entrapped or defrauded through you or through my trust in you”! How golden these: “As dealings between good men ought to be conducted, well and without fraud”! But who are “good men,” and what does it mean for dealings to be “conducted well”? That is a great question. Quintus Scaevola, the chief pontiff, used to say that all arbitrations whose formula included “in good faith” carried the greatest force. He considered good faith a principle of the widest reach, applying to guardianships, partnerships, trusts, commissions, purchases, sales, hiring, and letting—the transactions that hold our common life together. In these cases, particularly since most allowed counterclaims, it took a great judge to determine what each party ought to make good to the other.

⁷¹ We must therefore abolish sharp practice, and the cunning that wishes to pass for practical wisdom but is far removed from it. Practical wisdom consists in distinguishing good from evil; cunning, if everything shameful is evil, prefers

evil to good. Nor does civil law, drawing its authority from nature, punish malice and fraud only in real estate. In the sale of enslaved people, too, every fraud on the seller's part is excluded. Under the aediles' edict, he is answerable for what he ought to have known about their health, their running away, and their thefts. Heirs stand on a different footing.

⁷² From this we can understand that, since nature is the source of law, it accords with nature that no one should set out to profit by another's ignorance. Nor can anything more destructive of human life be found than cunning disguised as sound judgment. From it spring those countless situations in which advantage seems to conflict with moral goodness. For how few people will be found who can refrain from wrongdoing when offered impunity and the certainty that no one will know!

⁷³ Let us test the matter, if you like, with examples in which ordinary people might perhaps see no wrongdoing. We need not discuss assassins, poisoners, will-forgers, thieves, or embezzlers here; they must be dealt with by chains and prison, not by the words and arguments of philosophers. Let us instead consider the actions of those regarded as good men. Some people brought a forged will from Greece to Rome in the name of Lucius Minucius Basilus, a wealthy man. To make it easier to establish its validity, they named as their fellow heirs Marcus Crassus and Quintus Hortensius, the most influential men of their day. Although these men suspected the forgery, they knew of no guilt on their own part and did not reject this little gift from someone else's crime. Well, then? Is that enough to make them appear innocent of wrongdoing? I do not think so, though I loved one while he lived and do not hate the other now that he is dead.

⁷⁴ But Basilus had wanted Marcus Satrius, his sister's son, to bear his name and had made him his heir—I mean the patron of the Picene and Sabine districts: what a disgraceful mark of our times [that title of theirs]! It was not fair that leading citizens should possess the property while Satrius received nothing but the name. For if a man acts unjustly when he fails, though able, to ward off a

wrong and keep it from his own people, as I argued in the first book, what are we to think of someone who not only fails to prevent a wrong but actually helps it along? Even genuine inheritances seem dishonorable to me if they have been sought through malicious flattery, through a pretense of service rather than real service. Yet in such matters advantage and moral goodness sometimes seem to point in different directions. That is a mistake: the standard for advantage is the same as for moral goodness.

75 Anyone who fails to see this clearly will stop at no fraud, no crime. For if he thinks, “That is certainly right, but this pays,” he will dare, through this error, to tear apart what nature has joined together. That error is the source of every fraud, every evil deed, every crime. Suppose, then, a good man had the power to slip his name into the wills of the wealthy by snapping his fingers. He would not use it, even if he were certain that no one would ever suspect it at all. But give Marcus Crassus that power—to be named an heir with a snap of his fingers when he was not really an heir—and, believe me, he would dance in the Forum. A just man, however, the man we understand to be good, will take nothing from anyone to transfer it to himself. Anyone surprised by this should admit that he does not know what a good man is.

76 But anyone willing to unfold the conception lying wrapped within his own mind can teach himself that a good man is one who helps everyone he can and harms no one unless provoked by a wrong. What, then? Does a man do no harm when, by a sort of poison, he contrives to displace the true heirs and step into their place himself? “So he is not to do what is advantageous, what pays?” someone may ask. Rather, he must understand that nothing unjust either pays or brings advantage. Anyone who has not learned this cannot be a good man.

77 As a boy I used to hear from my father that Gaius Fimbria, a former consul, had been appointed judge in the case of Marcus Lutatius Pinthia, a thoroughly respectable Roman knight, who had entered into a wager on his being a good man. Fimbria told him that he would never judge that issue: if he ruled against him, he might strip a reputable man of his good name; if he ruled in his favor,

he might seem to have pronounced someone a good man, though goodness embraces countless duties and praiseworthy qualities. To this good man, then, whom even Fimbria—not only Socrates—recognized, nothing that is not morally right can possibly seem advantageous. Such a man will not dare even to think, much less do, anything he would not dare proclaim in public. Is it not shameful that philosophers should doubt what even country people do not question? From them comes the proverb now worn smooth with age. When they praise someone's trustworthiness and goodness, they say that he is a man you could play a finger-guessing game with in the dark. What can this mean except that nothing improper pays, even if you could gain it with no one able to challenge you?

- 78 Do you see that this proverb leaves no excuse either for Gyges or for the man I imagined a little earlier, who could sweep up everyone's inheritance with a snap of his fingers? Just as something shameful, however well concealed, can never become morally right, so something that is not morally right cannot be made advantageous: nature resists and opposes it.
- 79 "But when the rewards are very great, there is a reason to do wrong." Gaius Marius was far from any hope of the consulship. He had already languished for seven years after his praetorship and seemed unlikely ever to stand for consul. He was serving as lieutenant to Quintus Metellus, a distinguished man and citizen, when his commander sent him to Rome. There Marius accused Metellus before the Roman people of dragging out the war. If they made him consul, he said, he would soon bring Jugurtha, alive or dead, into the power of the Roman people. And so he did become consul, but he abandoned good faith and justice by bringing an excellent and most respected citizen into public disfavor through a false accusation—the very man whose lieutenant he was and who had sent him to Rome.
- 80 Nor did our Gratidianus fulfill the duty of a good man when he was praetor. The tribunes of the people had called in the board of praetors to settle the currency question by common agreement; at that time the value of money fluctu-

ated so much that no one could know what he owned. Together they drew up an edict providing for a penalty and a judicial proceeding, and agreed that they would all mount the speakers' platform together that afternoon. The others went off in different directions; Marius went straight from the benches to the platform and alone proclaimed what they had drafted together. And, if you want to know, it brought him great honor: statues in every neighborhood, incense and candles before them. Why say more? No one was ever dearer to the masses.

81 These are the things that sometimes unsettle our judgment: the violation of fairness seems comparatively small, while the gain it produces seems immense. Thus Marius thought that stealing popular favor from his colleagues and the tribunes of the people was not so very shameful, while becoming consul through it—the aim he then had in view—was highly advantageous. But there is one rule for everything, and I want you to know it thoroughly: either what seems advantageous must not be shameful, or, if it is shameful, it must not seem advantageous. What, then? Can we judge either the earlier Marius or this one a good man? Unfold and examine your understanding to see what [image], form, and conception of a good man it contains. Can a good man, then, lie, make accusations for his own profit, snatch another's due, or deceive? Certainly not.

82 Is anything, then, worth so much, or any gain so desirable, that you should lose both the luster and the name of a good man? What can this so-called advantage bring you to equal what it takes away if it robs you of that name and strips you of good faith and justice? What difference does it make whether someone turns from a human being into a beast or keeps a human shape while harboring a beast's savagery?

And what of those who neglect everything right and morally good, provided they gain power? Are they not doing the same as the man who even wanted as his father-in-law the man whose daring would give him power? It seemed advantageous to him to hold supreme power while another bore the hatred. He did not see how unjust this was to his country, or how shameful.

The father-in-law himself, however, was forever quoting Greek verses from the *Phoenician Women*. I will render them as best I can—roughly, perhaps, but still so that their meaning can be understood:

“For if justice must be broken for the sake of kingship,
Break it; in all else, honor sacred duty.”

A deadly sentiment from Eteocles—or rather from Euripides, who made an exception for the one act that was the most criminal of all.

⁸³ Why, then, gather petty examples: inheritances, trade, fraudulent sales? Here is a man who longed to be king of the Roman people and master of every nation, and achieved it. Anyone who calls that ambition morally right is mad: he approves the destruction of law and liberty and thinks their foul, detestable suppression glorious. But if someone admits that it is not morally right to reign as king in a state that has been free and ought to remain so, yet says that it is advantageous to the man who can achieve it, what rebuke—or rather what abuse—should I use to try to wrench him from so great an error? Immortal gods, can the foulest, most loathsome murder of one’s country be advantageous to anyone, even if the man who has bound himself to that crime is called “father” by the citizens he has crushed? Advantage, then, must be measured by moral goodness, and in such a way that the two seem different in name but identical in substance.

⁸⁴ In popular opinion, I know of no advantage greater than kingship. Yet when I begin to bring the question back to the truth, I find nothing more disadvantageous to the man who has acquired it unjustly. Can anguish, anxiety, fear by day and night, a life crowded with plots and dangers, be advantageous to anyone? “Many are hostile and disloyal to the throne, few friendly,” says Accius. But what throne? One inherited lawfully from Tantalus and Pelops. How many more enemies, then, do you think that king had who used the army of the Roman people to crush the Roman people themselves, and forced a state not merely free but ruling over other nations to serve him?

- ⁸⁵ What stains on his conscience do you think he carried in his heart, what wounds? And how can anyone's life be advantageous to him when the terms of that life are such that whoever takes it will win the greatest gratitude and glory? If, then, the things that seem most advantageous are not so because they are filled with disgrace and shame, we should be thoroughly convinced that nothing can be advantageous unless it is morally right.
- ⁸⁶ This judgment has been made often, but notably in the war with Pyrrhus by Gaius Fabricius, then consul for the second time, and by our senate. King Pyrrhus had taken the initiative in making war on the Roman people, and the struggle for supremacy was against a king of noble birth and great power. A deserter from his army came to Fabricius's camp and promised that, if offered a reward, he would return to Pyrrhus's camp as secretly as he had come and poison the king. Fabricius had him taken back to Pyrrhus, and the senate praised his action. Yet if we look for the appearance and reputation of advantage, that one deserter would have ended a great war and removed a formidable rival for supremacy. But it would have been a great disgrace and scandal to defeat by crime, rather than valor, a man with whom we were competing for glory.
- ⁸⁷ Which course, then, was more advantageous, whether to Fabricius, who was to our city what Aristides was to Athens, or to our senate, which never separated advantage from dignity: to fight the enemy with weapons or with poison? If dominion is to be sought for glory, crime must have no part in it, for crime can contain no glory. But if power itself is sought by whatever means, it cannot bring advantage when joined with infamy. Nor, then, was the proposal of Lucius Philippus, son of Quintus, advantageous: that the states Lucius Sulla had freed from tribute by decree of the senate, in return for payment, should again pay tribute, and that we should not repay the money they had given for their freedom. The senate agreed with him. A disgrace to our rule! Pirates kept their word better than the senate. "But the revenue increased, so it was advantageous." How long will people dare call anything advantageous that is not morally right?

- ⁸⁸ Can hatred and infamy benefit any power whose support ought to be glory and the goodwill of its allies? I often disagreed even with my friend Cato. He seemed to me too unyielding in defending the treasury and its revenues, refusing every request from the tax contractors and many from our allies. We ought to have been generous to the allies and dealt with the contractors as we usually did with our own tenant farmers—all the more because that union of the orders was essential to the safety of the republic. Curio was also wrong when he called the cause of the people beyond the Po just, but always added, “Let advantage prevail.” He should instead have argued that their cause was not just because it did not benefit the republic, rather than concede its justice while declaring that it brought no advantage.
- ⁸⁹ The sixth book of Hecato’s *On Duties* is full of questions like these: is it consistent with being a good man to stop feeding one’s enslaved household when food prices are extremely high? He argues both sides, but in the end measures duty by what he considers advantage rather than by humanity. He asks, if cargo must be thrown overboard at sea, whether one should sacrifice a valuable horse or a cheap enslaved person. Here financial interest pulls one way, humanity another. “If a fool has seized a plank from a wreck, will a wise man wrest it from him if he can?” He says no, because that would be unjust. What, then? Will the owner of the ship take back what is his? Certainly not—no more than he would wish to throw a passenger overboard on the open sea because the ship was his. For until the destination for which it was engaged has been reached, the ship belongs not to its owner but to those sailing in it.
- ⁹⁰ What if there is one plank and two shipwrecked men, both wise? Should each snatch it for himself, or should one yield to the other? One should certainly yield, but to the man whose survival matters more, whether for his own sake or the state’s. What if they are equal in these respects? There will be no struggle; one will yield to the other as though he had lost a drawing of lots or a finger-guessing game. What if a father robs temples or digs tunnels into the treasury? Should his son report him to the magistrates? That would be a violation of sacred duty; indeed, he should even defend his father if he is accused. Does the

country not take precedence over every other duty, then? Certainly, but it benefits the country itself to have citizens devoted to their parents. What if the father tries to seize a tyranny or betray his country? Will the son remain silent? No, he will plead with his father not to do it. If that achieves nothing, he will reproach him, even threaten him; in the end, if the matter threatens the destruction of the country, he will put its safety before his father's.

- ⁹¹ He also asks whether a wise man who has unwittingly accepted counterfeit coins as good money, once he has discovered what they are, will pass them on as good money in paying a debt. Diogenes says yes; Antipater says no, and I am more inclined to agree with him. If someone knowingly sells wine that is going sour, must he disclose it? Diogenes thinks this unnecessary; Antipater thinks it the duty of a good man. These are, so to speak, disputed points of Stoic law. In selling a slave, must one disclose his faults—not those that, if undisclosed, entitle the buyer under civil law to return him, but such things as his being a liar, a gambler, a thief, or a drunkard? One thinks these must be disclosed; the other does not.
- ⁹² If someone selling gold thinks he is selling brass, should a good man tell him that it is gold, or buy for one denarius what is worth a thousand? It is already clear both what I think and where the philosophers I have named disagree. Must agreements and promises always be kept when they were made without force or deliberate fraud, to use the praetors' customary language? Suppose someone gives another man a medicine for dropsy, on the agreement that, if it cures him, he will never use that medicine again. He is cured, but some years later contracts the same disease and cannot obtain permission from the man with whom he made the agreement to use it again. What should he do? Since the man who refuses permission is inhumane, and no wrong is being done to him, life and health must take priority.
- ⁹³ Again, suppose a wise man is made heir to a hundred million sesterces, but the testator asks him to dance in public in the forum, in broad daylight, before accepting the inheritance. He promises to do so because otherwise the man will

not name him as his heir. Should he keep his promise or not? I would rather he had not promised, and I think that would have shown dignity. But since he has promised, if he considers it disgraceful to dance in the forum, he will break his word more honorably by taking nothing from the inheritance than by taking it—unless perhaps he contributes the money to meet some great crisis of the republic. In that case, even dancing would not be disgraceful, since he would be acting for his country's welfare.

⁹⁴ Nor should promises be kept when they do not benefit the very people to whom they were made. To return to the myths, the Sun told his son Phaethon that he would do whatever he wished. Phaethon wished to be taken up into his father's chariot. He was taken up, and before he could find his footing he was burned to death by a thunderbolt. How much better it would have been if his father's promise had not been kept in this case! And what of the promise Theseus exacted from Neptune? Neptune had granted him three wishes, and he wished for the death of his son Hippolytus, whom he suspected of an affair with his stepmother. His wish was granted, and Theseus was plunged into the deepest grief.

⁹⁵ Again, Agamemnon had vowed to Diana the most beautiful thing born in his kingdom that year, and sacrificed Iphigenia, since nothing more beautiful had been born that year. Better not to have fulfilled the promise than to have committed so appalling a crime. Promises, then, must sometimes go unfulfilled, and things entrusted to us must not always be returned. If someone deposits a sword with you while sane and demands it back when mad, returning it would be wrong; not returning it would be a duty. Again, if someone who has deposited money with you makes war on your country, should you return the deposit? I think not, for you would be acting against the republic, which ought to be dearest to you. Thus many things that seem morally right by nature become wrong through circumstances. Fulfilling promises, standing by agreements, returning deposits become wrong when their benefit has changed. But I think enough has been said about apparent advantages that oppose justice under the disguise of practical wisdom.

- ⁹⁶ In the first book, however, we traced duties to four sources of moral goodness. Let us stay with these as we show how hostile to virtue are things that seem advantageous but are not. We have discussed practical wisdom, which cunning tries to imitate, and justice, which is always advantageous. Two divisions of moral goodness remain: one is seen in the greatness and distinction of an outstanding spirit; the other in the order and restraint imposed by self-control and moderation.
- ⁹⁷ Ulysses thought it advantageous—or so the tragic poets tell us, for in Homer, the best authority, there is no hint of such a charge against him. The tragedies, however, accuse him of trying to evade military service by pretending to be mad. An unworthy plan, but an advantageous one, someone may perhaps say: to remain king and live at ease in Ithaca with his parents, his wife, and his son. Do you think any glory won through daily hardship can compare with such peace? I, on the contrary, think that peace should be scorned and cast aside, since I hold that what is not morally right cannot be genuinely advantageous either.
- ⁹⁸ What do you suppose Ulysses would have heard said of him if he had persisted in that pretense? Even after his great achievements in the war, he still hears Ajax say:
“He first proposed the oath,
As all of you know, yet he alone broke faith.
He set about pretending madness to avoid joining us.
Had Palamedes’ penetrating wisdom not
Seen through this man’s brazen trickery,
He would have cheated forever on the oath he swore.”
- ⁹⁹ It was surely better for him to struggle, as he did, not only with the enemy but with the waves than to desert Greece when it stood united to make war on the barbarians. But let us leave myths and foreign affairs and turn to an actual event in our own history. Marcus Atilius Regulus, during his second consulship, was ambushed and captured in Africa under the leadership of Xanthippus the

Spartan, while Hamilcar, Hannibal's father, held the supreme command. He was sent to the senate under oath to return to Carthage unless certain Carthaginian prisoners of noble birth were released. When he reached Rome he saw what appeared to be his advantage, but, as his actions show, judged it false. It was this: to remain in his country, to be at home with his wife and children, to regard the disaster he had suffered in war as part of the common fortunes of war, and to retain the standing of a former consul. Who denies that these things are advantageous? Who do you think? Greatness of spirit and courage deny it.

100 Do you ask for more trustworthy authorities? It is the special province of these virtues to fear nothing, to look down on all human concerns, to consider nothing that can happen to a human being unbearable. What, then, did he do? He came into the senate and delivered his instructions, but declined to give his opinion: as long as he was bound by an oath to the enemy, he was not a senator. More than that—"What a fool," someone may say, "to work against his own advantage!"—he declared that returning the prisoners was not advantageous. They were young men and good commanders, while he was already worn out with age. His authority prevailed; the prisoners were kept, and he himself returned to Carthage. Neither love of country nor love of his family held him back. Nor was he unaware then that he was going to a most cruel enemy and to ingeniously devised tortures; but he thought his oath must be kept. And so, even as he was being killed by enforced sleeplessness, his position was better than if he had remained at home, an aged captive, a former consul who had broken his oath.

101 "But he acted foolishly, not merely in refusing to recommend the prisoners' release, but in arguing against it." How foolishly? Even if it served the republic? Can something that harms the republic be advantageous to any citizen? People overturn the very foundations of nature when they separate advantage from moral goodness. We all seek advantage and are drawn toward it; we cannot possibly do otherwise. For who shuns what is advantageous? Or rather, who does not pursue it with the greatest eagerness? But because we can find genuine

advantage nowhere except in what is praiseworthy, fitting, and morally good, we rank these things first and highest, and regard the word “advantage” as expressing necessity rather than splendor.

- 102 “What, then,” someone may say, “is there in an oath? Do we fear an angry Jupiter? Yet all philosophers agree—not only those who say that a god has no troubles himself and causes none for others, but also those who hold that a god is always active and working at something—that a god never becomes angry or does harm. And what greater harm could an angry Jupiter have done than Regulus did to himself? Religion, then, had no power to outweigh so great an advantage. Or was he afraid of acting disgracefully? First, choose the lesser of evils. That disgrace did not, then, involve as much evil as those tortures. Then there are these lines in Accius:”

“Have you broken faith?

I have never pledged it, nor do I pledge it, to anyone faithless.”

Though an impious king speaks them, they are admirably put.

- 103 They add that, just as we say some things appear advantageous but are not, so they say some things appear morally right but are not. This very act of returning to torture to keep an oath seems morally right, but proves not to be, because an agreement imposed by the enemy’s force should not have been binding. They add that whatever is greatly advantageous becomes morally right, even if it did not seem so before. These, broadly, are the arguments against Regulus. But let us examine the first ones.

- 104 There was no need to fear that Jupiter would grow angry and harm him, since he does not become angry or do harm. Yet this argument counts no more against Regulus’ oath than against every oath. What we must understand in an oath is not the fear it inspires but the force it carries. An oath is a solemn affirmation before the divine; what you have firmly promised, calling a god, as it were, to witness, must be kept. For the issue now is not the anger of the gods, which does not exist, but justice and good faith. Ennius puts it beautifully: “O nurturing Faith, winged, and the oath in Jupiter’s name.”

Whoever violates an oath, then, violates Faith, whom our ancestors wished to have as a neighbor of Jupiter Best and Greatest on the Capitol, as Cato says in his speech.

105 “But even an angry Jupiter would not have harmed Regulus more than Regulus harmed himself.” Certainly—if nothing were evil except pain. Yet philosophers of the highest authority declare that pain is not merely not the greatest evil, but not an evil at all. Please do not disparage Regulus, no ordinary witness to their view, but perhaps the most compelling of all. What more trustworthy witness could we seek than a leading man of the Roman people who voluntarily submitted to torture to preserve his duty? As for their advice to choose the lesser of evils—that is, disgrace rather than disaster—is there any greater evil than moral disgrace? If ugliness in the body has something offensive about it, how much worse must the distortion and foulness of a morally disfigured soul appear?

106 Accordingly, those who argue these matters more rigorously venture to call only what is morally wrong an evil; those who argue less strictly still do not hesitate to call it the greatest evil. As for “I have never pledged it, nor do I pledge it, to anyone faithless,” the poet was right to write that, because he was portraying Atreus and had to remain true to the character. But if they adopt the principle that no faith need be kept when pledged to a faithless person, let them beware of seeking a shelter for perjury.

107 There is a law of war as well, and the faith of an oath must often be kept even with an enemy. What has been sworn with the understanding that it ought to be done must be kept; where the understanding was otherwise, failure to perform is not perjury. For example, if you do not bring pirates an agreed ransom for your life, there is no deceit in that, even if you swore to pay and did not. A pirate is not included among lawful enemies in war, but is the common enemy of everyone. With him there ought to be no shared obligation of good faith or of an oath.

- 108 Swearing falsely is not in itself perjury. Perjury is failing to do what you have sworn “according to your own sincere conviction,” as our customary formula puts it. Euripides expresses it neatly: “My tongue has sworn; my mind I keep unsworn.” Regulus, however, ought not to have upset through perjury the terms and agreements of war made with an enemy. He was dealing with a lawful and legitimate enemy, with whom we share both the whole sacred code governing war and many other legal obligations. Were that not so, the senate would never have handed over distinguished men in chains to the enemy.
- 109 Yet Titus Veturius and Spurius Postumius, during their second consulships, were handed over to the Samnites because, after the defeat at Caudium and the passage of our legions under the yoke, they had made peace with them without the authorization of the people and senate. At the same time Tiberius Numicius and Quintus Maelius, then tribunes of the people, were handed over because the peace had been made with their approval. This was done so that the peace with the Samnites could be repudiated. Postumius himself, the man being surrendered, proposed and urged his own surrender. Many years later Gaius Mancinus did the same. He urged the passage of the bill that Lucius Furius and Sextus Atilius were introducing by decree of the senate, providing for his surrender to the Numantines, with whom he had made a treaty without the senate’s authority. The bill passed, and he was handed over to the enemy. He acted more honorably than Quintus Pompeius, whose pleas, in the same situation, prevented such a law from passing. In the latter case, what appeared advantageous outweighed moral goodness; with the earlier examples, the false appearance of advantage was overcome by the authority of what was right.
- 110 “But what was done under force should not have been binding.” As though force could be brought to bear upon a brave man! “Then why was he going to the senate, especially when he intended to argue against releasing the prisoners?” You are criticizing what is greatest in him. He did not insist on his own judgment, but undertook the mission so that the judgment might rest with the senate. Had he not himself guided its decision, the prisoners would certainly have been returned to the Carthaginians. Regulus would then have remained

safe in his country. Because he thought this would not benefit his country, he believed it right for himself both to express those views and to endure those sufferings. As for their assertion that what is greatly advantageous becomes morally right: rather, it is morally right; it does not become so. Nothing is advantageous that is not also morally right; and it is not right because it is advantageous, but advantageous because it is right. Among so many wonderful examples, then, one could hardly name any more praiseworthy or more outstanding than this.

¹¹¹ Yet in all that brings Regulus praise, one thing alone deserves our wonder: his recommendation that the prisoners be kept. His return seems wonderful to us now, but in those days he could not have acted otherwise. That praise belongs, then, not to the man but to the times. Our ancestors intended no bond to bind good faith more tightly than an oath. The laws of the Twelve Tables show this; so do the laws sanctioned by religious vows; so do the treaties that bind us to good faith even with an enemy; so do the inquiries and penalties of the censors, who judged nothing more scrupulously than the keeping of oaths.

¹¹² Marcus Pomponius, tribune of the people, brought a charge against Lucius Manlius, son of Aulus, after he had been dictator, for extending his dictatorship by a few days. He also accused him of banishing his son Titus, later called Torquatus, from human company and ordering him to live in the country. When the young man heard that his father was in trouble, he is said to have hurried to Rome and arrived at Pomponius' house at first light. On hearing of his arrival, Pomponius thought the son was angry and would bring him some evidence against his father. He rose from bed, dismissed the witnesses, and ordered the young man to be admitted. As soon as he entered, however, Titus drew his sword and swore that he would kill him on the spot unless he took an oath to drop the case against his father. Driven by this terror, Pomponius swore. He reported the matter to the people, explained why he had to abandon the prosecution, and let Manlius go. Such was the power of an oath in those days. This Titus Manlius was the man who won his surname by taking the neck ring from a Gaul by the Anio, after accepting his challenge and killing him. It

was in his third consulship that the Latins were routed and put to flight at the Veseris. He was a truly great man, as lenient toward his father as he was harshly severe toward his son.

- ¹¹³ But just as Regulus deserves praise for keeping his oath, so the ten men whom Hannibal sent to the senate after the battle of Cannae deserve blame if they did not return. They had sworn to return to the camp the Carthaginians had captured unless they secured the ransom of the prisoners. Accounts of them differ. Polybius, an especially reliable authority, says that of the ten men of the highest rank sent on that occasion, nine returned when their request to the senate failed. One of the ten, however, had gone back to camp shortly after leaving it, pretending that he had forgotten something, and then remained in Rome. He interpreted his return to camp as releasing him from his oath, but wrongly. A trick tightens the bonds of perjury; it does not undo them. This was foolish cleverness, a perverse imitation of wisdom. The senate therefore decreed that this crafty trickster should be taken in chains to Hannibal.
- ¹¹⁴ But this is the most important point: Hannibal held eight thousand men, not men he had captured in battle or who had scattered in flight to escape death, but men whom the consuls Paulus and Varro had left in the camp. The senate decided not to ransom them, although it could have been done for a small sum, so that our soldiers would learn to hold fast to victory or death. The same author writes that, when Hannibal heard this, his spirit was broken: the senate and Roman people had shown such greatness of spirit in their stricken circumstances. Thus, in comparison with moral goodness, what seems advantageous is defeated.
- ¹¹⁵ Gaius Acilius, however, who wrote a history in Greek, says that more of the men returned to camp by the same trick to free themselves from their oath, and that the censors branded them with every mark of disgrace. Let this discussion end here. It is clear that actions prompted by a timid, low, abject, and broken spirit are not advantageous, because they are shameful, foul, and morally

wrong. Such would have been Regulus' action if, in giving his opinion about the prisoners, he had considered what he thought served his own needs rather than the republic's, or if he had chosen to remain at home.

- 116 The fourth division remains: it comprises propriety, moderation, modesty, self-control, and temperance. Can anything opposed to this chorus of virtues be advantageous? Yet the philosophers known as Cyrenaics and Annicereans, whose school goes back to Aristippus, placed all good in pleasure and held that virtue should be praised because it produces pleasure. Their doctrines have faded, but Epicurus flourishes as the champion and advocate of much the same view. If we intend to defend and preserve moral goodness, we must fight these men with every man and horse, as the saying goes.
- 117 For if not only advantage but the whole happy life consists in a sound bodily condition and a confident hope that this condition will last, as Metrodorus has written, then this advantage—and indeed the highest advantage, as they judge it—will certainly clash with moral goodness. To begin with, what place will there be for practical wisdom? Is it to hunt out pleasures everywhere? What a wretched servitude for virtue, enslaved to pleasure! What, then, is wisdom's task? To choose pleasures intelligently? Grant that nothing could be more pleasant: what could be imagined more shameful? Again, for someone who calls pain the greatest evil, what place is left for courage, which is disdain for pain and hardship? Epicurus may speak, as indeed he does in many passages, with considerable courage about pain; but we must consider not what he says, but what it is consistent for someone to say who has set pleasure as the limit of good and pain as the limit of evil. And if I listen to him on self-control and temperance, he does say a great deal in many places, but he gets stuck, as the saying goes. How can someone praise temperance when he places the highest good in pleasure? Temperance is the enemy of uncontrolled desires, while those desires pursue pleasure.

- 118 Still, with these three kinds of virtue they maneuver as best they can, and not without cleverness. They introduce practical wisdom as the knowledge that supplies pleasures and drives away pains. They find some way to account for courage too, by offering a method for disregarding death and enduring pain. They even bring in temperance—not very easily, to be sure, but as best they can. They say that pleasure reaches its full measure when pain is removed. Justice, however, totters—or rather lies prostrate—as do all the virtues seen in the common life and fellowship of the human race. There can be no goodness, generosity, or kindness, any more than friendship, if these are not sought for their own sake but measured by pleasure or advantage.
- 119 Let us, then, bring this into a few words. Just as we have shown that nothing contrary to moral goodness is genuinely advantageous, so we say that every pleasure is contrary to moral goodness. I therefore judge Callipho and Dinomachus all the more deserving of criticism: they thought they could settle the dispute by joining pleasure to moral goodness, as though coupling an animal with a human being. Moral goodness will not accept that union; it scorns and rejects it. Nor can the ultimate standard of good and evil, which must be single, be mixed and blended from things utterly unlike. But more on this elsewhere, for it is a great subject; now let us return to our purpose.
- 120 How, then, we should decide when apparent advantage conflicts with moral goodness has been discussed fully enough above. But if pleasure too is said to have the appearance of advantage, there can be no union between it and moral goodness. For, to grant pleasure something, it may perhaps add a little seasoning; it will certainly add no genuine advantage.
- 121 You have a gift from your father, my son Marcus—a great one, in my judgment, though its value will depend on how you receive it. These three books of mine will have to be welcomed as guests among your notes from Cratippus’ teaching. But just as you would sometimes have listened to me too if I had come to Athens—as I would indeed have done, had my country not called me back in a clear voice from the midst of my journey—so now, since my voice has reached

you in these volumes, you will give them as much time as you can. And you can give as much as you wish. When I learn that you take pleasure in this kind of knowledge, I shall speak with you both in person, very soon, I hope, and from a distance for as long as you are away. Farewell, then, my dear Cicero, and be assured that, dear as you are to me, you will be far dearer if you delight in writings and teachings such as these.